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SOMEBODY'S DAUGHTER: THE DOMESTIC TRAFFICKING OF GIRLS FOR THE COMMERCIAL SEX INDUSTRY AND THE POWER OF LOVE

CHERYL HANNA*

INTRODUCTION

I wish I could come home I'm doing bad because all of the kids are spoiled because they are her real children and she lets them do whatever they want all of the time I love you. Please love me back.¹

Letter from Christal Jean Jones to her mother

Christal Jean Jones telephoned her mother from the Bronx on the first day of the 2001 New Year. "Chrissy, are you prostituting?" asked Kathleen Wright.² Christal had run away from the protective custody of the Department of Social and Rehabilitative Services in Burlington, Vermont, and had been gone for months. Her mother was worried sick about her well-being. State authorities allegedly knew that the blond and beautiful and troubled sixteen-year-old was in New York, but no one went to get her.³

* Professor of Law, Vermont Law School. Many thanks to the editors of the William and Mary Journal of Women and the Law for sponsoring such an important symposium. I am most grateful to Jennifer Feeley, my research assistant and friend, who provided insight and inspiration to this project. She is a young woman whose intellect and generosity of spirit I have grown to admire. I am also thankful to my colleagues and family at Vermont Law School, whose generous support continues to enrich my career. Paul Henning provided support in many ways. Thanks also to Claudine O'Leary of the Young Women's Empowerment Project, and Laurie Barnitz of Youth Advocate Program International for their help and guidance with my research. Jan Eastman and the Snelling Center for Government also provided me with a "room of my own" in which to write this piece, and for that I am extremely grateful. Of course, all views expressed in this piece are my own.

1. *The Dark Side of Vermont Life: Girl Swallowed by a World of Drugs and Prostitution*, BURLINGTON FREE PRESS, Feb. 11, 2001, at 1 [hereinafter *The Dark Side of Vermont*].

2. Sam Hemingway, *Dead Vermont Teen Linked to Sex Ring*, BURLINGTON FREE PRESS, Jan. 31, 2001, at 1 [hereinafter *Dead Vermont Teen Linked to Sex Ring*].

3. Nancy Remsen, *Case Worker Did His All for Runaway*, BURLINGTON FREE PRESS, Feb. 10, 2001, at B1 [hereinafter *Case Worker Did His All for Runaway*].

When Christal claimed to have a job typing resumes, her mother did not believe her, and begged her daughter to come home.⁴ Chrissy, as her family called her, promised that she would.⁵ It would only later be learned that it was 25-year-old pimp named Jose "Ritchie" Rodriguez, who met (read targeted) Christal in the small, bucolic, lakeside college town, either outside her half-way house or at a local club, and, then, pretending to be her boyfriend, lured her to the big city with promises of gifts, drugs, and love.⁶

Two days later, on January 3, 2001, Christal was found smothered to death in a seedy apartment on Zerega Avenue in the Bronx, 300 miles and a world away from Burlington.⁷

Almost two years have passed since news of her murder shocked what the locals call God's Country, and neither Vermont nor New York law enforcement officials have identified her killer. Nevertheless, they have identified what appears to have been an organized effort by sex traffickers to hook young, vulnerable, and preferably blond girls on drugs, and then seduce them to leave Vermont for other locations, eventually forcing them to work in the commercial sex industry.⁸

In recent years, there has been much media attention and increased law reform efforts to address the phenomenon of the international trafficking of women and children for the purposes of sexual exploitation. These victims, most often lured into the sex trade by promises of legitimate employment and a better way of life, tend to come from the less developed regions of the world, such as Mexico, Eastern Europe, and Vietnam, and are often escaping abject poverty, violence, and, in some cases, political persecution.⁹ They come to America in search of our well-advertised dream, only to find that when they arrive, they are forced to work in nightmare conditions, usually as sex workers, with few options for escape. As a nation, we have become sympathetic to their plights, and rightfully so.¹⁰ The international trafficking of women and children

4. *Dead Vermont Teen Linked to Sex Ring*, *supra* note 2.

5. *Id.*

6. Greg Wilson, *Plea Agreement for Pimp: Man Admits he Used Vermont Teens as Prostitutes in Hunts Point*, N.Y. DAILY NEWS, Jan. 21, 2002, at 1.

7. *Id.*

8. Sam Hemingway, *Vermont Knew of Sex Ring: Police Questioned Victim's Friend About Operation Law Autumn*, BURLINGTON FREE PRESS, Feb. 3, 2001, at 1; Emily Stone, *Prostitution Ring Trial to Start*, BURLINGTON FREE PRESS, Sept. 5, 2002, at B1.

9. JANICE R. RAYMOND & DONNA M. HUGHES, COALITION AGAINST TRAFFICKING IN WOMEN, SEX TRAFFICKING OF WOMEN IN THE UNITED STATES: INTERNATIONAL AND DOMESTIC TRENDS (2001) (on file with author).

10. See Victims of Trafficking and Violence Prevention Act, Pub. L. No. 106-386, 114 Stat. 1464 (2000); U.S. DEP'T OF STATE, VICTIMS OF TRAFFICKING AND VIOLENCE PROTECTION ACT OF 2000: TRAFFICKING IN PERSONS REPORT (2002).

into the commercial sex industry has become a modern form of slavery, as well as a thorn in the side of our immigration policy.¹¹

In contrast to international trafficking, however, we know very little about, and have done almost nothing to address, domestic trafficking¹² since the passage of the Mann Act in 1910.¹³ Today, girls like Christal, girls who have less than pristine histories and lots of attitude, are often labeled runaways, drug addicts, sluts, and "Lolitas." They are "bad girls" not to be confused with the stay-at-home in the suburbs, sober, and (mostly) chaste "good girls" who only have attitude when they play soccer or some other Title IX sport.¹⁴ Adolescent girls who survive by having sex are not considered victims of crime rings, unless they end up murdered and on the front page of a small town newspaper. Rather, we often blame them for the messes that they get themselves into, or look for risk factors that will somehow explain why "her" daughter is not like "our" daughter.¹⁵

One problem is that we have fundamentally misunderstood what would motivate a girl to say yes the first time someone offers her money or food or drugs in exchange for sex – why she would take that first step down that ever-so-slippery slope, where the point of no return is closer than she thinks. Most girls are not motivated by lust or greed or gluttony or wrath or envy or pride or sloth; they are lured by love. In that sense, they are no different, really, than many, many, teenage girls (and women) who look for it in all the wrong places.¹⁶

11. Cheryl Hanna, *An Introduction to the Symposium on the Trafficking of Women and Girls for the Sex Slave Trade*, 13 HASTINGS WOMEN'S L.J. 1 (2002); Kelly E. Hyland, *The Impact of the Protocol to Prevent, Suppress, and Punish Trafficking in Persons, Especially Women and Children*, 2 HUM. RTS. BRIEF 30 (2001); Susan W. Tiefenburn, *Sex Sells But Drugs Don't Talk: Trafficking of Women Sex Workers*, 23 T. JEFFERSON L. REV. 1999 (2001).

12. CAPTIVE DAUGHTERS, RECOMMENDATIONS FOR ELIMINATION OF TRAFFICKING TO AND WITHIN THE UNITED STATES, available at <http://www.captive.org/cdrecommendations.htm> (last visited Sept. 17, 2002) [hereinafter CAPTIVE DAUGHTERS].

13. 18 U.S.C. § 2422 (2000) (prohibiting enticing, persuading, inducing, etc. any person to travel across a state boundary for prostitution or for any sexual activity for which a person can be charged with a crime); 18 U.S.C. § 2423 (2000) (prohibiting the transportation of any person under 18 years of age for prostitution or any sexual purpose for which any person may be charged with a crime).

14. Cheryl Hanna, *Bad Girls and Good Sports: Violent Female Juvenile Delinquents, Title IX, and the Promise of Girl Power*, 27 HASTINGS CONST. L.Q. 667 (2000).

15. CAPTIVE DAUGHTERS, *supra* note 12.

16. See generally JILL MURRAY, BUT I LOVE HIM: PROTECTING YOUR TEEN DAUGHTER FROM CONTROLLING, ABUSIVE DATING RELATIONSHIPS (2001) (explaining how the search for love lures teenage girls into abusive relationships).

Understanding that “their” motive is “our” motive may help us develop a level of compassion for them.¹⁷ Because we do not identify these girls as exploited, and often forget that they are still children, we do not devote the kinds of social service and law enforcement resources necessary to hold their perpetrators accountable. In fact, we continue to criminalize and pathologize American girls who work in the sex industry far more frequently than we deter, punish, and shame those American men and women who prey on them.¹⁸ Even worse, many who claim to be committed to bettering the lives of women and girls have largely ignored them. They are nobody’s daughters, which is no doubt how they often must experience the world.

