

13 August 2018

IJM Australia comment on the progress on the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography (OPSC)

Introduction

International Justice Mission (IJM) works to protect the poor from violence by partnering with local authorities to rescue victims, bring criminals to justice, restore survivors and strengthen justice systems. Through our field offices in the Philippines, we have been working with the Philippines National Police and public prosecutors to address the online sexual exploitation of children (OSEC), also called cybersex trafficking, for several years. Between 2016 and 2017, we saw 158 victims rescued, 74 perpetrators arrested, and 18 perpetrators convicted.

In 2017, IJM Australia made submissions urging the NSW¹ and Commonwealth² governments to make legislative changes and provide greater resources for the investigation and prosecution of cybersex trafficking offenders in Australia, some of which have subsequently been passed into legislation³ or are still before the Parliament.⁴ This report will draw on the submissions we have made to these inquiries.

As such, the focus of our contribution on the implementation of the OPSC in Australia will be on developments specifically in relation to OSEC, rather than the production of child abuse material in general. These developments will also be considered in the context of the *Listen to Children OPSC Report* (2011) by the Child Rights Taskforce (CRT)⁵ and the *Concluding Observations on Australia on OPSC* (2012) by the Committee on the Rights of the Child (CRC).⁶ For context, OSEC or cybersex trafficking typically refers to an offender paying to view the abuse of a child in real time via live-streaming technology.⁷ Recent examples of this type of offending by Australians are included in an appendix to this document.

In general, we think that in reviewing its implementation of the OPSC, the Australian Government should recognise that there has been a dramatic growth in instances of OSEC and the networks used to facilitate it over the last five years, and resources should be directed to addressing it over the next five years. In particular, we will address:

- **Data:** The continued relevance of the CRC's recommendation to improve data collection, particularly in relation to OSEC. The limited data available indicates a significant growth in this crime type but more precise and integrated metrics would be of use.
- **Legislative Reform and Distribution:** There have been promising developments in State and Commonwealth legislation to ensure that the sentences for OSEC offences correspond to the severity of the crime. The outstanding measures should also be passed. Further, consistent with the CRC's recommendation to ensure all aspects of OPSC arts 2 and 3 are criminalised, federal offences concerning the administration of online networks to *distribute* child abuse material should be introduced, analogous to those in NSW and Victoria.

- **Internet Service Providers:** Internet Service Providers (ISPs) have not cooperated sufficiently with law enforcement to address OSEC. Consistent with the CRT's recommendation on Internet Service Providers (ISPs), the provisions increasing penalties for ISPs who fail to cooperate should be passed and consider other measures to improve their collaboration with law enforcement.
- **Victim Support:** The victims of Australian perpetrators of OSEC have complex needs, but those who are overseas may not be able to access the support measures that are available to those within Australia. Consistent with the CRC and CRT's recommendations to ensure *all child victims* have access to adequate support through greater investment in appropriate services, Australia should partner with overseas governments to ensure that the victims of this transnational crime have adequate support.
- **Awareness:** Consistent with the CRC's recommendation for awareness campaigns regarding its provisions against child exploitation, the Government should invest in greater awareness raising efforts about OSEC and the consequences for engaging in it, potentially by expanding the role of the eSafety Commissioner.
- **Innovative Interventions:** Australia has recently established the Australian Centre to Counter Child Exploitation (ACCCE) which will improve international collaboration to address OSEC. Consistent with the CRT's recommendation for investment in work that fills gaps in the criminal justice response to child exploitation, the Australian Government should fund projects that strengthen the capacity of justice systems in developing countries to respond to OSEC, and continue to enhance cooperation in our region through the ACCCE.

1. Data

CRC Recommendation: Australia should 'develop and implement a comprehensive and systematic mechanism of data collection, analysis, monitoring and impact assessment of all the areas covered by the Optional Protocol'.⁸

The *Listen to Children Report* noted that Australians had been involved in the development of 'commercial child sexual abuse internet businesses' in the Philippines 'selling web camera access to clients in Europe, the US and Australia'.⁹ However, in just the last five years, there is evidence that there has been an exponential growth in the live-streaming abuse of children for payment, originating in the Philippines.

