

**In The
Supreme Court of the United States**

DOYLE RANDALL PAROLINE,

Petitioner,

v.

AMY UNKNOWN and UNITED STATES,

Respondents.

**On Writ Of Certiorari To The
United States Court Of Appeals
For The Fifth Circuit**

**BRIEF OF ECPAT INTERNATIONAL
AS *AMICUS CURIAE*
IN SUPPORT OF RESPONDENTS**

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INTERESTS OF *AMICUS CURIAE*¹

Amicus Curiae, ECPAT International is a global network of organizations in 75 countries dedicated to protecting children by coordinating research, advocating on children’s behalf, and acting to end the commercial sexual exploitation of children, and ECPAT USA is an ECPAT International member organization, which focuses on the sexual exploitation of children in the United States and children impacted by American sex tourists traveling abroad (ECPAT International and ECPAT USA are hereinafter referred to as “ECPAT”). For the past 20 years, ECPAT has worked to stop the commercial sexual exploitation of children, including child prostitution, child pornography, child sex trafficking, and child sex tourism. ECPAT contends that the production, dissemination, or viewing of child pornography constitutes child abuse and violates the dignity and rights of aggrieved children. Further, research has shown an increasing link between the consumption of child pornography and child sexual abuse.

¹ Pursuant to Supreme Court Rule 37.3(a), all parties have consented to the filing of this brief. Letters evidencing such consent have been filed with the Clerk of the Court.

Pursuant to Supreme Court Rule 37.6, *Amicus Curiae* affirms that no counsel for any party authored this brief in whole or in part, and no counsel or party made a monetary contribution intended to fund the preparation or submission of this brief. No person other than *Amicus Curiae*, its members, or its counsel made a monetary contribution to the preparation or submission of this brief.

The international child rights community, which includes the United Nations and ECPAT, believes that any meaningful reduction in child pornography and child sex abuse requires criminalization of the intentional viewing and possession of child pornography. In prohibiting and punishing such activities, laws should protect all victims of sexually abusive and exploitative practices and ensure that law enforcement and judicial processes adopt child sensitive procedures. To provide a full and effective remedy for child sexual abuse victims, laws should also include procedures and remedies that address long-term injuries arising from such abuse, such as specialized psychological recovery and social reintegration services.



SUMMARY OF ARGUMENT

The rapid advancements in information and communication technology (“ICT”) have led to an unprecedented expansion of the child pornography industry. Today, child pornography is easier than ever to produce, store, manipulate, reproduce, distribute, sort, and conceal. For example, internet-based ICT enables “grooming” – the process of preparing children for future sexual abuse – by providing platforms on which child sex abusers can meet children, send children pornography, and avoid detection. Yet, laws enacted to protect victims of child sexual exploitation have yet to catch up to the rapid growth of ICT.

While it may be tempting to view the prevalence of child pornography as an extraterritorial issue, the reality is that innumerable offenses are committed against children by residents of the United States both within the United States and while traveling outside the country. Moreover, the harm to children caused by child pornography is not limited to the actual victim (although, and without question, the victim suffers unforgettable harm); the act of viewing pornography harms children generally. A consumer of child pornography helps create a market and demand for new images or “representations” of child abuse, which, in turn, necessitates more abuse.

Victims of child pornography suffer proximate, immediate, and persistent harm; whether physical, psychological, or social; whether from the production, distribution, or possession of these materials. These children often require lifelong, specialized recovery and reintegration services because the child’s recovery can be undermined by the continued existence of the pornographic materials online, forcing the victim to repeatedly confront the evidence of his or her abuse.

Unfortunately, these crucial rehabilitative services are expensive and unaffordable for many victims, despite their need. Public programs supporting recovery for victims exist in the United States, but are understandably expensive to maintain. Thus, the offenders, who are responsible for perpetuating the victim’s suffering by producing, distributing, and possessing the illegal pornographic materials, should

be required to pay the restitution needed to make the victim physically, psychologically, and socially whole.

In fact, the right to restitution for victims of child sexual exploitation is well established in multiple international instruments. Notably, this right to restitution includes the right to sanctions against the victim's abuser(s). Given the United States' ability to influence legislation worldwide, and because child pornography is a multi-jurisdictional problem, the United States should comply with existing international legal standards.

Accordingly, this Court should rule in favor of Respondents, Amy Unknown and the United States, giving victims of child sexual exploitation in the United States a much needed – and deserved – right to restitution from their abuser(s).



ARGUMENT

I. SINCE THE EARLY 1990'S THERE HAVE BEEN RAPID, WORLD-WIDE ADVANCES IN TECHNOLOGY RESULTING IN AN UNPRECEDENTED PROLIFERATION OF CHILD SEX ABUSE MATERIALS

About 40% of the world's population is online with approximately 2.7 billion internet users. *See THE WORLD IN 2013: ICT FACTS AND FIGURES 2* (Int'l Telecomm. Union ed., Feb. 2013) [hereinafter *THE WORLD IN 2013*], *available at* <http://www.itu.int/en/ITU-D/Statistics/Documents/facts/ICTFactsFigures>

2013.pdf. A substantial number of those users are children and young people. DEBORAH MUIR, VIOLENCE AGAINST CHILDREN IN CYBERSPACE 20 (ECPAT Int'l ed., 2005) [hereinafter CYBERSPACE], *available at* http://resources.ecpat.net/EI/Publications/ICT/Cyberspace_ENG.pdf. There are upwards of 245 million internet users in the United States alone and over 100 countries have at least one million internet users apiece. *See The World Factbook: Internet User Statistics*, CENTRAL INTELLIGENCE AGENCY (2009), <https://www.cia.gov/library/publications/the-world-factbook/rankorder/2153rank.html>. Manifestations of commercial sexual exploitation of children are prevalent in countries that have experienced rapid growth of unregulated and unmonitored ICT infrastructures. ECPAT INT'L, REGIONAL OVERVIEW ON CHILD SEXUAL ABUSE IMAGES THROUGH THE USE OF INFORMATION AND COMMUNICATION TECHNOLOGIES IN BELARUS, MOLDOVA, RUSSIA AND UKRAINE 19-20 (ECPAT Int'l ed., 2008) [hereinafter REGIONAL OVERVIEW], *available at* http://resources.ecpat.net/EI/publications/journals/regional_overview.pdf.

