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LEVERAGING INFORMATION TO PREVENT OFFENDING ABROAD: INTERNATIONAL MEGAN’S LAW AND SEX OFFENDER REGISTRATION SYSTEMS AROUND THE WORLD

Lori McPherson*

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INTRODUCTION

In 2011 Leonard Bernard Lewis, a youth gymnastics coach, was convicted of two counts of attempted possession of child pornography in King County, Washington.¹ After serving a brief time in jail, he returned to the community and eventually returned to coaching gymnastics by using a relative's social security number to evade detection on a background check.² In 2018, Lewis traveled to the United Kingdom to continue his career coaching cheerleading.³ The Department of Homeland Security's Angel Watch Center notified the United Kingdom that Lewis was traveling there.⁴ Upon his arrival in London, border officials found Lewis in possession of thousands of child sexual abuse images and he was later convicted of transportation of child pornography and sentenced to nine years in prison.⁵

This Article discusses in broad terms the longstanding and significant problem of convicted sex offenders traveling internationally to abuse children, and the efforts underway in the United States to prevent such offending behavior.⁶ It focuses on how the United States shares information about known offenders when they travel internationally and provides an overview of existing sex offender registration systems around the world. These discussions demonstrate that many nations are in a position to proactively exchange information about known sex offenders with one another to better protect their own countries. As the case of Mr. Lewis clearly shows, sharing sex offender registration information between countries can actively protect communities.

The Article proceeds in seven parts. A general discussion about the problem of the sexual exploitation of children in travel and tourism (SECTT) is found in Part I. Part II explores the international response to SECTT, including international instruments and collaborative law enforcement efforts. Part III examines the role of the United States as a source of travelers engaging in illicit

1. Judgment and Sentence, *Washington v. Lewis*, No. 11-1-02220-6 KNT (King Cnty Sup. Ct. Dec. 12, 2011).

2. *Registered Sex Offender Sentenced to Nine Years in Prison for Transporting Images of Child Rape and Abuse*, UNITED STATES DEPT. OF JUST. (June 4, 2019), <https://www.justice.gov/usao-wdwa/pr/registered-sex-offender-sentenced-nine-years-prison-transporting-images-child-rape-and> [<https://perma.cc/5HPA-W6M7>].

3. *Id.*

4. Brian Trompeter, *New Center Alerts Foreign Nations of Sex-Offenders' Travels*, INSIDE NOVA (Nov. 25, 2019), https://www.insidenova.com/news/crime_police/new-center-alerts-foreign-nations-of-sex-offenders-travels/article_6ba0930a-0eca-11ea-bddd-67bd74b246ee.html [<https://perma.cc/MBM3-BPFB>].

5. *Registered Sex Offender Sentenced to Nine Years in Prison for Transporting Images of Child Rape and Abuse*, *supra* note 2.

6. H.R. REP. NO. 111-568, pt. 1, at 2 (2010).

sexual conduct, legislation criminalizing that conduct, civil remedies, and its sex offender registration and notification systems prior to the passage of International Megan's Law to Prevent Child Sexual Exploitation and Other Sexual Crimes Through Advanced Notification of Traveling Sex Offenders (International Megan's Law, or IML). Part IV contains a detailed analysis of International Megan's Law and its terms, including the specifics of IML's passport marking provisions. Finally, Part V provides a survey of the sex offender registration systems in place around the world. Ultimately, many nations have the tools in place to collectively combat SECTT by sharing domestic conviction and sex offender registration information with the rest of the world. Doing so will ensure that countries take appropriate action when known sex offenders attempt to enter their borders and, quite literally, stop SECTT in its tracks.

I. SEXUAL EXPLOITATION OF CHILDREN IN TRAVEL AND TOURISM

Essential to the conversation of combating SECTT is an understanding of key terms and the factors that make SECTT such a pervasive problem throughout the world.

A. *Key Terminology*

As a starting point, let's clarify the terminology which will—and will not—be used in this Article. Language around child sexual abuse is often oblique and indirect, serving to protect the squeamish yet functioning to reduce the significance of the crimes taking place. To that end, the term “Sexual Exploitation of Children in Travel and Tourism” (SECTT) will be used in lieu of the more commonly known terms “child sex tourism” or “child sex trafficking,” unless circumstances dictate otherwise.⁷ The perpetrators of what most call child

7. The acronym SECTT (Sexual Exploitation of Children in Travel and Tourism) has recently been adopted by ECPAT (formerly known as Ending Child Prostitution in Asian Tourism), a leading international organization in the effort to combat the sexual victimization of children, as preferable and more accurate than the term “child sex tourism.” *Sexual Exploitation of Children in Travel and Tourism & Terminology*, ECPAT INT'L, <https://www.protectingchildrenintourism.org/resource/sectt-terminology/> [https://perma.cc/8SD7-TCC4]. ECPAT has “member groups and affiliates in over 80 countries and a footprint in every region in the world,” working to “bring national laws and policies into alignment with international child rights conventions and to assist governments to meet the commitments made” at the World Congresses Against the Commercial Sexual Exploitation of Children. SHIMALI SENANAYAKE, ECPAT INT'L, ECPAT INTERNATIONAL ANNUAL REPORT JUNE 2014–JUNE 2015 4–5 (Alison Raphael ed., 2015), <https://ecpat.org/wp-content/uploads/2021>

sex tourism and child sex trafficking are generally adults,⁸ and our enforcement discourse should explicitly focus on these adult offenders. SECTT, as a term, precisely describes the crimes that these individuals engage in—the sexual exploitation of children while the offender is traveling away from their home.

Another foundational understanding must be established regarding the kinds of offenders who engage in SECTT: *preferential* offenders and *situational* offenders.⁹ A failure to delineate between the two misstates the problem and, as a result, our solutions will be misguided.

It had long been assumed that the ‘typical’ adult who travels to a foreign country and thereafter engages in sexual activity with a minor was someone who is a pedophile¹⁰ or otherwise a preferential offender.¹¹ However, recent research indicates that many SECTT offenders are situational, traveling abroad “with no intention of abusing a child, yet find[ing] themselves in an environment where SECTT is seen as normal, and where the risk of arrest—or of any personal consequence for the damage caused—is non-existent.”¹² These situational

/06/Annual-Report_Y2014-2015.pdf [https://perma.cc/BS5E-T8VT]. Use of SECTT follows the recommendations of the United Nations’ High Commissioner for Human Rights Interagency Working Group on Sexual Exploitation of Children. SUSANNA GREJER & JAAP DOEK, ECPAT INT’L, TERMINOLOGY GUIDELINES FOR THE PROTECTION OF CHILDREN FROM SEXUAL EXPLOITATION AND SEXUAL ABUSE 54, 56 (2016), <http://luxembourgguidelines.org/english-version/> [https://perma.cc/QR3Y-QDNW].

8. See ANGELA HAWKE & ALISON RAPHAEL, ECPAT INT’L, OFFENDERS ON THE MOVE: GLOBAL STUDY ON SEXUAL EXPLOITATION OF CHILDREN IN TRAVEL AND TOURISM 15 (2016), <https://www.protectingchildrenintourism.org/resource/the-global-study-on-sexual-exploitation-of-children-in-travel-and-tourism-2016/> [https://perma.cc/9FAG-YFEV] [herein-after GLOBAL STUDY].

9. Some researchers also include a category for *opportunistic* offenders, i.e., those who are indiscriminate in their predation, but for the sake of simplicity this article will focus on preferential offenders. Jesse E. Bach & Diane A. Litam, “Kind Regards”: An Examination of One Buyer’s Attempt to Purchase a Trafficked Child for Sex, 23 J. SEXUAL AGGRESSION 222, 223 (2017) (describing opportunistic offenders).

10. *Pedophilia* is a condition “characterized by recurrent sexual impulses, urges, and fantasies involving minors.” Miriam Schule et al., *Empathy in Pedophilia and Sexual Offending Against Children: A Multifaceted Approach*, 128 J. ABNORMAL PSYCH. 453, 454 (2019). The Diagnostic and Statistical Manual of Mental Disorders (5th ed.) limits that definition to prepubertal children. *Id.*

11. Bach & Litam, *supra* note 9, at 223.

12. GLOBAL STUDY, *supra* note 8, at 53. In addition to the GLOBAL STUDY and Regional Reports referenced in the following pages, reports on the following countries and SECTT have been published as part of ECPAT’s initiative: Brazil, China, Colombia, Georgia, Ghana, Greece, India, Indonesia, Kenya, Norway, Panama, Russia, South Africa, Turkey, Ukraine, and Zambia. *Resources and Research*, ECPAT INT’L, <https://www.protectingchildrenintourism.org/resources-and-research/> [https://perma.cc/24KF-NNVC].

offenders generally offend against children who have reached puberty.¹³ Situational offenders often victimize children in the context of patronizing sex workers.¹⁴ The strategies to detect and prevent preferential offenders from sexually abusing children may look very different from those that detect and prevent situational offenders.

B. *Factors Contributing to SECTT*

When developing a strategy to eliminate SECTT, it is critical to have a comprehensive knowledge of all its attendant contributors—and the complexity of those issues cannot be overstated. Considerations of local economies, business travel and general tourism patterns, domestic capacities for the investigation and prosecution of child sexual abuse, government corruption, low ages of legal consent, under reporting of child sexual exploitation, and seemingly countless other factors intersect as governments and other public sector agencies seek to prevent SECTT. In the United States and around the world, a wide range of organizations and governmental systems work together to prevent SECTT, intervene when an offense occurs, protect the victims, investigate the crime, apprehend and prosecute the offender, incarcerate or deport the convicted person, and supervise the offender post-conviction, as the case may be.

While the breadth of the needed response to SECTT may remain consistent, a brief survey of the unique issues faced in different parts of the world demonstrates the difficulty of a one-size-fits-all solution. For example, there are different cultural, economic, and political factors which create opportunities for SECTT in varying regions around the world. A top-level review of factors in different geographic areas demonstrates the point.

In Southeast Asia, transnational sex offenders find it relatively easy to secure employment as a teacher “in language schools and other local schools . . . as a means to gain access to children,” creating a risk for victimization by preferential offenders.¹⁵ In East Asia, “Chinese men often appear to be expected to buy sex from prostitutes as a way to build business relationships and to sociali[z]e with

13. GLOBAL STUDY, *supra* note 8, at 53.

14. As an example, in Cebu City, Philippines, local authorities estimate that forty percent of the 10,000 women and girls working in prostitution in the city are, in fact, children. ANNEKA FARRINGTON, ECPAT INT’L, GLOBAL STUDY ON SEXUAL EXPLOITATION OF CHILDREN IN TRAVEL AND TOURISM, REGIONAL REPORT: SOUTHEAST ASIA 31 (2016) <https://www.protectingchildrenintourism.org/resource/southeast-asia-regional-report/> [<https://perma.cc/C8YM-XHEZ>] [hereinafter REGIONAL REPORT: SOUTHEAST ASIA].

15. *Id.* at 41.

colleagues,”¹⁶ which creates a risk of situational SECTT. In the Pacific Region, aboriginal Australians have a higher risk of being victims of SECTT.¹⁷ South Asia has a high rate of child marriages, and if the husband abandons the young girl, that abandonment leaves her “highly vulnerable to entering the commercial sex industry.”¹⁸

Different complicating factors exist in North and South America. In the United States, over-the-road truckers and transient workers residing at the Bakken formation “man-camps” have been noted as individuals who might be involved in SECTT.¹⁹ Areas in some Mexican border cities have been found to “promote and facilitate” child sexual exploitation,²⁰ and child sexual exploitation and drug trafficking go hand-in-hand in many parts of Latin America.²¹

In Eastern Europe, the lack of child protection schemes in relatively new tourist destinations creates an environment where sex tourism is encouraged and, as a result, children will likely be at risk for becoming participants in that industry.²² In addition, the influx of refugees from the Middle East into European countries in recent years—whereby children were separated from their parents or housed in refugee camps—created an environment where children have been sexually exploited by traveling offenders.²³ Widespread instability and violent

16. OLALLA PRUNEDA ET AL., ECPAT INT’L, GLOBAL STUDY ON SEXUAL EXPLOITATION OF CHILDREN IN TRAVEL AND TOURISM, REGIONAL REPORT: EAST ASIA 27 (2016), <https://www.protectingchildrenintourism.org/resource/east-asia-regional-report/> [http://perma.cc/NP4C-EBK5] [hereinafter REGIONAL REPORT: EAST ASIA].

17. CAMILLE PESQUER, ECPAT INT’L, GLOBAL STUDY ON SEXUAL EXPLOITATION OF CHILDREN IN TRAVEL AND TOURISM, REGIONAL REPORT: PACIFIC, 21 (2016), <https://www.protectingchildrenintourism.org/resource/pacific-regional-report/> [https://perma.cc/G62H-KU6H].

18. JOHANNA WALLIN, ECPAT INT’L, GLOBAL STUDY ON SEXUAL EXPLOITATION OF CHILDREN IN TRAVEL AND TOURISM, REGIONAL REPORT: SOUTH ASIA 23 (2016), <https://www.protectingchildrenintourism.org/resource/south-asia-regional-report/> [https://perma.cc/N7K4-X9TM].

19. CATHERINA BEAULIEU, ECPAT INT’L, GLOBAL STUDY ON SEXUAL EXPLOITATION OF CHILDREN IN TRAVEL AND TOURISM, REGIONAL REPORT: NORTH AMERICA 28 (2016), <https://www.protectingchildrenintourism.org/resource/north-america-regional-report/> [https://perma.cc/YK54-ETVJ].

20. LESLY ZAMBRANO MORENA ET AL., ECPAT INT’L, GLOBAL STUDY ON SEXUAL EXPLOITATION OF CHILDREN IN TRAVEL AND TOURISM, REGIONAL REPORT: LATIN AMERICA 21 (2016), <https://www.protectingchildrenintourism.org/resource/latin-america-regional-report/> [https://perma.cc/DKQ2-U8Q8].

21. *Id.* at 44.

22. ALESSIA ALTAMURA, ECPAT INT’L, GLOBAL STUDY ON SEXUAL EXPLOITATION OF CHILDREN IN TRAVEL AND TOURISM, REGIONAL REPORT: EUROPE AND CENTRAL ASIA 33 (Alison Raphael ed., 2016), <https://www.protectingchildrenintourism.org/resource/europe-and-central-asia-regional-report/> [https://perma.cc/D36R-7MVS].

23. *Id.* at 57.

conflict in the Middle East and North Africa contributes to sexual violence of all kinds, although it is difficult to ascertain the degree to which children are being victimized.²⁴ In Sub-Saharan Africa, “volun-tourism” and peacekeeping missions have contributed to SECTT.²⁵

Countries traditionally considered as destinations for preferential child sex offenders, such as Thailand, Cambodia, and the Philippines, continue to experience an influx of foreign offenders.²⁶ Other popular destination countries among registered sex offenders from the United States include Mexico, the Dominican Republic, Costa Rica, China, Thailand, Colombia, Brazil, Ecuador, and Peru.²⁷ Looking at offenders worldwide, countries where SECTT has emerged as a new and notable issue include Ghana,²⁸ Moldova,²⁹ Tanzania,³⁰ Ukraine,³¹ and Vietnam.³²

II. INTERNATIONAL RESPONSE TO SECTT

In response to the growing problem of SECTT and the concomitant awareness of its persistence around the world, several international and transnational bodies have developed criminal justice strategies to address the issue.

A. *International Instruments*

The international response to the sexual exploitation of children dates to 1989, when the United Nations put forth the Convention on the Rights of the

24. MARK ERIK HECHT ET AL., ECPAT INT’L, GLOBAL STUDY ON SEXUAL EXPLOITATION OF CHILDREN IN TRAVEL AND TOURISM, REGIONAL REPORT: MIDDLE EAST AND NORTH AFRICA 25, 33 (2016), <https://www.protectingchildrenintourism.org/resource/middle-east-and-north-africa-regional-report/> [<https://perma.cc/S6UE-992Z>].

25. VIMALA KRISPIN & GILLIAN MANN, ECPAT INT’L, GLOBAL STUDY ON SEXUAL EXPLOITATION OF CHILDREN IN TRAVEL AND TOURISM, REGIONAL REPORT: SUB-SAHARAN AFRICA 22–23 (2016), <https://www.protectingchildrenintourism.org/resource/sub-saharan-africa-regional-report/> [<https://perma.cc/N83T-Q4DW>].

26. REGIONAL REPORT: SOUTHEAST ASIA, *supra* note 14, at 35.

27. Peter T. Edge, *HSI and the Angel Watch Center: Combating Child Sex Tourism*, THE POLICE CHIEF, June 2017, at 24, 26.

28. GLOBAL STUDY, *supra* note 8, at 57.

29. *Id.* at 29.

30. *Id.* at 44.

31. *Id.* at 29.

32. *Id.* at 14.

Child (1989 Convention).³³ Specifically, Article 34 of the 1989 Convention states that:

States Parties undertake to protect the child from all forms of sexual exploitation and sexual abuse. For these purposes, States Parties shall in particular take all appropriate national, bilateral and multilateral measures to prevent:

- (a) The inducement or coercion of a child to engage in any unlawful sexual activity;
- (b) The exploitative use of children in prostitution or other unlawful sexual practices;
- (c) The exploitative use of children in pornographic performances and materials.³⁴

33. United Nations Convention on the Rights of the Child, Nov. 20, 1989, 1577 U.N.T.S. 3 [hereinafter 1989 Convention]. The United States is a signatory to, but has not ratified, the 1989 Convention. *Status of Ratification Interactive Dashboard*, OHCHR, <http://indicators.ohchr.org> [<https://perma.cc/U85H-TXRJ>]. The United Nations defines the distinction between a “State Party” and a “Signatory” as follows:

A “State party” to a treaty is a State that has expressed its consent, by an act of ratification, accession or succession, and where the treaty has entered into force (or a State about to become a party after formal reception by the United Nations Secretariat of the State’s decision to be a party). A “Signatory” to a treaty is a State that provided a preliminary endorsement of the instrument and its intent to examine the treaty domestically and consider ratifying it.

Id. For an excellent discussion of the applicable international instruments as of 1998, see Heather C. Giordanello, Comment, *Status of 2423(b): Prosecuting United States Nationals for Sexually Exploiting Children in Foreign Countries*, 12 TEMP. INT’L & COMP. L.J. 133, 136, 138–39, 141–43, 146–47 (1998).

34. 1989 Convention, *supra* note 33, art. 34. The United States Senate must ratify this Convention for the United States to become a State Party to it. U.S. CONST. art. II, § 2, cl. 2; see also DANIEL P. MULHOLLAN, CONG. RSCH. SERV., S. PR. 106-71, TREATIES AND OTHER INTERNATIONAL AGREEMENTS: THE ROLE OF THE UNITED STATES SENATE (2001). There have been sporadic efforts by the United States Senate to ratify the 1989 Convention. See S. Res. 70, 103d Cong. (1993) (never voted upon); S. Res. 352, 102d Cong. (1992) (never voted upon); S. Res. 231, 101st Cong. (1990) (never voted upon). At least one measure has been enacted to specifically reject ratification of the 1989 Convention. Hague Convention on International Recovery of Child Support and Other Forms of Family Maintenance, S. Amend. No. 4683 to Treaty Doc. 110-21, 111th Cong., 156 CONG. REC. 17,229 (2010). It reads:

The advice and consent of the Senate under section 1 is subject to the following understanding, which shall be included in the instrument of ratification: The United States is not a party to the Convention on the Rights of the Child and understands that a mention of the Convention in the preamble of this Treaty does not create any obligations and does not affect or enhance the status of the Convention as a matter of the United States or international law.

