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**ENGAGEMENT ABROAD: ENLISTED MEN, U.S.  
MILITARY POLICY AND THE SEX INDUSTRY**

EMILY NYEN CHANG\*

INTRODUCTION

This Note addresses the disconnect between United States law, public policy, and the military's encouragement of the prostitution of women for use by soldiers stationed abroad. Both domestic and international laws recognize prostitution as harmful and have enacted policies that attempt to eradicate, control, or limit it.<sup>1</sup> The United States, however, consistently allows and encourages the development of an active sex industry for military Rest & Recreation (R&R)<sup>2</sup> and in areas surrounding U.S. military bases.<sup>3</sup> This behavior violates not only domestic and interna-

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\* B.S., Portland State University, Oregon, 1998; J.D. Candidate, 2001, The Notre Dame Law School; Thomas J. White Scholar, 1999–2001. I dedicate this Note to Vickie Neland, whose mentorship forever changed my view of the world. I would like to express my love and appreciation to my husband, Joel Pearson. I would also like to thank my parents, Paul Chang and Jacqueline Hart; my stepmother, Ann Chang; my sister, Dianna Heston; and the rest of my family, for their friendship, encouragement, and inspiration. Finally, I would like to thank Michael Durham for his comments, assistance, and feedback.

1. Policy in regard to prostitution varies significantly. For the purposes of this Note, see generally MODEL PENAL CODE, § 251.2, cmt. (1962) (United States); Revised Penal Code Arts. 202, 340, 341 (Philippines); Convention for the Suppression of the Traffic in Person and of the Exploitation of the Prostitution of Others, March 21, 1950, 96 U.N.T.S. 271 (Mar. 21, 1950) [hereinafter Convention for Suppression of Traffic] (int'l treaty identifying prostitution as incompatible with human dignity); Convention on the Elimination of All Forms of Discrimination Against Women, March 1, 1980, 1249 U.N.T.S. 13 (Mar. 1, 1980) [hereinafter Convention on Discrimination Against Women] (includes requirement to suppress forms of exploitation of prostitution of women).

2. The practice of military Rest & Recreation will be discussed *infra* Part I.

3. See generally LET THE GOOD TIMES ROLL: PROSTITUTION & THE U.S. MILITARY IN ASIA (Saundra Pollock Sturdevant & Brenda Stoltzfus eds., 1992) [hereinafter LET THE GOOD TIMES ROLL]; RITA NAKASHIMA BROCK & SUSAN BROOKS THISTLETHWAITE, CASTING STONES: PROSTITUTION AND THE LIBERATION IN ASIA AND THE UNITED STATES (1996); KATHERINE H. S. MOON, SEX AMONG ALLIES: MILITARY PROSTITUTION IN U.S.-KOREA RELATIONS (1997); INT'L LABOUR ORG.,

tional law, but also fundamental notions of human dignity and infrastructures of family support.<sup>4</sup>

While the relationship between the military and the sex industry is documented and apparent in multiple States with a strong foreign military presence,<sup>5</sup> I have chosen three Asian U.S. military Host States as the primary sites for evaluation. The Philippines, South Korea, and Thailand offer poignant examples of the behavior discussed due to the historically large U.S. military presence, the availability of documentation about the role of prostitution in militarized communities, and the overt nature of the sex industry.<sup>6</sup> While these Nation States serve as the focus of this Note, where relevant, it will reference practices in other countries. This Note includes data reflecting U.S. military practice through the twentieth century in order to establish the consistency of our domestic policy and behavior when stationed abroad. Each country has a different history with the United States, but the behavior patterns of our military remain relatively constant.<sup>7</sup>

Part I addresses military promotion of prostitution. This discussion includes an exploration of the attitudes encouraged by

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THE SEX SECTOR: THE ECONOMIC AND SOCIAL BASES OF PROSTITUTION IN SOUTH-EAST ASIA (Lin Leam Lin ed., 1998).

4. While the United States is only a signatory to the Convention on Discrimination Against Women, the Philippines (an R&R "host nation-state") has ratified both the Convention on Discrimination Against Women and the Convention on Suppression of Traffic. When drafting the *Model Penal Code*, the American Law Institute recognized social disorganization and the undermining of the family structure as a negative result of prostitution. See MODEL PENAL CODE § 251.2, cmt. (1962).

5. There is documentation of the relationship between military and prostitution occurring in many countries. See generally LET THE GOOD TIMES ROLL, *supra* note 3 (presenting analysis supported by case study of prostitution in the Philippines, South Korea, and Japan); SUSAN BROWNMILLER, AGAINST OUR WILL: MEN, WOMEN AND RAPE (Simon & Schuster 1975) (discussing military rape and prostitution in times of peace and war); KATHLEEN BARRY, THE PROSTITUTION OF SEXUALITY (1995) (identifying and analyzing global conditions of sexual exploitation); Watanabe Kazuko, *Militarism, Colonialism, and the Traffic of Women: "Comfort Women" Forced into Sexual Labor for Japanese Soldiers*, 26 BULL. CONCERNED ASIAN SCHOLARS, No. 4 (Oct.-Dec., 1994), at <http://csf.colorado.edu/bcas/sample/comfdoc.htm>; Roy Gutman, *Bosnia Outrage: Ex-prisoners Say UN Troops Sexually Assaulted Detainees*, NEWSDAY, Nov. 1, 1993, at 3.

6. See generally *supra* notes 3 and 5.

7. All of the countries discussed—the Philippines, Korea, Thailand, Vietnam, and Japan—have experienced fluctuation in both the numbers and activities of U.S. military personnel present. It is important to note that even in countries, such as the Philippines, where U.S. naval bases were closed in 1992, the military continues its presence through R&R and stopovers *en route* to other destinations. See generally *supra* notes 3 and 5.

these practices. Unfortunately, the Military Institution has not *officially* spoken for itself. Having located few official military documents acknowledging these behaviors, this Note relies primarily on the observations of third persons—journalists, academics, and community members—to portray the military's role.<sup>8</sup> Even with this limitation, the documentation of military support of, and subsidies for, prostitution districts serving members of the U.S. armed forces ("GIs") is so prolific that it is clear that at best, our military turns a blind eye to the practice.

Part II applies U.S. domestic policy (in the form of the Model Penal Code) to U.S. military practice abroad. This analysis includes the public policy issues discussed in the Model Penal Code commentary. Mention is also made of the domestic policies in the Philippines, South Korea, and Thailand. These are all States where the U.S. military has contributed the primary consumers for localized sex industries. International law, which generally speaking lacks sufficient enforcement mechanisms,<sup>9</sup> is referenced as well. The contrast between the beliefs and ideals espoused in the United Nations Conventions and the practices described throughout this Note emphasize the chasm between theory and practice.

Part III examines the social policies promoted and the overlapping impact of these military practices on women around the world. It concludes by noting whose perspective we include when we frame our military history. Part IV briefly describes the conditions many of these women face when they enter and remain in the sex industry. This Note does not explore the deeper issues involved in free versus forced prostitution policy because the discussion's terms do not readily apply to this context of militarized prostitution.

The purpose of this Note is not to define policy. Rather, its hope is to encourage dialogue and thought. U.S. military practices contradict expressed U.S. domestic policies and philosophies. This is particularly evident when we look to our behavior in developing nations. This Note presents and explains some of the conclusions that can be drawn from these materials, but it is intended primarily to encourage conversations about what it means to espouse hollow policy and exhibit behavior that violates

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8. Katherine Moon wrote a well-documented study of formal military planning and interaction in regard to prostitutes servicing military personnel stationed in Korea. See generally MOON, *supra* note 3.

9. See Isabelle Talleyrand, Note, *Military Prostitution: How the Authorities Worldwide Aid and Abet International Trafficking in Women*, 27 SYRACUSE J. INT'L L. & COM. 151 (2000) (analyzing international law as the appropriate mechanism to deal with military prostitution).

it. This Note encourages the reader to reflect on what it means for a nation to discourage prostitution within its own borders, while encouraging it abroad.

### I. THE CONSUMER

Dan Rather, CBS News Anchor, did a one-year tour of Vietnam.<sup>10</sup> When asked about occurrences of military rape,<sup>11</sup> he denied ever reporting on that issue. He did, however, share his telling conclusion derived from observing men at war. "[E]veryone who was passing through a village did it—steal a chicken and grab a quick piece of ass, that sort of thing."<sup>12</sup> He explained the context of these acts of aggression by stating, "Vietnam was a loosely organized gang war, and the women caught it from all sides."<sup>13</sup> While there is a legal difference between sex with prostitutes and acts of rape, arguably attitudes behind rape and prostitution inhabit the same continuum. To some, "the only distinction between rape and prostitution is the element of time. With rape, the victim knows that there is a limited time during which she will be sexually brutalized. For the prostituted woman, there is no limit of time. The abuse can (and does) go on indefinitely . . . ."<sup>14</sup>

A more recent assessment of military rape pulls the two acts closer. In December of 1995, three U.S. servicemen were on trial for the rape of a twelve-year-old Japanese girl, committed while they were stationed in Okinawa earlier that year. One of the defendant's attorneys reported that the three men had discussed hiring prostitutes, but since Seaman Gill didn't have any money, he proposed a rape instead.<sup>15</sup> Former Admiral Richard C. Macke voiced his opinion of the tragedy: "For the price they paid to rent the car, they could have had a girl."<sup>16</sup>

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10. See BROWNMILLER, *supra* note 5, at 91, footnote beginning "CBS correspondent."

11. Rapes where the rapist was an active member of a military force.

12. See BROWNMILLER, *supra* note 5, at 91.

13. BROWNMILLER, *supra* note 5, at 91, footnote beginning "CBS correspondent."

14. Amy E. Ray, *The Shame of It: Gender-Based Terrorism in the Former Yugoslavia and the Failure of International Human Rights Law to Comprehend the Injuries*, 46 AM. U. L. REV. 793, 808 (1997) (citing KATHLEEN BARRY, *FEMALE SEXUAL SLAVERY* (1979)).