A. Recent Advances in Technology Make the Production, Distribution and Consumption of Child Pornography More Efficient, Permanent, and Difficult to Detect

The term "ICT" encompasses everything from mobile telephones to laptop computers to the method by which such devices operate and the systems that ensure they are connected. REGIONAL OVERVIEW at

19-20. The unchecked progress and breadth of ICTs has enabled the global economy to grow exponentially, ECPAT INT'L, THE USE OF INFORMATION AND COMMUNICATION TECHNOLOGIES IN CONNECTION WITH CASES OF CHILD-SEX TOURISM IN EAST AND SOUTHEAST ASIA 15-16 (ECPAT Int'l ed., 2010) [hereinafter SOUTHEAST ASIA], *available at* http://resources.ecpat.net/EI/publications/journals/ECPAT%20Journal_Mar2010_Final.pdf, but has also prompted an unprecedented expansion of the child pornography industry, CYBERSPACE at 20-21.

As in other areas of the law, the rapid progress of technology and its facilitation of the production, distribution, and consumption of child pornography vastly outpaces the enactment of laws that protect its victims. Many international treaties and laws within the United States, *see, e.g.*, United Nations Convention on the Rights of the Child, Nov. 20, 1989, 1577 U.N.T.S. 3 [hereinafter Convention]; Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution, and Child Pornography, May 25, 2000, 2171 U.N.T.S. 227 [hereinafter Optional Protocol], that protect the rights of children were conceived of and drafted long before the advent of the internet, personal computers, and other technology that are now a regular part of the daily lives of millions. In just the last few years, internet access and mobile telephones with internet and camera capabilities (“smartphones”) have become ubiquitous, available globally and even in countries that are otherwise not technologically advanced or

economically affluent. SOUTHEAST ASIA at 19; *see also* Joanna Brenner, *Pew Internet: Mobile*, PEW ONLINE (Sept. 18, 2013), <http://pewinternet.org/Commentary/2012/February/Pew-Internet-Mobile.aspx> (56% of American adults own a smartphone, providing them with easy, mobile access to the internet). The speed and reliability of the networks used to connect these devices has also increased rapidly, particularly in less developed countries. *See* THE WORLD IN 2013 at 1.

Due to these rapid improvements in technology, child pornography is now easy to produce, store, manipulate, reproduce, distribute, and conceal. REGIONAL OVERVIEW at 20. Although the advent of ICTs has not necessarily created novel abuses or offenses against children, it has augmented the scale of those that currently exist. UNICEF INNOCENTI RESEARCH CTR., CHILD SAFETY ONLINE: GLOBAL CHALLENGES AND STRATEGIES 1 (UNICEF ed., 2012) [hereinafter CHILD SAFETY ONLINE], *available at* http://www.unicef-irc.org/publications/pdf/ict_techreport3_eng.pdf. The Department of Justice has noted a significant proliferation in child pornography aided by the rise of the internet. U.S. DEP'T OF JUSTICE, THE NATIONAL STRATEGY FOR CHILD EXPLOITATION PREVENTION AND INTERDICTION: A REPORT TO CONGRESS 2 (U.S. Dep't of Justice ed., 2010) [hereinafter NATIONAL STRATEGY], *available at* <http://www.justice.gov/psc/docs/execsummary.pdf>.

“[C]yberspace is host to more than 1 million images of tens of thousands of children subjected to sexual abuse and exploitation.” CYBERSPACE at 30

(citations omitted). In the United States, the National Center for Missing and Exploited Children (“NCMEC”) has received more than 1.9 million reports of suspected child sexual exploitation and has analyzed more than 90 million images and videos depicting apparent child pornography. *Child Sexual Exploitation*, NAT’L CTR. FOR MISSING & EXPLOITED CHILDREN, <http://www.missingkids.com/exploitation> (last updated June 2013). The Child Exploitation and Online Protection Centre (“CEOP”) estimates that, in 2012 alone, approximately 50,000 individuals in the United Kingdom downloaded and shared indecent images of children. CHILD EXPLOITATION AND ONLINE PROT. CTR., THREAT ASSESSMENT OF CHILD SEXUAL EXPLOITATION AND ABUSE 8 (CEOP ed., 2013) [hereinafter THREAT ASSESSMENT], *available at* http://www.eop.police.uk/Documents/ceopdocs/CEOP_TACSEA2013_240613%20FINAL.pdf. The FBI estimates the existence of at least 40,000 public, internet chat rooms in which predators seek to meet and abuse children. MICHAEL SHIVELY ET AL., SURVEY OF PRACTITIONERS TO ASSESS THE LOCAL IMPACT OF TRANSNATIONAL CRIME, TASK ORDER: FINAL REPORT 14 (Abt Assocs. Inc. ed., 2003), *available at* <https://www.ncjrs.gov/pdffiles1/nij/grants/217587.pdf>. The FBI and the United Nations have estimated that 750,000 predators are connected to the internet at any given moment. Special Rapporteur on the Sale of Children, Child Prostitution and Child Pornography, *Promotion and Protection of all Human Rights, Civil, Political, Economic, Social and Cultural Rights, Including the Right to Development*, ¶ 34, U.N. Doc. A/HRC/12/23 (July 13, 2009) (by

Najat Maalla M'jid) [hereinafter *Promotion and Protection*].

As it proliferates, child pornography has become more extreme, portraying more violent subject matter and increasingly younger victims. NATIONAL STRATEGY at 2. A United States study found that “92 per cent of [sexual] offenders were in possession of images of minors that emphasized their sexuality or images of minors involved in explicit sexual activities; 80 per cent of the images depicted anal penetration of a child, including oral sex, and 21 per cent had child pornography material depicting violent scenes, including rape, bondage and torture of children.” *Promotion and Protection* at 10.

Capturing representations of child pornography is easier to do and harder to detect than ever before, in no small part due to the proliferation of digital cameras, digital camcorders, and, most significantly, mobile telephones with camera functions. SOUTHEAST ASIA at 25. New devices come equipped with functions that make vacation photographs and video recordings of friends easy to share with others or post online to various social media websites. However, these same features make it easy to take, edit, and share images of child pornography with others more rapidly and efficiently than ever before. *Id.* at 25 n.35. The very concept of a “diminutive device[,]” which includes “pens, wristwatches, necklaces, [and] pendants, . . .” embedded with USB memory, allows its presence to remain unsuspecting, and its proximity to children to remain unalarming. *Id.* at 25.