The UN adopted the Optional Protocol to the 1989 Convention in 2000 and it currently has 173 State Parties.³⁵ The United States has ratified the Optional Protocol, which contains the following language:

State Parties shall take all necessary steps to strengthen international cooperation by multilateral, regional, and bilateral arrangements for the prevention, detection, investigation, prosecution and punishment of those responsible for acts involving the sale of children, child prostitution, child pornography and child sex tourism.³⁶

In addition to the work of the United Nations, three World Congresses have been held to address the issue of the sexual exploitation of children.³⁷ Each World Congress is a global conference convened with both governmental representatives and NGOs.³⁸ In 1996, the First World Congress issued the Stockholm Declaration and Agenda for Action, which declared that “[e]very child is entitled to full protection from all forms of sexual exploitation and sexual abuse . . . States are required to protect the child from sexual exploitation and

Id. at 17,230. There has also been an effort by some members of the Senate to specifically discourage even the *transmission* of the 1989 Convention to the Senate for Ratification. *See, e.g.*, S. Res. 99, 112th Cong. (2011) (never voted upon); S. Res. 519, 111th Cong. (2010) (never voted upon); S. Res. 133, 104th Cong. (1995) (never voted upon).

35. Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography, *opened for signature* May 25, 2000, 2171 U.N.T.S. 227 (entered into force Jan. 18, 2002) [hereinafter Optional Protocol]. For a detailed list of signatories, *see Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography*, U.N.T.S. (May 25, 2000), https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-11-c&chapter=4&clang=_en [<https://perma.cc/P437-JKMT>]. For a detailed analysis of the Convention on the Rights of the Child and its ratification history in the United States, *see* Howard Davidson, *Does the U.N. Convention on the Rights of the Child Make a Difference?*, 22 MICH. ST. INT’L L. REV. 497 (2014). State Parties are required to periodically submit a report regarding their work towards implementing the provisions of the Optional Protocol, but there are no concrete consequences for failing to do so. MARTA GIL GONZALEZ, ECPAT INT’L, ASSESSMENT OF LEGAL FRAMEWORKS THAT ADDRESS SEXUAL EXPLOITATION OF CHILDREN IN TRAVEL AND TOURISM (SECTT) 5 (2015) <https://www.protectingchildrenintourism.org/resource/assessment-of-legal-frameworks-that-address-sexual-exploitation-of-children-in-travel-and-tourism/> [<https://perma.cc/A4K9-RUJX>] [hereinafter LEGAL FRAMEWORKS].

36. Optional Protocol, *supra* note 35, art. 10(1).

37. ECPAT INT’L, REPORT OF THE WORLD CONGRESS III AGAINST SEXUAL EXPLOITATION OF CHILDREN & ADOLESCENTS (2009), http://www.ecpat.org/wp-content/uploads/legacy/ECPATWCIIIReport_FINAL.pdf [<https://perma.cc/XZP4-LVST>] [hereinafter REPORT OF THE WORLD CONGRESS III].

38. Karen Mahler, *Global Concern for Children’s Rights: The World Congress Against Sexual Exploitation*, 23 INT’L FAM. PLAN. PERSP. 79, 79 (1997). Details of all three World Congresses can be found in REPORT OF THE WORLD CONGRESS III, *supra* note 37.

sexual abuse.”³⁹ It also called on State Parties to prioritize a detailed list of actions to help prevent the commercial sexual exploitation of children.⁴⁰ The Second World Congress was held in Japan in 2001 and produced the Yokohama Global Commitment, reaffirmed the Stockholm Declaration, and recommitted the participating countries to pursuing its goals.⁴¹ At the Third World Congress in 2008, participants issued a Call to Action, which specifically requested international sharing of information about persons who are highly likely to engage in child sexual exploitation outside of their home country.⁴²

There are also regional protocols addressing the issue of SECTT. In Asia, a number of initiatives and agreements tackle the issue.⁴³ Africa and the Middle East enacted a few charters aimed at protecting children from child sexual exploitation.⁴⁴ In addition, Latin America and the Caribbean have a number of legal instruments relevant to the issue.⁴⁵

Complimenting these broad international treaties, agreements, and protocols, European nations have specifically worked to improve the sharing of information about traveling known sex offenders. Through the actions of the European Union,⁴⁶ the Parliamentary Assembly of the Council of Europe,⁴⁷ and the European Parliament,⁴⁸ countries across Europe have adopted two significant

39. UNICEF PAC., STOCKHOLM DECLARATION AND AGENDA FOR ACTION, COMMERCIAL SEXUAL EXPLOITATION OF CHILDREN AND CHILD SEXUAL ABUSE IN THE PACIFIC: A REGIONAL REPORT 136 (2006), <https://documentation.lastradainternational.org/lisdocs/296%20Pacific%20CSEC%20report.pdf> [<https://perma.cc/6S92-QN4K>].

40. *Id.* at 119.

41. Second World Congress Against Commercial Sexual Exploitation of Children, *Yokohama Global Commitment 2001*, U.N. Doc. A/S-27/12 (Dec. 20, 2001).

42. WORLD CONG. III AGAINST SEXUAL EXPLOITATION OF CHILD. AND ADOLESCENTS, THE RIO DE JANEIRO DECLARATION AND CALL FOR ACTION TO PREVENT AND STOP SEXUAL EXPLOITATION OF CHILDREN AND ADOLESCENTS 7, 10 (2008), <https://resourcecentre.savethechildren.net/node/5076/pdf/5076.pdf>. [<https://perma.cc/2ES5-9ZGR>] (calling for States to “[c]ooperate in the establishment of an international travel notification system, such as the Interpol (sic) ‘green notice’ system, in accordance with applicable law an human rights standards,” and to “[i]nitiate and support the collection and sharing of reliable information and cross-border cooperation, and contribute to databases on victims and perpetrators, to enhance assistance to children and address the demand for sex with children, in accordance with applicable laws.”).

43. LEGAL FRAMEWORKS, *supra* note 35, at 12–13.

44. *E.g.*, The Yokohama Global Commitment 2001, *Letter Dated 28 March 2002 From the Permanent Representative of Japan to the United Nations Addressed to the Secretary-General*, U.N. Doc. A/s-27/12 (Apr. 4, 2002).

45. *Id.* at 39–41.

46. LEGAL FRAMEWORKS, *supra* note 35, at 7.

47. *Id.* at 8.

48. *Id.* at 9, 11.

initiatives encouraging the development of sex offender registry systems so that such information might be more efficiently shared.

The first initiative was adopted by the Parliamentary Assembly of the Council of Europe.⁴⁹ The Parliamentary Assembly has over 320 members, comprised of elected representatives from forty-seven member states.⁵⁰ In 2010 the Parliamentary Assembly issued a series of recommendations for its member states regarding the implementation of sex offender registers.⁵¹ While the Parliamentary Assembly “did not support a Europe-wide sex offenders register,” it did call on member states to “introduce . . . a sex offenders register which contains accurate and regularly updated information on persons convicted” of sex offenses.⁵² Among other measures, member states were also encouraged to share information about sex offenders with other member states and to provide such information to the International Criminal Police Organization (INTERPOL).⁵³

The European Union enacted the second initiative.⁵⁴ The most significant post Cold War development in European politics has been the growth of the European Union. Based in Brussels and established with its current name in 1993, the EU and its twenty-seven member states coordinate to streamline policy and address significant issues across Europe.⁵⁵ A number of EU entities drive policy among the member states; pertinent to the discussion at hand, the European Parliament consists of over 750 elected members, and is roughly equivalent to a lower house of the EU’s legislative system.⁵⁶

In 2011 the European Parliament issued a directive encouraging EU member states to consider implementing sex offender registers in their countries,

49. EUR. PARL. ASS. RES. 1733 (2010). Founded in 1949, the Council of Europe is a predecessor organization to the EU and still functions with forty-seven member states. It serves as an advisory and investigatory body to develop and critique policies and practices which affect its member states. All background information about the Council of Europe is from *Parliamentary Assembly: Origins and History*, PARLIAMENTARY ASSEMBLY, <https://pace.coe.int/en/pages/brief-origins> [<https://perma.cc/LT8W-X78K>]. Member states include the EU member states, as well as non-EU nations such as Turkey, Ukraine, and the Russian Federation.

50. *Parliamentary Assembly: Origins and History*, *supra* note 49.

51. EUR. PARL. ASS. RES., *supra* note 49.

52. *Id.* at ¶ 16.

53. *Id.* at ¶¶ 10, 11, 13, 17.

54. Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011 on Combating the Sexual Abuse and Sexual Exploitation of Children and Child Pornography, and Replacing Council Framework Decision 2004/68/JHA, 2011 O.J. (L 335), ¶ 43.

55. JOHN MCCORMICK & JONATHAN OLSEN, *THE EUROPEAN UNION: POLITICS AND POLICIES* 3, 5–7 (5th ed. 2014).

56. *See generally id.*

consistent with national constitutional principles.⁵⁷ As described below in Part VII(b)(4), several EU countries have since created sex offender registration systems.

B. INTERPOL

The International Criminal Police Organization (INTERPOL) consists of 194 member countries and is dedicated to facilitating international police cooperation on a wide variety of law enforcement issues. Its General Assembly meets annually to set policy and make decisions regarding other operational matters.⁵⁸ Each INTERPOL member country maintains a National Central Bureau (NCB) to link its national police with INTERPOL's global network.⁵⁹ For example, in 2014, INTERPOL passed a resolution encouraging its member countries to develop measures to share information about traveling child sex offenders and to work towards establishing a global system for sharing information about such offenders.⁶⁰

INTERPOL has also created a set of color-coded notices⁶¹ that can be issued to all of its member countries. When appropriate, a *Green Notice* can be issued by INTERPOL to provide countries an information warning about subjects who are "considered to be a possible threat to public safety," including people who sexually abuse children.⁶² They are purely advisory and are issued only to the

57. Directive 2011/92/EU, of the European Parliament and of the Council of 13 December 2011 on Combating the Sexual Abuse and Sexual Exploitation of Children and Child Pornography and Replacing Council Framework Decision 2004/68/JHA, 2011 O.J. (L 335) ¶¶ 1, 6.

58. *What is INTERPOL?*, INTERPOL, <https://www.interpol.int/Who-we-are/What-is-INTERPOL> [<https://perma.cc/U5M9-2JXN>].

59. *National Central Bureaus (NCBs)*, INTERPOL, <https://www.interpol.int/en/Who-we-are/Member-countries/National-Central-Bureaus-NCBs> [<https://perma.cc/2L8C-EMGH>].

60. INTERPOL, Res. No. 2, *Improving International Notifications and Information Sharing Regarding Travelling Child Sex Offenders by Using INTERPOL's Green Notices*, AG-2014-RES-02.

61. *Fact Sheet: International Notices System*, INTERPOL, https://www.interpol.int/en/content/download/625/file/GI-02%20-%20NOTICES%20Factsheets_EN.pdf [<https://perma.cc/BD7P-CX7R>]. Included among these are a *Red Notice* (locate and arrest), *Blue Notice* (locate and identify), *Yellow Notice* (missing person), *Black Notice* (unidentified remains), *Orange Notice* (imminent threat), and *Purple Notice* (modus operandi).

62. *Id.* For a detailed history of INTERPOL, see Mario Savino, *Global Administrative Law Meets 'Soft' Powers: The Uncomfortable Case of INTERPOL Red Notices*, 43 N.Y.U. J. INT'L L. & POL. 263 (2011).

NCB of INTERPOL member countries. Upon receipt of a Green Notice each country can take, or not take, any action that it sees fit.⁶³

Implementation of the international efforts described above are, in the end, a function of domestic law and policy. While this Article describes the initiatives undertaken in dozens of nations, the United States has been and continues to be a global leader in the efforts to combat SECTT worldwide.

III. UNITED STATES: FEEDER, ENFORCEMENT, AND PRE-INTERNATIONAL MEGAN'S LAW CIVIL AUTHORITY

In addition to its clear leadership role in combatting SECTT, the United States is also a driver of SECTT's ongoing prevalence. An understanding of the factors contributing to SECTT—using the United States as an example—provides critical information in developing any criminal justice solution to SECTT.

A. *United States as a Driver of SECTT*

Because the ability to travel internationally (or even regionally) is generally limited to those who can afford to do so, it is no surprise that persons from wealthier countries are in a position to engage in SECTT. The United States produces a large number of SECTT offenders because of its relative wealth and large population.⁶⁴ While estimates are necessarily hard to come by due to the nature of these crimes, some earlier scholars believed that perhaps twenty-five percent of all child sex tourists were from the United States.⁶⁵ Persons from Australia, China, Germany, Japan, South Korea, Taiwan, and the United Kingdom have also been observed as making up a disproportionate share of those arrested for sexually exploiting children outside of their own countries.⁶⁶ In addition, the often ubiquitous presence of United States armed forces abroad has

63. Prior to 2010, the NCB for the United States (USNCB) did not have the authority to issue Green Notices on U.S. Citizens or Lawful Permanent Residents (LPRs). Privacy Act of 1974, 5 U.S.C. § 552a; System of Records, 75 Fed. Reg. 27,821, 27,822 (May 18, 2010) (to be codified at 28 C.F.R. 16.103).

64. See John A. Hall, *Sex Offenders and Child Sex Tourism: The Case for Passport Revocation*, 18 VA. J. SOC. POL'Y & L. 153, 159 (2011).

65. Jonathan Todres, *Prosecuting Sex Tour Operators in U.S. Courts in an Effort to Reduce the Sexual Exploitation of Children Globally*, 9 B.U. PUB. INT. L.J. 1, 3–4 (1999).

66. REGIONAL REPORT: EAST ASIA, *supra* note 16, at 11; Hall, *supra* note 64, at 159.

a long and regrettable history of sometimes fueling the demand for sex workers in foreign countries.⁶⁷

For over a century the United States has taken steps to reduce its share of offenders participating in SECTT in foreign countries. Those efforts began with Congress in 1910.

67. Jorene Soto, “*We’re Here to Protect Democracy. We’re Not Here to Practice It*”: *The U.S. Military’s Involvement in Trafficking in Persons and Suggestions for the Future*, 13 CORDOZO J. L. & GENDER 561, 561–62 (2007). While children are often part of the prostitution trade worldwide, patronizing a prostitute is prohibited under the Uniform Code of Military Justice (UCMJ)—regardless of the country the service member is stationed in—although the punishment is somewhat limited. 10 U.S.C. § 134. The maximum punishment for Patronizing a Prostitute is “dishonorable discharge, forfeiture of all pay and allowances, and confinement for 1 year.” U.S. DEP’T OF DEF., MANUAL FOR COURTS-MARTIAL UNITED STATES IV–149 (2019), [https://jsc.defense.gov/Portals/99/Documents/2019%20MCM%20\(Final\)%20\(20190108\).pdf?ver=2019-01-11-115724-610](https://jsc.defense.gov/Portals/99/Documents/2019%20MCM%20(Final)%20(20190108).pdf?ver=2019-01-11-115724-610) [<https://perma.cc/Y4AD-4JZA>]. In recent years the United States military has taken numerous steps to prevent the exploitation of children. The Secretaries of the Army, Navy, and Air Force are required to place warnings “within such reasonable distance of any military or any naval camp, station, fort, post, yard, base, cantonment, training or mobilization place” that patronizing a prostitute is not permitted under the UCMJ. 18 U.S.C. § 1384. Additional Department of Defense policies also prohibit patronizing a prostitute. DEP’T OF DEF., INSTRUCTION NO. 2200.01 § 1.2(b)(1), COMBATTING TRAFFICKING IN PERSONS (2019), <http://www.esd.whs.mil/Portals/54/Documents/DD/issuances/dodi/220001p.pdf> [<https://perma.cc/RX56-PX2R>]. The UCMJ also generally prohibits any sexual contact with a child, although the definition of “child” is limited to persons under the age of sixteen. 10 U.S.C. § 920b. The limitation to persons under sixteen years of age is a legacy of Title 18 of the United States Code, which contains a similar provision. *See, e.g.*, 18 U.S.C. § 2423(a) (minor defined as a person under the age of sixteen). For a detailed description of how sex crimes are handled in the United States Military, see U.S. COMM’N ON CIVIL RIGHTS, SEXUAL ASSAULT IN THE MILITARY (2013), https://www.sapr.mil/public/docs/research/USCCR_Statutory_Enforcement_Report_Sexual_Assault_in_the_Military_SEP2013.pdf [<https://perma.cc/6DQQ-UFSD>]. The limitations of the UCMJ are important to note (particularly regarding sixteen and seventeen-year-old victims), as a civil federal prosecution generally cannot be pursued against any active-duty military personnel. 18 U.S.C. § 3261; U.S. DEP’T OF DEF., INSTRUCTION NO. 5525.11 §§ 2.3, 2.6, 6.1, CRIMINAL JURISDICTION OVER CIVILIANS EMPLOYED BY OR ACCOMPANYING THE ARMED FORCES OUTSIDE THE UNITED STATES, CERTAIN SERVICE MEMBERS, AND FORMER SERVICE MEMBERS (2005), <http://www.esd.whs.mil/Portals/54/Documents/DD/issuances/dodi/552511p.pdf> [<https://perma.cc/T5AB-ERLD>]; U.S. DEP’T OF JUST., JUSTICE MANUAL § 9-20.115, <https://www.justice.gov/jm/jm-9-20000-maritime-territorial-and-indian-jurisdiction#9-20.115#9-20.115> [<https://perma.cc/M65K-YYD2>] (last updated Jan. 2020).

B. *Pre-IML Federal Criminal Law*

The United States' efforts to curb international sex trafficking⁶⁸ began in 1910 with the passage of the Mann Act, which criminalized the transportation of women or girls in foreign commerce for prostitution.⁶⁹ The Mann Act remained unchanged until 1986, when 18 U.S.C. § 2421 was amended to prohibit the transportation of "any individual" in foreign commerce "with the intent that such individual engage in prostitution, or in any sexual activity for which any person can be charged with a criminal offense."⁷⁰ While this amendment arguably provided the legal foundation for prosecuting persons who *arranged* for the sexual exploitation of minors in foreign countries, it did not specifically prohibit individuals from *traveling* internationally to engage in such activities.⁷¹

That direct prohibition came in 1994 when Congress enacted 18 U.S.C. § 2423(b), which in its original form prohibited travel in foreign commerce "for the purpose of engaging in any sexual act . . . with a person under 18 years of age" that would otherwise be a violation of federal law.⁷² However, because of the inherent difficulties in proving the new statute's necessary *mens rea*—that an offender intended to engage in sexual activities *prior* to any encounter with the child—there were very few convictions.⁷³

68. Historically speaking, the term "sex trafficking" has applied to a wide range of misconduct, ranging from the physical transportation of minors to engage in the commercial sex trade, to maintaining brothels or businesses facilitating child sexual exploitation, to acts of self-exploitation done by minors. Ann Wagner & Rachel W. McCann, *Prostitutes or Prey? The Evolution of Congressional Intent in Combating Sex Trafficking*, 54 HARV. J. ON LEGIS. 18, 20 (2017).

69. White-Slave Traffic (Mann) Act, ch. 395, Pub. L. No. 61-277, 36 Stat. 825 (1910). The Mann Act is codified as amended at 18 U.S.C. §§ 2421–2424. An Act to revise, codify, and enact into positive law, Title 18 of the United States Code, entitled "Crimes and Criminal Procedure" Pub. L. No. 80-772, 62 Stat. 683, 812 (1948). For a description of the Mann Act and its progeny, see, for example, Hall, *supra* note 64, at 164–65, 167–68; Todres, *supra* note 60; Tiffanie N. Choate, Comment, *Protecting the Lydias, Linas, and Tinas from Sex Trafficking: A Call to Eliminate Ambiguities of 18 U.S.C. § 1591*, 65 OKLA. L. REV. 665 (2013).

70. Child Sexual Abuse and Pornography Act of 1986, Pub. L. No. 99-628, § 5, 100 Stat. 3510, 3511 (1986).

71. See Todres, *supra* note 65, at 7–8.

72. Violent Crime Control and Law Enforcement Act of 1994, Pub. L. No. 103-322, § 160001(g), 108 Stat. 2036, 2037. The relevant amendment to 18 U.S.C. § 2423(b) was proposed by Senator Grassley. S. Amend. 1168 to S. 1607, 139 CONG. REC. 28,487 (daily ed. Nov. 10, 1993).