Because the crime is a hidden one, primarily facilitated through peer-to-peer networks or the darknet,¹⁰ it is difficult to obtain data to track its growth. However, data available from law enforcement, prosecution agencies, and NGOs indicates that live-streaming abuse in particular is growing. Some of this information is collected and summarised on a global and domestic level below. Further sources are available in chapter 1 of the *Behind the Screen Report* (2017).¹¹ There remains a need to invest in collection of data to get a better picture of this crime and its extent in Australia.

1.1. Global

The prevalence of cybersex trafficking has increased exponentially, 'predominantly driven by the increasing accessibility of internet services in developing countries like the Philippines, and the increasing demand for child exploitation material (CEM) abroad'.¹² The annual

number of tips to the US based National Center for Missing and Exploited Children rose from 4560 in 1998 to 76,584 in 2006.¹³ In 2015, that number was 4.4 million,¹⁴ and in 2017 it was over 10 million.¹⁵

The Internet Watch Foundation scans the internet for pages hosting child abuse material. In 2016, they found such a page every 9 minutes. They also saw a 112% growth in the use of masking techniques by paedophiles.¹⁶ A UN Report from 2009 cited FBI statistics that there are 750,000 paedophiles online at any given point in time. That number would have grown significantly by now. The same report estimated the industry of production of child abuse material to generate between \$3 to \$20 billion per year.¹⁷

The 2017 NetClean Report highlighted the increase in live-streaming of child abuse material as a key finding from their surveys of police officers: 10.7% of police officers surveyed for the report said they had seen an increase in live-streaming real-time abuse.¹⁸

1.2. *Australia*

For the three years from June 2013, the Australian Federal Police (AFP) and the Commonwealth Director of Public Prosecutions (CDPP) have identified the ‘increase in crimes involving the sexual exploitation of children on the internet’ as ‘a significant law enforcement challenge shared by all countries’.¹⁹ In 2017 Commander Lesa Gale of the AFP reported receiving ‘a tsunami of reports of child exploitation’,²⁰ and the CDPP featured the case of Bryan Beattie, convicted of offences related to live-streaming child abuse material as illustrative of their work in the 2016–17 period.²¹

In February 2015, the AFP reported receiving 5617 referrals of online child sexual exploitation in the 12 months prior, an increase of 54% from the period before.²² The figure for the whole of 2015 was 11,000.²³ The AFP reported similar levels of reporting in 2016–17,²⁴ however, the Office of the eSafety Commissioner received nearly 8000 complaints of online child sexual abuse content which was a 49.65% increase on 2015–16 levels.²⁵ There has also been an increase in the number of prosecutions and convictions for online procurement and grooming offences in NSW and Victorian Courts.²⁶

The most recent data released by the AFP is the number of referrals it has received from just one agency, the National Center for Missing and Exploited Children (NCMEC). The AFP reports receiving 11,301 such referrals in 2018, only up until 25 July. This is a significant increase from 9737 reports for the whole of 2017 and 8625 for 2016.²⁷

1.3. *Recommendation*

We recommend that the Australian Government collect and analyse data on the prevalence of child abuse material offences, particularly those involving live streaming which would fall within the definition of OSEC discussed here. This will help to ensure law enforcement resources are appropriately allocated.

2. **Legislative Reform and Distribution**

CRC Recommendation: Australia should ‘continue its efforts to harmonize domestic legislation with the Optional Protocol’ and ‘define and prohibit all cases of sale of children, child prostitution and pornography’.²⁸

There has been progress on this front with respect to OSEC. However, further reforms are needed at the Commonwealth level particularly in relation to the ‘distribution’ aspect of the protocol in the context of networks.²⁹

2.1. *Legislative Improvements since 2011*

Following recommendations by IJM Australia that NSW criminal legislation be updated to better respond to the growth of OSEC, the *Modern Slavery Act 2018* (NSW) Schedule 4 was passed. This introduced amendments to ensure that the commissioning of the online abuse of children is treated with the same severity as hands-on offending. Schedule 4 applies to the production of child abuse material and was designed to respond to the recurring circumstances of offenders commissioning abuse of young children via facilitators in the Philippines, with that abuse being recorded.