15. See Andrew Pollack, *One Pleads Guilty to Okinawa Rape; 2 Others Admit Role*, N.Y. TIMES, Nov. 8, 1995, at A3.

16. Janice G. Raymond, *Prostitution is Rape That's Paid For*, L.A. TIMES, Dec. 11, 1995, at B6. Adm. Macke was forced to resign after offering this opinion in a news interview. *Id.*

Admiral Macke's opinion lends credence to Susan Brownmiller's theories about the relationship between rape and prostitution. In her book *Against Our Will: Men, Women and Rape*, Brownmiller observes, "When young men learn that females may be bought for a price, and that acts of sex command set prices, then how should they not also conclude that that which may be bought may also be taken without the civility of a monetary exchange?"<sup>17</sup>

### A. *The Institution*

U.S. enlisted men stationed in the Philippines have purchased sex from a massive number of prostitutes from as early as the beginning of the twentieth century.<sup>18</sup> When military and civilian personnel were expressly prohibited from entering prostitution establishments, the prohibitions were frequently breached; both American and Filipino colonial officials owned brothels.<sup>19</sup> The military began formally acknowledging this practice as concern rose over the spread of venereal disease (VD). VD was deemed a significant health problem and measures to stop it were considered a military necessity.<sup>20</sup>

The development of the sex industry surrounding U.S. military bases abroad appears to differ both in scope and institutional acceptance depending upon the permanency of the base. While brothels, massage parlors, and an array of "businesses" selling women for sex developed and were accepted surrounding bases in the Philippines, it appears soldiers at war did not have this *portable perk* in measurable scale until Vietnam.<sup>21</sup> General George S. Patton is credited with the desire to experiment with military brothels. He reportedly aborted this idea after realizing the war effort could be hurt by the uproar it would create with women back in the States.<sup>22</sup> But by the end of the Vietnam War, this practice was in full swing. Military brothels grew from the desire to keep the enlisted men happy, analogizing sex to movies, laundry service, and other *necessary* luxury items.<sup>23</sup>

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17. BROWN MILLER, *supra* note 5, at 391.

18. See INT'L LABOUR ORG., *supra* note 3, at 101-02. I do not intend to indicate this is the practice's origin or that this is the earliest documentation that exists.

19. See *id.* at 102.

20. *Id.* (citing L.C. Dery, *Prostitution in Colonial Manila*, 39 PHILIPPINE STUDIES (Manila), at 486 (1991)).

21. See BROWN MILLER, *supra* note 5, at 93-95.

22. See *id.* at 92.

23. See *id.* at 94.

In Vietnam, military sexual services took multiple forms. In 1965, the U.S. military had a practice of hiring *hootch maids* for the enlisted men. These women were hired as maids, not prostitutes; while they could be fired for having sexual relations with the men, private arrangements were often made and these women *served* our soldiers.<sup>24</sup> Another common practice was for the troops to sneak off the base at night into the "dogpatch." The "dogpatch" was a shantytown of brothels, massage parlors, and dope dealers that encircled the base.<sup>25</sup> By 1966, official military brothels within base camps had been established.<sup>26</sup> The Lai Khe "recreation area" serviced the four-thousand-man Third Brigade, First Infantry Division.<sup>27</sup> It contained shops selling food and souvenirs, and two concrete barrack whorehouses. For security reasons it was open only during the day and was surrounded by barbed wire. An American Military Police Officer stood guard at the gate. Although this compound was located within the U.S. military base camp, procurement of the women and negotiation of fees was left to Vietnamese civilians. Army medics provided these women health services in the form of weekly VD checks while the American military controlled and regulated the health and security features of "service" provision.<sup>28</sup>

A difference in the psychology behind military use of prostitutes during war and peace is reflected in the targeted consumer. In Vietnam, "the institution was made available for the foot soldier, or 'grunt,' the fellow with the least to gain from being in Vietnam . . . the one who needed to be mollified and pacified . . . . 'These guys were always thinking, I'm gonna get screwed tonight—this may be my last.'"<sup>29</sup> Pacification of the troops, however, does not absolve the U.S. military of culpability for securing prostitutes for enlisted men. In Vietnam, a regular tour of duty was one year—not an overly burdensome period of time to abstain from sex.<sup>30</sup>

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24. *See id.* at 94.

25. *See id.* (referencing interviews with Peter Arnett, Associated Press correspondent in Vietnam for eight years).

26. Military brothels on Army base camps were nicknamed "Sin Cities," "Disneylands," and "boom-boom parlors." *See id.* at 95.

27. *See id.* at 94. The ensuing description of the Lai Khe "recreation area" recited in this paragraph is derived from this source.

28. Susan Brownmiller suggests that the practice of having Vietnamese intermediaries negotiate the sale of sex helped maintain the illusion that the U.S. Military Institution was not procuring or promoting prostitution. *See id.*

29. *Id.* at 96–97 (referencing interviews with Peter Arnett). At peace, prostitutes operate more as a commodity and pressure valve. *See infra* Part I.B.

30. *See id.* at 97.

In the early 1990s, the U.S. presence in the Pacific spanned an area encompassing the Philippines, Japan, Korea, and Micronesia.<sup>31</sup> These troops maintained the U.S. military presence in the Pacific, and Micronesia served as a rear fallback position in the event of a withdrawal of U.S. forces from the Philippines. This "garrison state" was composed of 330,000 servicemen and women;<sup>32</sup> at the peak there were 70,000 American soldiers present in the Philippines alone.<sup>33</sup> The ballooning military presence in the Philippines that characterized the latter half of the twentieth century had a tremendous impact on the economic growth and character of the cities surrounding U.S. military installations. Olongapo, a city located northwest of Manila, near Subic Bay, was converted into a naval base by the Americans. As the U.S. military presence increased, what used to be a "small fishing village" was "transformed into a city of hotels, saunas, massage parlors and prostitutes as a result of the increased [military] demand [for prostitutes]."<sup>34</sup> In the mid-to-late 1980s, there were an estimated 15,000 to 17,000 "hospitality women" working in Olongapo and the two small neighboring towns of Barrio Barretto and Subic City.<sup>35</sup> Exhibiting a similar transformation, Angeles City evolved into the largest U.S. airbase outside the United States. Once a "'self-reliant town with a flourishing furniture manufacturing industry'"<sup>36</sup> . . . data collected in 1990 showed . . . 5,642 registered entertainers."<sup>37</sup>

### B. *The Occasion*

The sex industry developed to serve stationary forces, those on shore leave, and military men engaging in R&R.<sup>38</sup> Rest &

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31. Walden Bello, *From American Lake to a People's Pacific*, in LET THE GOOD TIMES ROLL, *supra* note 3, at 14.

32. *See id.* at 14-15.

33. *See* INT'L LABOUR ORG., *supra* note 3, at 102.

34. *Id.*

35. Sandra Sturdevant & Brenda Stoltzfus, *Olongapo: The Bar System*, in LET THE GOOD TIMES ROLL, *supra* note 3, at 45 [hereinafter Sturdevant & Stoltzfus, *Olongapo*].

36. INT'L LABOUR ORG., *supra* note 3, at 102 (citing A.J. DeDios, *Military Prostitution in the Philippines*, mimeograph (1988) (Manila)).

37. *Id.* (citing B.C. Manahan, Promotion of Community Awareness for the Prevention of Prostitution in the Philippines (paper presented at the ESCAP Workshop on the Promotion of Community Awareness for the Prevention of Prostitution in the ESCAP Region, Lampang, Thailand (Aug. 20-27, 1991))).

38. "Rest & Recreation" is an ironic label for this practice. After the surrender of Japan ending World War II, the Japanese government formed the "Recreation and Amusement Association." This was a front organization for the Japanese government that enlisted women to serve as a "sexual dike to protect the



Recreation (sometimes called Intoxication and Intercourse by GIs)<sup>39</sup> is an enlisted man's vacation of sorts. They are allowed a short period of time off, and there are frequent designated R&R "locations" that have been established and developed specifically for this purpose. Designation as an R&R location can be quite lucrative for local economies that develop the types of entertainment that appeal to U.S. military personnel. In 1967, Thailand completed a pact with the United States to provide R&R leave for American soldiers. This treaty secured economic developmental perks. The Industrial Finance Corporation, a consortium of international investors,<sup>40</sup> loaned four million dollars to build the infrastructure needed to accommodate this military tourism, including hotels, restaurants, bars, and nightclubs.<sup>41</sup>

This *industrialization*, however, was subject to a bust or boom cycle. When the military was present, the economy was stimulated. When they were not, absent a sufficient local or sex tourism business to sustain the thousands of prostituted women and their corresponding establishments (bars, hotels, etc.), the economy entered a depression.<sup>42</sup> As an example, Pattaya, Thailand had been transformed from a quiet fishing village into a favored destination of soldiers during the Vietnam War, but fear of AIDS and the Gulf War had significantly reduced Pattaya's tourism business. Coming to the rescue, the aircraft carrier U.S.S. Midway and its battle group were sending their crews ashore *on their way home* from a successful operation in the Gulf War. Anticipating their arrival, "one bar owner said he hoped to make up for the previous three months in the following four days. That gain would largely come from the prostituting of Thai women and girls."<sup>43</sup> Upon arrival, local business proprietors enthusiastically greeted the seven thousand recently arrived U.S. sailors. Bars and clubs bore colorful banners: "Welcome U.S. Navy to the Red Parrot Sexy Live Show" read one banner, a second advertised:

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chastity of Japanese women" from the "libido of American *sex-starved* soldiers." See Nicholas D. Kristoff, *Fearing GI Occupiers, Japan Urged Women Into Brothels*, N.Y. TIMES, Oct. 27, 1995, at A1 (emphasis added).

39. See BROCK AND THISTLETHWAITE, *supra* note 3, at 5. R&R is also referenced as Rest and Recuperation. *Id.*

40. The international investors included the Bank of America Corporation, the Chase Manhattan Corporation, the International Finance Corporation, and the Deutsche Bank AG. See *id.* at 116.

41. See *id.*

42. See *id.* at 116-17 (recognizing the Thai economy at this stage as unstable).

43. BARRY, *supra* note 5, at 145 (citing Steven Erlanger, *Thai Bar Girls Greet Sailors Like Heroes*, N.Y. TIMES, Mar. 25, 1991, at A9).

"Sandwiches Massage," and a third expressed sincere gratitude: "Thank you, Mr. Bush."<sup>44</sup>

### C. *The Individual*

The men for whom this market has developed are typically members of the Rapid Deployment Forces—infantrymen, airborne, or sailors.<sup>45</sup> They are described as young (primarily between the ages of seventeen to twenty-five), single (in practice if not in fact),<sup>46</sup> and worked extremely hard.