73. Daniel Edelson, *The Prosecution of Persons Who Sexually Exploit Children in Countries Other Than Their Own: A Model for Amending Existing Legislation*, 25 FORDHAM INT'L L.J. 483, 528 (2001). In fact, between 1994 and 2003 only twelve Americans were

As a result of the problems encountered in proving the necessary criminal intent, in 2003 section 2423(b) was amended again to prohibit any United States citizen “who travels in foreign commerce” from engaging in “illicit sexual conduct” with any other person.⁷⁴ Ten years later, coverage was expanded to any United States citizen who *resides* in a foreign country—regardless of their date of travel to that country.⁷⁵

At present, United States citizens are prohibited from engaging in illicit sexual conduct with any other person in a foreign country, regardless of when they travelled to the country or whether they intended on engaging in such illicit contact upon initiating travel. These prohibitions impose domestic federal criminal liability on any U.S. citizen who engages in virtually any sexual contact with persons under eighteen in foreign countries.⁷⁶

These criminal statutes serve as a deterrent and enforcement agent. To more fully address SECTT, however, it is important to tap into other resources of the criminal justice system.⁷⁷ In the United States, one of the key resources which helps combat SECTT is its nationwide sex offender registration and notification system.

charged with a violation of 18 U.S.C. § 2423(b). THE PROT. PROJECT, INTERNATIONAL CHILD SEX TOURISM: SCOPE OF THE PROBLEM AND COMPARATIVE CASE STUDIES, 24 (2007), http://www.protectionproject.org/wp-content/uploads/2010/09/JHU_Report.pdf [<https://perma.cc/6LK3-QZU8>]. Although the available statistics are not broken down by subsection, it is notable that from 2011–2015 there were a total of 684 individuals convicted for a violation of 18 U.S.C. § 2423. U.S. DEP’T OF JUST., THE NATIONAL STRATEGY FOR CHILD EXPLOITATION PREVENTION AND INTERDICTION 111–12 (2016), <https://www.justice.gov/psc/file/842411/download> [<https://perma.cc/AU9T-QPER>].

74. Prosecutorial Remedies and Other Tools to End the Exploitation of Children Today (PROTECT) Act of 2003, Pub. L. No. 108-21, § 105, 117 Stat. 650, 653 (2003). This prohibition also applies to aliens admitted for permanent residence. The definition of “illicit sexual conduct” is codified at 18 U.S.C. § 2423(f). For a description of the specific provisions of the PROTECT Act, see Hall, *supra* note 64, at 167–171.

75. Violence Against Women Reauthorization Act of 2013, Pub. L. No. 113-4, § 1211(b), 127 Stat. 142 (2013); see Gregory Van Houten, *Note: Testing Congress’s Foreign Commerce and Treaty Powers: A New, (Un)Constitutional Tool for Combating American Child Sex Tourists?*, 53 AM. CRIM. L. REV. 177, 188 (2016).

76. Violent Crime Control and Law Enforcement Act of 1994, Pub. L. No. 103-322, § 160001(g), 108 Stat. 2036, 2037 (1994).

77. The mechanisms utilized by nations’ criminal justice systems in combatting SECTT range from adopting appropriate substantive criminal statutes, to raising the ages of sexual consent, to improving the capacity for detection, investigation, and prosecution of SECTT offenses. Wagner & McCann, *supra* note 68, at 28; see also Edelson, *supra* note 68, at 500–32. Each strategy is worthy of its own study and the reader is encouraged to investigate the breadth and scope of the available research on all the possible contributing solutions to SECTT.

C. *Registration of Sex Offenders in the United States*

Over the last three decades Congress enacted various measures setting minimum standards for jurisdictions to implement in their sex offender registration or notification systems, including those contained in the Jacob Wetterling Act⁷⁸ and Megan's Law.⁷⁹ The most recent set of standards can be found in the Sex Offender Registration and Notification Act (SORNA), which was passed in 2006.⁸⁰ Law enforcement utilize a number of mechanisms which leverage this sex offender registration information to provide notice to foreign countries when a registered sex offender intends to travel internationally.

By way of background, SORNA itself requires the "Attorney General, in consultation with the Secretary of State and Secretary of Homeland Security . . . [to] establish and maintain a system for informing [states, tribes, and territories] about persons entering the United States who are required to register [under SORNA]." ⁸¹ In 2008, the Department of Justice's National Guidelines for Sex Offender Registration and Notification expanded that statutory authority to require the tracking of sex offenders who depart from the United States.⁸² In 2011, the Department of Justice issued supplemental guidelines that officially added the obligation that jurisdictions require their registered sex offenders provide twenty-one days' notice of any international travel to the SORNA

78. Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act, Pub. L. No. 103-322, § 170101, 108 Stat. 1796, 2038-42 (1994). A detailed description of the history of sex offender registration and notification systems in the United States can be found at Lori McPherson, *The Sex Offender Registration and Notification Act (SORNA) at 10 Years: History, Implementation, and the Future*, 64 DRAKE L. REV. 741, 746-56 (2016) [hereinafter *SORNA at 10 Years*].

79. Megan's Law, Pub. L. No. 104-145, sec. 2, § 170101(d), 110 Stat. 1345, 1345 (1996). Megan's Law "converted the Wetterling Act's discretionary public notification procedures to a mandatory release of information when necessary to protect the public." *SORNA at 10 Years*, *supra* note 78, at 751.

80. Adam Walsh Child Protection and Safety Act of 2006, tit. I, Pub. L. No. 109-248, 120 Stat. 587, 590 (2006).

81. 34 U.S.C. § 20930. SORNA was originally codified in Title 42 of the U.S. Code and reclassified to Title 34 in 2017. OFF. OF THE L. OF REVISION COUNS., UNITED STATES CODE EDITORIAL RECLASSIFICATION TABLE 36 (2017) <http://uscode.house.gov/editorialreclassification/t34/T34ERT.pdf> [<https://perma.cc/5NJY-KC4L>]; Dawn Doran, SMARTWATCH DISPATCH, *Editorial Reclassification of SORNA: SORNA Provisions Moved from Title 42 to Title 34*, OFF. OF SEX OFFENDER SENT'G, MONITORING, APPREHENDING, REGISTERING, AND TRACKING (2017), <https://www.smart.gov/pdfs/Dispatch-Title34-Oct2017.pdf> [<https://perma.cc/4A47-DV76>].

82. The National Guidelines for Sex Offender Registration and Notification, 73 Fed. Reg. 38,030, 38,066 (July 2, 2008).

standards.⁸³ Jurisdictions are then required to immediately send the notice to the United States Marshals Service's (USMS) National Sex Offender Targeting Center (NSOTC). Once vetted by USMS, the notices are then transmitted to the destination country by INTERPOL-Washington.⁸⁴

In addition to this advance notification procedure, the Child Exploitation Investigations Center within the Department of Homeland Security's (DHS) Immigration and Customs Enforcement (ICE) agency established the Angel Watch Center (AWC)—formerly known as Operation Angel Watch—which works to “identify and stop child predators who attempt to travel internationally to countries known as destinations for child sex tourism.”⁸⁵ Analysts evaluate National Crime Information Center⁸⁶ data gathered on potential travelers and determine if any travelers have committed a crime against a child, then, as appropriate, send notice to the destination country through ICE's foreign law enforcement counterparts.⁸⁷ AWC, like INTERPOL-Washington, provides “advance notice to foreign officials when a [convicted] sex offender who committed a crime against a child” is detected through their analysis as traveling internationally.⁸⁸

83. 34 U.S.C. § 20914(a)(7); Supplemental Guidelines for Sex Offender Registration and Notification, 76 Fed. Reg. 1630, 1637 (Jan. 11, 2011).

84. U.S. GOV'T ACCOUNTABILITY OFF., GAO-13-200, REGISTERED SEX OFFENDERS: SHARING MORE INFORMATION WILL ENABLE FEDERAL AGENCIES TO IMPROVE NOTIFICATIONS OF OFFENDERS' INTERNATIONAL TRAVEL 23 (2013). In late 2021 a rule was issued which directly requires sex offenders required to register under SORNA to provide twenty-one days' notice of international travel to their registration jurisdictions. § 28 C.F.R. § 72.7(f) (2021).

85. *Hearing on The President's Fiscal Year 2013 Budget Request for ICE Before the Subcomm. on Homeland Sec., H. Comm. on Appropriations*, 112th Cong. (2012) (statement of John Morton, Director, Immigration and Customs Enforcement), <https://www.dhs.gov/news/2012/03/08/written-testimony-us-immigration-and-customs-enforcement-ice-director-house> [<https://perma.cc/P95S-STV9>]. This “Operation Predator” is not to be confused with a previous—and broader—“Operation Predator,” described at *Fact Sheet: Operation Predator*, DEP'T HOMELAND SEC. (July 9, 2003), <https://web.archive.org/web/20061006144329/http://www.dhs.gov/dhspublic/display?content=1067> [<https://perma.cc/MZA9-7RHU>].

86. National Crime Information Center is the criminal history repository administered by the FBI. *National Crime Information Center*, FBI, <https://www.fbi.gov/services/cjis/ncic> [<https://perma.cc/AM4D-HLYS>].

87. GAO-13-200, *supra* note 84, at 18, 21, 23. A detailed summary of the steps taken by the National Targeting Center in screening inbound and outbound passengers can be found at “*Eleven Years Later: Preventing Terrorists from Coming to America*” *Hearing Before the Border and Maritime Sec. Subcomm., H. Comm. on Homeland Sec.* (2012) (statement of Kevin McAleenan, U.S. Customs and Border Protection Office of Field Operations Assistant Commission), <https://www.dhs.gov/news/2012/09/11/written-testimony-us-customs-and-border-protection-house-homeland-security> [<https://perma.cc/GJB8-WGVR>].

88. GAO-13-200, *supra* note 84, at 8.

While these initiatives were administratively created through previous statutory authorizations, the passage of International Megan's Law in 2016 solidified their presence and better defined their activities. IML clearly defines the respective roles and responsibilities of the National Sex Offender Targeting Center, Angel Watch Center, and State Department, as well as imposing additional measures to better enable the detection of sex offenders traveling abroad.

IV. INTERNATIONAL MEGAN'S LAW

It took nine years and multiple legislative efforts to enact International Megan's Law, which is designed to specifically combat the problem of known U.S. sex offenders traveling abroad to offend in foreign countries. This Part provides IML's legislative history and its key provisions.

A. *Legislative History*

In 2007, Representative Chris Smith of New Jersey—who sponsored the original Megan's Law legislation a decade earlier—began working to take Megan's Law beyond the borders of the United States.

I actually got the idea of International Megan's Law in a conversation with a . . . delegation from Thailand during a meeting in my office in 2007. I asked the Thai officials what would they do if we were to notify them of travel by a convicted pedophile. Each of the dozen officials said they would bar entry into their nation of such a predator.⁸⁹

The first version of International Megan's Law (H.R. 5722) was introduced in 2008.⁹⁰ It was referred to committee and no further action was taken.⁹¹

89. 161 Cong. Rec. at H545 (2015).

90. International Megan's Law of 2008, H.R. 5722, 110th Cong., 154 CONG. REC. 5424 (2008). Megan Kanka's parents joined Representative Smith at the Megan Nicole Kanka Memorial Park to announce the introduction of the bill. Ryan Goodwin, *Rep. Smith, Kanka Family Announce International Megan's Law*, CHRIS SMITH: U.S. CONGRESSMAN (Apr. 7, 2008), <https://chrissmith.house.gov/news/documentsingle.aspx?documentid=87882> [<https://perma.cc/8299-WRSR>].

91. *All Information (Except Text) for H.R. 5722—International Megan's Law of 2008*, CONGRESS.GOV, <https://www.congress.gov/bill/110th-congress/house-bill/5722/all-info> [<https://perma.cc/9E5T-AF59>]. House Bill 5722 included provisions to (1) amend SORNA's standards such that jurisdictions would be required to have their offenders provide twenty-one days' advance notice of international travel; (2) amend 18 U.S.C. § 2250 to specifically penalize those who did not provide such notice; (3) authorize the Department of Homeland

Representative Smith reintroduced the bill in a modified form in early 2009 as H.R. 1623.⁹² A more comprehensive bill than its predecessor,⁹³ H.R. 1623 nevertheless met the same fate as H.R. 5722.⁹⁴

The first version of International Megan's Law to get meaningful traction was introduced in 2010.⁹⁵ H.R. 5138 generally tracked the prior versions of the bill, albeit in much greater detail than those previously introduced.⁹⁶ After referral to the House Judiciary and Foreign Affairs Committee, the bill was considered on the House Floor and passed via voice vote on July 27, 2010.⁹⁷ The Senate took no further action on H.R. 5138. In both 2011 and 2014, new International Megan's Law bills were introduced.⁹⁸ The 2011 bill (H.R. 3253)

Security to develop a system to notify foreign countries about offenders who provide such notice; and (4) render inadmissible to the United States any person who commits a sex offense. H.R. 5722, 110th Cong. (2008). Support for an International Megan's Law-type system was also included in the 2008 GOP Platform. *2008 Republican Party Platform*, AMERICAN PRESIDENCY PROJECT (Sept. 1, 2008), <http://www.presidency.ucsb.edu/ws/index.php?pid=78545> [<https://perma.cc/F7FM-84YQ>].

92. International Megan's Law of 2009, H.R. 1623, 111th Cong., 155 CONG. REC. 8158 (2009).

93. Compare H.R. 1623 (the bill (1) directly required sex offenders to notify their registration jurisdiction twenty-one days in advance of international travel; (2) required jurisdictions to then report that notice to an ICE Special Agent; (3) required United States citizens who have been convicted of sex offenses and who are living abroad to register with a United States diplomatic or consular mission; (4) enabled federal, state, or local law enforcement to submit information about a sex offender they suspect is traveling outside the country and poses a danger to minor children for a risk determination; (5) established an International Sex Offender Travel Center headed by ICE; and (6) authorized rescinding or revoking a passport for an individual pending trial for a sex offense against a minor or convicted abroad of a sex offense.) with H.R. 5722. The provisions regarding 18 U.S.C. § 2250 and alien inadmissibility were retained from H.B. 5722. H.R. 1623 § 4(c).

94. *All Information (Except Text) for H.R. 1623—International Megan's Law of 2009*, CONGRESS.GOV, <https://www.congress.gov/bill/111th-congress/house-bill/1623/all-info> [<http://perma.cc/7XWS-6FZ2>].

95. International Megan's Law of 2010, H.R. 5138, 111th Cong., 156 CONG. REC. 6309 (2010).

96. See *id.* §§ 5, 7.

97. 156 CONG. REC. 14,219 (2010) (referring from both committees to the House); 156 CONG. REC. 14,140 (2010) (consideration under suspension of the rules); 156 CONG. REC. 14,150 (2010) (passed). The Congressional Budget Office issued a cost estimate for the implementation of House Bill 5138, estimating it to be "\$252 million over the 2011–2015 period." CONG. BUDGET OFF. COST ESTIMATE, H.R. 5138, INTERNATIONAL MEGAN'S LAW OF 2010 1 (2010). A report issued by the House Foreign Affairs Committee provides a detailed overview of the legislation. H.R. REP. NO. 111-568, at 1.

98. *Actions Overview H.R. 5138—International Megan's Law of 2010*, CONGRESS.GOV, <https://www.congress.gov/bill/111th-congress/house-bill/5138/actions> [<http://perma.cc/2X3N-VHYE>].

was similar to the 2010 version, but died after being referred to committee.⁹⁹ The 2014 bill (H.R. 4573) was introduced on May 6, 2014,¹⁰⁰ quickly referred out of committee, and considered on the House Floor on May 20, 2014.¹⁰¹ Much different in scope and reach than the earlier versions of International Megan's Law, H.R. 4573 resembled the legislation that Congress would eventually enact in 2016. H.R. 4573 enjoyed bipartisan support with statements on the House floor such as:

Sex offenders often plan their trips by seeking out the locations where the most vulnerable children can be found, many times in countries where law enforcement is unable to effectively guard against the problem. Madam Speaker, sex offenders should not be allowed to use the anonymity provided by foreign travel to help hide their hideous crimes.¹⁰²

The bill passed on a voice vote and was referred to the Senate.¹⁰³ A few months later, it was favorably reported out of the Senate Foreign Relations Committee and placed on the Senate Calendar for a vote. That vote never took place.¹⁰⁴

In January 2015 Representative Smith once again introduced a new version of International Megan's Law.¹⁰⁵ H.R. 515 passed the House four days later and

99. International Megan's Law of 2011, H.R. 3253, 112th Cong. (2011); *All Information (Except Text) for H.R. 3253—International Megan's Law of 2011*, CONGRESS.GOV, <https://www.congress.gov/bill/112th-congress/house-bill/3253/all-info> [<https://perma.cc/K4ZB-UHJZ>].

100. International Megan's Law to Prevent Demand for Child Sex Trafficking, H.R. 4573, 113th Cong. (2014).

101. 160 CONG. REC. 8570 (2014). The House Foreign Affairs Committee soon held a markup hearing on the bill. *International Megan's Law to Prevent Demand for Child Sex Trafficking; Venezuelan Human Rights and Democracy Protection Act; and Condemning the Abduction of Female Students by Armed Militants from the Terrorist Group Known as Boko Haram in Northeastern Provinces of the Federal Republic of Nigeria: Markup Hearing on H.R. 4573, H.R. 4587 and H. Res. 573 Before the H. Comm. On Foreign Affairs*, 113th Cong. 113–66 (2014).

102. 160 CONG. REC. H4533 (daily ed. May 20, 2010) (statement of Rep. Wagner).

103. 160 CONG. REC. 8570 (2014).

104. *All Information (Except Text) for H.R. 4573—International Megan's Law to Prevent Demand for Child Sex Trafficking*, CONGRESS.GOV, <https://www.congress.gov/bill/113th-congress/house-bill/4573/all-actions> [<https://perma.cc/5DNV-UVPH>].

105. International Megan's Law to Prevent Demand of Child Sex Trafficking, H.R. 515, 114th Cong. (2015). One additional International Megan's Law bill was introduced in the Senate later in 2015 but did not make it out of committee. *All Information (Except Text) for S.1867—International Megan's Law to Prevent Child Exploitation Through Advanced*

in December of 2015, an amended version passed the Senate.¹⁰⁶ On February 1, 2016, the House concurred in the Senate amendments to the bill.¹⁰⁷ President Obama signed International Megan's Law to Prevent Child Exploitation and Other Sexual Crimes Through Advanced Notification of Traveling Sex Offenders into law on February 8, 2016.¹⁰⁸

B. Summary and Terms

International Megan's Law has five primary provisions.¹⁰⁹ First, it provides explicit statutory authority to the Angel Watch Center and details the scope of its work.¹¹⁰ Second, it likewise provides explicit statutory authority for the United States Marshals Service to process twenty-one-day advance notifications.¹¹¹ Third, it amends SORNA's standards such that registration jurisdictions must require sex offenders to provide advance notice of their intended travel outside the United States.¹¹² Fourth, it amends the federal failure to register statute so that individuals who fail to provide advance notice of international travel are clearly subject to federal criminal liability.¹¹³ It also provides an important fix to questions of jurisdiction—an obstacle that once prevented the effective prosecution of SECTT.¹¹⁴ Finally, it provides that certain convicted sex offenders' passports must be marked with a unique identifier; this particular provision is taken up in Section C of this Part.¹¹⁵

Notification of Traveling Sex Offenders, CONGRESS.GOV, <https://www.congress.gov/bill/114th-congress/senate-bill/1867/all-info> [<https://perma.cc/5GKA-E2AK>].

106. 161 CONG. REC. 1163 (2015) (House vote); 161 CONG. REC. 21,515 (2015) (Senate vote).

107. 162 CONG. REC. H394 (daily ed. Feb. 1, 2016); 162 CONG. REC. H557 (daily ed. Feb. 3, 2016) (signed by the Speaker of the House).

108. *Statement by the Press Secretary on H.R. 515, H.R. 4188, S. 2152*, THE WHITE HOUSE: PRESIDENT BARACK OBAMA (Feb. 8, 2016), <https://obamawhitehouse.archives.gov/the-press-office/2016/02/08/statement-press-secretary-hr-515-hr-4188-s-2152-0> [<https://perma.cc/EH4F-K3MJ>].