Aggravated offences: The Act introduces aggravated offences of producing child abuse material, meaning the sentence will be automatically increased in the case where offenders record the online sexual abuse they commission and the child is under 10 or an overseas facilitator is involved. This means child abuse commissioned online is rightly treated with the same seriousness as hands-on offending.

Improving prosecution: The Act makes it easier for prosecutors to obtain convictions for the crime of producing child abuse material, by making it unnecessary to prove that the offender knew the victim’s age. This is similar to equivalent Commonwealth legislation on the same subject matter.³⁰

Currently, the Crimes Legislation Amendment (Sexual Crimes Against Children and Community Protection Measures) Bill 2017 (Cth) is before Federal Parliament which amends the *Criminal Code* (Cth) to introduce similar aggravated offences and aggravating factors. It is designed to respond to the consistently lower sentences received by offenders despite the policy that such offences should be treated equally to hands-on offending.³¹ The Commonwealth offences would apply to live-streaming OSEC cases regardless of whether it is recorded or not, which is a critical gap in the law at this time. The Bill also increases the sentences for non-aggravated offences covering OSEC offending.

- The Bill expands the aggravating factors in the offences under *Criminal Code* (Cth) ss 272.10 and 474.25B to include ‘cruel, inhuman or degrading treatment’ or death: Sch 4 items 2–3, 24–6.
- Courts would be required to specifically consider whether the child was under 10 years of age and whether there were multiple people involved in the offence: Sch 9.
- The maximum penalties for several offences that cover cybersex trafficking have been increased by 3 years: Sch 5.
- The Bill requires courts not to lower the sentence by grouping like offences where the offences involve child sex offences, including those that cover cybersex trafficking, unless the overall sentence would still reflect the severity of the offence: Sch 10.
- The Bill introduces a presumption that imprisonment is required for child sex offences, such as those that cover cybersex trafficking, unless exceptional circumstances apply: Sch 11.

- The Bill removes all references to ‘child pornography’ in the legislation and such material has been included within the definition of ‘child abuse material’. This helpfully removes terminology that diminishes the seriousness of the conduct: Sch 15.
- The Bill clarifies that the offences under ss 272.9(1), 272.13(1) and 474.25A include where the abuse occurs via an electronic communication service: Sch 4 item 27.
- The Bill also introduces a presumption against bail (Sch 7) and greater severity in the parole regime (schs 1, 13–14) to protect the community from offenders.

2.2. *Growth of Networks and Distribution*

An emerging feature of cybersex trafficking cases is the complex criminal networks that facilitate the sharing and production of child abuse material. Covert operations involving cooperation between state and federal police forces have resulted in the rescue of hundreds of children and multiple arrests,³² and just one covert operation can potentially dismantle an entire network.³³

This trend has become more apparent in just the past year. In 2017, Taskforce Argos of the Queensland Police stated: ‘We are also seeing more images generated from live cams and live-streaming. There are dedicated sections on forums explaining how to access children online and there are people who specialise in videoing victims.’³⁴ Similarly, the Australian Criminal Intelligence Commission noted: ‘Forums and networks on the darknet that facilitate CEM exchange are growing in number as users become more technologically proficient.’³⁵

This is consistent with what IJM has encountered in our investigations alongside the Philippines National Police into cybersex trafficking. Many of the investigations are the result of tips from overseas countries such as the US, UK and Australia where an investigation there has uncovered a network of offenders, some of whom have been in contact with persons in the Philippines making children available for live-streaming sessions.