This Article focuses primarily on the domestic trafficking of girls under 18 years of age. It does not explore, in any comprehensive way, the commercial exploitation of boys who are being trafficked into the sex industry, although there are many, and they are as much victims of sexual exploitation as are girls.¹⁹ Like girls, they too are often both running away from someone and running to someone.²⁰ Sadly, we know even less about what is happening to boys than we do about girls, and it is my hope that this analysis might spur some further research on those boys who must feel as if they are nobody’s sons.

Recent evidence suggests that there are indeed internal trafficking circuits that target vulnerable girls like Christal Jones.²¹ It is through the story of her life and death, as well as an emerging and sophisticated body of research, which we can begin to understand with more insight the modern trafficking of American

17. For recent works on teenage girls, see RACHEL SIMMONS, *ODD GIRL OUT: THE HIDDEN CULTURE OF AGGRESSION IN GIRLS* (2002); ROSALIND WISEMAN, *QUEEN BEES & WANNABES: HELPING YOUR DAUGHTER SURVIVE CLIQUES, GOSSIP, BOYFRIENDS, & OTHER REALITIES OF ADOLESCENCE* (2002).

18. U.S. NONGOVERNMENTAL ORGANIZATIONS, *REPORT ON THE COMMERCIAL EXPLOITATION OF CHILDREN IN THE UNITED STATES* 6 (2001) [hereinafter NGO REPORT].

19. See Susan Kreston, *Prostituted Children: Not an Innocent Image*, 34 PROSECUTOR 37, 39 n.15 (2000) (citing to CHILDREN OF THE NIGHT, 1998 STATISTICS REPORT, indicating 115 female children and 40 male children were provided shelter, increasing from 25 percent to 33 percent the male proportion of children seeking services in a Los Angeles based project that helps children get out of prostitution); ECPAT-USA, *Boy Prostitution: From Denial to Prevention*, in NGO REPORT, *supra* note 18, at 24-28.

20. RUTH DEAN & MELISSA THOMSON, *TEEN PROSTITUTION* 12, 19-20 (1998).

21. RICHARD ESTES AND NEIL WEINER, *THE COMMERCIAL SEXUAL EXPLOITATION OF CHILDREN IN THE UNITED STATES, CANADA, AND MEXICO* 2-5 (Univ. of Penn., 2001); THE HOFSTEDE COMMITTEE REPORT: *JUVENILE PROSTITUTION IN MINNESOTA* n.23 and accompanying text (1999) (noting the existence of sex circuits throughout the United States) [hereinafter HOFSTEDE COMMITTEE REPORT].

girls – our own daughters – to be the customers of, and consumed by, our American sons.

Why have those of us concerned about women and children been reluctant to adopt these girls into the larger feminist family of law reform? One reason is that, inevitably, the issue of the legalization/decriminalization of prostitution for adults is raised almost immediately.²² Prostitution, including pornography, has traditionally divided feminist scholars and activists, and because there is no agreement on what the legal status of adult commercial sex work ought to be, we have shied away from the separate, albeit related, question of the legal status of child sex workers.²³ How do we maintain some demarcation between childhood and adulthood, coercion and consent, and commercial and noncommercial relationships when discussing the use of sex in commercial transactions?²⁴ These more limited questions can be answered without deciding the more complicated question of the legal status of adult commercial sexual activity. We can take that issue off the table, at least for now.

Furthermore, this topic raises questions of consent and sexual autonomy for teenagers in a variety of contexts, including reproductive rights,²⁵ the criminalization of sexual activity between teenagers,²⁶ statutory rape law enforcement,²⁷ as well as many other

22. Telephone Interview with Claudine O'Leary, Advocates for Prostituted Women and Girls (June 17, 2002); Telephone Interview with Laura Barnitz, Youth Advocate Program International (June 24, 2002). Both note the difficulty of discussing child sexual exploitation without also discussing the extent to which commercial sex for adults should be legalized or decriminalized.

23. See, e.g., CATHARINE A. MACKINNON, *FEMINISM UNMODIFIED* (1987); Margaret A. Baldwin, *Split at the Root: Prostitution and Feminist Discourses of Law Reform*, 5 YALE J.L. & FEMINISM 47 (1992); Evelina Giobbe & Sue Gibel, *Impressions of a Public Policy Initiative*, 16 HAMLINE J. PUB. L. & POL'Y 1 (1994); Sylvia A. Law, *Commercial Sex: Beyond Decriminalization*, 73 S. CAL. L. REV. 523 (2000); Carlin Meyer, *Sex, Sin, & Women's Liberation: Against Porn-Suppression*, 72 TEX. L. REV. 1097 (1994).

24. For an excellent discussion on the legal aspects of childhood and adulthood more generally, see Wendy Anton Fitzgerald, *Maturity, Difference, and Mystery: Children's Perspectives and the Law*, 31 ARIZ. L. REV. 11 (1994).

25. See, e.g., Jessica R. Arons, *Misconceived Laws: The Irrationality of Parental Involvement Requirements for Contraception*, 41 WM. & MARY L. REV. 1093 (2000).

26. See, e.g., Elizabeth Hollenberg, *The Criminalization of Teenage Sex: Statutory Rape and the Politics of Teenage Motherhood*, 10 STAN. L. & POL'Y REV. 267 (1999); Michelle Oberman, *Regulating Consensual Sex with Minors: Defining a Role for Statutory Rape Law*, 48 BUFF. L. REV. 703 (2000) [hereinafter *Regulating Consensual Sex with Minors*].

27. See, e.g., Lewis Bossing, *Now Sixteen Could Get You Life: Statutory Rape, Meaningful Consent, and the Implications for Federal Sentencing Enhancement*, 73 N.Y.U. L. REV. 1205 (1998); Lynne Marie Kohm & Maria E. Lawrence, *Sex at Six: The Victimization of Innocence and other Concerns over Children's "Rights"*, 36 BRANDEIS J. FAM. L. 361 (1997-98); Michelle Oberman, *Turning Girls into Women: Reevaluating Modern Statutory Rape Law*, 85 J. CRIM. L. & CRIMINOLOGY 15 (1994) [hereinafter *Turning Girls into Women*]; Rigel Oliveri, *Statutory Rape Law and Enforcement in the Wake of Welfare Reform*, 52 STAN. L. REV. 463 (2000).

contexts where the capacity to consent or premature emancipation is at issue.²⁸ Being able to distinguish these contexts from the commercial trafficking and exploitation of children is crucial. Here we are called upon to make pragmatic, non-ideological arguments and accept that different problems require different solutions.²⁹

Finally, and perhaps most importantly, the domestic trafficking of girls is symptomatic of a much larger problem in American life and politics. Much of the feminist-inspired literature on children and the sex industry has been enormously helpful in identifying the many ways in which girls, and increasingly boys, are exploited. But it also has had the tendency to ignore the fact that path leading from bad boyfriend to self-medication, to addiction, to turning tricks, and, in some cases, to death, is paved with hope that she will one day find love in a good man.

The current political atmosphere, I believe, makes it even more difficult to discuss the sexual exploitation of children and its relationship to the issues of families and fatherhood. For example, the current Bush administration, just like the last one, has once again sparked a national dialogue on family values, and is currently devoting enormous resources to programs which promote responsible fatherhood and marriage, especially among the poor.³⁰ High on the agenda are family planning programs that would be barred from discussing any form of birth control save abstinence.³¹

28. See, e.g., Stacey Adomio, *Emancipation through Pregnancy*, 11 J. CONTEMP. LEGAL ISSUES 648 (2000); Natalie Loder Clark, *Parens Patriae and a Modest Proposal for the Twenty-First Century: Legal Philosophy and a New Look at Children's Welfare*, 6 MICH. J. GENDER & L. 381 (2000); Ann Eileen Driggs, *The Mature Minor Doctrine: Do Adolescents Have the Right to Die?*, 11 HEALTH MATRIX 687 (2001); Christine M. Hanisco, Notes and Comments, *Acknowledging the Hypocrisy: Granting Minors the Right to Choose their Medical Treatment*, 16 N.Y.L. SCH. J. HUM. RTS. 899 (2000); Alexis A. Phocas, *Runaways and California's Juvenile Law: The Emancipation Option*, 19 J. JUV. L. 46 (1998); Carol Sanger & Eleanor Willemssen, *Minor Changes: Emancipating Children in Modern Times*, 25 U. MICH. J.L. REFORM 239 (1992).

29. Margaret Jane Radin, *The Pragmatist and the Feminist*, 63 S. CAL. L. REV. 1699 (1990). This article has been one of the most helpful and influential in my own thinking about the relationship between theory and practice. Radin argues that in every gender dilemma there are two solutions, each one of which contains some good and not so good elements – what she terms a “double bind.” *Id.* at 1700. Ultimately, either choice has some costs and may be met with some backlash. “We must look carefully at the nonideal circumstances in each case and decide which horn of the dilemma is better (or less bad), and we must keep re-deciding as time goes on.” *Id.*

30. U.S. DEPT OF HEALTH AND HUMAN SERV., PROMOTING RESPONSIBLE FATHERHOOD, HHS FACT SHEET, Apr. 26, 2002 (available at <http://www.hhs.gov/news/press/2002pres/fathers.html>).