109. This summary is distilled from SMARTWATCH DISPATCH, *Statute in Review: International Megan's Law*, OFF. OF SEX OFFENDER SENT'G, MONITORING, APPREHENDING, REGISTERING, AND TRACKING (2019), https://smart.ojp.gov/sites/g/files/xyckuh231/files/media/document/International_Megans_Law_SORNA_statute_in_review082019.pdf [<https://perma.cc/P8AX-XJAZ>].

110. 34 U.S.C. § 21503.

111. 34 U.S.C. § 21504.

112. 34 U.S.C. § 20914(a)(7).

113. 18 U.S.C. § 2250(b).

114. *See infra* Part IV(B)(4).

115. 22 U.S.C. § 212b.

1. International Megan's Law Terminology

Specialized definitions play an important role in the interpretation of International Megan's Law. As a starting point, IML largely adheres to most of the definitions that are found in SORNA. IML's definitions for *convicted*,¹¹⁶ *jurisdiction*,¹¹⁷ *sex offender under SORNA*,¹¹⁸ and *specified offense against a minor*¹¹⁹ are all defined via precise cross-references to the SORNA definitions found in Title 34.¹²⁰ There are, however, some new terms and authorizations in IML that require clarification, particularly those governing persons eligible for notifications by the Angel Watch Center and IML's passport marking provisions,¹²¹ offenders for whom the National Sex Offender Targeting Center may provide notice of international travel,¹²² and offenders for whom the Angel Watch Center may provide notice of international travel.¹²³

The remaining definitions in International Megan's Law are circular and confusing, providing two different definitions for both *sex offender* and *covered sex offender*. The simplest way to summarize these is to build one upon another as they build out their interlocking structure.

- *Sex Offender (#1)*. This definition of sex offender governs the work of NSOTC and covers three classes of offenders: (1) those convicted of any sex offense, regardless of the age of the victim, subject to the international notification procedures which NSOTC operates; (2) any person "required to register under the sex offender registration program of any jurisdiction"; or (3) anyone "included in the National Sex Offender Registry."¹²⁴

116. 34 U.S.C. § 20911(8).

117. 34 U.S.C. § 20911(10).

118. 34 U.S.C. § 20911(1).

119. 34 U.S.C. § 20911(7). The new technical term "sex offense against a minor" is specifically defined in 34 U.S.C. § 21502(10) but does not appear again in any of the substantive provisions of IML.

120. 34 U.S.C. § 21502.

121. 34 U.S.C. § 21503(e).

122. 22 U.S.C. § 212b(b).

123. 34 U.S.C. § 21503(e)(2).

124. 34 U.S.C. § 21502(4)(h). This definition includes yet remains broader than the definition of *sex offender under SORNA*, which cross-references the definition of the term *sex offender* in SORNA found at 34 U.S.C. § 20911(1). The National Sex Offender Registry (NSOR) is operated by the FBI and serves as law enforcement's central national database for sex offender registration information. It is a distinct system from the National Sex Offender Public Registry Website (NSOPW). For more information on NSOR and NSOPW see McPherson, *supra* note 78, at 748 n.17, 752.

- *Covered Sex Offender (#1)*. Covered sex offender is initially defined in as an individual who is a “sex offender by reason of having been convicted of a *sex offense against a minor*.”¹²⁵
- *Sex Offender (#2)*. In discussing the persons for whom the Angel Watch Center may provide notification, sex offender is defined for a second time as encompassing covered sex offenders (#1) or any “individual required to register under the sex offender registration program of any jurisdiction or included in the National Sex Offender Registry, on the basis of an offense against a minor.”¹²⁶
- *Covered Sex Offender (#2)*. The passport marking provisions of IML define covered sex offender as an individual who meets the definition of sex offender (#2) (which by definition includes any person who meets the definition of covered sex offender (#1)) and is currently required to register under the sex offender registration program of any jurisdiction.¹²⁷

Simplifying the complicated definitions, IML authorizes the Department of Homeland Security (via AWC) and the Department of Justice (via USMS and INTERPOL-Washington) to provide notifications to foreign countries regarding certain traveling sex offenders. INTERPOL-Washington is generally permitted to send such a notice on any convicted sex offender, and the Angel Watch Center is limited to sending notices on persons convicted of a sex offense against a minor.¹²⁸ The passport marking provision is available only for persons convicted of a sex offense against a minor *and* currently required to register as a sex offender.¹²⁹ A brief discussion of the work that International Megan’s Law authorizes for both the Angel Watch Center and the National Sex Offender Targeting Center follows.

2. Angel Watch Center

As formally established by IML, the Angel Watch Center is led by the Assistant Secretary of ICE, in collaboration with the Commissioner of Customs and Border Protection (CBP), and in consultation with the Attorney General and

125. 34 U.S.C. § 21502(3).

126. 34 U.S.C. § 21503(f).

127. 22 U.S.C. § 212b(c)(1).

128. See GAO-13-200, *supra* note 78, at 23.

129. 22 U.S.C. § 212b(c)(1).

Secretary of State.¹³⁰ Members of the AWC include the aforementioned DHS officials, along with certain designated analysts and program managers from ICE and CBP.¹³¹ International Megan's Law specifically authorizes (or mandates, as the case may be) AWC to:

- determine if a person previously convicted of a sex offense against a minor either is listed in the National Sex Offender Registry or has provided NSOTC with advance notice of their international travel;
- send relevant information to destination countries about such an offender's intended travel;¹³²
- receive incoming notifications regarding individuals who have committed sex offenses; and
- make determinations as to whether a person is a covered sex offender¹³³ for the purposes of marking an individual's passport.

3. National Sex Offender Targeting Center

While the Angel Watch Center is limited to providing notifications on persons convicted of a sex offense against a minor, NSOTC's notification procedure is not so limited. The mechanism by which NSOTC becomes aware of sex offenders intending to travel internationally is via the registration jurisdictions themselves; when an offender provides advance notice of international travel as required by SORNA and IML, it is sent directly to NSOTC by the registration jurisdiction.¹³⁴ NSOTC may provide notifications on any sex

130. 34 U.S.C. § 21503(c). 34 U.S.C. § 21503 also details the nature of the information sharing which will be required between NSOTC and AWC. Any such information sharing, personnel-sharing, access to databases, or process for incoming notifications shall be governed by a Memorandum of Agreement between DHS and DOJ, to be entered into not later than six months after the passage of IML. 34 U.S.C. § 21503(e)(4).

131. 34 U.S.C. § 21503(d). AWC is also required to collect and report certain data about its activities. 34 U.S.C. § 21503(e)(6).

132. Including those offenders who have provided notice via NSOTC, as described below. 34 U.S.C. § 21503(3)(a).

133. See the definition for *covered sex offender* (#2), *supra* Part IV(B)(1).

134. U.S. DEP'T OF JUST., SORNA IMPLEMENTATION DOCUMENTS (2017), <https://smart.ojp.gov/sorna/current-law/implementation-documents/information-required-notice-international-travel> [<https://perma.cc/9KCL-A6SQ>].

offender, regardless of the age of the victim.¹³⁵ IML generally authorizes NSOTC to:

- transmit notification of international travel to a destination country (which is accomplished via INTERPOL-Washington);
- share information on traveling sex offenders with any appropriate agencies, foreign or domestic; and
- receive incoming notifications of international travel regarding sex offenders.¹³⁶

In addition, to support the operation of the Angel Watch Center, there are information-sharing requirements imposed on NSOTC.¹³⁷

4. Fixing the *Nichols v. United States* Jurisdiction Problem

The federal statute criminalizing the failure to register as a sex offender is found at 18 U.S.C. § 2250. In foreign-relocation cases prosecuted under 18 U.S.C. § 2250 prior to the passage of IML, questions of jurisdiction arose: could an offender be federally prosecuted for failing to register if they simply moved to a foreign country without notifying the state where they had previously been registered? This was the question raised in *Nichols v. United States*, a Supreme Court case decided almost contemporaneously with the final passage of IML.¹³⁸

Lester Ray Nichols was a convicted sex offender required to register in Kansas. He moved to the Philippines without notifying the Kansas registry officials of his relocation plans.¹³⁹ Later, he was charged with a violation of 18 U.S.C. § 2250 and extradited back to the District of Kansas for prosecution.¹⁴⁰

In the trial court, Nichols contended that because the Philippines was not a *jurisdiction* under SORNA, it could not be a *jurisdiction involved* such that he was required to update his registration upon relocation there.¹⁴¹ Therefore, as

135. 34 U.S.C. § 21504(h).

136. 34 U.S.C. § 21504(a)(1)–(3).

137. 34 U.S.C. § 21504(c). Like AWC, there is also a requirement that NSOTC establish a complaint procedure, as well as to collect and report on certain data. 34 U.S.C. § 21504(f)–(g).

138. *Nichols v. United States*, 136 S.Ct. 1113 (2016).

139. *Id.* at 1114.

140. *Id.*

141. The term *jurisdiction involved* comes from SORNA's requirement that sex offenders "shall, not later than three days after each change of . . . residence . . . appear in at least 1 jurisdiction involved . . . and inform that jurisdiction of all changes in the information required for that offender in the sex offender registry." See 34 U.S.C. § 20913(c).

Nichols' argument went, he could not be subject to criminal liability for his failure to do so. The District Court of Kansas rejected his claim,¹⁴² as did the 10th Circuit Court of Appeals.¹⁴³ The Supreme Court, however, in a unanimous decision, agreed with Nichols' argument and directed a dismissal of the indictment against him.¹⁴⁴

IML contains a specific fix for the jurisdictional problem encountered in *Nichols*: it amends 18 U.S.C. § 2250 to criminalize the failure to provide twenty-one days' notice of international travel.¹⁴⁵ A number of cases have been successfully prosecuted using these new amendments to 18 U.S.C. § 2250.¹⁴⁶

C. *Passport Marking Provisions*

In addition to all the above provisions, International Megan's Law also creates a process by which some registered sex offenders would have their passports marked with a unique identifier. Because of the uniqueness of those requirements, they are taken up separately in this Section.

1. History of Passport Issuance

While passports have been issued by the federal government from the beginning of the Republic, their use until the last century was far from widespread.¹⁴⁷ The first federal legislation regarding passports was enacted in

142. *United States v. Nichols*, No. 12-10106, 2013 U.S. Dist. LEXIS 160804, at *11 (D. Kan., Nov. 12, 2013).

143. *United States v. Nichols*, 775 F.3d 1225, 1233 (10th Cir. 2014).

144. *Nichols*, 136 S. Ct. at 1119.

145. 18 U.S.C. § 2250(b). The *Nichols* court discussed this amendment to § 2250 and indicated that it would be an effective 'fix' going forward. *Nichols*, 136 S. Ct. at 1119.

146. *United States v. McSherdon*, No. 5:17-cr-00066-AKK-JHE (N.D. Ala. Feb. 22, 2017) (McSherdon attempted to board a flight to the Philippines from Birmingham, Alabama without providing advance notice to the registration authorities in Alabama. He was sentenced to twenty-seven months incarceration). McSherdon had been originally convicted in 1991 in Calhoun County, Alabama for Sexual Abuse in the First Degree against a four-year-old girl. See Offender Search: Offender Details, ST. CLAIR CNTY SHERIFF'S OFF., <https://www.icrimewatch.net/offenderdetails.php?OfndrID=626572&AgencyID=54205&x=328cec3a-f769-41d8-b36b-26bdd56bf3d> [<https://perma.cc/GYM6-JE3F>] (McSherdon's listing on Alabama's public sex offender registry website).

147. *Urtetiqui v. D'Arcy*, 34 U.S. 692, 699 (1835) ("[t]here is no law of the United States, in any manner regulating the issuance of passports"); Jeffrey Kahn, *The Extraordinary Mrs. Shipley: How the United States Controlled International Travel Before the Age of Terrorism*, 43 CONN. L. REV. 819, 825–26 (2011).

1856 and reserved issuance authority to the Secretary of State.¹⁴⁸ It was not until World War I that a passport was generally required to depart the United States.¹⁴⁹ Those restrictions were removed following the war and from 1921 to 1941, no passport was required to depart the country.¹⁵⁰ However, just weeks prior to the bombing of Pearl Harbor, regulations were issued limiting nearly all outbound travel to those who were in possession of a valid passport.¹⁵¹ By the beginning of the Cold War, a “[United States] passport had become a license issued by [the] government permitting its own citizens to travel abroad.”¹⁵²

The Secretary of State still retains exclusive authority to issue passports.¹⁵³ With limited exceptions, “the only means by which an American can lawfully leave the country or return to it . . . is with a passport.”¹⁵⁴ Generally speaking, citizens are entitled to a passport so long as the basic requirements of the passport application process and other applicable laws are met.¹⁵⁵ The denial of a passport application or the revocation or recension of a passport previously issued will affect the ability of a United States citizen to travel internationally, but does not affect that person’s citizenship status in any way.

148. 11 Stat. 52, 60 (1856); U.S. DEPT. OF STATE, *THE AMERICAN PASSPORT: ITS HISTORY AND A DIGEST OF LAWS, RULINGS, AND REGULATIONS GOVERNING ITS ISSUANCE* 27 (1898).

149. Kahn, *supra* note 147, at 829–30; see Act of May 22, 1918, ch. 81, 40 Stat. 559 (1918). A few months later, President Wilson issued an Executive Order effecting the restrictions of the statute. *Papers Relating to the Foreign Relations of the United States, 1918, Supplement 2, The Word War: Exec. Order No. 2932 (1918)*, OFF. OF THE HISTORIAN, <https://history.state.gov/historicaldocuments/frus1918Supp02/d924> [<https://perma.cc/W4AM-9LAZ>].

150. H.R.J. Res 382, 66th Cong., 41 Stat. 1359, 1359–60 (1921) (enacted); Passports for Citizens and Aliens, 32 Op. Att’y Gen. 493, 495 (1921); Kahn, *supra* note 147, at 832.

151. Act of June 21, 1941, ch. 210, § 1, 55 Stat. 252–53; Proclamation No. 2523, 6 Fed. Reg. 5821 (Nov. 18, 1941); Departmental Order No. 1003, 6 Fed. Reg. 6067 (Nov. 28, 1941).

152. Kahn, *supra* note 147, at 843.

153. 22 U.S.C. § 211a.

154. Hall, *supra* note 64, at 182; see 8 U.S.C. § 1185(b). For the history of the statutory provisions and case law governing the revocation or refusal to issue a passport, see Hall, *supra* note 64, at 182–96.

155. *Application for U.S. Passport, DS-11*, STATE.GOV, <https://eforms.state.gov/Forms/ds11.pdf> [<https://perma.cc/T8G4-TGBR>] (proof of citizenship, proof of identity, color photograph, and applicable fees). The most recent DS-11 requires the applicant to affirm that they “have not been convicted of a ‘sex tourism’ crimes statute.” *Id.* at 4. It is a federal crime to make a false statement in an application for a passport. 18 U.S.C. § 1542.

2. Passport Restrictions Based on Criminal Misconduct

The right to receive a passport has never been absolute.¹⁵⁶ In the words of Attorney General Philander Knox in 1901:

Circumstances are conceivable which would make it most inexpedient for the public interests for this country to grant a passport to a citizen of the United States. For example, if one of the criminal class . . . were to make such application, the public interests might require that his application be denied.¹⁵⁷

During the World War II years, passport restrictions were characterized as a way to "curb unnecessary travel and particularly to prevent the travel of . . . criminals, and others who might harm the United States or its allies."¹⁵⁸ By the early 1950s it was generally accepted "that the United States had the authority to deny or permit travel based on the [nation's] concerns about the nature of the traveler or his intended itinerary."¹⁵⁹

After a 1966 Executive Order specifically designated the Secretary of State as having the authority to regulate passport issuance, the State Department started explicitly outlining the classes of individuals who would not be entitled to a United States Passport.¹⁶⁰ For the first time, specific classes of criminally involved individuals were subject to denial of their passport applications. These classes included persons subject to an outstanding felony federal arrest warrant or to conditions of probation, parole, or a court order which forbade their departure from the United States.¹⁶¹ As stated in the 1981 Supreme Court case *Haig v. Agee*, a "passport remains in a sense a document by which the Government vouches for the bearer and for his conduct."¹⁶² While passport

156. See generally, *Application for U.S. Passport*, *supra* note 155; see also, 18 U.S.C. § 1542.

157. Chinese Citizens of Haw.—Passport, 23 Op. Att’y Gen. 509, 511 (1901).

158. Kahn, *supra* note 147, at 838–39.

159. *Id.* at 840. In addition, in the years leading up to World War II, the United States also required persons to indicate on their "passport application a detailed description of [their] proposed itinerary." *Id.* at 834; Exec. Order No. 7856, 3 C.F.R. 379, 381–82 (1936–1938) (requiring disclosure of port of departure, name, sailing date of the outgoing vessel, the countries to be visited, and the object of each visit); see *Application of Native Citizen*, 22 C.F.R. § 51.23 (j), (l)–(m) (1949).

160. Exec. Order 11295, 3 C.F.R. 138–39 (1966); Rules Governing the Granting, Issuing, and Verifying of United States Passports, 31 Fed. Reg. 10,603 (Aug. 9, 1966). The authority had previously been conferred to the President. Passport Act of 1926, Pub. L. No. 69-493, 44 Stat. 887 (1926) (codified at 22 U.S.C. § 211a).

161. Denial of Passports, 22 C.F.R. § 51.70(a)(1)–(2) (1967).

162. *Haig v. Agree*, 453 U.S. 280, 293 (1981).

controls seem at odds with the general trend towards globalization, the restrictions serve the important policy objective of preventing persons from departing from the United States to avoid or evade serious criminal or civil liability.

These prohibited classes remained static until 2007, when the State Department updated its regulation to capture additional criminally involved persons in the passport denial process. In addition to the previously existing prohibitors, persons subject to state or local felony warrants or those in arrears on child support payments over a certain dollar amount were listed among those whose passport applications may be declined by the Secretary of State.¹⁶³

Pertinent to the issue at hand, 22 U.S.C. § 212a was enacted in 2008 and makes any person who has been convicted of violating 18 U.S.C. § 2423 (traveling across international borders for the purposes of engaging in sex with a minor) ineligible to apply for a passport until that person has been released from incarceration, probation, or parole, whichever occurs latest.¹⁶⁴ If such a person already possesses a passport, it is subject to revocation.¹⁶⁵

To summarize: although infrequently utilized, federal law does provide that passport applications may be denied in varying circumstances and allows for previously issued passports to be revoked if specific conditions are met. The grounds for denial or revocation most likely to apply to a convicted sex offender are those imposed on an offender who is subject to a “criminal court order, condition of probation, or condition of parole” which prohibits departure from

163. Denial of Passports, 22 C.F.R. § 51.70 (2008). For more information about the child support arrears prohibitor, which was enacted by statute in 1996, see Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193, § 370, 110 Stat. 2105, 2251–52 (codified at 42 U.S.C. § 652(k)(1)). The onus is on state child support agencies to notify the Secretary of Health and Human Services (HHS) of individuals whose arrearages exceed the designated amount, and then the Secretary of HHS is required to notify the State Department. *Id*; see also Off. of Child Support Enf’t, *Overview of the Passport Denial Program*, HHS.Gov (Dec. 5, 2017), <http://www.acf.hhs.gov/css/resource/overview-of-the-passport-denial-program> [https://perma.cc/ARF7-5VTF]; Bureau of Consular Affs., *Child Support Payments and Getting a U.S. Passport*, TRAVEL.STATE.GOV, <https://travel.state.gov/content/travel/en/passports/legal-matters/child-support.html> [https://perma.cc/VF6Q-QX49]. In 2015, a provision was added to enable denial or revocation of a passport when a person has a certain level of federal tax delinquency. Fixing America’s Surface Transportation (FAST) Act § 32101, Pub. L. No. 114-94, 129 Stat. 1312, 1729 (2015) (codified as 26 U.S.C. § 7345); Denial and Restriction of Passports, 22 CFR § 51.60 (2019).

164. William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008, Pub. L. No. 110-457, § 236, 122 Stat. 5044, 5082 (codified at 22 U.S.C. § 212a). Provisions had previously been offered, but not enacted, calling for similar restrictions on passports for certain sex offenders. See H.R. 5870, 111th Cong. (2010) (permitting revocation or denial of a passport for any registered sex offender).