Representations of child pornography are frequently recorded offline and distributed at a later time, but new technologies allow abusers to record contemporaneously the abuse of a child while broadcasting it to others as the acts occur. *See* THREAT ASSESSMENT at 8. An abuser can set up a webcam and coordinate with others, anywhere in the world, who are provided online access to see a child being abused in real time, often paying money to the abuser or trading images to obtain access to the live abuse. *See* CYBERSPACE at 34.

Thus, the lifespan of a single representation is vastly different than it was 20 years ago. When a representation is uploaded onto a child pornography forum, the original representation continues to exist on the creator's device, awaiting further dissemination on any number of networks. The copy that was uploaded on the forum can now be downloaded by any number of users. Each user obtains his own copy; each user can share that copy on other networks. There is no limit to the number of copies of a representation that can exist; no limit to the number of forums that can host and share a representation. *CHILD SAFETY ONLINE* at 1. In essence, this allows child pornography to reproduce like cancerous cells: innumerable copies of a single representation, each dividing and multiplying exponentially, spreading across the globe.

Certain ICT storage devices, such as USB and portable hard drives, allow abusers to house and cultivate even larger collections of child pornography

than previously possible, yet remain much more difficult to detect than in the past. KENNETH V. LANNING, *CHILD MOLESTERS: A BEHAVIORAL ANALYSIS* 80 (NAT'L CTR. FOR MISSING & EXPLOITED CHILDREN ed., 5th ed. 2010) [hereinafter LANNING], *available at* http://www.missingkids.com/en_US/publications/NC70.pdf. It is not uncommon for police to discover, upon arrest of a child sex abuser, collections of literally hundreds of thousands of images. CYBERSPACE at 30. "It is possible to transfer an entire collection of digital libraries containing thousands of images through [USB storage devices]." SOUTHEAST ASIA at 25-26; LANNING at 80. Furthermore, the latest cloud-based technology (wherein media is stored on a remote server, not on the user's personal device, but is accessible by the user at any time) permits abusers to "keep" and access entire collections of child pornography without ever having to store them on their personal machines. *See* LANNING at 81.

The rapid pace of technological development results in an endless pursuit of abusers by those who strive to halt the unchecked flow of child pornography and abuse on the internet, including law enforcement agencies, ICTs, and other interested organizations. Efforts to filter child pornography or to prevent its access, to shut down abuser forums, or even to block individual abusers from a network, may be successful for a time, but are quickly circumvented by ever changing technology. *See* SOUTHEAST ASIA at 54.

Encryption technology, which allows abusers to disguise both their identities online as well as the

content of the representations they exchange, hinders efforts at detection and prosecution. *See, e.g.*, CYBERSPACE at 39-40.

B. New Technological Platforms Allow Child Sex Abusers to Easily Traffic Child Pornography, Access Children, and Communicate with Other Child Sex Abusers

The same breadth of websites, forums, social networks, and chat rooms that enables child sex abusers to share abusive representations and communicate with potential victims allows abusers to communicate with each other and form communities. *See, e.g.*, REGIONAL OVERVIEW at 31. Peer-to-peer (“P2P”) networks are particularly favored, as they allow two users’ devices to “communicate” with one another directly, instead of through a host server, thus making the exchange of information much more difficult to track. CYBERSPACE at 11 (“Peer-to-peer transmissions occur directly from one server to another without any tracking devices.”); *id.* at 49 (“Peer-to-peer communication is also popular among people exchanging images of child abuse (such networks involve no host servers and it is very difficult to monitor traffic between sites).”). Researchers analyzing the largest P2P networks found over 1.8 million distinct users from over 100 countries sharing hundreds of thousands of files verified to be child pornography. RYAN HURLEY ET AL., MEASUREMENT AND ANALYSIS OF CHILD PORNOGRAPHY TRAFFICKING ON P2P NETWORKS 1 (Int’l World Wide Web Conference Comm.

ed., 2013), *available at* <http://forensics.umass.edu/pubs/hurley.www.2013.pdf>.

1. ICTs Can Expand Child Sex Abusers' Access to Child Pornography and Create a Market for Such Representations

Within these on-line communities, abusers “swap pornographic images [of children] the way children swap baseball cards.” LANNING at 89. The exchange of representations provides the abusers with validation from those they consider their peers, reinforces their behavior, and provides a “common bond” with others. *Id.* Moreover, offenders may offer representations of abused children to gain access to other representations they do not yet possess, or even to gain access to a child with whom another party has contact. *Id.* at 91. In this way, these representations function as currency in the online sex abuse community; the more disturbing the act, the younger the child, or any other unusual characteristics, the greater the “value” of the representation. *See id.* As a result, the “market” necessitates further sexual victimization of children.² *See* Anthony Beech et al., *The Internet and*

² In this case, Petitioner Paroline “accessed 280 child-porn images over 15 days between September 2007 and July 2008.” Lee Hancock, *In Just a Few Clicks of Child Porn, Several Lives Are Ruined*, THE DALLAS MORNING NEWS, Nov. 28, 2010, *available at* <http://www.dallasnews.com/news/state/headlines/20101128-Just-a-few-clicks-of-5077.ece>. During that same period, Paroline
(Continued on following page)

Child Sexual Offending: A Criminological Review, in 13 AGGRESSION AND VIOLENT BEHAVIOR 216, 222 (Elsevier Ltd. ed., 2008) [hereinafter CRIMINOLOGICAL REVIEW]; *R. v. Sharpe*, [2001] 1 S.C.R. 45, ¶ 92 (Can.).

2. ICTs Facilitate the Grooming of Children for Sexual Abuse

“Grooming” refers to the process of preparing a child for future sexual abuse.³ Cyberspace and ICTs facilitate grooming in many ways, such as: providing numerous venues for abusers to meet children, simplicity of sending a child pornographic material, and ease of maintaining secrecy and avoiding detection by law enforcement agencies or the child’s parents. *See* CYBERSPACE at 46. The process of grooming is not criminalized in every country, nor is it well-defined even in those countries in which it can be a crime. *See* SOUTHEAST ASIA at 48 (describing the criminalization of grooming in various jurisdictions).