31. *Id.*

Abstinence education: Becoming a father before one is married and ready for the responsibility can have severe negative consequences for the father, the mother and the child. The welfare reform law enacted in 1996 created a separate

Just as we saw a decade earlier, social conservatives have co-opted the concept of families and fatherhood, and confused it with reproductive rights and traditional marriages, forcing the rest of us to argue that yes, families and fathers are important, but With the exception of a few commentators, it has been extremely difficult for feminists, liberals, and those who want to promote the well being of children, but not any other sort of political agenda, to discuss what is happening to the American family without being mislabeled as, or unfairly aligned with, social conservatives.³² Thus, the politics surrounding this issue have put many commentators in a precarious situation. Sometimes it just seems easier to stay silent. Yet, this issue provides a unique opportunity to reframe the debate in ways that may bring people of different political persuasions together in productive ways.

Most girls, like most boys, who act out in ways that are destructive to themselves and/or others and end up in either the criminal justice or the social welfare system come from broken families or troubled homes.³³ As a result, it is likely that most have never had a strong, loving relationship with their father or another adult male. Those of us who deeply care about what is happening to girls also have to be willing to talk about what is happening to boys on their way to manhood, and to be even more concerned about their social and economic well-being than we traditionally have been. This issue is more complicated than the easily over-simplified concept of patriarchy. This is not about male privilege and female victimization, but about a more fluid and symbiotic relationship between healthy girls and healthy boys, good moms and good dads. No one knows for sure what or who could have saved Christal Jones, but it is clear that for her, and most of the girls who find themselves entangled in a web that they never intended to weave, a good man, either by birth or marriage or some other commitment, would have protected her far more than any social service worker or social policy would have.

program for abstinence education under Title V, Section 510, of the Social Security Act. The program provides federal grants to states for abstinence-only education activities, including mentoring designed to promote abstinence from sexual activity until marriage.

Id.

32. See, e.g., SUSAN FALUDI, *STIFFED* (1999); CHRISTINA HOFF SOMMERS, *THE WAR AGAINST BOYS* (2000).

33. R. BARRI FLOWERS, *RUNAWAY KIDS AND TEENAGE PROSTITUTION* 89-90 (2001) [hereinafter *RUNAWAY KIDS AND TEENAGE PROSTITUTION*]; Marty Beyer, *Delinquent Girls: A Developmental Perspective*, 9 KY. CHILDREN'S RTS. J. 17, 18, Spring 2001.

CHRISTAL: KATHLEEN'S DAUGHTER

It is hard to think of girls like Christal Jones as children, in part because many of them lose their innocence so suddenly, and at such a young age. Like many girls who end up working in the commercial sex trade, Christal spent much of her adolescence running away, and being resistant to any help or intervention offered by adults. She could be difficult and defiant, as well as kind and loving. Much of what we know about Christal was documented in the Burlington Free Press, which extensively covered her life after her death. I retell some of her story here, in part because Christal's life was not so terribly different from the lives of many girls who eventually find themselves working in the sex industry. Her story is also a sobering reminder of just how vulnerable girls who grew up without the consistent love of a responsible adult male can be.

Christal was one of five children born in New Orleans to Mark and Kathleen Jones.³⁴ Her father was a lovable man but a heavy drinker, and her parents separated when she was three years old, and eventually divorced.³⁵ Her mother met another man who at first seemed as if he had much to offer the family. Within two years of their relationship, however, he began beating Kathleen. Official SRS reports state that he was abusive to the whole family.³⁶

Kathleen Wright then moved Christal and her other children to Burlington, where Kathleen's father now lived. It seemed for a while that the family would be fine. With the support of her father and financial assistance from welfare, Kathleen started classes as a masseuse, and Christal and her brothers and sisters were in school. "Everyone was safe and accounted for," Kathleen is quoted as saying.³⁷

Things changed when the family moved to subsidized housing in one of the poorer areas of town. That was when Christal started to rebel.³⁸ Not yet 11, her mother recounts how she started to sneak out of the house to hang out with older children – probably older boys.³⁹ Soon, she was skipping school, shoplifting, and spending nights away from home.⁴⁰ Eventually placed in the protective

34. *The Dark Side of Vermont*, *supra* note 1.

35. *Id.*

36. *Id.*

37. *Id.*

38. *Id.*

39. *The Dark Side of Vermont*, *supra* note 1.

40. *Id.*

custody of SRS, she spent some time in foster homes being bounced around the system, and eventually ended up in a private school for troubled teens in Bennington, Vermont.⁴¹

It was at this school that she became pregnant by a boyfriend, and miscarried.⁴² The school then expelled her because she ran away one time too many.⁴³ In fact, between 1996 and 2000, she had runaway from the custody of SRS a dozen times.⁴⁴ Dubbed one of the “unmanageables,”⁴⁵ Christal became one of those children that SRS simply could not control despite employing its best efforts, at least according to state officials investigating her death.⁴⁶

Things started to look better for this young, troubled teen by the summer of 1999. She and her family had hope. Christal moved to New Jersey to live with an uncle, enrolled in high school, joined the school newspaper, and was on the cheerleading squad. “I have 2 jobs,” she wrote her mother that September.⁴⁷ “I’m on the cheerleading squad, and I’m in an honor class.”⁴⁸ But by that October, she had stolen her uncle’s car and was later picked up in Harlem driving around the city with two men who the New York Police Department identified as “drug dealers.”⁴⁹ After being returned to her uncle, she stole money and returned to Vermont, where she spent the night in a hotel room with two men that the police believe were involved in Vermont’s growing heroin trade.⁵⁰ According to press reports, she later told her family that she had sex with at least one of them, and then stole \$200.⁵¹

Once again, she disappeared, and it is likely that she returned to New York and was living in the same apartment in which she was later murdered. Neighbors reported that girls sat in the window of the two-bedroom, first floor apartment, often dressed in skimpy clothes. Loud hip-hop music played constantly, and one neighbor reported seeing several well-dressed men and women coming and going all day, and into the night.⁵² The apartment was

41. *Id.*

42. *Id.*

43. *Id.*

44. *The Dark Side of Vermont*, *supra* note 1.

45. Tom Zolper, *Vermont Runaways Remain Adrift*, BURLINGTON FREE PRESS, Feb. 16, 2001, at 1 [hereinafter *Vermont Runaways Remain Adrift*].

46. Tom Zolper, *Report: State Knew of Sex Ring*, BURLINGTON FREE PRESS, Apr. 18, 2001.

47. *The Dark Side of Vermont*, *supra* note 1.

48. *Id.*

49. *Id.*

50. *Id.*

51. *Id.*

52. *Vermont Runaways Remain Adrift*, *supra* note 45.

just a few miles from Hunter's Point, an area known for prostitution.⁵³

Continuing her pattern of running away and then coming home, in April 2000, Christal returned to Vermont. She was placed in a residential treatment program, and received psychiatric counseling and a psychiatric evaluation.⁵⁴ Four months later, she again disappeared, and then re-appeared in September. She spent another week in a rehabilitation program before leaving Vermont one final time.⁵⁵ It was becoming clear that Christal had probably developed a drug habit, and was likely one of the growing number of Vermonters to use heroin.

Somewhere, either in New York or in Burlington, Christal met Jose "Ritchie" Rodriguez, a convicted felon authorities believe is responsible for introducing Christal into the commercial sex scene in New York. Rodriguez was indicted and eventually plead guilty to numerous counts of enticing Vermont girls to travel to New York to engage in prostitution, transporting them to New York, and distributing cocaine and heroine to minors.⁵⁶ At Christal's funeral, other girls who had been trafficked to Vermont told Governor Howard Dean that Rodriguez would beat them when they would not obey.⁵⁷

Why did Christal, who was relatively street wise, get involved with him in the first place? One of her friends reported that Christal wanted to be his girlfriend. "He made her believe that he loved her."⁵⁸

SEXUALLY EXPLOITED CHILDREN, NOT TEENAGE PROSTITUTES

Work on American girls who exchange sex for money, goods, or services often define girls like Christal Jones as "teenage prostitutes."⁵⁹ Although the term teenage prostitute is one commonly used, it is also commonly misunderstood. I use the term *sexually exploited children* rather than teenage prostitutes to refer

53. *Id.*

54. *Case Worker Did His All for Runaway*, *supra* note 3.

55. *Id.*

56. Lisa Jones & Candence Mertz, *Heroin Problem Growing*, BURLINGTON FREE PRESS, Feb. 11, 2001.

57. *Dead Vermont Teen Linked to New York Sex Ring*, *supra* note 2; Nancy Remsen, *Dean, Legislature to Investigate Girl's Death*, BURLINGTON FREE PRESS, Feb. 1, 2001, at 1.

58. *The Dark Side of Vermont Life*, *supra* note 1.