165. Revocation or Limitation of Passports, 22 C.F.R. § 51.62(d) (2019).

the United States.¹⁶⁶ In such a case, the State Department has specific procedures that law enforcement can follow to request that an offender not be issued a passport, or that their passport be revoked.¹⁶⁷

3. Passport Identifiers for Sex Offenders

International Megan's Law requires that the passport of any person who meets the definition of a covered sex offender (#2)¹⁶⁸ contain a unique identifier indicating that the passport holder is a sex offender.¹⁶⁹ The State Department thereafter amended its existing regulations regarding passport issuance to include IML's new passport marking requirement,¹⁷⁰ and these amendments went into effect on October 31, 2017.¹⁷¹ Under the new regulations, when a sex offender is subject to the marker provision, the following text will be placed inside the back cover of the passport book: "The bearer was convicted of a sex offense against a minor, and is a covered sex offender pursuant to 22 United States Code Section 212b(c)(1)."¹⁷²

166. Denial and Restriction of Passports, 22 C.F.R. § 51.60(b)(1)–(2) (2019); Revocation or Limitation of Passports, 22 C.F.R. § 51.62(a)(1) (2019). Passport revocation is not to be confused with the revocation of United States citizenship, which is legally possible in only a handful of circumstances, none of which are applicable solely because someone has committed a sexual offense. 8 U.S.C. § 1481; see Leslie Esbrook, *Citizenship Unmoored: Expatriation as a Counter-Terrorism Tool*, 37 U. PA. J. INT'L LAW 1273, 1278 (2016) (describing the history of provisions governing the revocation of United States citizenship); Claire Benoit, Note, *Force and Effect: A Look at the Passport in the Context of Citizenship*, 82 FORDHAM L. REV. 3307, 3318 (2014) (describing current provisions governing the revocation of United States citizenship).

167. Bureau of Consular, *Passport Information for Law Enforcement*, TRAVEL.STATE.GOV, <https://travel.state.gov/content/travel/en/passports/legal-matters/law-enforcement.html> [<https://perma.cc/4HA8-GQM>].

168. See discussion *supra* Part IV.B.1.

169. 22 U.S.C. § 212b. A thorough description of the implementation plan for this portion of International Megan's Law can be found by reviewing the legislative history of the bill. H.R. 515, 114th Cong. (2016).

170. 81 Fed. Reg. 60,608 (Sept. 1, 2016), as corrected, 81 Fed. Reg. 66,185 (Sept. 27, 2016), (to be codified at Denial and Restriction of Passports, 22 C.F.R. § 51.60(a)(4) (2020)). For more information about the number of registered sex offenders who also hold passports, see generally U.S. GOV'T ACCOUNTABILITY OFF., GAO-10-643, CURRENT SITUATION RESULTS IN THOUSANDS OF PASSPORTS ISSUED TO REGISTERED SEX OFFENDERS (2010).

171. Bureau of Consular, *Passports and International Megan's Law*, TRAVEL.STATE.GOV, <https://travel.state.gov/content/travel/en/News/passports/passports-and-international-megans-law.html> [<https://perma.cc/4HSX-RAB5>].

172. *Id.*; Kevin Shea, *Sex Offenders Get Branded Passports Under International Megan's Law*, NJ.COM (Jan. 16, 2019), www.nj.com/mercer/index.ssf/2017/11/megans_sex_offender_notification_cause_rolls_o.html [<https://perma.cc/NHZZ-9C620>].

The day after President Obama signed IML, a civil suit was brought in the Northern District of California alleging that this passport marking provision (along with other requirements of IML) violated the petitioners' rights to free speech, substantive due process, free association, equal protection, protection from ex post facto laws, as well as their travel and economic liberty interests.¹⁷³ After a robust series of submitted briefs, the case was dismissed.¹⁷⁴ There have not been any other challenges of note to IML's passport marking provision.

V. FOREIGN COUNTRY SEX OFFENDER REGISTRATION AND NOTIFICATION SYSTEMS

In the years since the United States first created its sex offender registration and notification system, dozens of other nations have done the same. Some countries maintain ongoing current data about their convicted sex offenders and, in some locations, share that data with the public or other countries.¹⁷⁵ By maintaining and sharing such information about known sex offenders, countries can inform appropriate populations about the relevant criminal history of individuals living or working in the community. In addition, registration information may be shared with law enforcement agencies where the individual is traveling domestically, or with foreign immigration officials if the individual is traveling internationally. This information enables government agencies (and the public, where possible) to better protect children and vulnerable adults from sexual exploitation.

Sharing sex offender registration and conviction information with other countries alerts them to one part of the traveling population who might be at risk to engage in SECTT: known (convicted) sex offenders.¹⁷⁶ As discussed

173. *Doe v. Kerry*, Case 4:16-cv-00654-PJH, 2016 U.S. Dist. LEXIS 49912, at *2, *7, *9 (N.D. Cal. Apr. 13 2016).

174. *Id.* at 76; *see also* *Califano v. Gautier Torres*, 435 U.S. 1, 4 n. 6 (1978) (citing *Kent v. Dulles*, 357 U.S. 116, 125 (1958)) (“[T]he ‘right’ of international travel has been considered to be no more than an aspect of the ‘liberty’ protected by the Due Process Clause of the Fifth Amendment.”).

175. Among the countries that do not have a sex offender registration system, many have robust criminal history databases which could be leveraged for the sharing of information. *See, e.g., Sex Offense Registries in Europe and Around the World*, COLLATERAL CONSEQUENCES RES. CTR. (Nov. 24, 2020), <https://ccresourcecenter.org/2020/11/24/sex-offense-registries-in-europe-and-around-the-world/> [<https://perma.cc/8R2D-APM4>].

176. The rate of recidivism among adult sex offenders remains a contentious topic and is beyond the scope of this article. For a good recent summary of the research, *see* ROGER PRZBYLSKI, SMART.GOV, SEX OFFENDER MANAGEMENT ASSESSMENT AND PLANNING INITIATIVE, RECIDIVISM OF ADULT SEXUAL OFFENDERS (July 2015), <https://smart.gov/pdfs/RecidivismofAdultSexualOffenders.pdf> [<https://perma.cc/6ZVF-VBLC>].

previously, these individuals are either preferential or situational, and a country's specific response to the presence of any particular individual will, by necessity, be tailored to that particular case. In addition, countries around the world are leveraging registration data to minimize the threat posed by traveling known sex offenders.

A. *Countries With Large Sex Offender Registries*

Among countries with a sizeable sex offender registry, that is to say those with a large population and many individuals on the registry, the United Kingdom created its sex offender registration system in 1997,¹⁷⁷ followed by South Korea (2000),¹⁷⁸ Ireland (2001),¹⁷⁹ Canada (2004),¹⁸⁰ Australia (2004),¹⁸¹ and New Zealand (2016).¹⁸² In the summaries of those systems that follows, particular attention is paid to provisions requiring advance notice of international travel, the ability to share information about traveling offenders, and the public availability of sex offender registration information.

1. United Kingdom

The United Kingdom passed its initial national sex offender registration law in 1997.¹⁸³ Qualifying offenders are required to provide certain registration information to local police officials and maintain their registration information in the event of any changes.¹⁸⁴

The terminology utilized in the United Kingdom is different from that in Canada and the United States. Instead of registration requirements, a convicted

177. Sex Offenders Act, 1997 c. 51 (UK).

178. Junseob Shin & Young-Boon Lee, *Korean Version of the Notification Policy on Sexual Offenders: Did it Enhance Public Awareness of Sexual Crimes Against Minors?*, 29 INT'L L. J. OFFENDER THERAPY & COMPAR. CRIMINOLOGY 376, 378 (2005).

179. Sex Offenders Act, 2001 (Act No. 18/2001) (Ir.).

180. Sex Offender Information Registration Act, S.C. 2004, c.10 (Can.), (as amended) (codified at Criminal Code (Can.) §§ 490.011–032).

181. *Sex Offenders Registration Act 2004* (Vic) No. 56 of 2004 (Austl.).

182. Child Protection Act 2016 (N.Z.).

183. Sex Offenders Act, 1997, c. 51 (UK). For a detailed history of national sex offender registration laws in the United Kingdom, see TERRY THOMAS, *THE REGISTRATION AND MONITORING OF SEX OFFENDERS A COMPARATIVE STUDY* 59–79 (2011). The current statute governing registration in the United Kingdom is Part 2 of the Sexual Offences Act. Sexual Offences Act 2003, c. 42 (UK), <https://www.legislation.gov.uk/ukpga/2003/42/part/2> [<https://perma.cc/TV85-R3UF>] (website enables toggling to determine which provisions are applicable in which portions of the United Kingdom).

184. Sexual Offences Act, §§ 83–86 (UK).

sex offender has notification requirements, that is, they must notify law enforcement of their residential address and other information and keep that information current.¹⁸⁵ Certain provisions of the national law may or may not be applicable in each of the four countries which make up the United Kingdom (England, Northern Ireland, Scotland, and Wales) depending on national statutory language or the laws of those particular countries.¹⁸⁶

The duration of an offender's notification requirement in the United Kingdom generally depends on the nature of their conviction and length of incarceration. Offenders who receive a sentence of thirty months or more are subject to a lifetime notification requirement; a sentence of more than six months but less than thirty months must notify for ten years; and those receiving six months or less incarceration notify for seven years.¹⁸⁷

Offenders subject to notification requirements also must update certain changes to their notified information, such as a name or address change, within three days.¹⁸⁸ The Secretary of State is permitted to issue regulations requiring offenders to provide advance notification of their travel outside the United Kingdom, but has not done so as of yet.¹⁸⁹

The public notification provisions in the United Kingdom are fairly limited and enable individuals to submit a request to their local police officials to find out if any person is a registered sex offender.¹⁹⁰ Decisions about disclosure are made by Multi-Agency Public Protection Arrangement (MAPPA) officials, who take numerous factors into account before disclosing, including a risk assessment of the offender and whether disclosure would assist in protecting the

185. THOMAS, *supra* note 183, at 69.

186. For example, in England, Wales, or Northern Ireland a person who is cautioned is also subject to notification requirements. Sexual Offences Act, § 80(1)(d) (UK). Legislation in Northern Ireland and Scotland further specifies when and how sex offender notification occurs. *See, e.g.*, Criminal Justice Act (N. Ir.), 2013, c. 7; Criminal Justice and Licensing (Scotland) Act, 2010, (ASP 13) § 102.

187. Sexual Offences Act, § 82(1) (UK). Persons under the age of eighteen at the time of conviction are subject to notification for half of the period of time as adult offenders, except that lifetime notification is not reduced for such offenders. *Id.* at § 82(2). Passport information is collected. *Id.* at § 83(5)(h)(5A).

188. *Id.* at § 83(1), (5). Additional requirements about updating other information are contained in §§ 84–85A. *See also* HOME OFF., GUIDANCE ON PART 2 OF THE SEXUAL OFFENCES ACT 2003 13 (2018) [hereinafter U.K. GUIDANCE].

189. Sexual Offences Act § 86 (UK).

190. Criminal Justice Act, 2003, c. 44, §§ 327A–327B (UK). Although beyond the scope of this Article, the United Kingdom has a detailed process for supervising sex offenders in the community. “Multi-Agency Public Protection Arrangements (MAPPA) are a set of statutory arrangements to assess and manage the risk posed by certain sexual and violent offenders.” MINISTRY OF JUST., MULTI-AGENCY PUB. PROT. ARRANGEMENTS—ANN. REP., 2018–19, at 1 (UK).

community.¹⁹¹ MAPPA was established in 2003 “in each of the 42 criminal justice areas in England and Wales”¹⁹² and similar arrangements exist in Scotland¹⁹³ and Northern Ireland.¹⁹⁴

The United Kingdom also utilizes a comprehensive set of civil orders to manage its sex offenders. Those orders have recently been reclassified, with Sexual Risk Orders (SRO) and Sexual Harm Prevention Orders (SHPO) replacing the previously available Sexual Offences Prevention Orders (SOPO), Foreign Travel Orders (FTO), and Risk of Sexual Harm Orders (RSHO).¹⁹⁵ A person need not necessarily be a convicted or registered sex offender in order to be potentially subject to them.¹⁹⁶

Qualifications for these civil orders vary based on whether an offender is in England and Wales, Scotland, or Northern Ireland, as each of these nations have their own parliament, criminal laws, or other provisions which impact the issuance of civil orders in the community.¹⁹⁷ The full extent of those differences is beyond the scope of this Article, but an understanding of the available civil orders is important, as many countries have adopted the United Kingdom’s approach in developing their sex offender registration and notification laws.¹⁹⁸

National legislation provides that the police or National Crime Agency may request a Sexual Risk Order from the Magistrate’s Court if any adult is engaging in an “act of a sexual nature which suggests they pose a risk of harm to the public

191. NAT’L OFFENDER MGMT. SERV., MAPPA GUIDANCE 55–60 (2021).

192. *How Does MAPPA Work?*, MAPPA, <https://mappa.justice.gov.uk/connect.ti/MAPPA/view?objectID=5681072> [<https://perma.cc/UCD9-XLA8>].

193. SCOT. GOV’T, MULTI-AGENCY PUB. PROT. ARRANGEMENTS (MAPPA) IN SCOT. NAT’L OVERVIEW REP., 2017–18. Scotland’s Sex Offender Community Disclosure Scheme started in 2011. *Id.* at 7.

194. Criminal Justice (Northern Ireland) Order 2008, §§ 49–51; *see generally* Public Protection Arrangements Northern Ireland (PPANI), PUB. PROT. NI, <https://www.publicprotectionni.com/> [<https://perma.cc/8V7B-UMZL>]. Northern Ireland authorized the creation of a public disclosure scheme in 2015. Criminal Justice (N. Ir.) Order, § 50(2A).

195. Anti-social Behaviour, Crime and Policing Act 2014, sch. 5, ¶¶ 2, 4 (UK); *see* Sexual Offences Act 2014, c. 12, § 103A (UK) (codifying Sexual Harm Prevention Orders); Sexual Offences Act 2014, c. 12, § 122A (UK) (codifying Sexual Risk Orders); *see also* Abusive Behaviour and Sexual Harm (Scot.) Act 2016, c. 3–4 (codifying prospective Sexual Harm Protection Orders and Sexual Risk Orders in Scotland).

196. Jacqueline Beard, *Briefing Paper: Registration and Management of Sex Offenders*, HOUSE OF COMMONS LIBR. (July 28, 2017), <https://commonslibrary.parliament.uk/research-briefings/sn05267/> [<https://perma.cc/VX5J-9XJJ>].

197. *Devolution: Factsheet*, GOV.UK, https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/770709/DevolutionFactsheet.pdf [<https://perma.cc/6SQQ-N4WB>].

198. *See generally* Sexual Offences Act, §§ 103A–136ZD (UK).

in the UK or children . . . abroad.”¹⁹⁹ The SRO may impose any prohibition which is necessary to protect the public generally, children generally, or any particular individual from harm.²⁰⁰ For example, an SRO may prohibit contact with a child, or prohibit the offender from visiting a place where they have previously offended against a child.²⁰¹

SROs may be issued for any qualifying person, regardless of whether or not they have been convicted of an offense.²⁰² While subject to an SRO an individual will have notification requirements similar to sex offenders who are otherwise registered.²⁰³ As part of its decision-making process in issuing an SRO, the court will consider a current assessment of risk of the offender.²⁰⁴ SROs last for no less than two years.²⁰⁵

While Sexual Risk Orders do not require that an individual be previously convicted of an underlying sexual offense, Sexual Harm Prevention Orders do, and “are intended to protect the public from offenders . . . who pose a risk of sexual harm to the public by placing restrictions on their behavior.”²⁰⁶ Police may request an SHPO if a person has a previous sex or violent offense conviction for the purposes of protecting a person or persons from sexual harm from the offender in the United Kingdom or protecting a particular child, or children in general, from sexual harm from the offender outside the United Kingdom.²⁰⁷ For example, an SHPO might be issued to prohibit an offender from working with children or using the internet for certain activities.²⁰⁸ A SHPO can also be issued at the time of sentencing without any petition from law enforcement.²⁰⁹ SHPOs last for not less than five years.²¹⁰

Foreign travel restrictions can be imposed by both SHPOs and SROs, depending on the circumstances. Such “restrictions may include prohibitions on traveling to any country outside the [United Kingdom] named or described in the

199. JACQUELINE BEARD, HOUSE OF COMMONS LIBRARY, BRIEFING PAPER: REGISTRATION AND MANAGEMENT OF SEX OFFENDERS 18 (July 28, 2017) [hereinafter 2017 BRIEFING PAPER]; *see also* Sexual Offences Act, c. 12 § 122A (UK).

200. Sexual Offences Act, c. 12, § 122A(9) (UK).

201. 2017 Briefing Paper, *supra* note 199, at 17.

202. *Id.* at 16.

203. Sexual Offences Act, c. 12, § 122F (UK); *see* U.K. GUIDANCE, *supra* note 188, at 43, 45.

204. 2017 BRIEFING PAPER, *supra* note 199, at 16–17.

205. Sexual Offences Act, c. 12, § 122A(7)(b) (UK).

206. U.K. GUIDANCE, *supra* note 188, at 36.

207. Sexual Offences Act, c. 12, § 103A(3)(b) (UK).

208. 2017 BRIEFING PAPER, *supra* note 199, at 15.

209. *Id.* at 14.

210. Sexual Offences Act, c. 12, § 103C(2)(b) (UK).

order, any country outside the [United Kingdom], other than a country named or described in the order, or any country outside the [United Kingdom].”²¹¹

2. South Korea

South Korea has a robust sex offender registration and notification system, which was first enacted in 2000.²¹² Its registration and public disclosure scheme has been expanded over the years and any person convicted of a sex offense is subject to targeted public notification and website posting.²¹³ Offenders must register with the local police and their information is retained for a period of ten, fifteen, twenty, or thirty years depending on the sentence received.²¹⁴ Offenders are required to update any changed registration information in person with the local police.²¹⁵

South Korea started a public registry website nearly twenty years ago for persons convicted of sex offenses against minors and it currently displays information about more than 3,600 offenders.²¹⁶ The registry contains an extensive search capacity by name, neighborhood, province, street name, and by

211. 2017 BRIEFING PAPER, *supra* note 199, at 18. If an offender is subject to a total ban on foreign travel, they are required to surrender their passport. *Id.*

212. Shin & Lee, *supra* note 178, at 378.

213. Act on Special Cases Concerning the Punishment, etc., of Sexual Crimes, Act No. 17507, Oct. 20, 2020, ch. 3 (S. Kor.); *see also* Act on the Protection of Children and Juveniles Against Sexual Abuse, Act No. 14236, Nov. 30, 2016, art. 50 (2016) (S. Kor.) (permitting public disclosure of sex offender information through the internet). The registry contains certain information including: The offenders’ name, both in Korean and Chinese characters (when the person has a Chinese name) (non-Korean offenders must submit their name in Korean, the offenders’ native language, and English), resident registration number, address and actual domicile, job, company name, and work address, phone number, cell phone number, email address, height and weight, photograph, car registration number, court and date of conviction, case number, name of the crime of conviction, sentence imposed, and summary of case facts. Enforcement Decree of the Act on Special Cases Concerning the Punishment, etc. of Sexual Crimes, Decree No. 28115, Jun. 21, 2017, art. 3 (S. Kor.).

214. Act on Special Cases Concerning the Punishment, Etc. of Sexual Crimes, art. 45 (S. Kor.).

215. Enforcement Decree of the Act in Special Cases Concerning the Punishment, Etc. of Sexual Crimes, art. 3(2) (S. Kor.).