Child sex abusers often expose children to pornographic representations involving both adults and other children as part of the grooming process, to

began the process of adopting two toddler sisters, which adoption was almost final at the time of his arrest. *Id.*

³ “Grooming has been defined as the process of ‘befriending’ a young person online ‘to facilitate online sexual contact and/or a physical meeting with them with the goal of committing sexual abuse.’” CHILD SAFETY ONLINE at 15 (citing STEPHEN WEBSTER ET AL., SCOPING REPORT 7 (European Online Grooming Project ed., 2010), *available at* <http://www.europeanonlinegroomingproject.com/wp-content/file-uploads/EOGP-Project-scoping-report.pdf>).

prepare their victims for physical contact abuse. See CYBERSPACE at 13. “Pornography . . . is a tool for inducting and socialising children and young people into behaviours and outlooks that reflect the content of pornographic materials.” *Id.* Representations of past victims of child abuse may be used to groom a new child for abuse, by normalizing the sexual acts of abuse in the mind of the target child. LANNING at 90 (“A child who is reluctant to engage in sexual activity with an adult or pose for sexually explicit photographs can sometimes be convinced by viewing other children having ‘fun’ participating in the activity.”); see also CHILD SAFETY ONLINE at 15 (citing STEPHEN WEBSTER ET AL., SCOPING REPORT 13 (European Online Grooming Project ed., 2010), available at <http://www.europeanonlinegroomingproject.com/wp-content/file-uploads/EOGP-Project-scoping-report.pdf>) (Offenders “typically use the ‘success’ of previous contacts with young people as a basis for adapting their activities.”).

Outside of representations of child pornography, abusers are able to canvass sites popular among children in order to befriend them. Although these websites may have instructions or user policies aimed at preventing users under a certain age from accessing them, there is usually little practical impact of such policies, and rarely is there any verification of a user’s age. See CYBERSPACE at 47-50. Social media sites such as Facebook or Twitter, purport to be “personal” (associated with a real person), but are instead easily exploited by abusers who pose as children or who simply befriend children as part of the grooming process. See CHILD SAFETY ONLINE at 2

(noting that research suggests that some abusers have up to 200 potential victims on their online “friends” list being groomed at any one time (citing STEPHEN WEBSTER ET AL., SCOPING REPORT 7 (European Online Grooming Project ed., 2010), *available at* <http://www.europeanonlinegroomingproject.com/wp-content/file-uploads/EOGP-Project-scoping-report.pdf>)). Usage of these sites has grown exponentially since their introduction. *See Number of Active Users at Facebook over the Years*, ASSOCIATED PRESS, May 1, 2013, *available at* <http://news.yahoo.com/number-active-users-facebook-over-230449748.html> (noting that Facebook had 1 million users at the end of 2004, and 1.11 billion users by March 2013); Catharine Smith, *Twitter User Statistics Show Stunning Growth*, THE HUFFINGTON POST, Mar. 14, 2011, http://www.huffingtonpost.com/2011/03/14/twitter-user-statistics_n_835581.html (noting an average daily sign-up rate of 460,000 new users).

Child sex abusers may pay or offer other rewards to gain access to live webcam footage of children performing sexual acts. Researchers, posing as prepubescent Filipina girls in 19 public chat rooms, found that 20,172 predators from 71 countries solicited the “girls” for sexual acts. TERRE DES HOMMES, *WEBCAM CHILD SEX TOURISM: BECOMING SWEETIE: A NOVEL APPROACH TO STOPPING THE GLOBAL RISE OF WEBCAM CHILD SEX TOURISM 46-49* (Terre Des Hommes ed., 2013) [hereinafter *BECOMING SWEETIE*], *available at* <http://www.terredeshommes.org/wp-content/uploads/2013/11/Webcam-child-sex-tourism-terre-des-hommes-NL-nov-2013.pdf>.

In 2004, American and Belgian nationals were arrested for suspicion of running a website where customers paid \$1.59 per minute to view webcam shows performed by children; the children were forced to work 8-hour shifts in front of the cameras and lived in captivity in “dens” financed by the suspects. *Id.* at 27.

3. ICTs Facilitate the Validation and Normalization of Abusive Behaviors

Expanded access to child sexual abuse representations through ICTs leads to increased viewing of such representations, which can augment the potential that subsequent offenses will be committed. Special Rapporteur on the Sale of Children, Child Prostitution and Child Pornography, *Addendum: Mission to the United States of America*, ¶ 16, U.N. Doc. A/HRC/16/57/Add.5 (Feb. 7, 2011) (by Najat Maalla M’jid), *available at* <http://www2.ohchr.org/english/bodies/hrcouncil/docs/16session/A-HRC-16-57-Add5.pdf> (“Possessing and distributing child pornography is considered a pathway to sexual assault.”). For an abuser, viewing child pornography may serve as a means to normalize such behavior, which can lead to such individuals’ inhibitions being weakened and the further abuse of children. *See* 1 S.C.R. ¶¶ 87-88 (summarizing and accepting the Crown’s argument for banning possession of child pornography); *see also* Hilary Eldridge, *Patterns of Sex Offending and Strategies for Effective Assessment and Intervention*, in HOME TRUTHS ABOUT SEXUAL ABUSE: INFLUENCING

POLICY AND PRACTICE 313, 321 (Catherine Itzin ed., 2000).

Normalization can occur in different ways. By viewing others having sexual relations with children, individuals may develop cognitive distortions and see sexual relations with children as normal. *See* 1 S.C.R. ¶¶ 87-88 (summarizing and accepting the Crown's argument for banning possession of child pornography). Such cognitive distortions may also include the notion that children are cooperative or even enthusiastic, that they admire the offender or that the offender is in control. CRIMINOLOGICAL REVIEW at 222 (citing W.L. Marshall, *Revisiting the Use of Pornography by Sexual Offenders: Implications for Theory and Practice*, in 6 THE JOURNAL OF SEXUAL AGGRESSION 67, 72 (Whiting & Birch Ltd. eds., 2000)). Moreover, viewing child pornography may also fuel fantasies, which only adds to the likelihood that a subsequent contact offense may be initiated. 1 S.C.R. ¶ 89.