59. For studies of teenagers who work in the commercial sex industry, see, R. BARRI FLOWERS, *THE PROSTITUTION OF WOMEN AND GIRLS* (1998) [hereinafter *THE PROSTITUTION OF WOMEN AND GIRLS*]; KELLY D. WEISBERG, *CHILDREN OF THE NIGHT: A STUDY OF ADOLESCENT PROSTITUTION* (1985).

to persons under 18 years of age who exchange some sexual act for money, goods, or services. It is a term that captures a more accurate description of the complex realities of these girls' lives.

I do not believe that Christal Jones was a "prostitute" in any conventional or popular understanding of that term, or that she ever considered herself one. Rather, she was a teenage girl, a child, who, by a series of sad and unfortunate circumstances largely out of her control, found herself to be preyed upon and exploited by at least one very bad man. Those grown-ups – we grown-ups – who were charged with her care, failed her anyway. She spent the last few hours of her life arguably having sex in exchange for money or drugs or the ongoing affection of her boyfriend/pimp. She was sexually exploited, and to see her as anything else obscures the reality of her far too short life.

"Teenage prostitution" is a term that obscures the legal status of girls under 18. Although there is a tendency in the literature, and in life, to think of girls as women when they first have a sexual experience that involves some degree of choice or desire, they are legally minors.⁶⁰ Indeed, the demarcation between girlhood and adulthood is eroding in ways that do not fully recognize that there is, and should be, some rite of passage from childhood to adulthood.⁶¹

Characterizing girls as "prostitutes" makes them seem sexy, and sexually threatening. A prostitute is "the other woman" – the one who lures the good men away from the good women of the world. It is a label that is as titillating as it is traumatizing, and hence evokes ambivalence about the extent to which these girls are exercising a level of sexual autonomy, or whether they are victims of larger social and cultural forces. The truth, no doubt, lies somewhere in-between.

I use the term sexually exploited children normatively as well as descriptively. I want readers, policy makers, and parents to think of girls like Christal as still children, at least in this context where they are trafficked and working in the commercial sex industry. Calling them prostitutes blurs the distinction between children who are used for profit, and adult prostitutes who may also have few options, but at least arguably have the emotional and

60. See generally *Turning Girls into Women*, *supra* note 27 (discussing tendency of law to impute a sexual and criminal maturity from the simple act of sex).

61. For an interesting discussion on parental versus child rights, see Melinda A. Roberts, *Parent and Child in Conflict: Between Liberty and Responsibility*, 10 NOTRE DAME J.L. ETHICS & PUB. POL'Y 485 (1996).

physical maturity to exercise them in more autonomous ways than do teenage girls.

An estimated eighty percent of adult prostitutes started working as children.⁶² Research indicates that most adult women who work in the commercial sex industry started working between the ages of 14 and 18 – a time when they were far too young to make an informed decision.⁶³ Thus, even arguments about the autonomy of adult prostitutes are questionable given the age at which most enter the industry.

As Michelle Oberman has so astutely and consistently argued with regard to teenage girls and their sexuality:

Adolescence is, by definition, a time of transition. As teenagers navigate the transition from childhood to adulthood, they learn by experimentation, by mistake, and by observation. Because of their inexperience, they are necessarily prone to misjudgment. Nowhere is this tendency toward misjudgment more pernicious than in the area of sexuality, in which an adolescents' age-appropriate naivete renders them uniquely susceptible to coercion and abuse⁶⁴

[T]here is at least one important difference between girls and women when it comes to consensual sex: the sexual bargains struck by girls often are so painfully one-sided that it is difficult for adults to understand what prompted the girl to consent. In this sense, the sexual bargains girls make are more like the commercial bargains that they might make, were they permitted to act in the marketplace. The combination of a girl's age-appropriate naivete and insecurity and the norms of male sexual initiative make bad bargains inevitable.⁶⁵

I do not deny that girls do not have free will at some level. Many girls have indeed made a choice, either consciously or subconsciously, to use their sex in ways they hope will bring them some gratification. Indeed, many young women who work in the sex industry do not define their experience as exploitive, but rather a

62. Kreston, *supra* note 19, at 37 (citing to JULIA O'CONNELL DAVIDSON, THE SEX EXPLOITER, panel report presented at the World Congress Against the Sexual Exploitation of Children in 1996).

63. THE NOKOMIS FOUNDATION, WE CAN DO BETTER: HELPING PROSTITUTED WOMEN AND GIRLS IN GRAND RAPIDS MAKE HEALTHY CHOICES, A PROSTITUTION ROUNDTABLE REPORT TO THE COMMUNITY 10 (2002) [hereinafter ROUNDTABLE]; DEBRA WHITCOMB & JULIE EASTIN, OJJDP JOINING FORCES AGAINST CHILD SEXUAL EXPLOITATION: MODELS FOR A MULTIJURISDICTIONAL TEAM APPROACH (1998).

64. *Regulating Consensual Sex with Minors*, *supra* note 26, at 710.

65. *Id.* at 714 (internal citations omitted).

choice over which they have power, a choice that they exercise on behalf of their “boyfriend.”⁶⁶ However, using the term prostitution implies that they have made that choice in a world where they know and understand their relative options.⁶⁷ Most have not.

Furthermore, using the term prostitution keeps the focus on the girls, and only the girls. Yet, these girls represent a multitude of potential labels – abused, runaway, drug addict, neglected, poor. Sexual exploitation, rather than prostitution, focuses on the sexual gratification, financial gain or advancement through the abuse or misuse of a child’s sexuality.⁶⁸ It reminds us that there are pimps, madams, johns, and drug dealers that profit from a girl’s use of sex. Referring to them as exploited reminds us that someone else has exploited them, and in that vein, others have made a choice as well and, as adults, should be even more accountable for the consequence of those choices.

Referring to them as teenage prostitutes also implies that girls such as Christal would describe themselves as such when, in fact, most of these girls do not. As Richard Estes and Neil Weiner argue in their landmark study on the commercial exploitation of children in the United States, Canada and Mexico, and as many advocacy organizations that work directly with children also argue, many youth involved in the exchange of sex for money or other considerations (e.g. food, shelter, drugs, etc.) do not perceive themselves as engaging in prostitution but rather as doing whatever is necessary to ensure their survival.⁶⁹ “Survival sex” is the term more commonly used within the community of service providers who know these girls best. It captures the limited range of choices that these girls perceive themselves as having, and far more accurately describes their own experiences. Often, sex is a commodity that they trade for the most basic of needs because it is all they perceive that they have to offer. As one young woman describes:

My parents kicked me out when I was 15. I moved in with an older girlfriend. I didn’t have an ID and I heard that I could

66. Mary Weeks, *Midwest States*, in NGO REPORT, *supra* note 18, at 14.

67. *Id.* There seems to be a significant difference between the denial of youth involved in sexually exploitive activities and the ability of older women to recognize and experience their powerlessness in it. *Id.*

68. Susan L. Breault, *A Profile of the U.S. Sex Trade and Its Use of Children*, in NGO REPORT, *supra* note 18, at 23.

69. ESTES & WEINER, *supra* note 21, at 11; RAYMOND & HUGHES, *supra* note 9, at 10 (noting that most women interviewed felt as if commercial sex was their final option); CLAUDINE O’LEARY & OLIVIA HOWARD, *THE PROSTITUTION OF WOMEN AND GIRLS IN METROPOLITAN CHICAGO: A PRELIMINARY PREVALENCE REPORT 6* (Center for Impact Research, 2001).

dance in a strip club downtown without an ID. I started stripping. I thought that I would make a lot of money. The money was o.k. but not as good as I had hoped. One night a pimp approached me at the strip club and offered me \$300 more to have sex with a trick in a van in a parking ramp. I needed the money, so I agreed to do it.⁷⁰

The term sexually exploited children has legal as well as normative relevance. There is a consensus among both governmental and nongovernmental organizations that 18 is the age at which a child legally becomes an adult, and that trafficking happens regardless of whether a child is taken forcibly or voluntarily agrees to be transported or harbored for the purpose of engaging in the commercial sex industry.⁷¹ The Victims of Trafficking and Violence Prevention Act of 2000 defines trafficking as, "[t]he 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."⁷² Although the legislative history of the Act indicates that it was primarily geared towards curbing the international trafficking of persons, the law makes no explicit differentiation between American and foreign women and children who meet the definition of trafficking.

In the same vein, in the *United Nations Convention on the Rights of the Child*,⁷³ which the United States has yet to ratify, as well as the in the *Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography*, a child is defined as, "every human being below the age of 18 years unless, under the law applicable to the child, majority is attained earlier."⁷⁴ This demarcation between childhood and adulthood is also consistent with the way the FBI Uniform

70. HOFSTEDE COMMITTEE REPORT, *supra* note 21, at n.19 and accompanying text.

71. FRANCIS T. MIKO, TRAFFICKING IN WOMEN AND CHILDREN: THE U.S. AND INTERNATIONAL RESPONSE, CONG. SERV. REP. 98-649 C, (2000) at 2-3.