216. *Disclosure Status (Real Time)*, SEXOFFENDER.GO, <https://www.sexoffender.go.kr/m3s3.nsc> [<https://perma.cc/5SSA-LFNX>]; *Korea Puts Sex Offenders Online*, WIRED (Aug. 30, 2001, 06:16 AM), <https://www.wired.com/2001/08/korea-puts-sex-offenders-online/> [<https://perma.cc/4JKL-YYRJ>]. In 2012, South Korea had over 7,600 registered sex offenders, 2,650 of whom had their information posted on the public registry website. Kyungseok Cheo & Andrew Harris, *Sex Offender Registration in Korea*, SEX OFFENDER L. REP., April/May 2013, at 35.

offenders living within one kilometer of a school.²¹⁷ In addition, targeted community notification is permitted to parents, guardians, childcare centers, and other entities charged with the care of children in the neighborhood where an offender resides.²¹⁸ Information permitted to be disclosed includes an offender's name, age, address and actual domicile, physical description, photograph, summary of the sex offense of conviction, previous criminal record, and whether the offender is subject to electronic monitoring.²¹⁹

3. Ireland

Unique among European countries is the system implemented in the Republic of Ireland.²²⁰ On conviction for a sex offense, the court issues a certificate of conviction to the Sex Offender Management and Intelligence Unit and the offender's information is recorded in a National Police (*An Garda Síochána*) database.²²¹ Offenders are required to notify a local police (*Gardaí*) representative of their name and address within seven days of release from incarceration and must keep their information current.²²² The local police where the offender lives maintain a Sex Offenders Notification Form, which is cross-referenced with the records held by the national police, when necessary. There is no national register of sex offenders that contains updated information.²²³

A person is subject to the statute for a period of either five years, seven years, ten years, or indefinitely, depending on the sentence imposed.²²⁴ A Sex Offender Order is available as a civil proceeding and prohibits the respondent from "doing one or more things" to protect the public from serious harm.²²⁵ Ireland has a

217. *Disclosure on the Personal Information of a Sex Offender*, Ministry of Gender Equal. and Fam., http://www.mogef.go.kr/eng/pc/eng_pc_f012.do [<https://perma.cc/K43Y-QX3Q>].

218. Act on the Protection of Children and Juveniles Against Sexual Abuse, art. 50 (S. Kor.).

219. *Id.* at art. 49(3).

220. See generally Sex Offenders Act 2001 (Act No. 18/2001) (Ir.); THOMAS, *supra* note 183, 80–83.

221. *Sex Offender Management and Intelligence Unit (SOMIU)*, AN GARDA SÍOCHÁNA, <https://www.garda.ie/en/about-us/organised-serious-crime/garda-national-protective-services-bureau-gnpsb-/sex-offender-management-and-intelligence-unit-somiu/> [<https://perma.cc/P7Q8-D6SC>].

222. Sex Offenders Act (act No. 18.2001) (Ir.) § 10.

223. Lorraine Barron, *Irish Sex Offender Laws and the Right to Privacy*, 2 NEW J. EUR. CRIM. L. 440, 448 (2011).

224. Sex Offenders Act (act No. 18.2001) (Ir.) § 18(3). Juveniles are subject to the statute for one-half of the length of time as adults. *Id.* § 8(4).

225. *Id.* at § 16(1).

comprehensive sex offender management program where each offender is assigned a police liaison who conducts a risk assessment and thereafter determines how to best supervise the offender.²²⁶ Information about offenders is not made available to the public.²²⁷

4. Canada

Ontario was the first Canadian Province to enact a sex offender registration system.²²⁸ Established in 2001, the Ontario Sex Offender Registry (OSOR) operates in conjunction with, yet separately from, Canada's National Sex Offender Registry (NSOR).²²⁹ Canada's NSOR launched in 2004 and each of the remaining Canadian provinces participate in the National Sex Offender Registry.²³⁰ Every province and territory, except Ontario, has the same basic

226. *Monitoring Sex Offenders in Ireland*, CITIZENS INFO., https://www.citizensinformation.ie/en/justice/law_enforcement/monitoring_sex_offenders_in_ireland.html [https://perma.cc/H9KP-F553].

227. *Id.*

228. See Vanessa Amyot, *Sex Offender Registries: Labelling Folk Devils*, 55 CRIM. L.Q. 188, 193–94 (2009); see generally Christopher's Law (Sex Offender Registry), S.O. 2000, ch. 1 (Can. Ont). Accompanying regulations can be found at Christopher's Law (Sex Offender Registry) 2000, O. Reg. 69/01 (Can.).

229. An excellent summary of the development of relevant law and policy prior to the establishment of Canada's NSOR can be found in Michael Petrunik et al., *American and Canadian Approaches to Sex Offenders: A Study of the Politics of Dangerousness*, 21 FED. SENT'G REP. 111, 116–19 (Dec. 2008). See also Lisa Murphy et al., *Canada's Sex Offender Registries: Background, Implementation, and Social Policy Considerations*, 18 THE CANADIAN J. OF HUM. SEXUALITY 61, 65–66 (2009). For background information about how registries were established across Canada, see generally Amyot, *supra* note 228 at 193–99; Janine Benedet, *A Victim-Centred Evaluation of the Federal Sex Offender Registry*, 37 QUEEN'S L.J. 437 (2012); Yeshe Laine, *The Interplay Between Christopher's Law and the Sex Offender Information Registration Act*, 52 CRIM. L.Q. 470 (2007).

230. See generally Alberta Sex Offender Information Registration Regulations, SOR/2004-239 (Can.); British Columbia Sex Offender Information Registration Regulations, SOR/2005-2 (Can.); Manitoba Sex Offender Information Registration Regulations, SOR/2004-310 (Can.); New Brunswick Sex Offender Information Registration Regulations, SOR/2005-16 (Can.); Newfoundland and Labrador Sex Offender Information Registration Regulations, SOR/2004-322 (Can.); Northwest Territories Sex Offender Information Registration Regulations, SOR/2005-1 (Can.); Nova Scotia Sex Offender Information Registration Regulations, SOR/2004-305 (Can.); Nunavut Sex Offender Information Registration Regulations, SOR/2004-321 (Can.); Ontario Sex Offender Information Registration Regulations, SOR/2004-306 (Can.); Prince Edward Island Sex Offender Information Registration Regulations, SOR/2004-307 (Can.); Quebec Sex Offender Information Registration Regulations, SOR/2005-6 (Can.); Saskatchewan Sex Offender Information Registration Regulations, SOR/2004-304 (Can.); Yukon Sex Offender Information Registration Regulations, SOR/2005-43 (Can.).

requirements for who must register, the duration of that registration, and the offender's reporting obligations.

The Sex Offender Information Registration Act (SOIRA) governs the national registry in Canada.²³¹ There are two broad categories of offenses under SOIRA, one mandates registration and the other renders a defendant eligible for registration upon motion of the prosecutor.²³² Generally speaking, registration is mandatory when the underlying crime clearly is a sex offense (e.g., sexual assault, child pornography) and is discretionary with the prosecutor when other crimes (e.g., trafficking in persons, kidnapping) are committed with the intent to commit a designated sex offense. An order to register is known as a Form 52, the name of the form utilized to provide notification to a defendant of their registration requirements.²³³

Regardless of any period of incarceration imposed, the duration of an offender's registration requirement begins on the day that the order to register is made.²³⁴ The duration of registration depends on the maximum available punishment for the underlying sex offense and lasts either ten years, twenty years, or for life.²³⁵ Registrants may apply for termination of their registration requirements after either five, ten, or twenty years, respectively.²³⁶

231. Similar, though separate provisions govern persons convicted of a registerable sex offense prior to December 15, 2004. Canada Criminal Code § 490.019. Governing regulations for the national system are found at Sex Offender Information Registration Regulations (Canadian Forces) SOR/2008-247 (Can.).

232. Canada Criminal Code, § 490.012(1)–(2).

233. Special provisions apply to individuals convicted in foreign countries and returned to Canada for service of their sentence. *Id.* § 490.02912–02915; International Transfer of Offenders Act, S.C. 2004, c 21 (Can.). Those subject to a courts-martial for a sex offense are governed by §§ 227–227.2 of the National Defence Act, R.S.C., 1985, c. N-5 (Can.).

234. Canada Criminal Code, § 490.013(1).

235. *Id.* § 490.013(2). Under SOIRA, if the offender's maximum eligible sentence is life, or there is a previous order to register, the duration of registration is for life. If the maximum eligible sentence is between ten to fourteen years, the duration is twenty years. For all other offenders, the duration of registration is ten years.

236. *Id.* § 490.15. A termination order will be granted if the registrant can establish that: the impact on them of continuing an order or an obligation, including on their privacy or liberty, would be grossly disproportionate to the public interest in protecting society through the effective prevention or investigation of crimes of a sexual nature, to be achieved by the registration of information relating to sex offenders [under SOIRA].

Id. § 490.016(1).

As SOIRA has become stricter over the years and the gap in requirements between it and the OSOR has diminished.²³⁷ The primary remaining differences involve the duration of registration and punishment for failure to register. In Ontario, registration duration is either ten years or life, the duration count begins at release from incarceration, and there is no possibility of applying for early termination.²³⁸ When prosecuted for failure to register in Ontario, the maximum imprisonment is one year, whereas in the rest of Canada it is only six months.

Information about registered sex offenders in the Canadian National Sex Offender Registry is generally not made available to the public. However, utilizing other parts of Canada's code regarding high-risk offenders, Alberta²³⁹ and Manitoba²⁴⁰ each maintain pages that function as a limited provincial public registry notification websites.

The High Risk Child Sex Offender Database Act²⁴¹ was passed in June 2015 and, once it comes into force, authorizes the creation of a publicly accessible database containing information about persons convicted of sex offenses (anywhere in Canada) who pose a high risk of committing crimes of a sexual nature.²⁴² It applies only to persons convicted of designated offenses against victims under the age of eighteen.²⁴³ Information eligible for disclosure is limited to the offender's full name and any aliases, date of birth, gender, physical

237. For example, until 2011 registration under SOIRA was discretionary on the motion of the prosecutor for conviction of any sex offense. Protecting Victims From Sex Offenders Act, S.C. 2010, c. 17, § 5 (Can.).

238. Christopher's Law, § 3, 7(a)–(b) (Can.). In Ontario, if an offender's maximum sentence is more than ten years, or if they have been convicted of more than one criteria offense, the duration of registration is life. All other offenders have a registration requirement of ten years. *Id.* at §§ 7(b)–(c).

239. *High Risk Offenders*, ALBERTA.CA, <https://www.alberta.ca/high-risk-offenders.aspx> [https://perma.cc/4UR6-M5P4].

240. *Sex Offender Notifications*, MANITOBA.CA, <http://www.gov.mb.ca/justice/notification/> [https://perma.cc/N5P4-G6BD]. In addition, in 2014 a reporter also mapped Canada's registered offenders in Ontario. Patrick Cain, *Updated: Here's the Sex Offender Map Ontario Didn't Want You to See*, GLOBAL NEWS (May 14, 2014, 2:30 PM), <http://globalnews.ca/news/1313399/heres-the-sex-offender-map-ontario-didnt-want-you-to-see/> [https://perma.cc/5YFA-7DMK].

241. High Risk Child Sex Offender Database Act, S.C. 2015, c. 23 § 29 (Can.).

242. *Id.* The Royal Canadian Mounted Police High-Risk Sex Offender Unit (HRSO) assists provincial and territorial registry centers and works to conduct risk assessments on registered child sex offenders in Canada. PUB. HEALTH AGENCY OF CAN., CANADA: A PATHFINDING COUNTRY: CANADA'S ROAD MAP TO END VIOLENCE AGAINST CHILDREN s 2.2.4, at 21 (2019), <https://www.canada.ca/content/dam/phac-aspc/documents/services/publications/healthy-living/road-map-end-violence-against-children/road-map-end-violence-against-children.pdf> [https://perma.cc/QN2E-U5PY].

243. High Risk Child Sex Offender Database Act, S.C. 2015, c. 23 § 2 (Can.).

description, a description of their offense, any conditions to which they are subject from the court, the name of their residence city, town or municipality, and a photograph.²⁴⁴ As of the date of this writing, this publicly accessible database has not yet come in to force.²⁴⁵

5. Australia

The first Australian state to assent to sex offender registration legislation was New South Wales in 2000.²⁴⁶ In 2003 the Australasian Police Ministers' Council consented to developing a child protection register in each Australian State and Territory²⁴⁷ and a national database of registered sex offenders, the Australia National Child Offender Register (ANCOR), became operational in 2004.²⁴⁸ Model legislation was drafted and by 2006, every Australian state and territory had enacted sex offender registration legislation.²⁴⁹ ANCOR is currently known as the National Child Offender System (NCOS).²⁵⁰

Many Australian states and territories have civil orders available to assist in monitoring sex offenders in the community.²⁵¹ All states and territories require

244. *Id.* § 5.

245. *See* High Risk Child Sex Offender Database Act, S.C. 2015, c. 23 § 2 (Can.).

246. Child Protection (Offenders Registration) Act 2000 (NSW) (Austl.).

247. *The Purpose of the Sex Offenders Registration Scheme*, s. 2.30 (Austl.).

248. *Id.* s. 2.31 (Austl.).

249. Crimes (Child Sex Offenders) Act 2005 (ACT) (Austl.); Child Protection (Offenders Registration) Act 2000 No. 42 (NSW) (Austl.); Child Protection (Offender Reporting and Registration) Act 2004 (NTR) (Austl.); Child Protection (Offender Reporting and Offender Prohibition Order) Act 2004 (QLD) (Austl.); Child Sex Offenders Registration Act 2006 (SA) (Austl.); Community Protection (Offender Reporting) Act 2005 (Tas) (Austl.); Sex Offenders Registration Act 2004 (Vic) (Austl.); Community Protection (Offender Reporting) Act 2004 (WA) (Austl.). Each State and Territory also has regulations governing the operation of their registries. Crimes (Child Sex Offenders) Regulation 2005 (ACT) (Austl.); Child Protection (Offenders Registration) Regulation 2015 (NSW) (Austl.); Child Protection (Offender Reporting and Registration) Regulations 2005 (NT) (Austl.); Child Protection (Offender Reporting and Offender Prohibition Order) Regulation 2015 (Qld.) (Austl.); Child Sex Offenders Registration Regulations 2007 (SA) (Austl.); Community Protection (Offender Reporting) Regulations 2016 (Tas) (Austl.); Sex Offenders Registration Regulations 2014 (Vic) (Austl.); Community Protection (Offender Reporting) Regulations 2004 (WA) (Austl.).

250. *Protection Services*, AUST. CRIM. INTEL. COMM'N, [https://www.acic.gov.au/protection-services#:~:text=The%20National%20Child%20Offender%20System%20\(NCOS\)%20helps%20police%20protect%20the,and%20share%20child%20offender%20information](https://www.acic.gov.au/protection-services#:~:text=The%20National%20Child%20Offender%20System%20(NCOS)%20helps%20police%20protect%20the,and%20share%20child%20offender%20information) [https://perma.cc/7ZM4-LXN3].

251. Crimes (Child Sex Offenders) Act 2005 (ACT) ch 5A (Austl.) (protection orders); Child Protection (Offenders Prohibition Orders) Act 2004 (NSW) (Austl.); Child Protection

annual verification of registration details²⁵² and all but one require registration for a period of eight years, fifteen years, or life.²⁵³ Some, but not all, limit their registries to persons convicted of sex offenses against children.²⁵⁴ All states and territories also require advance notice of international travel,²⁵⁵ and in 2017, Australia passed legislation generally prohibiting registered sex offenders who are Australian citizens from leaving the country while still registered.²⁵⁶

(Offender Reporting and Registration) Act 2004 (NTR) s 72 (Austl.) (child protection prohibition orders); Child Protection (Offender Reporting and Offender Prohibition Order) Act 2004 (QLD) pt 3A (Austl.) (prohibition orders); Child Sex Offenders Registration Act 2006 (SA) pt 5C (Austl.) (control orders); Sex Offenders Registration Act 2004 (Vic) pt 4A (Austl.) (prohibition orders); Community Protection (Offender Reporting) Act 2004 (WA) pt 5 (Austl.) (protection orders).

252. Crimes (Child Sex Offenders) Act 2005 (ACT) s 37 (Austl.); Child Protection (Offenders Registration) Act 2000 (NSW) s 10 (Austl.); Child Protection (Offender Reporting and Registration) Act 2004 (NTR) s 18 (Austl.); Child Protection (Offender Reporting and Offender Prohibition Order) Act 2004 (QLD) s 18 (Austl.); Child Sex Offenders Registration Act 2006 (SA) s 15 (Austl.); Community Protection (Offender Reporting) Act 2005 (Tas.) s 18 (Austl.); Sex Offenders Registration Act 2004 (Vic) s 16 (Austl.); Community Protection (Offender Reporting) Act 2004 (WA) s 28 (Austl.).

253. Crimes (Child Sex Offenders) Act 2005 (ACT) ss 84–87 (Austl.) (eight years, fifteen years, or life); Child Protection (Offenders Registration) Act 2000 No. 42 (NSW) s 14A(1) (Austl.) (eight years, fifteen years, or life); Child Protection (Offender Reporting and Registration) Act 2004 (NTR) s 37(1)–(3) (Austl.) (eight years, fifteen years, or life); Child Protection (Offender Reporting and Offender Prohibition Order) Act 2004 (QLD) s 36(1) (Austl.) (five years, ten years, or life); Child Sex Offenders Registration Act 2006 (SA) s 34 (Austl.) (eight years, fifteen years, or life); Community Protection (Offender Reporting) Act 2005 (Tas.) s 24 (Austl.) (eight years, fifteen years, or life); Sex Offenders Registration Act 2004 (Vic) s 34 (Austl.) (eight years, fifteen years, or life); Community Protection (Offender Reporting) Act 2004 (WA) s 46 (Austl.) (eight years, fifteen years, or life).

254. Child Protection (Offenders Registration) Act 2000 (NSW) s 3 (Austl.); Child Protection (Offender Reporting and Registration) Act 2004 (NTR) ss 12(1)–(3), schs 1, 2 (Austl.); Child Sex Offenders Registration Act 2006 (SA) sch 1 (Austl.); Community Protection (Offender Reporting) Act 2004 (WA) schs 1, 2 (Austl.).

255. Crimes (Child Sex Offenders) Act 2005 (ACT) s 42 (Austl.); Child Protection (Offenders Registration) Act 2000 (NSW) s 11A (Austl.); Child Protection (Offender Reporting and Registration) Act 2004 (NTR) s 20(2)(a)–(e); Child Protection (Offender Reporting and Offender Prohibition Order) Act 2004 (QLD) s 20 (Austl.); Child Sex Offenders Registration Act 2006 (SA) s 15 (Austl.); Community Protection (Offender Reporting) Act 2005 (Tas.) s 19 (Austl.); Sex Offenders Registration Act 2004 (Vic) s 18 (Austl.); Community Protection (Offender Reporting) Act 2004 (WA) s 30 (Austl.).

256. Passports Legislation Amendment (Overseas Travel by Child Sex Offenders) Act 2017 s 271.A.1(1) (Austl.); *Australia: Legislation Enacted Preventing Child Sex Offenders from Traveling Overseas*, LIBR. OF CONGRESS, <https://www.loc.gov/law/foreign-news/article/australia-legislation-preventing-child-sex-offenders-from-traveling-overseas-enacted/> [https://perma.cc/6539-83FA].

The State of Western Australia has established a public sex offender registry website.²⁵⁷ South Australia also allows information about registered sex offenders to be posted online, although the information available is limited to offenders who are wanted by police.²⁵⁸ Victoria also permits the online posting of information about wanted registered sex offenders.²⁵⁹ Other states permit disclosure of registration information for limited purposes,²⁶⁰ while some are considering wider publication of registration information.²⁶¹

6. New Zealand

The Child Sex Offender Register in New Zealand was created in 2016.²⁶² Persons convicted of sex offenses against minors who have also either been sentenced to imprisonment or ordered to register by the sentencing judge will be subject to the registration requirements.²⁶³ Similar to the system in the United Kingdom and Australia, the duration of registration varies depending on the severity of the offense and the length of the sentence received, and ranges from

257. Community Protection (Offender Reporting) Act 2004 (WA) pt 5A s 85F (Austl.); *Community Protection Western Australia*, GOV'T OF W. AUSTL., <https://www.communityprotection.wa.gov.au/LocalSearch> [<https://perma.cc/435D-NWCQ>].

258. Child Sex Offenders Registration Act 2006 (SA) s 66F(1), (3)–(4) (Austl.); *Wanted Child Sex Offenders*, S. AUST. POLICE (Dec. 21, 2020), <https://www.police.sa.gov.au/your-safety/crime-prevention-and-security/wanted-child-sex-offenders> [<https://perma.cc/J42U-WUW5>].