2.3. *Legislative Response to Networks*

Three Australian States have enacted legislation which criminalises the administration of computer networks for the purpose of sharing child exploitation material:

- In NSW, the *Modern Slavery Act 2018* (NSW) sch 4 makes it an offence to administer a ‘digital platform’ if one is aware others are using it for child abuse material.
- In Victoria, the *Crimes Amendment (Child Pornography and Other Matters) Act 2015* (Vic) made it an offence to: ‘to administer or encourage the use of [a] “child pornography website”’ and ‘to provide information to a person that is likely to assist them in avoiding capture or prosecution for committing one of these offences’.³⁶
- In Queensland, the *Serious and Organised Crime Legislation Amendment Act 2016* (Qld) introduces similar offences to the Victorian legislation, and also included an aggravating factor of using ‘a hidden network or an anonymising service’ which further increased the sentence for these offences.³⁷

The Crimes Legislation Amendment (Sexual Crimes Against Children and Community Protection Measures) Bill 2017 (Cth) also includes amendments that would introduce similar reforms to those above:

- Criminalising the setting up of electronic systems to facilitate the sharing of child abuse material (eg, setting up a peer to peer network on the Dark Web): sch 4 item 20; and
- Criminalising the grooming of third parties to make it easier to engage in sexual activity with a child (eg, forming a relationship with traffickers in the Philippines): sch 4 item 27.

2.4. *Recommendation*

The Commonwealth Government should pass the Crimes Legislation Amendment (Sexual Crimes Against Children and Community Protection Measures) Bill 2017 (Cth), particularly the provisions addressing the sentences for offences covering OSEC and targeting criminal networks facilitating OSEC.

3. Internet Service Providers

CRT Recommendation: The Australian Government should ‘ensure internet service providers restrict access to child abuse sites in order to deter child sex offenders from accessing these images and blocking inadvertent access from users seeking other material’.³⁸

3.1. *Poor ISP Compliance*

Section 313(3) of the *Telecommunications Act 1997* (Cth) requires that ISPs ‘give officers and authorities of the Commonwealth and of the States and Territories such help as is reasonably necessary’ to enforce criminal legislation, which includes provisions against OSEC offences. However, the *Behind the Screen Report* quoted a senior Queensland Police officer in Taskforce Argos that estimated ISP compliance rates at ‘about 20 or 30 percent’.³⁹ In the first five months of 2017, there were 79 reports of ISP non-compliance.⁴⁰ There are also reports of ISPs charging law enforcement fees associated with compliance with the requirement.⁴¹

Section 474.25 of the *Criminal Code* (Cth) currently criminalises a failure of ISPs to pass on information where they are aware that someone is using their service for child exploitation material. The Crimes Legislation Amendment (Sexual Crimes Against Children and Community Protection Measures) Bill 2017 (Cth) introduces amendments to increase the penalty for this offence by a factor of 8:

- The penalty for internet service providers that fail to report known use of their service for child abuse material would increase from 100 penalty units to 800 penalty units: sch 5 item 7. This increases the maximum penalty for companies from \$105,000 to \$840,000.⁴² This would make Australia a world leader in this area and will encourage more vigilant compliance from ISPs.

3.2. *Recommendation*

The Commonwealth Government should pass the provisions of the Crimes Legislation Amendment (Sexual Crimes Against Children and Community Protection Measures) Bill 2017 (Cth) that increase the penalties for ISPs that do not provide information to law enforcement. The Government should also pursue other measures to increase the compliance and cooperation of ISPs with law enforcement to combat OSEC.

4. Victim Support

CRC Recommendation: The Australian Government should ‘[e]nsure that *all child victims* have access to adequate procedures to seek, without discrimination, compensation for damages from those legally responsible’ and ‘[g]uarantee that *all child victims* have access to adequate procedures to seek, without discrimination, compensation for damages from those legally responsible’.⁴³

CRT Recommendation: The Australian Government should ‘develop architecture and protocols that ensure that the rights, interests, and special needs of child victims are met’.⁴⁴

Victims of OSEC have extremely complex needs. This is borne out by research undertaken by Terres des Hommes and by IJM’s casework in the Philippines. Further, there is evidence that the severity of violence involved in cases of OSEC is escalating, or has a tendency to escalate. However, while some legislation may theoretically provide access to compensation for victims of these crimes when committed by Australian perpetrators, there is little evidence of this being used in practice.