72. Victims of Trafficking and Violence Prevention Act, Pub. L. No. 106-386, § 103, 114 Stat. 1464, 70 (2000).

73. Convention on the Rights of the Child, G.A. Res. 44/25, U.N. GAOR, 44th Sess., Supp. No. 49 (1989). For a discussion of this treaty, see Bruce C. Hafen & Jonathan O. Hafen, *Abandoning Children to their Autonomy*, 37 HARV. INT'L L.J. 449 (1996); LAURA BARNITZ, INTERNATIONAL TREATY ADVANCES THE RIGHTS OF CHILDREN, YOUTH ADVOCATE PROGRAM INTERNATIONAL RESOURCE PAPER (available at www.yapi.org) (last visited Oct. 22, 2002).

74. Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution, and Child Pornography, G.A. Res. 54/263, U.N. GAOR, 54th Sess., Supp. No. 49, U.N. Doc. A/59/49 (2000).

Crime reports classifies juveniles as those under the age of 18.⁷⁵ Non-governmental organizations, such as the National Clearinghouse on Child Abuse and Neglect, and the Youth Advocate Program International also classify children as those under the age of 18.⁷⁶

It is not that I am unsympathetic to the problem of drawing bright lines based on biological age as opposed to some more nuanced set of criteria. As Barbara Bennett Woodhouse points out, "age-based lines of demarcation are arbitrary and fail to reflect the far more complex realities of the sociocultural transition into adulthood."⁷⁷ She goes on to note that those eighteen and older are generally treated as adults for the purpose of signing contracts and joining the military, but the exceptions to this general rule are many.⁷⁸ One must be twenty-one to drink alcohol, but in the reproductive rights context, mature minors are allowed to make medical decisions about birth control and pregnancy termination without parental consent.⁷⁹ In the criminal context, the age of adulthood has moved downward, and the Supreme Court has held that those who are 16 years or older when they have committed a capital offense may be put to death.⁸⁰ Similarly, within the law regulating sexual activity, including statutory rape laws, sexual assault laws, and even laws governing commercial sex, the age at which a person is treated as an adult varies from as young as 15 to as old as 19.⁸¹ In the labor context, both state and federal laws regarding childhood labor vary dramatically with regard to age and working conditions.⁸²

There are a multitude of arguments that could be made about the intended and unintended consequences of the inconsistent and seemingly illogical way in which we label and treat persons as children in order to achieve a social end in one context, and a different social end in another. Yet, age based demarcations are often the only means by which to objectively signify the transition from childhood to adulthood. Teenager, youth, juvenile, and adolescent are terms of art that describe a young person's

75. FEDERAL BUREAU OF INVESTIGATION, U.S. DEPT OF JUSTICE, CRIME IN THE UNITED STATES 2000, UNIFORM CRIME REPORTS.

76. NGO REPORT, *supra* note 18, at 5 n.1.

77. Barbara Bennett Woodhouse, *Youthful Indiscretions: Culture, Class Status, and the Page to Adulthood*, 51 DEPAUL L. REV. 743, 759 (2002).

78. *Id.* at 758.

79. *Id.* at 758-59.

80. *Id.* at 759.

81. *Id.*

82. Woodhouse, *supra* note 77.

relationship to the world at large, not their relationship to the state. It is all but impossible to decide when a 15 year old is behaving as an adult, and when a sixteen year old is behaving as a juvenile. Indeed, absent that bright line demarcation, we run the risk of treating some children differently than others, with an even greater risk, as Woodhouse fears, of having class and race based constructions of youth. Thus, for better or worse, we must draw a chronological line, as artificial as it may seem, between adulthood and childhood within this context.

COULD IT BE MY DAUGHTER?

"I turned my first date when I was 15 years old. My dad had been molesting me for years, threatening me. I wanted out. Hooking was very liberating. I had control over my life for the first time."⁸³

Erica, a prostitution survivor.

It is incredibly difficult to know just how many American girls are recruited into the sex trade by either formally or informally organized trafficking operations. Many estimate that between 100,000 and 3 million children under 18 currently work in the sex industry.⁸⁴ A recent report by the U.S. Department of Health and Human Services estimated that there are 300,000 children age seventeen and under working on the streets of America.⁸⁵ Furthermore, some evidence indicates that juvenile prostitution is on the rise in some parts of the country, especially among the thirteen to seventeen age group.⁸⁶

I am very cautious not to over-state the problem given how difficult it is for researchers to gather reliable data. When Congress passed the Mann Act of 1910, there was widespread "moral panic" over "white slavery," and, in hindsight, it appears that the problem was overstated, and the solution not very effective.⁸⁷ As with many issues involving females and the regulation of sexual activity, there has been a tendency, I think, on the part of well-meaning activists and scholars to paint the problem with broad strokes instead of careful detail. Filling in the detail is extremely difficult due to the

83. ROUNDTABLE, *supra* note 63, at 28.

84. RUNAWAY KIDS AND TEENAGE PROSTITUTES, *supra* note 33, at 87.

85. *Id.*

86. *Id.*

87. See, e.g., FREDRICK K. GRITTNER, WHITE SLAVERY: MYTH, IDEOLOGY, AND AMERICAN LAW (1990); DAVID LANGUM, CROSSING OVER THE LINE: LEGISLATING MORALITY AND THE MANN ACT (1994).

clandestine nature of the sex industry itself. Nevertheless, the journey that some girls travel from childhood to adulthood ought to force us to reflect upon the sexual development of American girls and the ways in which the law might better provide them with more, rather than fewer, avenues to self-actualize.

Many girls are never identified as "prostitutes," and thus the actual number of American girls like Christal is unknown. Official government arrest data most likely underestimate, rather than over-estimate the problem.⁸⁸ In fact, in 1999, only 1,300 juveniles were arrested for prostitution and commercial vice, and of those, fifty-four percent were girls.⁸⁹ However, emerging research suggests that the problem may be much more widespread.⁹⁰

For example, in a recent report on the prostitution of women and girls in the Chicago Metropolitan area, researchers suggest that the discrepancy between the low number of arrests for juvenile prostitution and the experience of service providers who see numerous girls who have exchanged sex for money, is in part due to the way in which juveniles are processed by law enforcement. As they explain:

According to police officers, one fact to consider is the use of the "station adjustment" for juveniles. Under station adjustment, a youth officer, without formally charging the juvenile, can decide how she or he might be penalized for the offense, for example, mandating counseling or community service. Arrest data would not include the number of girls who were station-adjusted in this manner.⁹¹

However, researchers estimate when considering the exchange of sex for drugs that at least 16,000 women and girls are involved in prostitution activities in the Chicago metropolitan area during any given year.⁹²

Furthermore, the girls themselves often present themselves as older than 18, even if they are not. In part, this is because they can be released more quickly from arrest if they are adults.⁹³ Juveniles

88. ESTES & WEINER, *supra* note 21, at 21.

89. *Id.* at 128.

90. *Id.*; Jessica Roman et. al., *Prostituted Teens: A Problem for Michigan Too*, in PROSTITUTED TEENS: MORE THAN A RUNAWAY PROBLEM, MICHIGAN FAMILY IMPACT SERIES 5-6 (Nancy E. Walker ed., 2002).

91. O'LEARY & HOWARD, *supra* note 69, at 8.

92. *Id.* at 30.

93. For a compelling description of phenomenon in the sex trade in Canada, see Jason Proctor, *The John Patrol*, VANCOUVER PROVINCE, Mar. 21, 1999, available at http://www.walnet.org/csis/news/vancouver_99/province-990321.html.

arrested for prostitution must face the lengthy process of being referred to a social service agency, and thus will lie in order to be let out sooner.⁹⁴ In addition, it is likely that much of juvenile prostitution has been driven underground, in part, as a response to increased law enforcement efforts to target the child pornography industry.

Much of the time, the sexual exploitation of teenagers is not even on the radar screen of police. In Greensboro, North Carolina, for example, it was only after the formation of a task force of prostitution did the police begin to make the connection between teenage runaways, "dance parties" employing teenage girls, and the commercial sex industry.⁹⁵ In fact, the police said that they rarely saw girls unless they were picked up as runaways, and then the girls rarely talked with them about using sex to survive on the streets.⁹⁶ The Greensboro Police Department now has a new policy on dealing with runaways, and juvenile court judges are learning to ask girls how they are surviving.⁹⁷ It is becoming clear to that community that the problem of girls using sex for survival is far more widespread than originally thought. Other communities that have studied the issue have also found discrepancies between police statistics and actual experience.⁹⁸

We know even less about domestic trafficking than we do about the actual number of girls who find themselves trading sex for survival. Much of the current research has examined patterns of international trafficking to the United States. Estes and Weiner estimate that twenty percent of children who work in the sex industry are trafficked through organized domestic trafficking rings using well-established prostitution circuits.⁹⁹ The largest nationally known circuit is the Pacific Pipeline, which runs from Vancouver down the West Coast and eventually to Honolulu and Asia.¹⁰⁰ Trafficking circuits, however, exist throughout the United States.¹⁰¹

94. *Id.* at 8.

95. Stan Swoffard, *Education Spurs Action: The Teen Prostitution Task Force Says Cooperation and Knowledge are it's Major Accomplishments During its First Six Months*, GREENSBORO NEWS & REC. (N.C.), May 5, 2002, at B1.