[W]hat do we do in the field? We go up and down more mountains than the Korean Army does. We bust our balls. That's why when we come back we gotta relax somehow. So we go down the range and get drunk. We come down here to release pressure . . . just go to a bar and have a good time and everything . . . you know, we've been in the goddamn field for two and a half to three weeks . . . all we've been around is *shutie* clothes, smelling like crap . . . [H]aven't had a shower . . . eating MREs, like eatin' crap, ain't even had a decent meal. So you come down here, drink your OBs, start feelin' good and about like say [sic]: Hey, I can go another . . . how many months I got here? . . . When we get back from the field we're a bunch of drunken sons-a-bitches . . . face it.<sup>47</sup>

Described this way, alcohol and prostitutes resemble pressure valves, allowing enlisted men to continue pursuing their military purpose in spite of hating it.

When describing the enlisted man's experience, Rita Brock and Susan Thistlethwaite identify life overseas as often lonely, depressing, or stressful, noting that many enlisted men are away from their families for the first time.<sup>48</sup> They speculate that this destabilization creates a vulnerability that can increase personal needs for *nurturing* physical contact, while also increasing suscep-

44. See Erlanger, *supra* note 43, at A9.

45. See Sandra Sturdevant & Brenda Stoltzfus, *Disparate Threads of the Whole: An Interpretive Essay*, in LET THE GOOD TIMES ROLL, *supra* note 3, at 321–22 (citing Sandra Sturdevant, *Talks with the Guys* (interviews)) [hereinafter Sturdevant & Stoltzfus, *Disparate Threads*].

46. If married, it is extremely rare that the military will have allowed a sailor/soldier to have his family with him. See *id.* at 322. Korea is one of the countries with U.S. bases categorized as a "noncommand-sponsored" tour—meaning the Department of Defense will not pay for travel or living expenses of family members who accompany soldiers there. See MOON, *supra* note 3, at 36.

47. Sturdevant & Stoltzfus, *Disparate Threads*, *supra* note 45, at 323 (citing Sandra Sturdevant, *Talks with the Guys* (interviews)).

48. See BROCK & THISTLETHWAITE, *supra* note 3, at 76.

tibility to the peer pressure to prove "strength and dominance through sexual . . . conquest."<sup>49</sup>

The inexperience and youth of these men increases the likelihood that they will believe the sexist imagery and language that inundates military life. Beginning in boot camp, enlisted men are bombarded with polarized gender characterizations. They chant cadence counts that reduce their roles to fighting and sex: "This is my rifle . . . this is my gun . . . this is for fighting . . . this is for fun."<sup>50</sup> During basic training, men are humiliated and taunted, called "ladies," "girls," and "women" until they properly conform to masculinized military norms.<sup>51</sup> Military policies regarding homosexuality reinforce the need for a hyper-masculine identity.<sup>52</sup> The current *Don't Ask, Don't Tell* policy<sup>53</sup> and past treatment of homosexuality as a punishable offense encourage enlisted men to exhibit hyper-masculine behavior in order to affirm the presumption that they are heterosexual.

These experiences, when combined with the military practice of allowing enlisted men to purchase sex, encourage the viewing of women as props. This assists in the process of dehumanizing prostituted women. Describing what it felt like to be nineteen in 1970 on a U.S. fighter base in northern Thailand, Gregory DeLaurier recalled "a young male soldier's mental map of femininities":<sup>54</sup>

"There were two kinds of women in our world in Thailand: those who did our laundry, and prostitutes, and the latter far outnumbered the former . . . [A]ll I knew then was that for a few dollars, a radio, a couple of cases of food taken from the base, I could buy a woman."<sup>55</sup>

An equally poignant statement was offered by a young American soldier assessing his favorable impressions of serving in South

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49. *Id.* The authors discuss these two experiences as happening to different individual men; it seems, however, that they could easily happen simultaneously for the same man.

50. Sturdevant & Stoltzfus, *Disparate Threads*, *supra* note 45, at 325.

51. Julie Yuki Ralston, *Geishas, Gays and Grunts: What the Exploitation of Asian Pacific Women Reveals About Military Culture and the Legal Ban on Lesbian, Gay and Bisexual Service Members*, 16 LAW & INEQ. J. 661, 678 (1998) (citations omitted) (analyzing military culture, demonstrates the linkages between racism, sexism, homophobia, and questionable military policies and practices).

52. *See id.*

53. 10 U.S.C. 654 (2000) (policy concerning homosexuality in the armed forces).

54. CYNTHIA ENLOE, *MANEUVERS: THE INTERNATIONAL POLITICS OF MILITARIZING WOMEN'S LIVES* 69-70 (quoting Gregory F. DeLaurier, *Thailand 1970*, PEACE REV. 8, 231, 233 (1996)).

55. *Id.*

Korea in the recent past: "There's beer and girls and food and clubs—everything a teenager could ask for."<sup>56</sup>

The attitudes and communication of military personnel in social situations during downtime displays this objectification. "[T]he guys are talking to *one another*, relating to *one another*"<sup>57</sup> while surrounded by prostituted women, who are waiting to supply the flesh for sexual transactions. The American Soldier commonly refers to Filipina women as "Little Brown Fucking Machines Fueled by Rice,"<sup>58</sup> "succinctly racializing and colonializing ('little brown,' 'powered with rice'), sexualizing ('fucking') and de-humanizing ('machines') Asian Pacific women, in just seven words."<sup>59</sup> The woman-objectifying environment, need for a pressure valve, and desire of the military to pacify its troops synergetically encourage the consumption of prostitution. Through both action and inaction, the military continues to provide this *necessary* luxury item.

Wherever the U.S. military is, so too is a thriving sex industry. Obviously, it is the U.S. Military's policy to have it this way.<sup>60</sup> There is little to no documentation of shutdowns of brothels near military installations abroad for reasons other than military withdrawal or excessive "VD citations." In the photographs contained in *Let the Good Times Roll: Prostitution and the U.S. Military in Asia*, the enlisted men are not shy about being photographed at "play."<sup>61</sup> One sailor recalled the spring of 1991, just before docking in the Philippines or Korea. Prior to landing, soldiers received briefings about health precautions at which they were thrown "condoms as if they were Hallmark cards."<sup>62</sup> Some officers went as far as to tell the enlisted men that prostitution is a way of life for Asians and that Asians liked it.<sup>63</sup> A similar recollection was shared by former Philippines-based servicemen on ABC's *Prime Time*. They asserted that military officers had "enthusiastically promoted" prostitution in the Philippines, some

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56. *Id.* at 97 (quoting *THE WOMAN OUTSIDE* (Third World Newsreel 1996) (directed by J.T. Takagi & Hye Jung Park) (documentary film on women who presently work or have recently worked as prostitutes around U.S. bases in South Korea)).

57. Sturdevant & Stoltzfus, *Disparate Threads*, *supra* note 45, at 326.

58. *Id.* at 326; *see also* Ralston, *supra* note 51, at 702.

59. Ralston, *supra* note 51, at 702.

60. *See* Sturdevant & Stoltzfus, *Disparate Threads*, *supra* note 45, at 323. This scene is very pervasive. *See also* BROCK AND THISTLETHWAITE, *supra* note 3, at 74.

61. *See generally* LET THE GOOD TIMES ROLL, *supra* note 3.

62. MOON, *supra* note 3, at 37 (quoting Conversation, Washington D.C., April 1991).

63. *See id.*

owning clubs and women themselves.<sup>64</sup> Instead of being viewed as a culturally distinct, beautiful country, the Philippines are reduced to "Uncle Sam's main squeeze in this part of the world."<sup>65</sup>

The role of the military institution in the sex industry varies. In some cases, it overtly constructs the brothels. In 1946 Japan, after protesting to a base commander about base officers setting up brothel areas for the base, a former U.S. Navy chaplain found himself reassigned.<sup>66</sup> In another instance, an American general reportedly demanded that Japan set up a brothel for his men.<sup>67</sup> In Vietnam, the brothels erected on Army base camps, "were built by decision of a division commander, a two-star general, and were under the direct operational control of a brigade commander with the rank of colonel . . . . Army brothels in Vietnam existed by the grace of Army Chief of Staff William C. Westmoreland, the U.S. Embassy in Saigon, and the Pentagon."<sup>68</sup> While higher-ranking officials may not have explicitly authorized sex-industry establishments, without their implied consent these establishments would simply not exist.

In other contexts, the United States appears *merely complicit* in the development and supervision of the sex industry, acting *only* by feeding or halting the consumer demand. Some cities are known simply as "American Town."<sup>69</sup> Described as enclaves where people enter by invitation (a U.S. soldier's uniform or a Korean prostitute's registration card), camptowns "cater to the lifestyle and consumer needs of the U.S. GI and the women who sexually service them."<sup>70</sup> The U.S. military repeatedly emphasizes, to camptown authorities, bar/club owners, and prostitutes, that stringent observance of VD examination requirements ensures continued U.S. patronage; failure to cooperate would place the establishment or the entire area off limits to U.S. military personnel.<sup>71</sup> This was a heavy threat as the "camptown" economy was entirely dependent upon military consumers. During a 48-day ban on Anjongni (1971), one businessman reported a loss of about five million won, which at the time was equivalent

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64. *Id.* (Prime Time aired on May 13, 1993).

65. P.F. Kluge, *Why They Love Us in the Philippines; the American Naval Bases Provide Cash and Jobs*, PLAYBOY, Sept. 1986, at 88 (emphasis added).

66. See BROCK AND THISTLETHWAITE, *supra* note 3, at 74.

67. See Kristoff, *supra* note 38.

68. BROWN MILLER, *supra* note 5, at 95. Note that these brothels are the same ones referenced *supra* notes 25-27 and corresponding text.

69. MOON, *supra* note 3, at 17; see also Kevin Heldman, *Itaewon, South Korea. On the Town With the U.S. Military*, Dec. 19, 1996, at <http://www.kimsoft.com/korea/us-army.htm>.