259. Sex Offenders Registration Act 2004 (Vic) s 61A(2) (Austl.); *Wanted Registered Sex Offenders*, VICTORIA POLICE (June 22, 2021), <https://www.police.vic.gov.au/wanted-registered-sex-offenders> [<https://perma.cc/6Q3W-CU5B>].

260. Crimes (Child Sex Offenders) Act 2005 (ACT) s 118(1)(b)(i)–(ii) (Austl.); Crimes (Child Sex Offenders) Regulation 2005 (ACT) s 16(B)(1) (Austl.); Child Protection (Offenders Registration) Act 2000 No. 42 (NSW) s 19BA(1) (Austl.); Child Protection (Offender Reporting and Registration) Regulations 2005 (NT) s 12(1) (Austl.); Child Protection (Offender Reporting and Offender Prohibition Order) Act 2004 (QLD) s 69(2) (Austl.); Child Sex Offenders Registration Act 2006 (SA) s 67(1) (Austl.); Community Protection (Offender Reporting) Act 2005 (Tas) pt 4 s 45 (Austl.); Sex Offenders Registration Act 2004 (Vic) s 63(1) (Austl.).

261. Child Protection (Nicole's Law) Bill 2019 (NSW) (Austl.).

262. New Zealand Code, s 3. Additional information about New Zealand's Child Sex Offender Register may be found at *Child Sex Offender (CSO) Register*, N. Z. POLICE, <https://www.police.govt.nz/about-us/programmes-and-initiatives/child-sex-offender-cso-register> [<https://perma.cc/X674-BERG>].

263. New Zealand Code, s 7(1). For persons not sentenced to a period of imprisonment, the court may engage in a process to determine whether “the person poses a risk to the lives of sexual safety of 1 or more children, or of children generally” and thus, if proven, issue a registration order. *Id.* s 9(2).

eight years to life.²⁶⁴ Offenders update their registration annually and must report international travel in advance.²⁶⁵ The general public does not have access to the register.²⁶⁶

In addition to these large sex offender registration systems there are twenty-five smaller systems around the world, with varying degrees of complexity. As with the systems just discussed, particular focus will land on their provisions regarding advance notice of international travel, sharing information with foreign countries, and public disclosure of registration information.

B. *Countries With Small Sex Offender Registries*

While any collection of sex offender registration information might be called a registry or a database, there is an important distinction to be drawn between those that are regularly updated or make information available to the public, and those that do neither. The systems described in this Section will describe the former and make note of the latter systems where relevant.

A number of these smaller nations base their registration and notification systems on those found in the United Kingdom, and we will begin our overview there.

Because of the historical and colonial ties forged through the British Empire, many countries still have a distinct legal relationship with the United Kingdom and, as such, often have similar criminal justice systems. Two designations used for such countries are British Crown Dependencies or British Overseas Territories.

There are three Crown Dependencies: the Bailiwick of Jersey, the Bailiwick of Guernsey, and the Isle of Man. They have their own legislatures, administrative bodies, and legal systems and are not formally part of the United Kingdom.²⁶⁷ The United Kingdom is, however, generally responsible for their defense and diplomatic representation.²⁶⁸

264. New Zealand Code, s 35(1).

265. *Id.* ss 19, 21(2).

266. Certain law enforcement and Government agencies are permitted to receive information from the register. *Id.* ss 43–44. In addition, in very limited circumstances information may be disclosed to a parent, guardian, teacher, or caregiver in order to protect the life, welfare, or sexual safety of a particular child or children. *Id.* s 45.

267. *Crown Dependencies: Jersey, Guernsey and the Isle of Man*, GOV.UK (Apr. 12, 2013), <https://www.gov.uk/government/publications/crown-dependencies-jersey-guernsey-and-the-isle-of-man> [<https://perma.cc/8Z3Q-WK5F>].

268. DAVID TORRANCE, BRIEFING PAPER: THE CROWN DEPENDENCIES, HOUSE OF COMMONS LIBR., NO. CBP 8611 (2019), <https://researchbriefings.files.parliament.uk/documents/CBP-8611/CBP-8611.pdf> [<https://perma.cc/Y8FH-4KG5>].

The British Overseas Territories consist of the former territories of the British Empire that have not elected to pursue independence. There are eleven British Overseas Territories inhabited by civilians: Anguilla, Bermuda, the British Virgin Islands, the Cayman Islands, the Falkland Islands, Gibraltar, Montserrat, the Pitcairn Islands, St. Helena and its dependencies (Ascension and Tristan da Cunha), Turks and Caicos Islands, and the Sovereign Base Areas on Cyprus.²⁶⁹ The United Kingdom is generally responsible for the defense of the Overseas Territories and for their foreign affairs.²⁷⁰ Most Overseas Territories have their own legal system and elected government.²⁷¹

Certain Crown Dependencies and Overseas Territories have enacted sex offender registration provisions, with systems very similar to that found in the United Kingdom. In order of enactment, those countries are Bermuda (2001),²⁷² Isle of Man (2001),²⁷³ Jersey (2010),²⁷⁴ Pitcairn Islands (2010),²⁷⁵ Gibraltar (2011),²⁷⁶ and Guernsey (2014).²⁷⁷

Among the Commonwealth Nations, Bermuda, Guernsey, and Jersey permit a limited degree of public disclosure of information regarding registered sex offenders.²⁷⁸ The remaining nations do not have any such provisions. In addition, all these countries (except Bermuda) have available civil orders similar to those

269. 2010 TO 2015 GOVERNMENT POLICY UK: OVERSEAS TERRITORIES, POLICY PAPER, GOV.UK, (May 8, 2015) <https://www.gov.uk/government/publications/2010-to-2015-government-policy-uk-overseas-territories/2010-to-2015-government-policy-uk-overseas-territories> [<https://perma.cc/Q4ZD-XU25>].

270. OVERSEAS TERRITORIES: THE MINISTRY OF DEFENSE'S CONTRIBUTION, DIRECTORATE-GENERAL SECURITY POLICY, MINISTRY OF DEF., https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/27626/overseas_territories.pdf [<https://perma.cc/2H7Y-B9NK>].

271. UK OVERSEAS TERRITORIES, COMMONWEALTH PARLIAMENTARY ASS'N UK, <https://www.uk-cpa.org/where-we-work/uk-overseas-territories/> [<https://perma.cc/9EYY-RR63>].

272. Criminal Code Act 1907, (CA 1907:13) §§ 329G, 329H (Berm.). Bermuda's statute utilizes "offender risk teams" to manage the sex offender during their registration period. *Id.* § 329FA(6).

273. Criminal Justice Act, sched. 1 (2001) (Isle of Man); Sex Offenders Act (2006) (Isle of Man).

274. Sex Offenders Law 2010 (Jersey).

275. Sexual Offences (Notification and Prevention) Ordinance, Laws of Pitcairn, Henderson, Ducie, and Oeno Islands (rev. ed. 2017) (Pitcairn Is.).

276. Crimes Act 2011, (Act. No 2011-23) §§ 305–52 (Gib.).

277. The Criminal Justice (Sex Offenders and Miscellaneous Provisions) Law, 2013 (Guernsey).

278. Criminal Code Act 1907, (CA 1907:13) § 329H (Berm.).

detailed in the above discussion of the United Kingdom's registration system.²⁷⁹ Bermuda and the Pitcairn Islands also require advance notice of international travel.²⁸⁰

Although not a Commonwealth Nation, Malta launched a United Kingdom-style system in 2012, but it only provides for one kind of civil order.²⁸¹

C. Other Registration Systems

Other countries around the world are creating registration systems. By way of summary and before the detailed discussion that follows, among the countries not previously discussed, the Maldives, Nigeria, Poland, and Trinidad & Tobago authorize website posting of information about convicted or registered sex offenders. In addition, Belize²⁸² and Guatemala²⁸³ permit limited disclosure of sex offender registration information to approved individuals; often these requests are processed through a publicly available website. The Bahamas, Jamaica, Kenya, Nigeria, Paraguay, Portugal, and Romania also permit some public access to information about registered sex offenders when those offenders pose a demonstrable risk of harm to the public or when a person with a reasonable interest in the offender submits an inquiry.²⁸⁴

Others allow some public access to criminal history information about convicted sex offenders, but those offenders are not required to keep that information current. Such systems are not properly termed *sex offender registries* in the conventional sense but are included for the sake of distinction and clarity

279. Civil orders available in the Commonwealth Nations tend to mirror the previous civil order scheme in the United Kingdom. Generally speaking, the orders available are Notification Orders, Sexual Offense Prevention Orders, Foreign Travel Orders, and Risk of Sexual Harm Orders. *See, e.g.*, Crimes Act 2011, (Act. No 2011-23) §§ 321–47 (Gib.); Sex Offenders Act 2006 (Isle of Man); Sex Offenders Law 2010 §§ 10–12 (Jersey) (restraining orders, child protection orders and travel orders).

280. Criminal Code Act 1907, (CA 1907:13) § 329FA(6)(e) (Berm.); Sexual Offences (Notification and Prevention) Ordinance, Laws of Pitcairn, Henderson, Ducie, and Oeno Islands, §§ 24–37 (rev. ed. 2017) (Pitcarin Is.).

281. Protection of Minors (Registration) Act, (Act XXIII of 2011, Chapter 518) §§ 18–22 (Malta).

282. Criminal Code (Amendment) (No.2) Act, 2014 §§ 19(6)(C) & 19(7) (Belize) (codified at Criminal Code, §§ 65A–65C). The public website to access information is Belize Sex Offenders Registry, <http://offenders.nsc.gov.bz/index.php> [<https://perma.cc/82A7-CC5S>].

283. REGISTRO NACIONAL DE AGRESORES SEXUALES [RENAS] [NATIONAL REGISTRY OF SEX OFFENDERS] (Guat.).

284. *See infra* discussion and notes at Part V.C.1–5.

here. Countries employing this strategy include Chile,²⁸⁵ Colombia,²⁸⁶ El Salvador,²⁸⁷ and Peru.²⁸⁸ Also relevant to the overall issue at hand, the Bahamas,²⁸⁹ Jamaica,²⁹⁰ Kenya,²⁹¹ Mauritius,²⁹² Samoa,²⁹³ and Trinidad & Tobago²⁹⁴ require their registered sex offenders to provide advance notice of international travel.

The operational status of registration systems varies; some are fully operational, some are partially functional, and others are authorized but not yet brought into force. While this Article provides an overview of every registry, it is limited to the moment in time of its writing, and practitioners and scholars are

285. Law No. 20.594 art. 1, 6, 1997, Biblioteca Del Congreso Nacional De Chile [BCN] (Chile); Decree 475, Reglamento de las Secciones Especiales de Inhabilitaciones del Registro General de Condenas [Regulation of the Special Sections of Disqualifications of the General Register of Convictions] (Article 39 of the Penal Code) (Chile). A summary of the full legislative history of Chile's statute can be found at *Crea Inhabilitaciones para Condenados por Delitos Sexuales Contra Menores y Establece Registro de Dichas Inhabilitaciones*, BIBLIOTECA DEL CONGRESO NACIONAL DE CHILE, <https://obtienearchivo.bcn.cl/obtienearchivo?id=recursolegales/10221.3/37261/7/HL20594.pdf> [<https://perma.cc/GXG9-XU89>].

286. Colombia enacted a law to create a 'register' of persons convicted of certain sex offenses against minors as well as a website where employers can request to check if a potential employee is on the register; however, this appears to be a criminal history database with the ability to request a check online. The information is not required to be kept current by the offender and is not available to the public without authorization. Law No. 50.652 art. 3, July 12, 2018, Diario Oficial [D.O.] (Colom.).

287. El Salvador passed its sex offender register law in 2016, and it requires registration for four years after release from incarceration and permits public access to registration information through computers at the country's prison headquarters, but offenders are not required to keep the information current. Decree No. 553, art. 174-A, Jan. 12, 2016 (El Sal.) (codified at CODIGO PENAL § 174-A); *El Salvador Hace Público un Registro de Violadores Sexuales [El Salvador Makes a Public Register of Sex Offenders]*, ULTIMORA (Dec. 12, 2017), <https://www.ultimohora.com/el-salvador-hace-publico-un-registro-violadores-sexuales-n1123517.html> [<https://perma.cc/K4AZ-EWCD>].

288. Law No. 30901, EL PERUANO 6 (Dec. 29, 2018) (Peru); *Registro Nacional de Condenas [National Registry of Convictions]*, PODER JUDICIAL DEL PERÚ, https://www.pj.gob.pe/wps/wcm/connect/cortesuprema/s_cortes_suprema_home/as_servicio/as_enlaces_de_interes/as_registro_nacional_condenas [<https://perma.cc/S3UG-EVXW>].

289. Sexual Offences (Amendment) Act, 2014 § 26F(2), (Bahamas).

290. The Sexual Offences Act § 32(2) (Jamaica).

291. See generally *Global Overview of Sex Offender Registration and Notification Systems*, OFF. OF SEX OFFENDER SENT'G, MONITORING, APPREHENDING, REGISTERING, AND TRACKING (Apr. 2014), <https://www.icmec.org/wp-content/uploads/2016/05/Global-Overview-of-Sex-Offender-Registration-2.pdf> [<https://perma.cc/V4GJ-P7CN>].

292. The Child Sex Offender Register Act 202, § 12 (Mauritius).

293. Sex Offenders Registration Act 2017, § 16 (Samoa).

294. Act No. 19 of 2019 § 59 (Trin. & Tobago).

encouraged to independently verify the status of any particular country's registration system.

In lieu of a better method of organization, the remaining sex offender registration systems will be addressed roughly by region, taken in alphabetical order.

1. Africa²⁹⁵

Kenya enacted its sex offender registration law in 2006²⁹⁶ and in 2008, regulations were promulgated to implement it.²⁹⁷ The official registry database was unveiled in 2012.²⁹⁸ In 2019, Nigeria launched its sex offenders register, and maintains a public website disclosing individuals on the registry.²⁹⁹ Its public registry website may be searched either by name or location, although it is unclear whether offenders are required to keep their information current.³⁰⁰ South Africa passed its legislation directing the establishment of a National

295. Sierra Leone has also passed legislation enabling the creation of a sex offender registry, which will be a conviction database made available to public once fully implemented. The Sexual Offences (Amendment) Act, 2019 at § 9(c) (Sierra Leone); Kemo Cham, *Sierra Leone to Establish Sex Offenders' Registry*, POLITICO SL (Dec. 18, 2019), <https://www.politicosl.com/articles/sierra-leone-establish-sex-offenders-registry> [https://perma.cc/EL9H-SXQU]. Detailed information about South Africa's registration system can be found at P. Stevens, *Protecting the Vulnerable? Assessing the Constitutionality of the National Register for Sex Offenders in Respect of Juvenile Sex Offenders*, 17 POTCHEFSTROOM ELEC. L. J. 2779, 2782–87 (2014), <http://dx.doi.org/10.4314/pelj.v17i6.15> [https://perma.cc/SXM5-E2CY].

296. The Sexual Offences Act § 39(13) (LAWS OF KENYA NO. 3/2006).

297. *Id.* § 7 (LAWS OF KENYA NO. 132/2008).

298. *Finally . . . Kenya's Sex Offenders Register Launched* (May 10, 2012), PHYSICIANS FOR HUM. RIGHTS, <https://phr.org/our-work/resources/finally-kenyas-sex-offenders-register-launched> [https://perma.cc/TL77-RZFT]; *Numbering Sexual Offenders One by One* (Apr. 30, 2012), NATION AFRICA, <https://nation.africa/kenya/life-and-style/dn2/numbering-sexual-offenders-one-by-one—810220>.

299. Emmanuel Akinwotu, *Nigeria Launches First Sex Offender Register*, THE GUARDIAN (Nov. 25, 2019), <https://www.theguardian.com/global-development/2019/nov/25/nigeria-first-sex-offender-register> [https://perma.cc/8RZK-XJXY]. The legislative mandate for the sex offenders register is contained in the Violence Against Persons (Prohibition) Act (VAPP Act), § 1(4) (2015) (Nigeria). It does not appear that Nigeria requires its offenders to proactively update their register information, but the system is designed to interface with the country's national identification program, which will provide access to certain updated information. Jessica Odudu, *Nigeria: What Nigerians Should Know About Sex Offenders Register—Rolac Official*, ALLAFRICA (Nov. 24, 2019), <https://allafrica.com/stories/201911250846.html> [https://perma.cc/36VN-WW3U].

300. *Nigeria Sexual Offender & Service Provider Database*, https://nsod.naptip.gov.ng/view_cases.php [https://perma.cc/BVD6-NF9P].

Register for Sex Offenders (NRSO) in 2007, and the system became operational in 2009.³⁰¹ The registry is primarily used to enable employers and certain government officials to conduct background checks.³⁰²

2. Asia and the Pacific³⁰³

The law authorizing the establishment of a public sex offender registry website in the Maldives was passed in 2009; it is unclear whether offenders are

301. Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007 (Act No. 32/2007) (S. Afr.). Detailed information about South Africa's registration system can be found at P. Stevens, *Protecting the Vulnerable? Assessing the Constitutionality of the National Register for Sex Offenders in Respect of Juvenile Sex Offenders*, 17 POTCHEFSTROOM ELEC. L. J. 2779, 1782–87, (2014), <http://dx.doi.org/10.4314/pelj.v17i6.15> [<https://perma.cc/SXM5-E2CY>].

302. See *FAQ: National Register for Sex Offenders (NRSO)*, DEP'T JUST. & CONST. DEV'T (S. Afr.) <https://www.justice.gov.za/vg/nrso.html>.

303. Some courts in China have started to post information online about convicted sex offenders. See Xing Yi, *Court to Identify Child Sex Offenders*, CHINA DAILY (Dec. 8, 2017), <https://www.chinadaily.com.cn/a/201712/08/WS5a29e773a3101a51ddf8da01.html> [<https://perma.cc/V7UL-THE8>]; Qi Chen, *Exploring the Bottom-Up Reform of Sex Offender Registration in China: Carceral Feminism and Populist Authoritarianism*, 74 CRIME, LAW & SOC. CHANGE 273 (2020), <https://link.springer.com/article/10.1007/s10611-020-09897-z> [<https://perma.cc/6MAU-7L28>].

In 2018, India administratively created the National Database of Sexual Offenders (NDSO) but access is limited to law enforcement and offenders are not required to keep their information current. See *National Database on Sexual Offenders*, MINISTRY OF HOME AFFS. (Jan. 2, 2019, 3:11 PM), <https://pib.gov.in/PressReleasePage.aspx?PRID=1558130#:~:text=NDSO%20is%20a%20central%20database,%2C%20stalking%2C%20child%20abuse%20etc> [<https://perma.cc/3SKQ-2D4L>]; see also *Union Home Minister Launches Two Portals to Strengthen Women Safety*, MINISTRY OF HOME AFFS. (Sept. 20, 2018, 5:37 PM), <https://pib.gov.in/PressReleaseIframePage.aspx?PRID=1546835> [<https://perma.cc/AH7N-ZQMT>].

Two prefectures in Japan (Fukoka and Osaka) have ordinances requiring convicted sex offenders to register and keep their addresses current with officials. In *First for Japan, Osaka Fines Convicted Sex Offender for Failing to Report Address*, JAPAN TIMES (Nov. 13, 2021), <https://www.japantimes.co.jp/news/2021/11/13/national/crime-legal/osaka-fines-sex-offender/> [<https://perma.cc/KXN7-2T58>].

Malaysia passed amendments to its Child Act (2001) in 2016 enabling the disclosure to certain persons the details about persons convicted of crimes against children. See *Child (Amendment) Act 2016 § 73* (Malay.) (codified as amended at Child Act (2001) §§ 119–20 (Malay.)).