Further through these ICT child sex abuser communities, individuals may also find validation in their offensive behavior, which would further serve to normalize such acts. For example, the Usenet newsgroup, alt.support.boy-lovers, a forum for adult men to discuss their feelings toward boys, can provide a validation function for its users by having like individuals offering advice, support and encouragement to each other. *See* Keith F. Durkin, *Misuse of the Internet by Pedophiles: Implication for Law Enforcement and Probation Practice*, Fed. Prob. J., Sept. 1997, at 14, 15. Further, validation by such news

groups includes calling users “boy-lovers” rather than “perverts” or “child molesters.” *Id.*

II. THE WORLD-WIDE TECHNOLOGICAL PROLIFERATION OF CHILD SEX ABUSE MATERIALS CAUSES HARM TO CHILDREN

Children who are victims of child pornography suffer immediate harm, whether physical or psychological or both. These children, many of whom are in the United States, or being exploited by United States citizens, often require lifelong, specialized recovery and reintegration services. Ethel Quayle, Clinical Psychology Professor, Univ. of Edinburgh Sch. of Health in Soc. Sci., Abuse Images of Children: Identifying Gaps in Our Knowledge 13 (April 6-7, 2009) (draft paper available at www.iprc.unc.edu/G8/Ethel_Quayle_3.6.09.doc) (draft paper for G8 Symposium held at the University of North Carolina on April 6-7, 2009). These crucial services are expensive and unaffordable for many of the victims.

A. Materials Depicting Child Sexual Abuse Cause Proximate, Immediate, and Persistent Harm to the Child Victim Well into Adulthood

The creation of child pornographic materials, in addition to their distribution and continued availability causes immediate physical harm to the child victim as well as lifelong psychological damage.

Often, the recovery from the persistent psychological and social harm requires years of therapy and continued care. This is because the child's recovery can be undermined by the continued existence of the pornographic materials online, forcing the victim to continuously confront the evidence of his or her abuse. In this sense, victims of child pornography suffer in ways that are unique compared to those who are subject to sexual abuse that ends at a certain point in time.

1. Proximate Harm from the Production of Child Pornography

In cases of sexual abuse resulting in the production of child pornography, the harm caused to the child victim is clear. First, there are the obvious physical effects of the sexual abuse involved in producing the child pornography. This may include injuries encountered during the abuse or as a result of the abuse, such as physical injuries following rape and assault, and contraction of HIV and other sexually transmitted diseases. Giulia Patane, *A Crucial Gap: Addressing the Physical and Psychological Consequences and Recovery of Child Victims of Commercial Sexual Exploitation*, in 7 EXAMINING NEGLECTED ELEMENTS IN COMBATING SEXUAL EXPLOITATION OF CHILDREN 32, 34 (ECPAT Int'l ed., 2013) [hereinafter *Crucial Gap*], available at http://ecpat.com/EI/Publications/Journals/ECPAT%20Journal_JUL_2013_ENG.pdf; Susan D. Hillis et al., *Adverse Childhood Experiences and Sexually Transmitted Diseases in Men and Women: A*

Retrospective Study, OFFICIAL J. OF THE AM. ACAD. OF PEDIATRICS, July 1, 2000, at e11, 5. This kind of abuse is typically not an isolated incident, but is repeated on a frequent basis, over a long period of time, and provides a steady income for the abusers, who can be organized criminals or the child's own family members. Often, children are also kept in captivity for long periods of time and repeatedly exploited. BECOMING SWEETIE at 12.

Second, the emotional and psychological effects on a child as a result of sexual abuse are well-known. Child sexual abuse has been found to alter a child's cognitive and emotional orientation to the world and causes trauma by distorting the child's self-concept and affective capacities due to traumatic sexualization, betrayal, powerlessness, and stigmatization. Delphine Collin-Vezina et al., *Lessons Learned from Child Sexual Abuse Research: Prevalence, Outcomes, and Preventative Strategies*, CHILD & ADOLESCENT PSYCHIATRY & MENTAL HEALTH, 7:22 (July 18, 2013), <http://www.capmh.com/content/7/1/22>; see also ETHEL QUAYLE ET AL., CHILD PORNOGRAPHY AND SEXUAL EXPLOITATION OF CHILDREN ONLINE 9, 44 (ECPAT Int'l ed., 2008) [hereinafter SEXUAL EXPLOITATION], available at http://lastradainternational.org/lisidocs/Child_Pornography_and_Sexual_Exploitation_of_Children_Online.pdf. Child sexual abuse has also been strongly linked to consequent post-traumatic stress disorder. Delphine Collin-Vezina & Martine Hebert, *Comparing Dissociation and PTSD in Sexually Abused School-Aged Girls*, 193 J. OF NERVOUS & MENTAL DISEASE 47, 47 (2005),

available at <https://www.mcgill.ca/files/crcf/CollinVHebert2005.pdf>, and dissociation systems, LESSONS LEARNED at 4.

Child sexual abuse is strongly associated with long term self-destructive coping mechanisms such as drug addiction, Dean G. Kilpatrick et al., *Risk Factors for Adolescent Substance Abuse and Dependence Data from a National Sample*, 68 J. OF CONSULTING & CLINICAL PSYCHOL. 19, 19 (2000), available at <http://psycnet.apa.org/journals/ccp/68/1/19/>; eating disorders, Lena Sancu et al., *Childhood Sexual Abuse and Eating Disorders in Females*, in 162 ARCHIVES OF PEDIATRICS & ADOLESCENT MED. 261 (Am. Med. Ass'n ed., 2008), available at <http://archpedi.jamanetwork.com/issue.aspx?journalid=75&issueid=9200>; *How Can Violence Against Children Be Prevented?*, WORLD HEALTH ORG. (May 2013), <http://www.who.int/features/qa/44/en/>; LESSONS LEARNED at 3; and suicide, J. Brezo et al., *Identifying Correlates of Suicide Attempts in Suicidal Ideators: A Population-Based Study*, 37 PSYCHOL. MED. J. 1551, 1551 (2007), available at <http://www.ncbi.nlm.nih.gov/pubmed/17537281> (cited in LESSONS LEARNED at 4).