96. *Id.*

97. *Id.*

98. See O'LEARY & HOWARD, *supra* note 69; ROUNDTABLE, *supra* note 63.

99. ESTES & WEINER, *supra* note 21, at 60.

100. HOFSTEDE COMMITTEE REPORT, *supra* note 21, at n.23 (citing Mark Clayton, *Prostitution "Circuit" Takes Girls Across North America*, CHRISTIAN SCI. MONITOR, Sept. 1996).

101. *Children for Sale: Youth Involved in Prostitution, Pornography, and Sex Trafficking*, YOUTH ADVOC. PROGRAM INT'L. REP. (YAP Int'l, Washington, D.C.), Summer 1998, at <http://www.yapi.org> [hereinafter *Children for Sale*] (quoting Valerie Douglas of YouthCare in

Nongovernmental organizations provide some of the best qualitative data on the trafficking of girls for the commercial sex industry, although, again, most of the data is anecdotal. *A Report in the Commercial Exploitation of Children in the United States* is one of the most comprehensive analyses of what is happening to American girls.¹⁰² In the regional reports on the impact of the sex trade on children and youth, service providers document that the trafficking of girls is not an isolated occurrence.¹⁰³ In New England, for example, Susan L. Breault, executive director of the Paul & Lisa Program, Inc., a program based in Westport, Connecticut serving the needs of children, youth, and young adults who are victims of commercial exploitation, reports that girls within this region are trafficked throughout the region, driven mostly by the market forces.¹⁰⁴

It is important to understand that the presence of children being prostituted fluctuates with the opportunities to turn a profit in any given location. If a popular sporting event, political convention or entertainment event is scheduled, pimps will traffic prostituted children to that location especially for that event, knowing that a greater customer base will exist. If greater police presence and community outcry is present, pimps will move prostituted children to another location, city, or state. Child prostitution is ruled by the availability of customers and their money and the lack of public and political outcry.¹⁰⁵

A recent Minnesota case illustrates one pattern of targeting and trafficking young white girls who can bring in a premium profit in the sex market, mirroring the racism and ageism that exists throughout society. In 1999, the FBI and Minnesota law enforcement arrested 15 members and associates of the Evans family on charges related to the operation of a multi-million dollar prostitution ring.¹⁰⁶ The ring had allegedly operated for more than 17 years in at least 24 states and Canada.¹⁰⁷ At least two of the

Seattle, Washington, who indicates that she is aware of street children traveling to and from Canadian clubs, and that they were being "rounded up" for special events, such as Mardi Gras in New Orleans and Sea Fair in Seattle).

102. See NGO REPORT, *supra* note 18.

103. *Id.*

104. *Id.* at 8.

105. *Id.* at 9.

106. *Police Accuse Family of Running Juvenile Prostitution Ring*, LAS VEGAS R-J, Aug. 13, 1999, at A2.

107. *Id.*

girls they recruited are missing or dead and countless others were beaten and raped.¹⁰⁸

The family recruited girls as young as 14, often from the Mall of America and the Minneapolis City Center.¹⁰⁹ They also advertised in newspapers searching for "escorts."¹¹⁰ The pattern of hooking girls was typical. First, some man – a pimp – would befriend them, and sometimes introduce them to drugs.¹¹¹ Then, to pay for the drugs that their "boyfriends" gave them, or simply to keep them interested, the girls would start turning tricks.¹¹² Eventually, they were cut off from family and friends, and were physically and mentally intimidated to continue to work in the sex industry.¹¹³ The business was highly profitable; it is estimated that one young woman alone produced one million dollars for the prostitution ring.¹¹⁴

Others in the nonprofit sector who work with sexually exploited children confirm similar trafficking patterns that target white girls.¹¹⁵ As Norma Hotaling, executive director of SAGE, an organization that assists prostitutes in San Francisco explains, "Do you know what most johns are looking for White, young, blue-eyed blondes. Someone who will listen to them and smile and be nice to them."¹¹⁶ Claudine O'Leary of the Young Women's Empowerment Project in Chicago concurs. "Even though women of all races and ages engage in survival sex, young white girls often can demand a higher price."¹¹⁷

108. *Id.*

109. *Id.*

110. *Id.*

111. *Police Accuse Family of Running Juvenile Prostitution Ring*, *supra* note 106, at A2.

112. *Id.*

113. The recent prosecutions of two men in Atlanta, Charles "Sir Charles" Pipkins, and Andrew "Batman" Moore, confirms the pattern pimps use to recruit girls. At the trial, a 19 year-old woman testified that she started working in the sex industry at 15. After bouncing around from pimp to pimp, she began working for Pipkins. "He was my daddy figure, my boyfriend, my husband, my everything," she said. Supplying her with marijuana and false identifications, she was led to believe that she would have the finest things if she began working for him. Bill Rankin, *Women Tell Court of Teen Prostitution*, ATLANTA J. & CONST., Jan. 24, 2002, at C6.

114. *Police Accuse Family of Running Juvenile Prostitution Ring*, *supra* note 106, at A2.

115. Wilson Ring, *Vt. Teens Drawn to Prostitution*, ASSOCIATED PRESS, available at <http://www.northvegr.org/fow/r008.html> (last visited Oct. 22, 2002) (quoting Claudine O'Leary of the then Advocates for Prostituted Women and Girls in Chicago, that pimps frequently look for girls from the Upper Midwest. "Part of this is the consumer factor. There is a demand for young blonde women.")

116. *Children for Sale*, *supra* note 101.

117. Telephone interview with Claudine O'Leary, Young Women's Empowerment Project (June 17, 2002).

Although we do not know how many girls are trafficked, we do know that most are not so different from Christal. They often turn to the commercial sex industry to please a so-called boyfriend, to feed a drug habit, and to survive. Most teenagers who engage in survival sex have run away from home. Some studies suggest at least two-thirds of girls on the street have either voluntarily left or been thrown-out of their homes or some other institution.¹¹⁸ Like Christal, these girls do not feel love at home, or in foster care or institutions, and start looking for it in other places.¹¹⁹ "Children who are abused or neglected are set up for the manipulations of the pimp," explains one outreach worker. "They respond to unrealistic lures – lines like 'Oh, you're so pretty. I'm sure you could be a model if you came with me to the city.'"¹²⁰ Pimps prey on this dynamic, often by first showing the girl much affection, and then withholding that affection until the girl agrees to do as he asks.¹²¹ If this push-me/pull-me game no longer works, pimps sometimes resort to using physical violence and emotional fear.

Estes and Weiner, while clearly indicating that reliable estimates of the number of commercially exploited children in the United States do not exist,¹²² do identify the number of children who are "at risk."¹²³ Those who run away from home, run away from group foster homes, juvenile or other institutions, are throwaways,¹²⁴ or are homeless, are the most at risk of becoming commercially exploited. Of children in these categories, the authors suggest that between 200,000 and 300,000 American children between the ages of 10 and 17 are at risk. This finding is consistent with other recent studies of the commercial exploitation of children in the United States.¹²⁵

118. RUNAWAY KIDS & TEENAGE PROSTITUTION, *supra* note 33, at 89.

119. *Children for Sale*, *supra* note 101.

120. *Id.* (quoting Susan L. Breault, assistant director of the Lisa & Paul program).

121. Kreston, *supra* note 19, at 39.

122. ESTES & WEINER, *supra* note 21, at 142.

123. *Id.* at 143. Children who, because of their unique circumstances as runaways, throwaways, victims of physical or psychological abuse, users of psychotropic drugs, members of sexual minority groups, illegally trafficked children, children who cross international borders in search of cheap drugs and sex, and other illicit fare, are at special risk of sexual exploitation. *Id.*

124. Gregory A. Loken, "Throwaway" Children and Throwaway Parenthood, 68 TEMP. L. REV. 1715, 1719 (1995) (defining throwaway children as those who were told to leave home, abandoned or deserted, refused reentry to the home after running away, or unsought by their parents after running away).

125. See, e.g., *Children for Sale*, *supra* note 101 (quoting Marsha Liss, an attorney with the U.S. Justice Department's Child Exploitation and Obscenity Section as saying that there are between 100,000 and three million children in the United States who are prostituted each year).