4.1. Increasing severity

Dutch NGO Terres des Hommes posed as a ten-year-old Filipino girl and interacted with 20,172 predators from 71 countries in 2013, including Australia.⁴⁵ They found that ‘[m]ost commonly [the predators] asked to watch children masturbate or to watch a child have sex with someone’.⁴⁶ The researchers noted these requests and a child willing to comply with them seemed normal to the predators, as though it was quite common.⁴⁷

One of the dangers is that the level of abuse often escalates at the request of the customer with the promise of more money.⁴⁸ In 2012, Victorian offender Dominic Hickey ‘negotiated’ with abusers in the Philippines to see younger and younger children abused before he agreed to pay.⁴⁹ The convictions of Australians Brett Le Gassick in 2014 and Kyle Dawson last year both involved the provision of directions to abusers in the Philippines of the abuse they wished to see.⁵⁰ Researchers have found that the seemingly distanced nature of communication makes predators more comfortable making more extreme requests.⁵¹

In an update on cybersex trafficking published in November 2016, Terres des Hommes reported that the trend in recent years was that the ‘victims are getting younger and in many cases exposed to ever more extreme sexual violence’.⁵²

4.2. Impact on victims

However, even where the abuse is of a less severe nature, children can still suffer harmful consequences. All 44 children interviewed by Terres des Hommes in a study investigating the impacts of online sexual exploitation on children reported ‘reported feeling dirty, ashamed, and embarrassed, both during and after webcam sex performances’.⁵³ The same response has been observed even for children who did no more than pose naked.⁵⁴ These have been seen to lead to:

- ‘high levels of psychosocial distress manifested in traumatic sexualization, a sense of betrayal, social stigmatization, and a sense of powerlessness’;
- ‘low self-esteem and low feelings of self worth’;
- ‘self-destructive behaviour, including alcohol and drug abuse’; and

- sexualised behaviour.⁵⁵

Victims of online sexual exploitation also have complex needs due to the frequent involvement of parents and families in the abuse, the relatively younger age of the children (in comparison to cases of street-based commercial sexual exploitation), and the greater number of boys involved.⁵⁶

4.3. *Existing Support*

The NSW *Modern Slavery Act 2018* (NSW) modified the *Victims Rights and Support Act 2013* (NSW) so that victims of a ‘modern slavery offence’ will have access to compensation under that act, which can include services for counselling and financial assistance needed to recover from the crime.⁵⁷ The legislation appears to intend that such provisions can extend to victims who are ‘resident outside Australia’⁵⁸ or otherwise ‘overseas’.⁵⁹

Additionally, there is Commonwealth legislation that allows courts to make ‘reparation orders’ to victims of Commonwealth crimes, which include those involving OSEC.⁶⁰ However, there is no evidence of these ever being used to compensate for modern slavery offences⁶¹ (which encompass cybersex trafficking⁶²) or other OSEC offences.⁶³

However, making the recovery of compensation for victims conditional on the prosecution of a criminal offence may be an inefficient way of getting support to victims who are often in urgent need.⁶⁴ This is particularly the case where victims cannot be identified, which is an increasing problem with the use of encryption and other techniques associated with child exploitation material.⁶⁵

IJM’s casework indicates that Philippines welfare services require support adjusting to the special needs of victims of OSEC noted above. We are currently working with local agencies to develop best practice tools for aftercare provision in relation to this crime.⁶⁶

4.4. *Recommendation*

Australia should provide funding to projects in countries such as the Philippines to provide support for victims of OSEC. General funding to improve victim welfare services should be provided through a ‘victim-centred’ approach rather than linking compensation to the prosecution of a crime.

5. **Awareness**

CRC Recommendation: Australia should ‘make its provisions [under the OPSC] widely known among the public’.⁶⁷

5.1. *Existing Efforts*

Currently, the focus of many agencies that are dealing with the issue of child exploitation material in terms of awareness raising is on instructing children and others on how to ensure they use the internet safely so that they are not victimised. Such agencies include: NSW Police Child Exploitation Internet Unit; ThinkUKnow; and eSafety Commissioner.⁶⁸

However more work is needed to promote the fact that engaging in activity that comprises up OSEC offences is illegal and carries severe penalties. Research by Prichard and Spiranovic indicates that OSEC offenders may normalise their behaviour over time, leading to more deviant offending, and measures to prevent that process occurring can be effective at

protecting victims.⁶⁹ This research also suggests that workplace policies can be effective at raising awareness in this way.⁷⁰

The NSW *Modern Slavery Act 2018* (NSW) includes provisions that will require the review of Government workplace information and communication technology policies to ensure they have adequate provisions to deal with child exploitation material.⁷¹

There is anecdotal evidence that the fear of getting caught has led some OSEC offenders to cease their activities, which supports general deterrence theories being applicable.⁷² The good work being done by various governments to ensure OSEC is adequately criminalised and punished will be ineffective without effective awareness campaigns targeted at offenders.