Preserving the sexual abuse through pornographic representations exacerbates and prolongs the harms experienced by the child victim, as:

[T]he dissemination of those images compound the consequences of the child abuse, affecting the victims' recovery and the delivery of the services available to them. Images of sexually exploited children disseminated on

the Internet will in fact never disappear and this has a devastating effect on victims. The victims do not want to tell; blame themselves; are even more traumatized; are ashamed to think that others might see the images on the Internet; are less likely to provide information; and need more time to recover from the abuse than if the images had not been recorded. Furthermore, many abusers force the victim to pretend that they are enjoying the experience, which is why a victim might fear that the police will believe that they welcomed the abuse.

Promotion and Protection at 11.

In addition, even where physical sexual abuse does not occur, forcing children to pose in sexually suggestive positions to create the pornographic materials also constitutes a form of sexual abuse that can lead to social and psychological issues. In recent research involving children forced to carry out webcam sex shows the children interviewed reported “feeling dirty, ashamed, and embarrassed, both during and after webcam sex performances” as well as “traumatic sexualization, a sense of betrayal, social stigmatization, and a sense of powerlessness.” BECOMING SWEET-IE at 29. The longer term effects included “low self-esteem and low feelings of self worth” as well as “self-destructive behavior, including alcohol and drug abuse.” *Id.* Early sexualization of children can cause difficulties with socialization later in life. Children also suffer emotional trauma where they are manipulated into believing that they consented to the

production of the representations. Child victims fear “being thought to be complicit in the abuse or photography through the evidence of, for example, their smiling faces.” Ethel Quayle, *The COPINE Project*, 5 IRISH PROBATION J. 65, 71 (2008), available at [http://www.probation.ie/pws/websitepublishingdec09.nsf/AttachmentsByTitle/IPJ+2008+-+The+COPINE+Project,+ETHEL+QUAYLE/\\$FILE/2008+-+The+COPINE+Project,+ETHEL+QUAYLE.pdf](http://www.probation.ie/pws/websitepublishingdec09.nsf/AttachmentsByTitle/IPJ+2008+-+The+COPINE+Project,+ETHEL+QUAYLE/$FILE/2008+-+The+COPINE+Project,+ETHEL+QUAYLE.pdf).

2. The Continued Long-Term Effects Due to the Distribution and Possession of Pornographic Materials

The harm caused to children who are the subject of pornographic materials does not end with the production of these materials. Indeed, the harm to the victims is “repeated at each reproduction of the image, which, in the case of . . . the internet, may have unlimited scope in time, space and quantities. Specific traumatic effects derive from the potentially millions of abuses suffered by the victim.” *Crucial Gap* at 33. Distribution and the continued existence of the representations can compromise a child’s ability to recover from the abuse. Because the representations continue to exist, the child victim lives in fear that: 1) s/he may encounter the representations at any time and thus have to relive the trauma; and 2) those who know her/him may encounter those representations at any point and recognize him or her, thus causing tremendous embarrassment or upset. SAVE THE CHILDREN EUROPE GRP., POSITION

PAPER REGARDING ONLINE IMAGES OF SEXUAL ABUSE AND OTHER INTERNET-RELATED SEXUAL EXPLOITATION OF CHILDREN 18 (Save the Children ed., 2005), *available at* <http://resourcecentre.savethechildren.se/sites/default/files/documents/1782.pdf>.

As described in Section I *infra*, the advancement of technology such as the use of P2P platforms and encrypted internet networks has allowed perpetrators to distribute and disseminate representations worldwide. Once they are created, the victim is powerless to remove these representations. This loss of control leads to continued and immediate psychological trauma due to the constant fear of being confronted with the memory of the sexual abuse. Because the representations online exist forever, a victim cannot know when he/she will encounter the representations again and will never know when the trauma of the sexual abuse is to be re-triggered. As a result, therapy, recovery, and reintegration services for these victims need to be constantly accessible. SEXUAL EXPLOITATION at 50-52.

In addition to the psychological trauma from the continued existence of the representations, the victim may also face continued social difficulty in engaging in society due to the proliferation of the pornographic materials. The victim must live in constant fear of the representations falling into the hands of those close to him/her, leading to humiliation and stigma related to the notion that the victim invited, caused or welcomed the abuse. One victim “talked of feeling fearful every time the mail arrived, overwhelmed with anxiety that

the photographs would be in the post and that her mother would see them.” *Id.* at 49. Another has discussed a “psychological paralysis” that occurs due to the knowledge that the pornographic representations exist. *Id.* Such fear leads to continued psychological and social problems that require continued treatment and monitoring.

In fact, the Supreme Court of Canada in *R. v. L.M.*, [2008] 2 S.C.R. 163 recognized the severity and continuous nature of the harm of online child pornography, and the need to impose heavy penalties on offenders given the unique and long-term nature of this harm:

I note that L.M. disseminated his pornography around the world over the Internet. The use of this medium can have serious consequences for a victim. Once a photograph has been posted on the Web, it can be accessed indefinitely, from anywhere in the world. R.M. will never know whether a pornographic photograph or video in which she appears might not resurface someday.

Id. ¶ 28 (L.M. was convicted of sexually assaulting his daughter and making, distributing and possessing child pornography. The Canadian Supreme Court upheld the trial judge’s imposition of the maximum 15-year sentence, overruling the Court of Appeal’s ruling to reduce the sentence to 9 years.).

It is important to note that the victim need not know the individual distributing and viewing the

representations of his/her abuse to be harmed. Even when the perpetrator is a complete stranger, the act of disseminating or possessing the pornographic material in and of itself prolongs the psychological and social harm suffered by the victim. By distributing the representations on the internet or otherwise, the offender extends the life of the representations. This leads to the victim living in constant fear that others, especially individuals who know the victim, may come into contact with the representations at any time. *See* SWEDISH CHILDREN'S WELFARE FOUND., CHILD AND YOUNG PERSONS WITH ABUSIVE AND VIOLENT EXPERIENCES CONNECTED TO CYBERSPACE 39-40 (Swedish Children's Welfare Found. ed., 2006), *available at* <http://www.childcentre.info/projects/internet/dbaFile15616.pdf>.