70. MOON, *supra* note 3, at 17.

71. See *id.* at 81.

to \$13,157.<sup>72</sup> In South Korea, albeit through heavily negotiated U.S.–Republic of Korea governmental relationships, the Korean Ministry of Health and Welfare (funded by the South Korean government) administers the “venereal-disease-free” certification of prostitutes.<sup>73</sup> U.S. base personnel go on biweekly VD spot checks, stopping women on the streets to check their VD identification cards.<sup>74</sup>

The venereal disease certification process is an administratively murky area in which the U.S. military is heavily involved. In South Korea, this process is overseen by the local government; in Olongapo, Philippines, the “Social Hygiene Clinic” is a joint project of the Olongapo City Health Department and the U.S. Navy. The Navy provides medicine and technical assistance, and participates in the “policing” of local women.<sup>75</sup> By participating in local sex industries only to regulate the spread of venereal disease, the U.S. military appears motivated only by public health concerns. It should be noted, however, that a public health approach has been taken rather than prohibiting the use of prostitutes by enlisted men. Servicemen are regularly barred from frequenting bars and brothels where prostituted women are not registered.<sup>76</sup> Similarly, if a woman tests positive for VD she is not allowed to work.<sup>77</sup> Prostituted women, while tested regularly, are not necessarily educated about venereal diseases. This implies that the government is only interested in the servicemen—ignoring dangers to the service providers. The failure to require servicemen to carry cards showing prostitutes they are clean supports this theory, as does the women’s utter ignorance about HIV.<sup>78</sup>

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72. See *id.*

73. Saundra Sturdevant & Brenda Stoltzfus, *Tong Du Chun: The Bar System*, in LET THE GOOD TIMES ROLL, *supra* note 3, at 176 [hereinafter Sturdevant & Stoltzfus, *Tong Du Chun*].

74. See *id.* Although the image presented is that these clinics are locally administered, when Brenda Stoltzfus requested an interview with someone from the clinic administration she had to go through the U.S. military base to obtain permission for the interview. Two U.S. military personnel came to the interview to monitor the questions and responses. See also Sturdevant & Stoltzfus, *Disparate Threads*, *supra* note 45, at 330 n.38.

75. See Sturdevant & Stoltzfus, *Olongapo*, *supra* note 35, at 45. The U.S. regulation of the “cleanliness” of prostitutes will be discussed more in Part II: PROHIBITION & POLICY.

76. See *id.*

77. See *id.*

78. See Sturdevant & Stoltzfus, *Disparate Threads*, *supra* note 45, at 330 n.36.

An eighteen-year-old woman was one of the first Filipina prostitutes to test positive for HIV.<sup>79</sup> She had no idea what HIV was, and reportedly only knew she was taken to a hospital in Manila for further testing every three months. After having tested positive, with no knowledge of the impact of HIV, she continued working in bars and "dating" (having sex for money) servicemen. Further, after the U.S. military withdrew from the Philippines, HIV-positive women reentered the bar community.<sup>80</sup> There was no monitoring of where these women went or whether they resumed prostitution.

U.S. policymakers handle the desire to control the spread of venereal disease quite differently domestically than they do for U.S. military personnel stationed abroad—or military Host States.

## II. PROHIBITION AND POLICY

### A. *Model Penal Code*

Since the early twentieth century, with the exception of a handful of counties, the legislative policy of every American state has been the suppression of prostitution.<sup>81</sup> In spite of the unity of outcome in regard to prostitution, American penal law varied significantly from state to state and was reportedly a "combination of the old and the new that only history explain[ed]." <sup>82</sup> In 1950, the American Law Institute (ALI) assembled an advisory committee made up of distinguished scholars in the field of criminal law. The goal was to survey the law as it existed at that time, weighing the policies behind different laws, and constructing a "model penal code" for states to draw upon in the future. The ALI did not expect states to immediately adopt the *Model Penal Code* (MPC). Their goal was to conceptualize and articulate "the law on which men [could place] their ultimate reliance for pro-

79. See *id.*

80. See INT'L LABOUR ORG., *supra* note 3, at 125.

81. See MODEL PENAL CODE § 251.2 cmt. at 455 (1962). "Between 1900 and 1920, criminal sanctions prohibiting prostitution were implemented at the state level throughout the United States. By 1925 every state had enacted some form of law prohibiting prostitution . . . . By 1971, except for thirteen counties in Nevada, prostitution was completely illegal in the United States." Jessica N. Drexler, Comment, *Governments' Role in Turning Tricks: The World's Oldest Profession in the Netherlands and the United States*, 15 DICK. J. INT'L L. 201, 204-05 (citing Eleanor M. Miller et al., *The United States*, in PROSTITUTION 300, 303 (Nanette J. Davis ed., 1993)).

82. *Criminal Law Reform: Historical Development in the United States*, in 2 ENCYCLOPEDIA OF CRIME AND JUSTICE 501, 511 (Sanford H. Kadish ed., 1983) (citation omitted) [hereinafter *Criminal Law Reform*].

tection against all the deepest injuries that human conduct can inflict on individuals and institutions.’”<sup>83</sup> They wanted the product to “spark a fresh and systematic reevaluation of the penal law in many jurisdictions and . . . be liberally drawn on.”<sup>84</sup>

When reviewing the law of prostitution, the ALI continued the criminalization of commercialized sex. Based on review of the policies behind police intervention in commercialized sex, the MPC constructed a grading scheme, which differentiates among participants in the transaction according to the degree of involvement in the commercial enterprise.<sup>85</sup> Because the MPC was drawn from existing law in the United States and offers discussion of the policies behind twentieth century American law,<sup>86</sup> this Note has applied it as the domestic policy of the United States.

Although moral and religious ideals affected State policy to repress commercialized sex, utilitarian concerns contributed as well. Practical considerations included control of the spread of VD, promotion opportunities for organized crime, corruption of government and law enforcement, and social disorganization produced by undermining fidelity to home and family.<sup>87</sup> The perceived relationship between prostitution and VD was cited as “of special importance in the continuation of penal repression.”<sup>88</sup>

Medical evidence indicates that the inspection of licensed prostitutes could give no assurance against the spread of venereal infection. Both syphilis and gonorrhea have incubation periods during which an infected person capable of transmitting the disease cannot be identified by medical testing. For gonorrhea, the incubation period is three to five days; for syphilis, it is usually about 21 but can vary from 10 to 90 days. Thus, a prostitute who had a thorough medical examination on a daily basis could nevertheless infect many customers before the disease was detected. For these reasons *the American Medical Association concluded that the control of venereal disease requires the elimination of commercialized prostitution.*<sup>89</sup>

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83. *Id.* at 510 (citation omitted).

84. *Id.* at 512.

85. See MODEL PENAL CODE § 251.2 cmt. at 459 (1962).

86. See generally *Criminal Law Reform*, *supra* note 82, at 510–12.

87. See MODEL PENAL CODE § 251.2 cmt. at 456 (1962).

88. See *id.* at 458.

89. *Id.* (last sentence citing *Hearings on H.R. 5234 Before the Subcomm. No. 3 of the House Comm. on the Judiciary*, 79th Cong. 29 (1946) (statement of Dr. W. Clarke, Executive Director, American Social Hygiene Association)) (emphasis



Herpes has an incubation period of two to twenty days and infection may not be noticed at all.<sup>90</sup> Policy makers should be especially concerned by the incubation period of HIV—three to six months.<sup>91</sup> The ALI commentary continued by citing data showing that the closing of brothels near military bases during World War II reduced the incidence of VD in those areas.<sup>92</sup>

### B. *Organized Crime*

The ALI cited control of organized crime as a utilitarian motive to repress commercialized sex in the United States.<sup>93</sup> This domestic policy motivation is especially damning when compared to the U.S. military personnel consumption of prostitutes in Okinawa. Here, the military is less involved with the prostitution industry, supplying only the paying GI.<sup>94</sup> Prostitution has been illegal in Japan (hence Okinawa) since 1956, but implementation has always been a problem.<sup>95</sup> In Okinawa, the *yakuza* (the Japanese Mafia) own and regulate the prostitution industry. The *yakuza* maintain a separate bar-area outside each military base, separate from the bars supplied for Japanese and Okinawan men. The “product” sold in military-frequented brothels evidences their relationship to U.S. servicemen. The prostitutes in the bars that cater to American GIs are Filipina—not Okinawan. The falling value of the dollar in Japan greatly reduced the ability of U.S. service personnel to purchase luxury items. The Okinawan sex industry responded to this reduced purchasing power by illegally importing Filipina women to work as prostitutes. Our GIs simply could not afford Okinawan women. By the

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added). Many believe that the claim that prostitutes spread venereal disease is inaccurate. See Moira K. Griffin, *Wives, Hookers, and the Law*, STUDENT LAW., Jan. 1982, at 18, 37.

90. See Planned Parenthood Federation of America, Inc., *Sexually Transmitted Infections: The Facts*, at <http://www.plannedparenthood.org/sti-safesex/stifacts—hold.htm> (last visited Feb. 10, 2001).

91. See San Francisco AIDS Foundation, *AIDS 101: The Guide to HIV Basics*, at [http://www.sfaf.org/aids101/hiv\\_testing.html](http://www.sfaf.org/aids101/hiv_testing.html) (last updated Dec. 15, 1998).

92. See MODEL PENAL CODE § 251.2 cmt. at 459 (1962) (citing *Hearings on H.R. 5234 Before Subcomm. No. 3 of the House Comm. on the Judiciary*, 79th Cong. 35 (1946)).

93. See MODEL PENAL CODE § 251.2 cmt. at 456 (1962).

94. See generally Saura Pollock Sturdevant & Brenda Stoltzfus, *Kin: The Bar System*, in LET THE GOOD TIMES ROLL, *supra* note 3, at 254–56 [hereinafter Sturdevant & Stoltzfus, *Kin*]; Sturdevant & Stoltzfus, *Disparate Threads*, *supra* note 45, at 307–10; LET THE GOOD TIMES ROLL, *supra* note 3, at viii.

95. See Saura Pollock Sturdevant, *Okinawa Then and Now*, in LET THE GOOD TIMES ROLL, *supra* note 3, 244, 252. The ensuing description of Okinawa's military prostitution in this paragraph is derived from this source.

mid-1980s, approximately four thousand Filipina women worked in the bar areas around U.S. military bases in Okinawa.