Pakistan also recently announced the creation of a database of persons convicted of sex offenses. See *President Gives Nod to Anti-Rape Ordinance 2020: Special Courts Will Dispose of Rape Cases in 4 Months*, THE INT'L NEWS (Dec. 16, 2020), <https://www.thenews.com.pk/print/759330-president-gives-nod-to-anti-rape-ordinance-2020-special-courts-will-dispose-of-rape-cases-in-4-months> [<https://perma.cc/3XDA-KFM5>].

required keep their information current, but all offenders are posted on a public registry website.³⁰⁴ The sex offender registration law in Mauritius was enacted in late 2021.³⁰⁵ Palau enacted a sex offender registration and notification code in 2014 allowing for public internet access to the information contained therein.³⁰⁶ In 2017, Samoa created its sex offender registry system.³⁰⁷ Taiwan's current sex offender legislation was enacted in 2011 and revised in 2015.³⁰⁸ Offenders are required to register for five or seven years, depending on the offense of conviction.

3. Caribbean and Central America

Trinidad & Tobago enacted the sex offender registration provisions in the Caribbean in 2000, and they were fully amended and reissued in 2019.³⁰⁹ The 2019 law also authorizes a public registry website but it is not yet active.³¹⁰ Jamaica passed its Act requiring sex offender registration in 2009, and enacted regulations enabling such registration in 2012.³¹¹ The data system needed to

304. Special Provisions Act to Deal with Child Sex Abuse Offenders § 57 (Act No. 12/2009) (Maldives); Child Sex Offenders Registry, MIN. OF GENDER AND FAM. MALDIVES, <https://www.offenders.mv/offenders/> [<https://perma.cc/GEQ2-VBCG>].

305. The Child Sex Offender Registration Act 2020, § 12 (Mauritius); Rita Venkatasawmy: "The Sex Offenders Register is Finally Becoming a Reality", MAURITIUS NEWS (Dec. 14, 2021), <https://mauritiushindinews.com/ion-news/childrens-act-2020-rita-venkatasawmy-the-sex-offenders-register-is-finally-becoming-a-reality/> [<https://perma.cc/9JYN-TMGP>].

306. Penal Code §§ 1700-1709 (Palau) (RPPL 9-21).

307. Sex Offenders Registration Act 2017, § 16 (Samoa).

308. Sexual Assault Crime Prevention Act § 25 (2011) (Taiwan). The regulation governing the implementation of the sex offenders' database was issued in 2012. *See* The Regulation on Management and Use of the Archives of Sex Offenders (Taiwan) (Feb. 20, 2012), <https://law.moj.gov.tw/ENG/LawClass/LawAll.aspx?pcode=D0080087> [<https://perma.cc/XG3R-JJZ8>].

309. Act No. 19 of 2019 § 45 (Trin. & Tobago). The Act came into operation on January 31, 2020. *See* Legal Notice No. 33, Republic of Trinidad & Tobago, No. 16 of 2020.

310. Act No. 19 of 2019 § 49(4)(c) (Trin. & Tobago). A Court in the nation recently issued the first order to register as a sex offender to a convicted offender, who will be placed on the registry after he serves a nine-year prison sentence. *See* Jada Loutoo, *Court Orders First Man to Register as Sex Offender*, TRINIDAD & TOBAGO NEWSDAY (Dec. 9, 2020), <https://newsday.co.tt/2020/12/09/court-orders-first-man-to-register-as-sex-offender/> [<https://perma.cc/E8AY-SQZV>].

311. The Sexual Offences Act §§ 29-35 (Jam.); The Sexual Offences (Registration of Sex Offenders) Regulations, 2012 Resolution, THE JAM. HOUSES OF PARLIAMENT, (Dec. 20, 2012), [http://www.japarliament.gov.jm/attachments/article/1736/Sexual%20Offences%20Act,%20Sexual%20Offences%20\(Registration%20of%20Sex%20Offenders\)%20Regulation](http://www.japarliament.gov.jm/attachments/article/1736/Sexual%20Offences%20Act,%20Sexual%20Offences%20(Registration%20of%20Sex%20Offenders)%20Regulation)

handle the registry data was completed in early 2014.³¹² The Bahamas passed its first national sex offender registration law in 2014, but it has yet to come into force.³¹³ Regulations designed to implement the law were proposed in 2019 and are pending approval; if adopted, offenders would be subject to public notification if they presented a “risk of significant harm to the health or safety of the public.”³¹⁴

Belize enacted its registration law in 2014 and has a public website where authorized persons may request information about registered offenders.³¹⁵ In 2017, Guatemala enacted a registration law, regulations bringing it into force were enacted in 2018,³¹⁶ and like Belize, it has a public website where approved individuals may search for registered sex offenders.³¹⁷ Mexico does not have a nationwide sex offender registry, but a few states and localities, including Mexico City, have created public registries.³¹⁸

s,%202012.pdf [https://perma.cc/7MLB-LTN4]. A detailed description of Jamaica’s registration system can be found at *Sex Offender Registry, Jamaica*, DEP’T OF CORR. SVCS., JAM. (DCS), <https://www.dcs.gov.jm/pages/probation-services/sex-offender-registry/> [https://perma.cc/7S9U-UMWE].

312. Jerome Reynolds, *Sex Offenders’ Registry Ready to Become Operational*, THE JAM. GLEANER (May 14, 2014), <http://jamaica-gleaner.com/power/52866> [https://perma.cc/KMS5-S4JD].

313. Sexual Offences (Amendment) Act, 2014 § 26F(2) (Bahamas). The Bahamian government is working to bring the registry system into force, The Bahamian government is working to bring the registry system into force. Sloan Smith, *Dames: Govt. to Launch Pilot Location for Sex Offender Registry Before Year’s End*, EYEWITNESS NEWS (Oct. 7, 2020), <https://ewnews.com/dames-govt-to-launch-pilot-location-for-sex-offender-registry-before-years-end> [https://perma.cc/M8R7-NW9K].

314. Registration of Sex Offenders Regulations, 2019, §§ 13–14 (Bahamas); Sexual Offences (Amendment) Act, 2014 § 26J(1) (Bahamas).

315. Criminal Code (Amendment) (No.2) Act, 2014 §§ 19(6)(C) & 19(7) (Belize) (codified at Criminal Code, §§ 65A–65C (Belize)).

316. Decreto Número 22–2017, § 6 (Guat.); see Emitir El Reglamento del Registro Nacional de Agresores Sexuales del Ministerio Público (No. 2763) (Guat.), Secretaría General Memorando Número 18–2018, (May 14, 2018).

317. See *Registro Nacional de Agresores Sexuales* [National Registry of Sex Offenders] [RENAS], <https://consultasmp.mp.gob.gt/constanciaIndividual/index.html?q=> [https://perma.cc/59YL-8VHG].

318. Mexico City’s public registry was authorized early in 2020 and its development continues. *Public Registry of Sex Offenders*, MUJERESSEGURES, <https://www.semujeres.cdmx.gob.mx/> [https://perma.cc/9NLR-LQW8]; Se Reforma y Adiciona, Diversas Disposiciones del Código Penal del Distrito Federal, de la Ley de Acceso de las Mujeres a Una Vida Libre de Violencia de la Ciudad de México y de la Ley de los Derechos de Niñas, Niños y Adolescentes de la Ciudad de México, GACETA OFICIAL DE LA CIUDAD DE MÉXICO at 3–14 (No. 307 Bis) (March 20, 2020), <https://mujeresseguras.cdmx.gob.mx/wp-content/uploads/2020/05/GOCDMX-307-BIS-20032020-REFORMAS-LAMVLV-CPDF->

4. Europe³¹⁹

France enacted its registration law in 2004 and it went into force in 2005.³²⁰ Offenders must register for twenty or thirty years, depending on the offense of conviction.³²¹ French Nationals who are convicted in foreign courts of offenses similar to registerable offenses in France also must register upon their return to France. The landmark case of *Gardel v. France*³²² discussed the French registration process in detail and held that it did not violate the European Convention on Human Rights.

At least in part due to Directive 2011/92/EU of the European Parliament, some additional EU member states have recently passed sex offender registration provisions.³²³ Cyprus enacted its sex offender registration law in 2014; offenders

V.SEXUAL.pdf [<https://perma.cc/U6E6-5ENX>]. Several other Mexican states either have created, or are considering creating, sex offender registries. See, e.g., Gilberto Santiesteban, *Presentaran Iniciativa Para Crear Registro de Agresores Sexuales en BCS* [Initiative to Create a Registry of Sex Offenders in BCS] (Sept. 15, 2020) (Baja California Sur), <https://zetatijuana.com/2020/09/presentaran-iniciativa-para-crear-registro-de-agresores-sexuales-en-bcs> [<https://perma.cc/25LS-F6Y5>]; David Monroy, *Propone PRI Crear Registro de Agresores Sexuales en Morelos* [PRI proposes to create a registry of sexual offenders in Morelos] (Oct. 13, 2020) (Morelos), <http://davidmonroydigital.com/2020/10/13/propone-pri-crear-registro-de-agresores-sexuales-en-morelos> [<https://perma.cc/L2SQ-VEMW>]; *Acuerda Comisión Dictaminar Iniciativa Que Crea Registro Público de Agresores Sexuales* [Commission Agrees to Rule on Initiative Creating Public Registry of Sex Offenders] (Oct. 26, 2020) (Sinaloa), <https://www.congresosinaloa.gob.mx/iniciativa-que-crea-registro-publico-de-agresores-sexuales> [<https://perma.cc/2QQE-EVZH>]. A national registry system is under consideration. *PRI Presenta en Cámara de Diputados Ley Quemón*, [PRI Presents *Quemón* Law in Chamber of Deputies] EL PARTIDO DE MÉXICO (Oct. 15, 2020), <https://pri.org.mx/ElPartidoDeMexico/SaladePrensa/Nota.aspx?y=36036> [<https://perma.cc/5WS7-J4W4>].

319. Spain enacted its ‘registry’ in 2015, although the system is only criminal history database and does not appear to require any proactive steps on the part of offenders to keep registration information current. Its registry went into force in 2016. *Entra en Vigor el Registro Central de Delinquentes Sexuales*, NOTICIAS JURIDICAS, (March 1, 2016) (Spain), <http://noticias.juridicas.com/actualidad/noticias/10912-entra-en-vigor-el-registro-central-de-delinquentes-sexuales/>.

320. CODE DE PROCÉDURE PÉNALE, [C. PR. PÉN.] [Criminal Procedure Code] Art. 706-53-2 (Fr.).

321. Terry Thomas, *European Developments in Sex Offender Registration and Monitoring*, 18 EUR. J. CRIME, CRIM. L., & CRIM. JUST. 403, 408 (2010).

322. *Gardel v. France*, no. 16428/05, Eur. Ct. H.R. 2009-V, at 411.

323. See generally LEGAL FRAMEWORKS, *supra* note 35. In 2020 Ukraine brought into force a law allowing a ‘unified register’ of persons convicted of certain sex offenses which is best classified as a searchable conviction database, and not available to the public. КРИМІНАЛЬНО-ВИКОНАВЧИЙ КОДЕКС УКРАЇНИ at Art. 6 (2020) (Ukr.) (codifying Law No. 720-IX of June 17, 2020 and Law No. 409-IX of Dec. 12, 2019).

must register for either seven years, ten years, or indefinitely, depending on the severity of their conviction and sentence.³²⁴ In 2015, Portugal approved the creation of a child sex offender registry; registration is required for five to twenty years and there is limited access to the public.³²⁵ In 2016, Poland enacted a registration system and also has a public sex offender registry website.³²⁶ Romania enacted a sex offender registration system in 2019 and it went into force in 2020.³²⁷

5. South America³²⁸

Argentina's registry law was enacted in 2013 and offenders must keep their addresses updated with the officials who maintain the country's DNA

324. The Law on Preventing and Combating Sexual Abuse, Child Sexual Exploitation and Child Pornography 2014, §§ 22–26 (91(I)/2014) (Cyprus); Sinead Kelly, *Cyprus Gets Tough on Sex Offenders as House Passes New Law*, CYPRUS MAIL (June 20, 2014), <http://cyprus-mail.com/2014/06/20/cyprus-gets-tough-on-sex-offenders-as-house-passes-new-law/> [https://perma.cc/35SU-HR6Q].

325. Decreto N. 395/XII art. 4, Anexo (2015) (Port.); see Child Sex Offender Register Approved, THE PORT. NEWS (Aug. 20, 2015), <http://theportugalthnews.com/news/child-sex-offender-register-approved/35648> [https://perma.cc/72GD-ENBQ].

326. On Counteracting the Threats of Sexual Crime, §§ 4–20 (2016), DZIENNIK USTAW, June 16, 2016, Item 862 (Pol.). The public registry website is available at <http://rps.ms.gov.pl/pl-PL/Public#/home> [https://perma.cc/X47H-WW36].

327. P.L. nr. 552/2018 (Rom.).

328. After Chile enacted a 'register' in 2012, in 2019 the Andean Parliament recommended creation of national sex offender registries to its members (Bol., Colombia, Ecuador, and Peru). Recomendacion No. 377 Para Establecer el Registro de Agresores Sexuales Condenados Y/O Sentenciados, Contra Ninos, Ninas Y Adolescentes en Los Paises Andinos (March 27, 2019), <https://biblioteca-parlamentoandino.janium.net/janium-bin/referencista.pl?Id=20201118144609#> [https://perma.cc/7WQS-C4FJ]; Aprueban Creación de Registro de Agresores Sexuales de Menores de Edad, PRENSA REGIONAL (Apr. 27, 2019), <https://prensaregional.pe/aprueban-creacion-de-registro-de-agresores-sexuales-de-menores-de-edad/> [https://perma.cc/MAD3-6F5S].

As described above, Chile enacted a 'register' in 2012 but it serves only to check criminal history information and address and other information not updated by the offenders. *Registration of Persons Prohibited from Working with Minors*, CHILE ATIENDE (Jan. 11, 2021), <https://www.chileatiende.gob.cl/fichas/15062-registro-de-personas-con-prohibicion-para-trabajar-con-menores-de-edad> [https://perma.cc/8TMC-L8B3].

Ecuador passed a sex offender registration law in October 2019, but it was ruled unconstitutional by the country's Constitutional Court in December 2019. *High Court Rules that Sexual Predator Registration Law is Unconstitutional*, CUENCA HIGH LIFE (Dec. 9, 2019), <https://cuencahighlife.com/constitutional-court-rules-that-sexual-predator-registration-law-is-unconstitutional> [https://perma.cc/UT4T-XY33]; Valeria Heredia, *Ejecutivo envió veto parcial a proyecto de Ley de Registro de Violadores* [Executive sent a partial veto to the bill

database.³²⁹ Paraguay created its registry in 2020; included sex offenders are required to keep their information current, register for life, and the information may be made available to interested members of the public.³³⁰ Uruguay's registry also came online in 2020; offenders are required to register for ten years, keep their information current, and like in Paraguay, interested persons may obtain registration information.³³¹

In Brazil, several states have created their own sex offender registries and a proposal to create a national registry is pending before Brazil's House of

for the Registration of Violators], EL COMERCIO (Nov. 1, 2019), <https://www.elcomercio.com/actualidad/ejecutivo-veto-parcial-proyecto-violadores.html> [<https://perma.cc/NKR2-8X6Y>]; *Redacción Seguridad, Asamblea aprobó por unanimidad la Ley de Registro de Violadores de Niños* [Assembly unanimously approved the Law on the Registration of Child Rapists], EL COMERCIO (Oct. 1, 2019), <https://www.elcomercio.com/actualidad/asamblea-aprobacion-ley-registro-violadores.html> [<https://perma.cc/PFP4-MFWQ>].

Bolivia has not yet passed a registration law. Manfredo Kempff, *Gobierno Alista Ley de Registro Publico de Violadores y Feminicidas*, EL DEBER (April 12, 2018), https://eldeber.com.bo/bolivia/gobierno-alista-ley-de-registro-publico-de-violadores-y-feminicidas_52714 [<https://perma.cc/NPZ3-YR9R>].

329. *Law No. 26.879*, BOLETIN OFICIAL (July 23, 2013), <https://www.boletinoficial.gob.ar/detalleAviso/primera/91098/20130724?busqueda=1> [<https://perma.cc/L4LS-93H7>].

330. Crea el Registro Nacional de Agresores Sexuales de Niños, Niñas y Adolescentes y el Banco Genético [Creates the National Registry of Sexual Offenders of Boys, Girls and Adolescents and the Genetic Bank], *Law No. 6572/20 (2020)* (Para.), <https://www.bacn.gov.py/leyes-paraguayas/9303/ley-n-6572-crea-el-registro-nacional-de-agresores-sexuales-de-ninos-ninas-y-adolescentes-y-el-banco-genetico>; see also *Ejecutivo crea registro nacional de agresores sexuales y un banco genético*, AGENCY DE INFORMACIÓN PARA. (July 23, 2020), <https://www.ip.gov.py/ip/ejecutivo-crea-registro-nacional-de-agresores-sexuales-y-un-banco-genetico/> [<https://perma.cc/WAK3-W9J4>].

331. *Law No. 19889* (July 14, 2020) (Uru.); *Decree No. 250/020* (Sept. 15, 2020) (Uru.); *Comenzo a Funcionar el Registro Nacional de Violadores y Abusadores Sexuales* [The National Registry Of Sexual Rapists And Abusers Began To Function], LA DIARIA FEMINISMOS (Oct. 20, 2020), <https://ladiaria.com.uy/feminismos/articulo/2020/10/comenzo-a-funcionar-el-registro-nacional-de-violadores-y-abusadores-sexuales/> [<https://perma.cc/JK6Y-34QU>].

Deputies.³³² At least one state has created a public sex offender registry website.³³³

CONCLUSION

The sexual abuse of children in travel and tourism is a long-standing problem in need of new and better solutions. With the development of sex offender registration and notification systems worldwide, there is an incredible opportunity for nations to meaningfully share information with one another about convicted sex offenders who travel internationally. When accurate and current information about convicted sex offenders is shared in a timely manner with border officials in foreign countries, they are empowered to make the best possible choices to protect their citizens. International Megan's Law provides a model strategy for how sex offender registration information can be leveraged in our ongoing efforts to combat the sexual exploitation of children worldwide. The factors contributing to SECTT may seem endless, but the resources and strategies in this Article shine a light on concrete actions which are making a difference today.

332. See, e.g., Danieleh Couthinho, *Cadastro Estadual de Pedófilos Agora é Lei No Espírito Santo* (July 9, 2019), <https://eshoje.com.br/cadastro-estadual-de-pedofilos-agora-e-lei-no-espírito-santo> [<https://perma.cc/4Z4M-SBVV>]; *Governador Sanciona lei que cria o Cadastro Estadual de Pedófilos* [Governor Sanctions Law Creating The State Registry Of Pedophiles], MATO GRASSO DO SUL (Aug. 1, 2017), <http://www.ms.gov.br/governador-sanciona-lei-que-cria-o-cadastro-estadual-de-pedofilos/> [<https://perma.cc/B5HL-TGJH>]; *Sancionada lei que cria Cadastro Estadual de Pedófilos na Paraíba* [Law Creates State Registry Of Pedophiles In Paraíba], PARAÍBA, (Dec. 19, 2019), <https://portalcorreio.com.br/cadastro-estadual-de-pedofilos-paraiba/> [<https://perma.cc/Q3U9-8F54>]; Paula Sperb, *RS Cria Cadastro de Pedófilos Para Combater Abuse de Crianças* [RS Creates Pedophile Registry To Fight Child Abuse], VEJA, (Feb. 1, 2018), <https://veja.abril.com.br/blog/rio-grande-do-sul/rs-cria-cadastro-de-pedofilos-para-combater-abuso-de-criancas/> [<https://perma.cc/9GEE-W3DA>]; Protection of Law No. 579/2020 (Sao Paulo). The current national level proposal, P.L. 3976/2020, can be found at *Dispõe Sobre o Cadastro de Pedofilos, Alterando a Lei n° 8.069, de 13 de julho de 1990, Estatuto da Criança e do Adolescente* (July 29, 2020), https://www.camara.leg.br/proposicoesWeb/prop_mostrarintegra?codteor=1917229&filena me=PL+3976/2020 [<https://perma.cc/7KXD-EHW4>].

333. *Consulta na Base Estadual de Pedófilos*, <http://portalservicos.sejusp.ms.gov.br/#/consultapedofilos> [<https://perma.cc/RX7M-7M9D>].