III. VICTIMS OF CHILD PORNOGRAPHY REQUIRE LIFELONG, SPECIALIZED RECOVERY AND REINTEGRATION SERVICES, WHICH ARE COSTLY

As addressed above, due to the proliferation of child pornographic representations on the internet where the representations are forever accessible, the victim's suffering is continuous. As a result, while the recovery and reintegration process to aid in the victim's healing will vary depending on the unique circumstances of each person, it is often a lifelong and costly endeavor. Typically, specialized recovery and reintegration services are necessary to address the victim's unique needs, requiring a holistic approach

which includes “physical, psychological and social recovery as well as his/her reintegration into a safe and protected environment.” *Crucial Gap* at 32.

Recovery for victims can be divided into two phases: immediate intervention and long-term recovery. *Id.* at 36. Clearly, immediate attention must be paid to address any physical harms suffered by the child as a result of the abuse in producing the pornographic materials. This includes both the direct injuries from the sexual abuse encountered in producing the pornographic material as well as other health problems which arise indirectly related to the abuse. Full recovery by a victim, however, will require long-term care utilizing a holistic approach, including psychological, educational, and environmental support; and development of social skills. *Id.*

Psychological support is needed to help “undo” the damage to the victim, for example, through group therapy or counseling. In the case of child pornography victims, this therapy may last for years and may be required intermittently and repeatedly due to the fact that the proliferation of the pornographic materials will affect the victim for as long as the materials exist on the internet. Educational and environmental support is important to rehabilitate victims and integrate them into society. Further, victims often suffer from behavioral issues. For example, sexual abuse of a child often leads to children having misconceptions about sexual behavior and sexual morality. This can lead to a child’s confusion about the role of sexual behavior, where children fail to identify potentially

risky situations and place themselves in positions of danger. ECPAT INT'L, *THE PSYCHOSOCIAL REHABILITATION OF CHILDREN WHO HAVE BEEN COMMERCIALY SEXUALLY EXPLOITED: A TRAINING GUIDE* 23 (ECPAT Int'l ed., 2005), *available at* <http://www.crin.org/BCN/Toolkit/Document/index.asp?infoID=22069&TKsubcatID=112&TKcatID=13>. Such behavioral problems may take years to diagnose fully and rehabilitate, and require consistent services by social workers.

While programs supporting recovery for victims do exist in the United States, they are particularly expensive to maintain. These costs are due not only to personnel and material costs, but also to the fact that victims often require the use of these programs for an extended period of time, in some cases for many years, leading well into adulthood. *Crucial Gap* at 38. In the United States alone, the costs associated with child sexual abuse and exploitation are estimated to exceed \$24 billion per year. SUZETTE FROMM, *TOTAL ESTIMATED COST OF CHILD ABUSE AND NEGLECT IN THE UNITED STATES: STATISTICAL EVIDENCE 2* (Prevent Child Abuse Am. ed., 2001), *available at* www.preventchildabuse.org. Additionally, government and international organizations' resources are currently more focused on combating and preventing the abuses toward children, rather than supporting fully the efforts to recover and assist those who are already victims. *Crucial Gap* at 38.

The United Nations Human Rights Council's Special Rapporteur on the sale of children, child prostitution and child pornography, Najat Maalla M'jid, told ECPAT International:

Child victims grow up knowing that those photographs or videos will be on the Internet for the rest of their lives, and each time they are accessed and viewed by another child sex abuser the child's rights are again violated. Relevant legislation should be clear and comprehensive and treat child pornography on the Internet as a grave violation of the rights of the child and as a criminal act, which means that the child should also have the right to restitution from the perpetrators.⁴

Thus, it is appropriate for the offenders, who perpetuate the victim's suffering by distributing and possessing the representations, to be required to pay for the costs of care needed to make the victim whole once again, physically, mentally, and socially.

IV. INTERNATIONAL LAW RECOGNIZES RESTITUTION TO VICTIMS OF CHILD SEXUAL ABUSE FOR THEIR LIFELONG SPECIALIZED RECOVERY AND REINTEGRATION SERVICES

Child pornography is globally recognized as an egregious human rights violation, with various international treaties and instruments devoted to addressing the sexual abuse and exploitation of children,

⁴ On November 15, 2013, the United Nations Human Rights Council's Special Rapporteur on the sale of children, child prostitution and child pornography, Najat Maalla M'jid, communicated this statement to ECPAT and authorized its inclusion in this brief.

including child pornography. Further, the right to restitution for victims of child pornography is well-established in several international instruments. Some of the primary international legal instruments that directly address child pornography include, but are not limited to, the following:

- (i) the U.N. Convention on the Rights of the Child, which provides that children must be protected “from all forms of sexual exploitation and sexual abuse” including “the exploitative use of children in pornographic performances and materials,” Convention at art. 34;
- (ii) the Council of Europe Convention on Cybercrime, which advises each party to criminalize “procuring child pornography through a computer system for oneself or another person” and “[possession of] child pornography in a computer system or on a computer-data storage medium,” Convention on Cybercrime, Council of Eur., art. 9, Nov. 23, 2001, E.T.S. No. 185;
- (iii) the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse, which advises each party to criminalize “procuring child pornography for oneself or for another person,” “possessing child pornography” and “knowingly obtaining access, through information and communication technologies, to child pornography,” Convention on Protection of

Children Against Sexual Exploitation and Sexual Abuse, Council of Eur., art. 14, Oct. 20, 2007, C.E.T.S. No. 201;

- (iv) Directive 2011/93/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 (“Directive 2011/93/EU”), provides that “[s]exual abuse and sexual exploitation of children, including child pornography, constitute serious violations of fundamental rights, in particular of the rights of children to the protection and care necessary for their well-being” and minimum imprisonment terms for “acquisition or possession of child pornography,” Directive 2011/93/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, art. 5, 2011 O.J. (L 335/1) 2;
- (v) International Labour Organization Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, which establishes child pornography as one of the “worst forms of child labour.” Int’l Labour Org., *Worst Forms of Child Labour Convention*, at art. 3, No. 182

(June 17, 1999) (adopted by the Conference at its eighty-seventh session in Geneva); and

- (vi) the 2005 U.N. Resolution Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime (the “U.N. Guidelines”), which provides a framework for reviewing local laws to ensure full respect of child victims, assisting governments and other organizations in designing laws and policies on this issue, to guide professionals who work with children, and to assist caretakers of child victims. E.S.C. Res. 2005/20, U.N. Doc. E/RES/2005/20 (July 22, 2005) [hereinafter U.N. Guidelines].