### 1. Corruption

The American Law Institute also thought legalization of prostitution would encourage the corruption of government and law enforcement. This reason was included as another benefit of their prohibition policy.<sup>96</sup> But in the Philippines and South Korea, the U.S. military seemingly turns a blind eye to the corruption created by promotion of prostitution.<sup>97</sup> In 1986, on election day in the Philippines, 1986, women who worked in the clubs in Olongapo were required to report to and stay at work until they voted. Trucks taxied them from the bars to vote; the women were told they would be fired if they did not vote for Marcos.<sup>98</sup> In South Korea, the stringent VD certification requirements and the police spot checks invite police extortion. Women report fearing the police because officers threaten arrest—whether or not there is a violation—in order to extort payment of a bribe.<sup>99</sup>

### 2. Fidelity to Home and Family

A lack of fidelity to home and family, and the resulting social disorganization, is described by the American Law Institute as one, cohesive “ill.”<sup>100</sup> When applied in the context of U.S. military promotion of prostitution abroad, it is better conceptualized as two distinct outcomes. Both affect the consumer and the consumed.<sup>101</sup>

Amerasian children are prolific in the Asian communities that have hosted U.S. military bases.<sup>102</sup> After the withdrawal of

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96. See MODEL PENAL CODE § 251.2 cmt. at 456 (1962).

97. See *infra* note 99 and corresponding text.

98. See Sturdevant & Stoltzfus, *Disparate Threads*, *supra* note 45, at 309.

99. See MOON, *supra* note 3, at 131–32. If women are arrested, they cannot work and therefore lose income; therefore, if they are able, paying the “fine” is better than the loss of livelihood. If a woman cannot pay the fine, the police will contact her bar owner to pay the “fine” in her stead. The woman is charged for this payment as a “loan,” which is subsequently deducted from her pay. See *id.*

100. MODEL PENAL CODE § 251.2 cmt. at 456 (1962).

101. The resulting social disorganization and diminished fidelity to family and home as affecting the consumer is also discussed in Part III.

102. See MOON, *supra* note 3, at 34–35; see generally Maria Montes, Note, *U.S. Recognition of Its Obligation to Filipino Amerasian Children Under International Law*, 46 HASTINGS L.J. 1621 (evaluating the legal strategies attempted on behalf of Filipino Amerasian children and possible remaining claims under international law). See also Elizabeth Kolby, Comment, *Moral Responsibility to Filipino*

the U.S. naval bases from the Philippines in 1992, there were approximately fifty thousand fatherless Amerasian children left behind.<sup>103</sup> In 1993, the law firm of Cotchett, Illston, and Pitre of Burlingame, California, filed a class action suit against the U.S. government on behalf of these children and their mothers.<sup>104</sup> The plaintiffs alleged breach of an implied in fact contract for medical services and educational benefits. They further asserted "that the Navy authorities 'fostered and promoted' prostitution outside the base."<sup>105</sup> The Federal Court granted the Navy's motion to dismiss for failure to state a claim, holding that the plaintiff failed to establish an implied in fact contract.<sup>106</sup>

In Korea, Amerasian children are subjected to serious discrimination and social stigmatization. Their features broadcast the terms of their conception, leaving little question about the socioeconomic status of their families.<sup>107</sup> This is the assumption they live under whether or not they are a product of prostitution, and as a result, it is a common practice to place them up for adoption.<sup>108</sup> Remarkably, in the Philippines being lighter skinned is alleged to be an indication of being more closely associated with the colonial powers and therefore "higher-classed."<sup>109</sup> In both countries, the stigma dramatically increases if the child is African-American.<sup>110</sup> One Korean mother planning to give her half African-American son up said, "All I want him to know is that he was born in Korea, that his mother is Korean, and that she is dead. It will be easier for him that way."<sup>111</sup>

### 3. Economic Disruption

The social disorganization created by military prostitution extends beyond that caused by undermining fidelity to home and family. In the Asian countries discussed,<sup>112</sup> the U.S. military installed bases in already economically depressed countries. The sex industry developed around the bases to provide services for

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*Amerasians: Potential Immigration and Child Support Alternatives*, 2 Asian L.J. 61 (1995) (exploring the United States' moral responsibility for Filipino Amerasian children).

103. See MOON, *supra* note 3, at 35.

104. See Montes, *supra* note 102, at 1625.

105. *Id.*

106. See *id.* at 1626.

107. See MOON, *supra* note 3, at 6-7, 34-35; see Sturdevant & Stoltzfus, *Disparate Threads*, *supra* note 45, at 317.

108. See Sturdevant & Stoltzfus, *Disparate Threads*, *supra* note 45, at 317.

109. See *id.*

110. See *id.*; see also MOON, *supra* note 3, at 34-35.

111. MOON, *supra* note 3, at 35 (citing the film *CAMP ARIRANG*).

112. The Philippines, Korea, Japan, Vietnam, and Thailand.

the thousands of troops stationed there. With this industrialization, women chose between extreme poverty and prostitution.<sup>113</sup> Even after entering prostitution, a majority of women still lived in significant poverty.<sup>114</sup> The sale of sex is not the sole commodity of a prostitution-based economy. The bar and brothel owners benefit financially, as do the grocery, liquor, clothing, and shoe stores. Tailors, music shops, T-shirts, vending machines, drug-stores, and health care providers are all peripheral to, and dependent on, the sex industry industries. In addition, the prostitutes pay rent to their landlords; pay wages to others for washing their clothes, watching their children, cleaning their homes, and income is provided for security guards, barbers, street vendors—the list goes on. Regardless of legality, the sex industry is a major pillar of domestic and global economies. This pillar is *literally* erected on the bodies of women.<sup>115</sup> In a militarized prostitution setting, all of these people, and hence the local economy, are dependent upon a continued military presence. When the military pulls out, it creates an economic vacuum.<sup>116</sup> In some countries, the “hole” remains; in others, for example Thailand, a sex tourism industry takes its place.<sup>117</sup>

#### 4. Model Penal Code Applied

Under the MPC, the patron of a prostitute is guilty of a violation and subject to a fine. The prostitute is liable for a petty misdemeanor, while the more serious misdemeanor and felony

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113. For examples of the economic and environmental conditions in which choices to enter prostitution are made, see LET THE GOOD TIMES ROLL, *supra* note 3, at 209 (South Korea); Sturdevant & Stoltzfus, *Disparate Threads*, *supra* note 45, at 313–25 (essay discussing the factors that contribute to women entering the militarized sex industry); MOON, *supra* note 3, at 4 (Johnston’s Mom) (South Korea), 22, 51. See generally LET THE GOOD TIMES ROLL, *supra* note 3 (case studies from the Philippines, South Korea, and Okinawa); INT’L LABOUR ORG., *supra* note 3 (statistical data on Southeast Asia).

114. See V. SPIKE PETERSON & ANNE SISSON RUNYAN, *GLOBAL GENDER ISSUES: DILEMMAS IN WORLD POLITICS* 138–39 (2d ed. 1999) (Thailand); “Because of the new poverty, prostitution has been growing fast in Zenica.” CYNTHIA COCKBURN, *THE SPACE BETWEEN US: NEGOTIATING GENDER AND NATIONAL IDENTITIES IN CONFLICT* 203–05 (Bosnia); SHEILA JEFFREYS, *THE IDEA OF PROSTITUTION* 330–32 (1997) (Asia generally).

115. See PETERSON & RUNYAN, *supra* note 114.

116. See Aida F. Santos, *Gathering the Dust: the Bases Issue in the Philippines*, in LET THE GOOD TIMES ROLL, *supra* note 3, at 43; see also INT’L LABOUR ORG., *supra* note 3, at 7–11, 34–35, 51–57, 105–10, 115–17, 133–143, 153–57, 159–63 (size and significance of sex industry in Asia illustrates dependency of economy on sufficient consumer traffic); MOON, *supra* note 3, at 149–51.

117. See *supra* notes 41–42 and corresponding text.

sanctions are reserved for those who promote prostitution.<sup>118</sup> The MPC recognizes that "the prostitute's role in the commercialization of sexual activity is relatively less significant than that of the pimp, procurer, or other persons engaged in promoting prostitution."<sup>119</sup> Promotion of prostitution is broken into two subclasses. Persons who play a managerial or supervisory role in the business of prostitution are guilty of a third-degree felony. Example of management and supervision include: owning, controlling, or otherwise keeping a house of prostitution; arranging for a person to become an inmate of a house of prostitution; and purposely causing a person to become or remain a prostitute. The misdemeanor forms of promotion include: soliciting a person to patronize a prostitute, procuring a prostitute for a patron, transporting another with purpose to promote prostitution, leasing or otherwise providing premises for prostitution and soliciting, and receiving or agreeing to receive any benefit for any of the above mentioned activities.<sup>120</sup> It should be noted that any act considered promotion of prostitution when the subject is under the age of sixteen—whether or not the promoter is aware of the child's age—is a third-degree felony.

Arguably, if domestic policy were binding when abroad, our military institution has violated MPC Sections 251.2(2)(a) and 251.2(3)(c), both third-degree felonies.<sup>121</sup> Section 251.2(2)(a) criminalizes "the owning, managing, supervising or otherwise keeping, alone or in association with others, a house of prostitution or a prostitution business."<sup>122</sup> The U.S. participation in regulating entire sex industries in South Korea and the Philippines through health certification requirements and constriction of the market (off-limit designations) may qualify as "supervising or otherwise keeping" as required by the Code.<sup>123</sup> This behavior has been systematic, not isolated; it occurs in multiple countries in defiance of domestic American policy and domestic policies in

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118. See MODEL PENAL CODE § 251.2 cmt. at 455 (1962). Under the MPC, the offense of living off of a prostitute's earnings is eliminated as an independent crime and converted into promoting prostitution. See *id.*

119. *Id.* at 459.

120. See *id.*

121. Clearly, this is not the case. This argument is advanced to contrast the domestic and international practice, and challenge the foundations of our policies/practice.

122. MODEL PENAL CODE § 251.2(2)(a) cmt. at 454 (1962).

123. See MOON, *supra* note 3, at 78-79 (citing Henry A. Essex, Surgeon, EUSA, Memorandum addressed to the Chief of Staff (EUSA), *Report of Col. R.W. Sherwood on Venereal Disease in PUSA*, July 20, 1972, at 1) (detailing description of such behavior and U.S. Military acknowledgement that their practices violated Korean law).

the "host" countries, banning prostitution. Regulation of the industry has been overt. Colonel Robert W. Sherwood, Chief of the Preventative Medicine Division to the U.S. Forces in Korea, asserted that VD control "must be a coordinated effort with the other U.S. Military Forces and with the Republic of Korea."<sup>124</sup> In official reports, U.S. military representatives acknowledged that prostitution was illegal in Korea, citing it as a reason that financial support for venereal disease control for prostituted women was difficult for Korean governmental liaisons to justify.<sup>125</sup> One way the United States addresses venereal disease control is by simply prohibiting commercialized sex.