5.2. Recommendation

The Government should promote best practice information and communication technologies as a method of raising awareness about the criminality of OSEC and other child exploitation material offences.

The Government should engage in broader awareness raising efforts targeted at potential offenders.

6. Innovative Interventions

CRT Recommendation: The Australian Government should ‘continue to fund innovative international interventions and child protection system work that fills gaps in the response in areas of prevention, protection and the criminal justice responses to child trafficking and child sex tourism’.⁷³

6.1. ACCCE

The ACCCE is the product of the Australian Government’s commitment of \$68.6 million over four years to ‘create a hub of expertise and specialist skills needed to detect, disrupt, prevent and investigate child exploitation’.⁷⁴ Features of the ACCCE include:

- A target to ‘identify and remove from harm more than 200 child victims each year’;
- Coordinate and integrate the response of multiple state and federal government intelligence and law enforcement agencies;
- Better link Australian efforts with international law enforcement;
- ‘[E]nable the AFP to expand the staff of its existing Child Protection Operations by around 30 per cent over the next financial year and then a further 30 per cent the following year’.⁷⁵

The intent to improve collaboration with international law enforcement will be particularly important to address OSEC. A number of IJM’s operations with the Philippines National Police into cybersex trafficking have been the result of tip-offs from the AFP and other overseas law enforcement agencies.⁷⁶ Furthermore, interagency cooperation has been a critical part of numerous operations in Australia and overseas that have resulted in hundreds of arrests, as investigations by one agency provide leads for another.⁷⁷

6.2. *Strengthening Justice Systems Overseas*

IJM believes a core element needed to address OSEC and protect children around the world, including those victimised by Australian perpetrators, is the strengthening of justice systems in countries where the abuse is being facilitated. IJM has partnered with local authorities to investigate, prosecute and empower victims of bar and street-based commercial sexual exploitation of children in the Philippines and Cambodia. This collaborative casework has allowed us to identify and eliminate weaknesses in the system that prevent laws from being enforced and victims from being assisted. In six cities where we have worked against commercial sex trafficking, we have seen measurable reductions in the prevalence of children in the sex trade by over 75%.⁷⁸

We are currently applying the same model to OSEC in the Philippines and are seeing promising results. As noted above, between 2016 and 2017, we saw 158 victims rescued, 74 perpetrators arrested, and 18 perpetrators convicted in partnership with local authorities. There is evidence that this is having an effect on the justice system, with our Manila office recently supporting a case that took just four and a half months to secure a conviction.⁷⁹ This is a dramatic improvement since Terres des Hommes noted in 2016 that such cases usually take two years or more to prosecute.⁸⁰

This indicates that our model, which has produced dramatic reduction in the prevalence of commercial sexual exploitation, can have a similar effect on OSEC.

6.3. *Recommendation*

The Government should continue to and expand the funding of the ACCCE.

The Government should invest in projects designed to strengthen the response of the public justice system in countries in which OSEC is being facilitated.

Appendix: Recent Cases of Cybersex Trafficking in Australia

1. Bryan Beattie

Pleaded guilty to 21 counts of causing a child to under 16 to have sexual intercourse outside Australia in the presence of himself, as well as other charges. The offences occurred between 2012 and 2014 and involved him paying amounts ranging from \$12 to \$540 to watch 17 children being sexually assaulted in the Philippines via Skype, between the ages of eight and 15. He also gave instructions on the type of abuse he wanted to see.

Note, he was not charged with an offence of ‘cybersex trafficking’ as the media reported, because such an offence does not exist. He was charged with an offence that matches some of the facts of his offending as described above.