Why do girls like Christal run away from home? There is often an overlapping set of factors that precipitate running away from home or an institutional setting.¹²⁶ Many of those factors involve a poor home environment, the absence of one parent (almost always the father), and sexual abuse (often by a male the girl knows, and too often it is her mother's boyfriend).¹²⁷ School problems, emotional or mental problems, substance abuse, peer pressure, boredom, and normal teenage rebellion all can play a role. Many children are escaping chaotic and unhealthy home lives, marked often by domestic violence,¹²⁸ substance abuse by their parents,¹²⁹ and unhealthy dating relationships.¹³⁰ As R. Barri Flowers explains, "[i]n many instances, the runaway child has multiple reasons that result in the decision to leave home. These factors are often long-term, unresolved issues that reach a point of no return, either by the runaway or by the caretaker, resulting in the child being thrown away."¹³¹

Even though everyone's daughter is at some risk of running away or being lured away from their homes,¹³² there are certain factors that can put a girl more at risk for running away, and thus more at risk for engaging in survival sex.¹³³ Child sexual assault is one of the primary reasons children leave home: the relationship between child sexual abuse, child sexual assault, and the commercial exploitation of children is "direct, powerful, and long-standing."¹³⁴ Sexual exploitation starts at home by family members or acquaintances – most often by a male friend or relative, and many times that person is the mother's new boyfriend.¹³⁵ The exploitation then continues on the street, where men who claim to love them use them for profit. They often leave one form of victimization for another.

126. RUNAWAY KIDS AND TEENAGE PROSTITUTION, *supra* note 33, at 41.

127. *Id.*

128. HOFSTEDE COMMISSION REPORT, *supra* note 21, at n.17.

129. RUNAWAY KIDS AND TEENAGE PROSTITUTION, *supra* note 33, at 41.

130. *Id.* at 43-44.

131. *Id.* at 42.

132. HOFSTEDE COMMISSION REPORT, *supra* note 21, at n.11.

133. See generally, MEDA CHESNEY-LIND & RANDALL SHELDON, GIRLS, DELINQUENCY & THE JUVENILE JUSTICE SYSTEM (1992) (finding that when reviewing the research on youth involvement in prostitution, the two most significant precursors are runaway behavior and child sexual abuse); Bernard Schissel & Kari Fedec, *The Selling of Innocence: The Gestalt of Danger in the Lives of Youth Prostitutes*, CAN. J. OF CRIMINOLOGY 33-56 (1999) (same).

134. ESTES & WEINER, *supra* note 21, at 51.

135. Robin Fretwell Wilson, *Children at Risk: The Sexual Exploitation of Female Children After Divorce*, 86 CORNELL L. REV. 251, 266-71 (2001).

While runaway and homeless youth are clearly most vulnerable, it appears that a growing number of girls are being recruited into the sex industry. Shopping malls and other places where teens gather are often hot spots. Some are lured over the Internet.¹³⁶ Many come from upper middle-class homes and are targeted because they can often bring in premium prices for their pimps. For example, one NGO report states:

In New York, the demand for the 'high class escort' – youth with breeding, looks and education – are the prostitutes most favored by the customers from the upper end of the socio-economic scale. Escorts typically carry beepers and are on call to go places and perform services. While business people who run escort services declare that their employees are of age and that the job description does not require sex – the story told by the escorts differs greatly. Escort services that use children go to great lengths to provide the illusion of legality Estimates of profit range from teens offering oral sex at house parties or on the streets for \$20 a customer, to teens in escort services who bring in \$5,000 or more per date for participating in sadomasochistic activities.¹³⁷

Some researchers suggest that the demand for young girls is rising, and thus the problem of recruiting girls is likely to increase.¹³⁸ In part, those who work in this field observe that male exploiters believe that "virgins" do not have sexually transmitted diseases, particularly HIV, and thus prefer extremely young girls.¹³⁹ Others suggest that advances in technology, such as the Internet, have fueled the commercial sex industry, creating greater demand among men for younger and younger girls.¹⁴⁰

THE DESIRES OF OUR DAUGHTERS

The goal is to get the girls as dependent as possible. Mentally you've gotta burn into their brains you're the only one – you're god. Once you've got that down, and they're ready to work . . .

136. Susan L. Breault, *A Profile of the U.S. Sex Trade and Its Use of Children*, in NGO REPORT, *supra* note 18, at 22.

137. *Id.*

138. RAYMOND & HUGHES, *supra* note 9, at 8, 15.

139. Kreston, *supra* note 19, at 1.

140. Donna M. Hughes, *The Use of New Communications and Information Technologies for Sexual Exploitation of Women and Children*, 13 HASTINGS WOMEN'S L. J. 127 (2002); ESTES & WEINER, *supra* note 21, at 2.

then you instill fear – the wrath of god. If they mess up, there is a price to pay, and they know it is a heavy price.¹⁴¹

The sexual exploitation of children in the United States is hardly a recent social problem, as evidenced by the passage of the Mann Act in 1910.¹⁴² Yet, despite almost a century since the Mann Act was passed, it is not clear whether our collective understanding of the dynamics of the sexual exploitation of children has become any more nuanced or sophisticated. Indeed, although we may have more labels for social risk factors now than we did in 1910, the supporters of the Mann Act understood human behavior just as well as we do now.

The Mann Act makes it a felony to knowingly transport women or girls in interstate commerce for the purpose of prostitution or any sexual activity for which any person can be charged with a criminal offense,¹⁴³ and remains one of the primary statutes under which men like Jose Rodriguez are criminally prosecuted.¹⁴⁴ Despite the Mann Act's usefulness in this context, scholars have repeatedly called for its repeal, questioned its wisdom, and argued that the statute was passed during a period of moral hysteria at the turn of the last century, and its effectiveness has never been proven.¹⁴⁵

Regardless of the legal and jurisprudential implications of the Mann Act, I think it noteworthy that the legislative history surrounding its passage rings as true today as it did then. During its passage, supporters of the Mann Act argued that love was the lure that men used to recruit women and girls into prostitution.¹⁴⁶ So, too, were pimps represented as having almost complete financial control over women, often using violence or threats of violence to make women comply with their demands. A pimp's "cunning knowledge of human behavior" noted the Immigration Commission,

141. HOFSTEDE COMMISSION REPORT, *supra* note 21, at n.1.

142. White-Slave Traffic (Mann) Act, ch. 395, 36 Stat. 825 (1910) (codified as amended at 18 U.S.C. §§ 2421-2424 (1994)).

143. *Id.*

144. *Prostitution Ring Leader Says Drugs Caused Him to Live the Life He Led*, ASSOCIATED PRESS NEWSWIRE, June 2, 2002.

145. See, e.g., GRITTNER, *supra* note 87; LANGUM, *supra* note 87; CHARLES WINICK & PAUL M. KINSIE, *THE LIVELY COMMERCE: PROSTITUTION IN THE UNITED STATES* (1971); Michael Conant, *Federalism, the Mann Act, and the Imperative to Decriminalize Prostitution*, 5 CORNELL J.L. & PUB. POL'Y 99 (1996); Neal Kumar Katyal, *Men Who Own Women: A Thirteenth Amendment Critique of Forced Prostitution*, 103 YALE L.J. 791 (1993); Judith Resnick, *Categorical Federalism: Jurisdiction, Gender, and the Globe*, 111 YALE L.J. 619, 631-33 (2001).

146. Anne M. Coughlin, *Of White Slaves and Domestic Hostages*, 1 BUFF. CRIM. L. REV. 109, 129 (1997) (citing U.S. IMMIGR. COMM'N, PARTIAL REPORT ON THE IMPORTATION AND HARBORING OF WOMEN FOR IMMORAL PURPOSES, S. DOC. NO. 186, at 94 (2d Sess. 1909)).

"instructed him that one of the best methods for capturing a girl was by 'treat(ing) her kindly Her confidence and affection won, she is within his power, and calculatingly led into a life of shame.'"¹⁴⁷ These accounts in 1910, mirror, almost word for word, the descriptions that pimps today use to explain how they are able to get girls like Christal to keep saying yes. The pattern repeats itself, reminding us that the domestic trafficking of girls is not a new problem, but an old problem with new dimensions.

Anne M. Coughlin has eloquently argued that the metaphors of "prisoner," "hostage," and "slave" used in both the passage of the Mann Act, and the more recent passage of the Violence Against Women Act of 1994,¹⁴⁸ are so similar, indeed identical, that those of us who consider ourselves feminists should take a harder look at the way in which we employ rhetoric.¹⁴⁹ Captivity rhetoric, she argues, is both inaccurate and incomplete in its failure to account for the changes in women's legal status that have occurred over the last century. She concludes by suggesting, "What is needed now is new rhetoric, a fresh way of articulating the social roles that culture has prepared for us in the past, of charting the progress that we have made, and of describing the free spaces (or human agency, if you will) that may remain."¹⁵⁰ Her point is well taken in that the rhetoric of "sexual slavery," be it in the context of trafficking or the context of an abusive relationship, may have limited power in helping reframe the argument and debate in such a way that promotes women's personal and collective self-actualization.

Yet, new rhetoric is not necessarily useful when describing a timeless problem. Indeed, Coughlin's analysis highlights a far more fundamental problem with feminist theory, and the criticism of it.¹⁵¹ Despite more than a century of legal and social reform intended to liberate women from these kinds of exploitative situations, it has never come to pass that a woman without a man is just like a fish without a bicycle. In the never-ending debate over the extent to which women and girls are helpless victims or autonomous agents

147. *Id.*

148. Violence Against Women Act of 1994, Pub. L. No. 103-322, 108 Stat. 1796 (1994) (codified as amended in scattered sections of 8, 18, and 42 U.S.C.).