In the Philippines, the Social Hygiene Clinic is a joint U.S. Navy and Olongapo City Health Department project.<sup>126</sup> Women are *required* to register and undergo regular testing for sexually transmitted disease and tuberculosis. A minimum of seventy-five percent of the women who work in any establishment must be registered with local authorities or it will be declared off-limits to U.S. military personnel.<sup>127</sup> In both the Philippines and Korea, military personnel conducted regulatory inspections or certification.<sup>128</sup> In the 1960s, U.S. military officials backed away from executing a joint-government "VD clean up program" in Korea, stating that "such a program cannot be justified solely in terms of reducing the likelihood of venereal infection among U.S. personnel. If publicized this tact [sic] could prove politically embarrassing both in Korea and in CONUS [Continental U.S.] . . ."<sup>129</sup> Despite acknowledging they would be walking a thin line, the U.S. military implemented a similar program in the 1970s. They were not oblivious to the possibility that their involvement in prostitution control could be "misinterpreted" as encouraging illicit sexual promiscuity.<sup>130</sup> Upon review, the government's *involvement* in prostitution appears supervisory in nature.

If U.S. institutional military activity does not rise to the level of "supervising or otherwise keeping" as required by Model Penal Code Section 251.2(2)(a), then the United States' actions cer-

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124. *Id.* at 78. Colonel Sherwood's full title was Chief of Preventative Medicine Division from the Office of the Surgeon General of the Army, to the U.S. Forces in Korea. *Id.*

125. *See id.* at 79.

126. *See supra* note 75 and corresponding text.

127. *See* MOON, *supra* note 3, at 79; *see also supra* footnotes 68–77 and corresponding text.

128. *See* MOON, *supra* note 3, at 79, 80–83, 100–02.

129. *Id.* at 101 (quoting Memorandum from Colonel Fredrick Outlaw, Inspector General, EUSA, to EUSA Chief of Staff, (Mar. 18, 1964) (Memorandum titled: Observations Regarding Prostitution)).

130. *See id.* at 200 n.81, corresponding text at 101.

tainly meet the threshold in Section 251.2(3)(c). This Section states that an offense under Subsection (2) constitutes a third-degree felony if the actor promotes prostitution of a child under sixteen, *whether or not* he is aware of the child's age; simply stated, if the prostitute is under sixteen, the promoter is guilty of a third-degree felony.<sup>131</sup>

The two Sections under 251.2(2) most applicable to the behavior of the U.S. Military Institution are: (d) soliciting a person to patronize a prostitute, and (e) procuring a prostitute for a person. In order to violate Section 251.2(2)(d) of the code, the U.S. military's "allowance" of its personnel to frequent prostitutes must rise to a level of encouragement. It does. With full knowledge that the domestic laws in the countries discussed prohibit prostitution, the U.S. military fails to discipline its soldiers for purchasing women for sex. Beyond their failure to discourage this behavior, the military does its best to ensure that the women are *safe* and *clean*. Fear of VD may be the last barrier, psychologically preventing soldiers from frequenting prostitutes. In the Philippines, thanks to Uncle Sam, a prospective buyer can ask a prostitute to produce her VD card, documenting that she has tested negative within the past two weeks. Through heavy regulation, the U.S. military has nullified this fear of purchasing sex. As referenced earlier, U.S. military officials have gone to great lengths negotiating the specifics of the sex industry with the Korean government. After the Thai government and U.S. military signed their agreement allowing R&R activities, when funding was secured there remained no question as to what kinds of *entertainment establishments* should be constructed. The institution removes all barriers so the enlisted men will have free access to women for sex, and then goes one step further. If the sex-service landscape surrounding the American bases is insufficient, GIs are shipped to other "exotic destinations" in order to engage in R&R.<sup>132</sup> How can this behavior be distinguished from encouragement?

Military administration might argue that prostitution is impossible to stop—especially under these circumstances—but experience proves otherwise. The U.S. military has the capacity to enforce an anti-prostitution policy. During the Persian Gulf War, the U.S. military stationed troops in Saudi Arabia. Taking the Saudi sanctions against prostitution seriously, "even before a soldier could go near a local woman and get caught by Arabs, we'd [U.S. military personnel] get him . . . that's how strict we

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131. See MODEL PENAL CODE § 251.2(3)(c) (1962).

132. See *supra* Part I.B (first full paragraph).

were."<sup>133</sup> The Muslim countries, strictly forbidding alcohol, reportedly required the Western armies involved to sail entertainment ships for the troops into the Persian Gulf. "This no-prostitution-in-Saudi-Arabia policy was intended to show Washington's sensitivity to the nervous Saudi regime . . . this policy had the unintended effect of making it clear that any flourishing prostitution industry around American bases was *also* the result of policy decision."<sup>134</sup> Our policy in Asia is clear.

Alternatively, Section 251.2(2)(e) criminalizes procuring a prostitute for a person. As argued above, the military's development and enforcement of a health certification process for prostitutes constitutes a quality control function—effectively, a prostitute cannot legally sell her wares without a stamp of approval from our military. When brothels are in violation of the health certification requirements, our military places them off limits to military personnel. When they return to compliance, the brothel is *reopened* by the American government. The connection, while intentionally hidden, is quite direct.

In order for these violations to rise to a felony level under Section 251.2(3)(c), the prostitute must be under sixteen years of age, but it is not required that the promoter know her age. An example will best illustrate this violation. *Lita* began her "career" as a prostitute working for a bar, called *The Penthouse*, in Olon-gapo.<sup>135</sup> Three days after she began "work," an American paid her *bar fine*.<sup>136</sup> They left together, going to a hotel. When they arrived in the room, *Lita* began to cry. Even though she spoke little English, she managed to say, "Don't have sex with me." When relaying this story, she said, "I really didn't want to, but he forced me . . . . He tried to undress me but I wouldn't get undressed."<sup>137</sup> Not only did *Lita* clearly communicate that this was not consensual, but she was also *only fourteen*. After "losing her cherry,"<sup>138</sup> *Lita* reportedly went on bar fines all the time. Reading her story, it is clear that she perceived this act as a one-way street.<sup>139</sup>

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133. MOON, *supra* note 3, at 37; see also BROCK AND THISTLETHWAITE, *supra* note 3, at 76.

134. ENLOE, *supra* note 54, at 72.

135. *Lita's* story is taken from LET THE GOOD TIMES ROLL, *supra* note 3, at 70–95.

136. For a definition of "bar fine," see *infra* note 151.

137. LET THE GOOD TIMES ROLL, *supra* note 3, at 80.

138. What *Lita* describes as losing her virginity most people would call rape. For a brief discussion of connections between rape and prostitution, see *supra* Part I: THE CONSUMER.

139. In both the Philippines and Korea, a woman is expected to be a virgin when she marries. See Sturdevant & Stoltzfus, *Disparate Threads*, *supra*



*Lita* was not unusually young when she entered the world of prostitution; in 1992-1993, nearly one-fifth of the women working in brothels in the Philippines began prostituting when they were thirteen to fifteen years old.<sup>140</sup> One-fifth (twenty percent) of the women found in brothels were under age sixteen when they entered prostitution; a bar gets placed off limits to GIs if more than twenty-five percent of its prostitutes are unregistered. This leaves one to assume either: (a) documentation of age is not a requirement for registration as a prostitute; (b) the age requirement (and corresponding documentation) is not very well enforced; (c) most brothels ride close to the twenty-five percent margin, escaping it narrowly every time they are checked; or (d) the military turns a blind eye to the age of prostitutes. When the practice is that high—one out of every five women—it must be ignored to be missed. Additionally, these women have sex with enough men to remain viable to the brothel owner during their younger years. Translation: *some men must be having sex with minors*. The military's certification process fails to screen out children, provides a consumer, and does not direct action toward eliminating child prostitution. The military could, for example, place a brothel off limits to GIs if they were caught with any woman under the age of sixteen working there. In order to be in violation of Section 251.2(3)(c), the promoter need not be aware that the prostitute is a child.

Our hypocrisy is self-evident. The U.S. Military Occupational Government in Korea in 1945-48 established the first official women's welfare policy and the Women's Department in the Ministry of Health and Social Welfare in 1946.<sup>141</sup> In 1947, the U.S. Military Government outlawed prostitution, imposing punishment on all persons involved, including the customer. This law was never enforced.<sup>142</sup> As stated by Ms. Pak, a Korean camptown prostitute, "U.S. law in the U.S. was good—but in Korea, it was never upheld. The U.S. lawyers simply protected U.S. soldiers but did not seek the truth and real justice. The U.S. government did not give any compensation for the wrongs the U.S. soldiers committed."<sup>143</sup>

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note 44, at 320. This social value is so strong that taking a woman's virginity by raping her is a tactic some men use to force women to marry them. See LET THE GOOD TIMES ROLL, *supra* note 3, at 137.

140. See INT'L LABOUR ORG., *supra* note 3, at 183.

141. See MOON, *supra* note 3, at 46-47.

142. See *id.* The enactment and consequent non-enforcement implies it was law for appearances only.

143. *Id.* at 153. Ms. Pak's sister was also a camptown prostitute. She was mutilated and murdered in the early 1970s, allegedly by a U.S. serviceman. The

### C. Domestic Law of Other Nations

Prostitution is illegal in the Philippines, Thailand, and South Korea, but each of these countries has made special accommodations, circumventing domestic law and allowing the sex industry to flourish around the U.S. military presence.<sup>144</sup> Control of venereal disease has been of constant concern for military leadership in all of these countries, resulting in elaborate institutional health certification and documentation requirements. Each of these three countries has municipal regulations requiring prostitutes to undergo checks for sexually transmitted diseases with a specified frequency.