During sentencing on Monday 27 March 2017, he stated:

- ‘Basically I previously rationalised the fact that because I wasn’t physically present I wasn’t physically committing the offences as such — I was somehow not a part of it’.
- ‘The children appeared happy ... the children appeared to be receiving benefit from the actual situation’.
- However, he eventually realised the harm he was inflicting on his victims after reading media reports about cybersex trafficking. He agreed to assist police because he wanted ‘just to stop the abuse from continuing’.
- He told police he was part of a Facebook group of paedophiles that shared images of child abuse material.
- Now he says, ‘I’m deeply ashamed- I constantly think about my victims, the effect and the damage I have caused them’.

Note, the sentencing judge did not accept Beattie’s claim that he stopped because he realised the harm he was causing. The sentencing judge said it was because he was nervous about getting caught.

He was ultimately sentenced to **10 years of imprisonment**, with a 6 year non-parole period. Following an appeal by the CDPP, this was increased to **13 years of imprisonment** with a 9 year non-parole period.

Good quote relating to this crime: ‘NSW Police Sex Crimes Detective Inspector Mick Haddow told The Daily Telegraph those who paid to watch the sexual abuse of a child were “**every bit as complicit as those who facilitate it**”.’

Sources:

- Emma Partridge, ‘[First Paedophile in NSW Charged with Cybersex Trafficking](#)’, *The Daily Telegraph* (online), 27 March 2017.
- Emma Partridge, ‘[Sydney Paedophile Charged with the First “Pay-per-View” Sex Offence Named](#)’, *The Daily Telegraph* (online), 28 March 2017.
- Emma Partridge, ‘[Sydney Skype Paedophile Is Jailed for 10 Years for “Evil” Crimes](#)’, *The Daily Telegraph* (online), 14 June 2017.
- [Director of Public Prosecutions \(Cth\) v Beattie](#) [2017] NSWCCA 301 (8 December 2017).

2. Kyle Dawson

Kyle Dawson pled guilty to offences of procuring a child to engage in sexual activity outside Australia as well as child abuse material offences. He paid approximately \$60 per view to watch the abuse of children in the Philippines via Skype. His victims were 'girls aged about 6, 10 and 12 and a boy aged about 8'. He recorded the sessions to view at a later date and possibly to share. His defence counsel said he had an addiction to child abuse material.

The AFP who arrested Dawson examined his computer and were able to trace the location where from where the live-streaming was taking place, and provided the information to police in the Philippines. IJM assisted the Philippines in arranging a sting operation where the offender was captured. The offender was the aunt of some of the victims.

The total sentence was **5 years of imprisonment** with a 2 year non-parole period.

Sources:

- Rae Wilson, '[Kiwi Jailed Over "Degrading" Acts](#)', *The New Zealand Herald* (online), 28 July 2016.
- [Australian Cyber Predators Using Live Streaming Technology to Abuse Children Overseas](#) (Reported by Michael Atkin, ABC 7.30, 2016)

3. Dominic Hickey

Was convicted of procuring a child for sexual activity outside Australia. This involved four occasions between March and June 2012 where he paid \$14 to view children in the Philippines being sexually assaulted via webcam. On each occasion he negotiated for the type of abuse he wanted to see, the age of the victim, and he ensured that he viewed the child before making the payment. On two occasions the abuse took place, but on two occasions he was, in his words, 'ripped off'. In one case he requested that a girl be abused 'like [in] a porno film'. He had requested children aged 4 to 8 years old.

The offender had been well-educated and had been a barrister, although he later had financial difficulties.

He pled guilty and was sentenced to **7.5 years' imprisonment** with a fixed non-parole period of 5 years.

Sources:

- [DPP v Hickey](#) [2013] VCC 1319 (10 September 2013)
- Adam Cooper, '[Dominic Hickey Jailed for Paying for Sexual Abuse of Girls in the Philippines](#)', *The Age* (online), 10 September 2013.

4. Patrick Goggins

Goggins was convicted in 2014 of several counts relating to the commissioning of the sexual abuse of children via webcam. He told police his victims would be 'out on the scrapheap, living on rubbish' but for his paying them to be abused. In addition to the commissioning of the abuse, he also recorded several of the sessions. Goggins was a Vietnam veteran suffering PTSD.

