



CANADIAN CENTRE *for* CHILD PROTECTION®  
*Helping families. Protecting children.*

# HOW WE ARE FAILING CHILDREN: CHANGING THE PARADIGM

*Framework for the Protection and Rights of Children  
in the Removal of Child Sexual Abuse Images and  
Harmful/Abusive Images of Children*



**CANADIAN CENTRE *for* CHILD PROTECTION®**

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### **TO THE SURVIVORS OF CHILD SEXUAL ABUSE:**

One of the cornerstone commitments of the Canadian Centre for Child Protection is to better support survivors of child sexual abuse images and videos through advocacy and research in order to find solutions to what is a growing, global issue. With that in mind, it is important we share our findings with both the public and those who are in positions to effect change.

We acknowledge that the information in this document may be difficult to read. As you go through the report, allow yourself space to be aware of any strong emotions it stirs up in you. If the feelings get to be too much, take a break, reach out to supports in your circle, or do whatever else you might need to become centered again. It's important to pace yourself and to give yourself all the time you need.

A note about language and terms used in this document: Some people don't like to define their past and/or present experiences by labels and/or the label they give it may change over time. In this document we chose to use the term "survivor," but there is a wide spectrum of language that can range from "victim" to "thrifer" and even "warrior." Whatever word you choose (or if you choose no word at all), know that we understand human beings cannot be reduced to any single experience. We acknowledge this by standing with you and supporting you wherever you are in your journey.

If you wish, you may share any thoughts you have on this document or on your own personal experiences by contacting us at [support@protectchildren.ca](mailto:support@protectchildren.ca). You may also contribute information about your experience by completing the International Survivors' Survey at [protectchildren.ca/survivors\\_survey](http://protectchildren.ca/survivors_survey).

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**Warren Binford**

PROFESSOR OF LAW AND CHILD RIGHTS SCHOLAR,  
WILLAMETTE UNIVERSITY

**Marijke Bleeker**

ADVISER, NATIONAL RAPPORTEUR ON TRAFFICKING IN HUMAN  
BEINGS AND SEXUAL VIOLENCE AGAINST CHILDREN

**John Carr**

TECHNICAL ADVISER, ECPAT INTERNATIONAL

**Dr. Sharon Cooper**

DEVELOPMENTAL AND FORENSIC PEDIATRICIAN AND ADJUNCT  
PROFESSOR OF PEDIATRICS, UNIVERSITY OF NORTH CAROLINA  
AT CHAPEL HILL SCHOOL OF MEDICINE

**Dr. Hany Farid**

PROFESSOR, UNIVERSITY OF CALIFORNIA, BERKELEY

**Dr. Randall L. Green**

CLINICAL PSYCHOLOGIST, MID VALLEY COUNSELING CENTER

**Carol Hepburn**

ATTORNEY, SAVAGE LAW FIRM

**Dr. Debbie Lindsay**

PEDIATRICIAN AND FORMER DIRECTOR OF THE CHILD PROTECTION  
CENTRE, WINNIPEG

**James R. Marsh**

CHAIR OF THE BOARD OF DIRECTORS, CHILD USA

**Laura Randall**

ASSOCIATE HEAD, CHILD SAFETY ONLINE & INNOVATION, NSPCC

**Dr. Michael Salter**

ASSOCIATE PROFESSOR OF CRIMINOLOGY, UNIVERSITY OF NEW SOUTH WALES

**Julia von Weiler**

PSYCHOLOGIST, INNOCENCE IN DANGER E.V. GERMANY

**Dr. John Wiens**

PAST CHAIR, CANADIAN CENTRE FOR CHILD PROTECTION

# PHOENIX 11 ADVOCACY IMPACT STATEMENT

For a long time we were afraid. We were afraid of the dark, we were afraid of the unknown, we were afraid of our past and what it meant for our future. Alone, isolated, yet exposed to the world, we knew there were others like us out there, yet we were scared to confront their pain because of what they understood about our pain.

Last year we all took a bold step to overcome the fears about ourselves, to band together to become a force for change. To speak for all those who cannot speak for themselves. To make the invisible visible. To make the two dimensional three dimensions.

We are the Phoenix 11. Sexually abused as children, reduced to child sex abuse images, and stripped of our dignity and humanity, we have risen together as powerful young women who are retaking our identities and self-worth.

No longer content to live in the shadows, we are redefining what it means to be victims who were powerless to stop the relentless onslaught of the technology of abuse.

We are survivors of sexual torture, child rape, erotic photoshoots, pedophile sleepovers, elementary school sex shows, streaming BDSM, and twisted sexual desires whose digital images are trafficked worldwide to fulfill the endless needs of an evil perverted community which takes pleasure from our pain.