In Thailand, if a prostitute from a brothel does not show up at the Health Department at her regularly scheduled time (weekly), health officials are sent to find out why she did not appear.<sup>145</sup> Both Korean and Filipina women are required to carry cards indicating that they are sexually transmitted disease (STD) free.<sup>146</sup> In none of these countries are the patrons required to undergo testing or "certification of cleanliness." This practice was described by the National Commission on the Role of Filipino Women as discriminatory and oppressive. "The underlying assumption is that it is alright for [prostituted women] to get infected by customers who do not have to prove they are 'clean,' provided the infection is detected immediately and is not transferred to subsequent customers."<sup>147</sup>

In both the Philippines and South Korea, women are subject to identification checks. In South Korea, any woman can be

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U.S. authorities never turned the suspect over to the Korean authorities to face trial in the Republic of Korea, nor did they offer financial assistance with the burial or even an apology. See *id.* A more modern example of GI violence against prostituted women: in April 2000, a 26 year-old former United States Navy sailor admitted strangling and murdering prostitutes during shore leaves in cities around the world. Detroit law enforcement report that there is strong evidence connecting John Eric Armstrong with 16 murders stretching from Seattle to Singapore. At least one murder was committed in Thailand and five in Honolulu, Hong Kong, and Singapore. While his activities in Detroit brought him into custody, it is believed that he committed the majority of his murders while assigned to the Nimitz. During Petty Officer Armstrong's eight years of service, the Navy awarded him two medals for good conduct. Nichole M. Christian, *Ex-Sailor Linked to Slayings of Prostitutes Worldwide*, N.Y. TIMES, Apr. 14, 2000, at A18.

144. See INT'L LABOUR ORG., *supra* note 3, at 119–20 (Philippines), 163–64 (Thailand); MOON, *supra* note 3, at 46–47 (South Korea).

145. See INT'L LABOUR ORG., *supra* note 3, at 166.

146. See *id.* at 125 (Philippines); Sturdevant & Stoltzfus, *Tong Du Chun*, *supra* note 73, at 176 (Korea).

147. INT'L LABOUR ORG., *supra* note 3, at 125.

stopped and her identification demanded.<sup>148</sup> In reality, police officers cannot tell by appearances which women are prostitutes. Consequently, women are stopped and "checked" for seemingly pretextual reasons: wearing more make-up than other women, walking with servicemen, or walking near a base unaccompanied by U.S. personnel.<sup>149</sup> In the Philippines, inspections are conducted through the bars, clubs, massage parlors, and brothels. "Operation" independent of a club is illegal.<sup>150</sup> If a Filipina is walking with an American, the police can stop her and demand her night-off pass.<sup>151</sup> If she does not have one, she can be arrested as a streetwalker—regardless of whether or not she is employed by a club; because an passbook serves as proof that the woman works for a club, if she has a passbook, but no night-off pass, she is assumed to be operating independently and is arrested. In such cases, the bar owner is contacted to come retrieve her. She is then fined by the club for "dating" without processing it through the club and giving the club owner his "cut." When able, women will generally pay the police officer a bribe to avoid this trouble. Some women report being forced to perform sex acts for the policemen after arrest.<sup>152</sup>

#### D. *International Law*

Expanding our deception further, the United States is a signatory to The United Nations Convention on the Elimination of All Forms of Discrimination Against Women.<sup>153</sup> This treaty requires State Parties to "take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of prostitution of women."<sup>154</sup> As of March 2, 2001, there were a total of ninety-eight signatories to this convention; Japan, Thailand, the Philippines, and the United States signed in July of 1980. This treaty has been ratified by a total of 167

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148. See MOON, *supra* note 3, at 134.

149. See *id.* Some U.S. personnel complained of these practices causing higher-ranked officials to step in and discourage this practice. The complaints charged that the Korean police and health inspectors were harassing them and their Korean companions without provocation or reason. Upon receipt of complaints, however, some U.S. commanders "asked their men to cooperate with the KNP [Korean National Police], who were, after all, only doing their job to protect the health of U.S. personnel." *Id.*

150. See Sturdevant & Stoltzfus, *Olongapo*, *supra* note 35, at 46.

151. See *id.* A "night-off pass" is a paper given to a prostitute by her bar when her "bar fine" (the cost paid to take her outside of the club for any amount of time, generally for sex) is paid.

152. See *id.*

153. See Convention on Discrimination Against Women, *supra* note 1.

154. *Id.*, art. 6.

States—including the Philippines; the U.S. has failed to ratify.<sup>155</sup> A second international treaty that addresses prostitution is the 1949 United Nations' Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others.<sup>156</sup> As of March 2, 2001, seventy-three States had ratified, including Japan and the Philippines.<sup>157</sup> This treaty recognizes prostitution as "incompatible with the dignity and worth of the human person and [that it] endanger[s] the welfare of the individual, the family and the community."<sup>158</sup> The Philippines ratified this treaty on September 19, 1952; Japan ratified it on May 1, 1958.<sup>159</sup> The government in Thailand, although it never ratified, went so far as to enact related domestic anti-prostitution legislation in response to pressure from the United Nations, thus advancing the charade.<sup>160</sup>

[S]ignatories of the 1950 Convention [for the Suppression of the Traffic in Persons and the Exploitation of the Prostitution of Others] promise to punish any person who 'keeps or manages, or knowingly finances or takes part in the financing of a brothel.' Thus, government activity that includes organizing prostitutes for soldiers, categorizing the prostitutes, and indicating which are HIV positive and which are not would clearly be an act of 'managing' a brothel.<sup>161</sup>

### III. TAKING WORK HOME

There is no fundamental difference between the women of the Philippines, Korea, Thailand, Vietnam, Japan, and the

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155. See U.N. Treaty Collection, Status of Multilateral Treaties Deposited with the Secretary-General: International Convention on the Elimination of All Forms of Discrimination Against Women, available at <http://untreaty.un.org/ENGLISH/bible/englishinternetbible/partI/chapterIV/treaty9.asp> (last modified Mar. 2, 2001) (password required).

156. See Convention for Suppression of Traffic, *supra* note 1.

157. U.N. Treaty Collection, Status of Multilateral Treaties Deposited with the Secretary-General: International Convention for the Suppression of the Traffic in Persons and the Exploitation of Others, available at <http://untreaty.un.org/ENGLISH/bible/englishinternetbible/partI/chapterVII/treaty11.asp> (last modified Mar. 2, 2001) (password required) [hereinafter Status Table for Convention for Suppression of Traffic].

158. Convention for Suppression of Traffic, *supra* note 1, pmb1.

159. See Status Table for Convention for Suppression of Traffic, *supra* note 157.

160. See INT'L LABOUR ORG., *supra* note 3, at 163.

161. Talleyrand, *supra* note 9, at 164 (article includes analysis of international law in its current form as pertaining to military prostitution).

United States.<sup>162</sup> The soldiers we send abroad are the same men that return. We must question the values taught to young men sent abroad and repeatedly told that women can be bought, used, and then left. We must take issue with each of these three steps, for none of them encourages conceptualizing women as equals, relationships as collaborative efforts, or respect as a two-way street. Part II of this Note expresses the concern that prostitution causes social disruption for the consumer.<sup>163</sup> A person cannot learn to objectify and dehumanize in one context without it overflowing into the rest of his life. While top American criminal law scholars worry about undermining fidelity to home and family by legalizing prostitution, we as a country take young men, ship them off to poorer nations, and encourage them to buy women for sex. Many of the GIs come home fathers, having already learned to shirk this very important responsibility. The stories that percolate from the sex industry report rape and beatings as common occurrences. *Madeline* described the Navy men as "wild . . . [W]hat they want is that if they pay for you, you do what they like. They think that as long as they have paid, they can get whatever they want."<sup>164</sup>

Susan Brownmiller recorded her horror, writing, "legalized prostitution institutionalizes the concept that it is man's monetary right, if not his divine right, to gain access to the female body, and that sex is a female service that should not be denied the civilized male."<sup>165</sup> Some mirror her concern, even if we are lucky enough to prevent enlisted men from believing that all women like prostitution. Can we prevent ingestion of the racism and cultural elitism exemplified by the arbitrary determination that foreign women can and should be prostitutes while American women should not? Domestic violence is a grave health concern for women in the United States, but the GIs tell Korean women that they do not hit women (when they are drinking) in America. When justifying their behavior, GIs explain that when they are in Korea they can do as they please.<sup>166</sup> Some Filipina women say American men think that they are pigs<sup>167</sup> and like

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162. Qualification: there is no fundamental difference that is relevant to this portion of the discussion.

163. See *supra* Part II.B.2: Fidelity to Home and Family.

164. LET THE GOOD TIMES ROLL, *supra* note 3, at 63. Madeline is a woman who was interviewed to record her experiences as a prostitute in a U.S. military servicing sex economy. See *id.* at 48–68 (Philippines).

165. BROWNMILLER, *supra* note 5, at 392.

166. See LET THE GOOD TIMES ROLL, *supra* note 3, at 214 (Ms. Pak is a woman who was interviewed to record her experiences as a prostitute in a U.S. military-servicing sex industry). See *id.* at 208–81 (Korea).

167. See *id.* at 93, 124.

them because they are small, black, and cheap.<sup>168</sup> This exemplifies the dehumanization of non-American women.

Advancing Susan Brownmiller's concern, other Filipina women think that GIs like them because they are more nurturing than American women. *Rowena*, describes American women as going "their own way,"<sup>169</sup> implying that the men like Filipinas better because they attribute the women's dependency and focus on them as *cultural* rather than the product of sexual consumerism. This understanding of intimacy is damaging to women both in the Philippines and in the United States. Presumably these men will ultimately expect all women to replicate this behavior as wives and girlfriends. The subservience purchased becomes the standard to which women are compared.

This phenomenon is visible in the mail-order bride industry. In fact, there is an observable continuation of the racial and sex-based stereotypes described above in Asian mail-order bride consumerism.

The men commonly characterize American women as "spoiled rotten" and lacking family values, and Asian women as loyal and undemanding. As one man [who married a mail-order bride] explained, "I do have cultural expectations that I would not have with an American woman: she will keep house without making me feel guilty or lazy, she will not intentionally annoy me just to assert herself, and she will be loyal."<sup>170</sup>

Our repeated failure to educate enlisted men about the history and cultures of the communities they are about to enter exacerbates this problem,<sup>171</sup> leaving American men believing that Asians like prostitution.<sup>172</sup> This ignorance combined with U.S. foreign policy creates a sense of entitlement in the men, who feel that they are stimulating these countries' economies,

168. See *id.* at 93.

169. *Id.* at 276 (Rowena is a Filipina woman who was interviewed to record her experiences as a prostitute in a U.S. military-servicing sex industry). See *id.* at 257–81 (Okinawa).