This case is significant because Goggins was charged with and convicted under *Criminal Code* (Cth) ss 272.9(1) and 272.11(1) – engaging in sexual activity with a child outside Australia and persistent sexual abuse of a child outside Australia. This is despite the fact that the offence took place via webcam.

He was also charged for producing child pornography under *Criminal Code* (Cth) s 474.20(1) based on the fact that he recorded one of the live-streaming sessions and made it available to another person via the internet.

Sources:

- [R v Goggins](#) [2014] VCC 1086 (7 July 2014)
- Peta Carlyon, '[Melbourne Man Jailed for Using Internet to Sexually Abuse Children Living in Poverty in Philippines](#)', *ABC News* (online), 7 July 2014.
- Lindsay Murdoch, '[Philippine Children Exploited in Billion-Dollar Webcam Paedophilia Industry](#)', *The Sydney Morning Herald* (online), 8 July 2014.

Endnotes

- 1 IJM Australia, [Submission No 11](#) to the Legislative Council Select Committee on Human Trafficking in New South Wales, Parliament of NSW, 18 February 2017.
- 2 IJM Australia, [Submission No 31](#) to the Joint Committee on Law Enforcement, Parliament of Australia, *Inquiry into Human Trafficking*, 24 February 2017.
- 3 See [Modern Slavery Act 2018](#) (NSW) sch 4.
- 4 See [Crimes Legislation Amendment \(Sexual Crimes Against Children and Community Protection Measures\) Bill 2017](#) (Cth).
- 5 Child Rights Taskforce Steering Committee, '[Listen to Children: Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography \(2000\)](#)' (July 2011) ('*Listen to Children OPSC Report*').
- 6 Committee on the Rights of the Child, *Consideration of Reports Submitted by States Parties under Article 12, Paragraph 1, of the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography: Concluding Observations: Australia*, 60th sess, UN Doc [CRC/C/OPSC/AUS/CO/1](#) (24 September 2012) ('*Concluding Observations on Australia on OPSC*').
- 7 Terres des Hommes, '[Webcam Child Sex Tourism](#)' (4 November 2013) 55. In [DPP \(Cth\) v Watson](#) [2016] VSCA 73, 'the respondent was also charged ... for a number of live webcam transmissions of Skype, which involved the victim touching herself and masturbating, at the request of the respondent' and Beach JA noted that '[t]his example is representative of much of the offending involving individual victims': at [26].
- 8 *Concluding Observations on Australia on OPSC*, above n 6, [7].
- 9 *Listen to Children OPSC Report*, above n 5, 6.
- 10 See NetClean, [The NetClean Report 2016](#) (2016) Insight 4.
- 11 Jennifer Burn, Ian Dobinson and Beau Neilson, '[Behind the Screen: Online Child Exploitation in Australia](#)' (Anti-Slavery Australia, 2017) ch 1 ('*Behind the Screen Report*').
- 12 IJM Australia, [Submission No 31](#) to the Joint Committee on Law Enforcement, Parliament of Australia, *Inquiry into Human Trafficking*, 24 February 2017, 7–8.
- 13 [Evidence](#) to Senate Standing Committee on Legal and Constitutional Affairs, Parliament of Australia, Canberra, 25 May 2010 (Australian Institute of Criminology).
- 14 National Center for Missing and Exploited Children, [Key Facts](#) (2016).
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Victoria alone indicates there were 124 convictions under s 474.27 from 2010 to 2015:
Sentencing statistics from [Judicial Information and Research System](#) (NSW) and [Sentencing
Advisory Council](#) (Vic). By contrast from October 2008 to November 2013, there were only 150
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Council, [Standard Non-parole Periods: Sexual Offences against Children](#) (2013) 24. The
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2013) 55. See, eg, [DPP v Hickey](#) [2013] VCC 1319, [2]–[5] (Judge Hampel); [DPP v Le Gassick](#)
[2014] VCC 1288, [7], [11]–[14] (Judge Gaynor).
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