149. Coughlin, *supra* note 146, at 129.

150. *Id.* at 136.

151. See generally, Jane Maslow Cohen, *Equality for Girls and Other Women: The Built Architecture for the Purposeful Life*, 9 J. CONTEMP. LEGAL ISSUES 103 (1998) (deconstructing feminist theory as it relates to gender equality for the advancement of girls).

within any abusive relationship,¹⁵² many of us, including myself,¹⁵³ have sometimes missed the most poignant point of all: Girls and women exercise much of their human agency in the pursuit of love. And love, or, more precisely, the fear of never finding love, or, worse, losing love after (finally) finding it, can lead even the most fortified female to decisions that, in hindsight, are stupid and self-destructive, never mind the "choices" that a vulnerable girl who has never really known love might make.

Abused women will stay in a relationship out of love in the same way that a girl will do just about anything for a guy who claims to be head over heels, but who is in fact motivated by greed and lust and wrath and anger, and, on occasion, love too. Girls like Christal are not pathological, nor are they criminal. Rather, they are motivated by the same wants and desires, as are most girls, most women, and most men. At the very least, acknowledging the simplicity and commonality of their motivation should engender more sympathy, and less indifference and hostility.¹⁵⁴

Yet, currently, those girls who do come to the attention of law enforcement are most often treated as criminals, while their pimps and "molesters" generally are not held accountable. This is partially a result of social condemnation of these girls, partially a result of a system that rarely punishes men for prostitution, let alone understands the needs of young female offenders,¹⁵⁵ and partially a result of the practical difficulties in dealing with these girls.¹⁵⁶ As Susan K. Kreston explains:

Prostituted children present special challenges to the criminal justice system. Often hostile to both law enforcement and social

152. See Elizabeth M. Schneider, *Feminism and the False Dichotomy of Victimization and Agency*, 38 N.Y.L. SCH. L. REV. 387 (1993).

153. Cheryl Hanna, *No Right to Choose: Mandated Victim Participation in Domestic Violence Prosecutions*, 109 HARV. L. REV. 1849 (1996).

154. Kreston, *supra* note 19, at 1.

155. Joyce London Alexander, *Aligning the Goals of Juvenile Justice with the Needs of Young Women Offenders: A Proposed Praxis for Transformational Justice*, 32 SUFFOLK U. L. REV. 55, 56 (1999).

For the majority of young female offenders, neither rehabilitation nor punishment can expect to achieve success over the long term. Therefore, we must think about and take action as a society to transform both the institutions which powerfully shape the lives of these young women and the individual lives of the girls themselves.

Id.

156. Francine T. Sherman, *Effective Advocacy Strategies for Girls: Promoting Justice in an Unjust System*, in PRACTISING LAW INSTITUTE, CHILDREN'S LAW INSTITUTE: LEGAL & SOCIAL WELFARE ISSUES OF GIRLS & ADOLESCENTS 151, 154 (2001) (discussing that many delinquency lawyers describe their female clients as difficult).

services, prostituted children believe neither group has a genuine interest in helping them. The mistaken societal attitude that prostituted children are somehow responsible for their exploitation and, therefore, are unworthy of the protection the law affords to other victims of child sexual abuse does nothing to alter this view. Attachment to their pimps and resulting non-cooperation from victimized children create untold difficulties at the investigation stage. These problems will be magnified at the prosecution stage, should the case get that far. One such difficulty is the manner which the child presents outwardly. A victim who appears to be a smart mouthed, provocative teenager does nothing to elicit jury sympathy.¹⁵⁷

These girls often protect their pimps in the same way that abused women protect their husbands or boyfriends. Their participation can be hard to illicit. Furthermore, these girls are co-conspirators, and hence may fear the police and juvenile prosecution. This can make it extremely difficult for even the most well-meaning and committed prosecutor to proceed against exploitative men. Thus, the focus of law enforcement remains on these girls, and as history has shown, to little avail.

Many have argued that the criminal justice community needs to better coordinate its efforts to protect these children.¹⁵⁸ Child prostitution is a form of child abuse, although few pimps or johns are ever prosecuted as child sex offenders. New prosecution strategies and stiffer penalties, coupled with first time offender programs have proven successful. For example, SAGE, in San Francisco, established a "john school" for men arrested for prostitution-related crimes. So far, more than 5,000 men have been diverted through an educational and rehabilitation program.¹⁵⁹ Prevention services for girls, including a public education campaign, could alert those girls and their families most at risk for exploitation.¹⁶⁰ The relationship between drug addiction and sexual exploitation, too, is something we cannot ignore. More treatment programs and housing for homeless youth would, no doubt, go a long way towards helping girls stay out of or leave the commercial sex industry.¹⁶¹ Other scholars and activists have suggested even more

157. Kreston, *supra* note 19, at 37.

158. *Id.*; NGO REPORT, *supra* note 18, at 37-39.

159. Norma Hotaling, *Increased Demand Resulting in the Flourishing Recruitment and Trafficking of Women & Girls: Related Child Sexual Abuse & Violence Against Women*, 13 HASTINGS WOMEN'S L.J. 117 (2002).

160. CAPTIVE DAUGHTERS, *supra* note 12.

161. *Advocates Say Teen Prostitutes Need Safe House*, S.F. CHRON., June 7, 2002, at A24.

sweeping law reforms, including the establishment of multi-jurisdictional task forces and child sexual exploitation intelligence centers.¹⁶² Estes and Weiner make 11 specific recommendations, which include: targeting adult exploiters, rather than children, for punishment; increased enforcement of existing laws; and more specialized studies of the perpetrators of child sexual exploitation.¹⁶³ Such recommendations are echoed throughout the outreach and advocacy communities.

No doubt, much more attention and resources are needed if we are to curb the incidence and prevalence of child sexual exploitation. It is important, however, to temper our enthusiasm for improved social intervention with responsible skepticism. So long as there are girls who grow up never knowing or never having a healthy, positive, loving relationship with a male, they will be vulnerable to sexual exploitation, including getting involved in the commercial sex industry at an age when they are too young to understand the consequences of their choices. Thus, while it's important to devote time and energy to young girls, helping them to make better choices, we also need to ask why so many men feel no sense of responsibility, and, even worse, no sense of commitment or love to the women and girls in their lives.

This is not to suggest that most men would, or do, exploit young girls for their own sexual gratification. Most do not. But some do. Indeed, it is estimated that twenty percent of all males in the United States have solicited a prostitute at some stage in their life.¹⁶⁴ Many men who solicit prostitutes are married.¹⁶⁵ These men – customers, johns, exploiters – come from all walks of life, from all socio-economic classes, and are largely dishonest about their behavior with both themselves and their partners.¹⁶⁶ Yet they still seek out women, and, increasingly seek out girls, who will fulfill whatever needs and wants and desires they crave.¹⁶⁷

The more profound question, the harder question, is why? What is happening to young boys on their journey into manhood that would lead them to become a pimp, or pay for sex with teenager? Why can't adult women, women they claim to love, fulfill their desires? In the same vein, why do so many fathers abandon

162. ESTES & WEINER, *supra* note 21, at 24–25.

163. *Id.* at 24–26.

164. THE PROSTITUTION OF WOMEN AND GIRLS, *supra* note 59, at 127.

165. RAYMOND & HUGHES, *supra* note 9, at 9.

166. *Id.* at 128.

167. See generally, RICHARD GOODALL, THE COMFORT OF SIN: PROSTITUTES AND PROSTITUTION IN THE 1990'S (1995) (classifying, in an arguably controversial study, male customers into eight categories).

their families, leaving their daughters vulnerable to strange men who could betray their trust?

I have no real answers to these questions, nor do I think anyone truly does. This is why more research in this area is desperately needed. Nevertheless, it seems to me that the sexual exploitation of children in the United States has as much to do with the search for love, and our inability to find it, and give and receive it, as it does about gender inequality or sexual deviance or the economics of the marketplace. This is what makes the possibility of completely stopping it so improbable, and yet the commitment to doing so, so profoundly important.

To be honest, despite my own work on girls and women over the years, I never gave much thought or paid close attention to the ways in which American girls are trafficked and commercially exploited until Christal Jean Jones died. Her picture in the paper, a snapshot of a beautiful young teenage girl laughing, still haunts me. I may have passed her on the street, or in the mall. I assumed that because she grew up in my small and seemingly safe state, she was not nearly at as much risk as were girls who grow up in big cities or poor countries. Her death is a sobering reminder of just how vulnerable girls everywhere can be.

By exploring child sexual exploitation, and putting a face on it - Christal's face - I hope only to spark further interest and inquiry. As we search for risk factors and cultural cues that contribute to the problem, I hope that we remember that there is something universal, and timeless, which motivates girls to do what must once have been unimaginable to them, and their mothers and fathers. Love is a powerful force. Lawyers, policymakers, and advocates have yet to fully appreciate its grip on what we call choice or free will. Most of all, I hope this Symposium, and this piece, serves as a reminder that we are all somebody's daughter, or somebody's son.