170. There are strong correlations between prostitution and the mail-order bride industry. See generally Donna R. Lee, Comment, *Mail Fantasy: Global Sexual Exploitation in the Mail-Order Bride Industry and Proposed Legal Solutions*, 5 *ASIAN L.J.* 139 (1998) (citing the author's e-mail correspondence with a man who was then planning to marry a Filipina woman he had met through a mail order bride company).

171. See, e.g., Bruce Cumings, *Silent But Deadly: Sexual Subordination in the U.S.-Korean Relationship*, in *LET THE GOOD TIMES ROLL*, *supra* note 3, at 173, 175; Sturdevant & Stoltzfus, *Disparate Threads*, *supra* note 45, at 323; MOON, *supra* note 3, at 119.

172. See *supra* footnotes 54–65 and corresponding text.

keeping them safe for democracy, and protecting them from some unnamed threat. One GI expressed his frustration when Koreans slander America. He reportedly did not like the Army himself, but was very patriotic. He loves his country.

When somebody says 'Fuck America,' that makes me feel bad. The only thing they want is our money . . . . We spent so much money coming down here. We spent so much money payin' these construction workers . . . honchos . . . housemen . . . whores . . . businesses. Without us, they'd cease to exist. We're spending our money comin' down here and then they have the nerve to sit around and say, 'Fuck America.'<sup>173</sup>

Kevin Heldman describes enlisted men as having a "misguided sense of superiority because of their role as a protecting force."<sup>174</sup> Heldman continues, describing the background of new U.S. Military recruits, and observes that "they find themselves ghettoized in GI camp-towns, on the bottom rung of society economically, . . . second-class citizens in their own country, they're sent overseas to be treated like second-class citizens in other people's countries."<sup>175</sup> The Chief of Public Information for U.S. Forces in Korea reportedly commiserated with a friend, "some of these girls [Korean prostitutes] won't even touch an American guy now, preferring rich Koreans and Japanese . . . . [C]an [you] imagine how it feels to be snubbed by a whore[?]"<sup>176</sup>

The military practice of encouragement of prostitution abroad coupled with a lack of appropriate cultural education is fatal, but obviously intentional.<sup>177</sup> Before paying a woman to have sex with him, the GI does not stop to think, *why is she here?* It does not occur to him that she is a prostitute in order, literally, to feed her family. It is much more comfortable to think she likes it, and that she is different than the women back home. Most Americans have no idea what it means to be so poor that you scavenge plastic from huge, mountainous dumpsites, selling it for money in order to buy food.<sup>178</sup> *Lita*, the youngest of fourteen children, entered prostitution at age fourteen to help her family pay off the mortgage on their farmland. Her family's debt was incurred as the result of a hurricane, and until it was paid off, they could keep only a small portion of their harvest. The dimin-

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173. Sturdevant & Stoltzfus, *Disparate Threads*, *supra* note 45, at 324.

174. Heldman, *supra* note 69.

175. *Id.*

176. *Id.*

177. The failure to provide training is an intentional omission.

178. See LET THE GOOD TIMES ROLL, *supra* note 3, at 76-77.

ished food supply was insufficient to feed her family.<sup>179</sup> If the GIs thought about these women's real life situations and how they ended up in prostitution, if the GIs conceptualized what kept these women in the sex industry, it would be harder for men to objectify these women. "When a person is poor, they will hang on, even to a sharp instrument.' That's what happened to me. That's what happens to the women working in the bars of Olongapo."<sup>180</sup>

Clearly, however, many soldiers do not think of these women as people. When asked if he had picked up any Korean language while stationed overseas, one GI responded, "Yeah. 'Suck harder.'"<sup>181</sup>

#### IV. FREE VS. FORCED PROSTITUTION

This discussion would not be complete without at least a glimpse of why the issue of free versus forced prostitution is not relevant to modern military prostitution as identified here. Conceptually, the women in military brothels and bars in Asia entered this life freely. Although there are documented cases of women held against their will in sexual slavery, this is the *exception*, not the norm.<sup>182</sup> Contrasted with such a severe abuse, the day-to-day conditions most of these women work in appear tolerable, but numerous elements of slavery are present in the *everyday prostitute's* world.

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179. See *id.* at 70–95. *Lita* is a woman interviewed to record her experiences as a prostitute in a U.S. military servicing sex industry. See *id.* (Philippines).

180. *Id.* at 63.

181. Heldman, *supra* note 69.

182. In the Philippines, there are brothels where women are literally enslaved. These are called *casas*. Some of the women who are prostituted in this environment are recruited from rural communities and told that they will be taken to Manila or Olongapo to work as maids. The women are told that they will make a lot of money; the families, generally quite poor, are frequently given advances of the woman's salary, which is charged to her as debt once she reaches the *casa*. Upon arrival, the women are imprisoned in a room, and the brothel owner has complete control over them. They are not allowed to leave, or to determine the number of customers they will take, what sex acts they will perform, the hours they sleep, or the hours they are on duty. This practice is not uncommon, but is well hidden and guarded. See LET THE GOOD TIMES ROLL, *supra* note 3, at 68 n.10; INT'L LABOUR ORG., *supra* note 3, at 182. In her interview, *Lita* mentions her friend's "rescue" from a *casa*. She reports that a customer took pity on the woman and paid for her release. See LET THE GOOD TIMES ROLL, *supra* note 3, at 64. This act portrays a false picture of humanity. If what was happening to this woman was immoral, what was the *rescuer* doing at a *casa* in the first place?



Women are required to pay for their own health examinations and living expenses. This creates a debt that the house charges against women's earnings. The health regulation practice enforced in the Philippines encourages the opportunity for "debt-bondage" by forbidding independent operation of the women.<sup>183</sup> All money for sex funnels through to the bar owner, who then deducts the woman's expenses before giving her a cut of the money earned for selling her body. Women are charged if they "sneak out,"<sup>184</sup> clouding the belief that these women remain in the clubs by their own volition. They are fined for sleeping late or on duty, being drunk, wearing slippers, having sex without charging, for "being a troublemaker," or being unable to work either due to illness or menstruation. One woman reported being sold from bar to bar. The "payment price" would then be charged to her as debt that she was required to work off before she could leave.<sup>185</sup>

In Okinawa, the practice is to restrain the women's movements. They sleep above the clubs or in back rooms, and are not allowed to leave. It is not unusual for the rooms to have bars on the windows, and the doors to remain locked. In November 1983, two Filipinas were killed by a fire at the Upper Lima Club.<sup>186</sup> The barred windows and locked doors prevented evacuation.<sup>187</sup>

Women are recruited into this business without knowing that they will become prostitutes. Would it matter? Maybe not, but telling a woman she will be a Filipina *cultural dancer*, an ambassador of sorts, and sending her to Japan to sell her body to Americans does not make the case for free (versus forced) prostitution.<sup>188</sup>

### CONCLUSION

An international movement of individuals and organizations has demanded that the Japanese government pay restitution to Koreans used as *comfort women* by the Japanese military during World War II.<sup>189</sup> These women were lured by the promise of work, sent to Japan as forced labor, abducted and raped, or kidnapped and locked in brothels without pay. These behaviors (of

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183. See *supra* note 150 and corresponding text.

184. See LET THE GOOD TIMES ROLL, *supra* note 3, at 153 (photograph).

185. See *id.* at 192-93.

186. See Sturdevant & Stoltzfus, *Kin*, *supra* note 94, at 255.

187. See *id.*

188. See *id.*; see also LET THE GOOD TIMES ROLL, *supra* note 3, at 268; INT'L LABOUR ORG., *supra* note 3, at 106.

189. See BROCK AND THISTLETHWAITE, *supra* note 3, at 73.

the Japanese government) are discussed as war crimes.<sup>190</sup> But what is the qualitative difference between the Japanese government's behavior and our own? As asked by University of Chicago Professor, Bruce Cumings, "Does it make much difference that American soldiers paid cash for the half-ton-truck[s]" full of prostitutes that careened onto the bases on Friday nights, "instead of giving them room and board as did the Japanese?"<sup>191</sup> Or did these women freely choose prostitution in their impoverished country with a per-capita income of \$100.00?<sup>192</sup> Sex tourism is not a part of Korean culture. The bases and brothels that were controlled by the Japanese over four decades simply came under American control; "[i]n 1945 the camptowns just switched patrons."<sup>193</sup>

We can argue that our hands are clean, but with so much incriminating evidence, we have an uphill battle. As, or rather *if*, our military prostitution practices become more widely known, we will no longer be able to claim the international moral superiority that hallmarks our foreign policies. Korean feminists are increasingly casting the camptown prostitute as a victim of U.S. imperialism and militarism. Okinawan activists "refuse to continue to live under the threat of accidents, crimes, and the peril brought about by American military personnel."<sup>194</sup> Our hands are not clean, nor are we any different.

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190. See *id.*

191. Cumings, *supra* note 171, at 171.

192. See *id.* The 1999 per capita income in Korea was: U.S.\$8,490.00; the Philippines' was: U.S.\$1020.00; Thailand's was: U.S.\$1960.00. *The World Bank Group*, at <http://www.worldbank.org/data/countrydata/countrydata.html> (last visited February 2, 2001). The basic Navy Seaman's entering salary is \$856.80–1,079.10 a month. Recruits also receive Navy housing or a housing allowance, money for meals, comprehensive medical and dental care, discounted travel, and thirty days paid vacation a year. Upon enlisting new recruits may also receive a signing bonus. In addition, the Navy offers an assortment of financial programs offering money for higher education. See *Navy Official Webpage*, at <http://www.navyjobs.com/flash/highschool/faq.htm#question11> (last visited Feb. 12, 2001); see generally [www.navy.mil](http://www.navy.mil) (last visited Feb. 8, 2001).

193. Cumings, *supra* note 171, at 174.

194. Joseph Gerson, "I refuse." *Japanese protest needless U.S. military presence in Okinawa, Japan*, BULLETIN OF THE ATOMIC SCIENTISTS, July 1996, at 26.