Additionally, the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography (the “Optional Protocol”) mandates each party to ensure that child pornography is fully covered under criminal or penal law. Optional Protocol at art. 3, ¶ 1(c). Although this text only includes possessing child pornography for the purpose of producing, distributing, disseminating, importing, exporting, offering or selling, the Committee on the Rights of the Child providing guidance on this text has advised countries to prohibit simple possession as well. *See, e.g.*, United Nations Comm. on the Rights of the Child, Consideration of Reports Submitted by States Parties Under Article 12(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: Chile, ¶¶ 23-24, U.N. Doc. CRC/C/OPSC/CHL/CO/1 (Feb. 18, 2008), *available at* <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G08/405/39/PDF/G0840539.pdf?OpenElement>; United Nations Comm. on the Rights of the Child, Consideration of Reports Submitted by States Parties Under Article 12(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: Costa Rica, ¶ 24, U.N. Doc. CRC/C/OPSC/CRI/CO/1 (May 2, 2007), *available at* <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G08/405/39/PDF/G0840539.pdf?OpenElement>; United Nations Comm. on the Rights of the Child, Concluding Observations on the Initial Report of Uzbekistan Submitted Under Article 12 of the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution, and Child Pornography, Adopted by the Committee at its Sixty-Third Session, ¶ 1, U.N. Doc. CRC/C/OPSC/UZB/CO/1 (June 14, 2013), *available at* <http://www2.ohchr.org/english/bodies/crc/docs/co/CRC-C-OPSC-UZB-CO-1.pdf>.

Of the above instruments, the Optional Protocol, Directive 2011/93/EU, and the U.N. Guidelines also expressly provide for a right to restitution for victims of child pornography. In addition to the above, the U.N. Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and

Serious Violations of International Humanitarian Law (the “U.N. Basic Principles”) detail the right to reparation for certain crime victims and specifically applies to the U.N. Convention on the Rights of the Child, which includes victims of child pornography. Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, G.A. Res. 60/147, ¶ 27, U.N. Doc. A/RES/60/147 (Dec. 16, 2005) [hereinafter U.N. Basic Principles].

The U.N. Guidelines provide that victims of child pornography “should wherever possible, receive reparation in order to achieve full redress, reintegration and recovery” and that “reparation may include restitution from the offender ordered in the criminal court, aid from victim compensation programs administered by the State and damages ordered to be paid in civil proceedings. Where possible, costs of social and educational reintegration, medical treatment, mental health care and legal services should be addressed. Procedures should be instituted to ensure enforcement of reparation orders and payment of reparation before fines.” U.N. Guidelines at art. 13, ¶¶ 35-37. Additionally, Directive 2011/93/EU on Combating Child Pornography provides that in addition to protection and compensation, victims of child pornography “should be given access to . . . legal representation, including for the purpose of claiming compensation.” Directive 2011/93/EU ¶ 32. Further, the Optional Protocol mandates that parties shall

“take all feasible measures with the aim of ensuring all appropriate assistance to victims of such offenses, including their full social reintegration and their full physical and psychological recovery,” Optional Protocol at art. 9, ¶ 3, and “ensure that all child victims of the offenses described in the present Protocol have access to adequate procedures to seek, without discrimination, compensation for damages from those legally responsible, *id.* at art. 9, ¶ 4.

Finally, the U.N. Basic Principles provide that victims of gross violations of international human rights law, including child pornography victims, have the right to a remedy that includes adequate, effective and prompt reparation for harm suffered, and that where a person is found liable for reparation to a victim, such party should provide reparation directly to the victim. Reparation includes “restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition.” U.N. Basic Principles at art. 9, ¶ 18. The U.N. Basic Principles set out detailed requirements for compensation as follows:

20. Compensation should be provided for any economically assessable damage, as appropriate and proportional to the gravity of the violation and the circumstances of each case, resulting from gross violations of international human rights law and serious violations of international humanitarian law, such as:

- (a) Physical or mental harm;
- (b) Lost opportunities, including employment, education and social benefits;
- (c) Material damages and loss of earnings, including loss of earning potential;
- (d) Moral damage;
- (e) Costs required for legal or expert assistance, medicine and medical services, and psychological and social services.

Obtaining compensation from the perpetrator, as opposed to the State, is also an important part of the right to reparation. The “satisfaction” component of the right to reparation includes “[j]udicial and administrative sanctions against persons liable for the violations.” *Id.* at art. 9, ¶ 22(f).

Recognizing the imperative of safeguarding children’s protection from all forms of violence and abuse, on-line and off-line, and acknowledging the opportunities and risks associated with children’s access to and use of new information and communications technologies, the Special Representative of the United Nations’ Secretary General on Violence against Children (“SRSG”), Marta Santos Pais, has identified this topic as a priority for her mandate. The SRSG told ECPAT International that

The protection of children from abuse through representation or images in pornographic performances or materials is safeguarded by international law, including the Convention

on the Rights of the Child and its Optional Protocol to the Convention on the Sale of Children, Child Prostitution and Child Pornography. Child pornography is a serious form of violence against children, including during its production and dissemination, and when it is subsequently viewed by potentially thousands of child sex abusers. The risk of abuse remains for a life time and may have a serious impact on countless other children. It is imperative that child victims are given the right to restitution for this crime. This is important as a remedy for children, and as a deterrent to prevent future situations of child sex abuse of this kind.⁵

◆

CONCLUSION

As described above, the effects of child pornography on victims are profound and have a lasting impact. Having suffered at the hands of child sexual abusers, victims must be provided with the means to recover, heal, and integrate into society; indeed, it is society's duty to help victims of child abuse and pornography become whole again. As to who should pay for the cost of this recovery, undoubtedly, the cost should be borne by the perpetrators that caused or contributed to the harm. This is true whether the

⁵ On November 15, 2013, the SRSG, Marta Santos Pais, communicated this statement to ECPAT and authorized its inclusion in this brief.

harm caused was direct, through physical sexual abuse, or indirect, through the repeated infliction of psychological trauma brought on by the distribution and possession of child pornographic representations.

For the reasons set forth herein as well as those submitted in Respondents' briefs, this Court should affirm the Fifth Circuit's ruling ordering restitution for Respondent Amy Unknown.

Respectfully submitted,

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