Now we are putting the world on notice that we will no longer be a silent suffering collage of young girls and boys whose nameless and often faceless images and videos circulate worldwide in the internet cesspool of humanity.

We are the Phoenix 11.

Hear our voice.

See our strength.

Answer our call.

We will not be stopped.

We will not be silent.

*The Phoenix 11 is a group of 11 survivors whose child sexual abuse was recorded, and in the majority of cases, distributed online. This group has banded together as a powerful force to challenge the inadequate responses to the prevalence of child sexual abuse images on the internet.*

**PHOENIX<sup>11</sup>**

## EXPERT PERSPECTIVES

“Child sexual abuse is a life changing adversity and an injury which research now reveals can manifest a harmful impact upon a child’s physical health, immunity, ability to learn, to grow, and mental well-being. Children with pre-existing health problems often have worsening of symptoms when they suffer this and other forms of abuse. Survivors tell us that the memorialization of child sexual abuse through the production of abusive images and videos and even worse, its distribution, constitutes a most egregious insult to an already severe injury. The rate of suicidal ideations is nearly twice as high for survivors of child sexual abuse images as compared to child sexual abuse without images. Eradication of this digital scourge against the successful recovery of children is within our reach and calls for action, child protection and justice.”

– Dr. Sharon Cooper, Developmental and Forensic Pediatrician and Adjunct Professor of Pediatrics, University of North Carolina at Chapel Hill School of Medicine.

“For far too long, victims and survivors of child sexual abuse imagery have been invisible in debates over internet regulation. The framework is the first policy document to place the rights and needs of victims at the centre of government and industry responses to the misuse of technology in the abuse of children. This is a powerful blueprint for a safer and more just internet.”

– Dr. Michael Salter, Associate Professor of Criminology, University of New South Wales

“From its earliest days, the internet has been weaponized against children around the world. From its earliest days, the technology sector has been negligent in ensuring that their platforms are not used to post child sexual abuse images. From its earliest days, the technology sector has profited while turning a blind eye to the horrific action of millions of their users around the world. This shameful behavior must end. We must reclaim our online communities and hold the technology sector responsible for their actions and lack of action. With the emphasis where it belongs, on the young victims, the Canadian Centre for Child Protection is taking the long needed steps to reframe the problem and the solution.”

– Dr. Hany Farid, Professor, University of California, Berkeley

“Once again the Canadian Centre for Child Protection has provided international leadership in putting the focus on survivors of child sexual abuse images, rather than perpetrators. For over 30 years, the world has had the *UN Convention on the Rights of the Child* available to try to reframe society’s most challenging problems by placing the child’s best interests at the centre. Here the Canadian Centre shows the power of the children’s rights paradigm to provide guidance to industry and government by reframing child sexual abuse images not from a criminal paradigm focused on the perpetrators’ acts, but holistically from the child’s rights to privacy, identity, to be protected from harm, as well as to full psychological recovery and social reintegration — all of which are violated when these images remain accessible on the internet.”

– Warren Binford, Professor of Law, Willamette University

“Child abuse images immortalise abuse and are all too easily accessed, resurfacing time and again and acting as a constant reminder to the victim, forcing them to undergo the trauma repeatedly. Years of failure by the tech industry and social media platforms to acknowledge and respond effectively to children who experience such suffering has only compounded the cost to individuals, communities and society. It is vital tech giants cooperate and stamp out this material before it spreads and causes lifelong suffering.”

– Peter Wanless, Chief Executive, NSPCC

“Every act of sexual abuse perpetrated against a child harms that child. Every act of sexual abuse perpetrated against a child which is recorded in a still or moving picture that finds its way on to the internet magnifies and can substantially expand the harm. To the damage caused by the abuse is added a gross loss of privacy and human dignity. The adult world in general and internet businesses in particular owe it to the injured child to curtail the further distribution of the child’s humiliation to the greatest extent possible, in the shortest time possible. The Canadian Centre’s Framework is a global blueprint for doing just that.”

– John Carr, Technical Adviser, ECPAT International

“Internet freedom cannot mean freedom from accountability while child sex abuse images circulate freely in a worldwide cesspool of exploitation. This groundbreaking framework is just that — the beginning of a sensible discussion about what must be done to ensure the rights and responsibilities of both technology providers and their most vulnerable digital citizens. It is long past the time that children are placed at the center of this discussion. The time is now, too many lives have already been sacrificed.”

– James R. Marsh, Chair of the Board of Directors, CHILD USA

**“We are not going to prosecute our way out of the epidemic of child pornography on the internet. Industry — which has benefited so much from the unfettered flow of content — must take responsibility for protecting children from the posting of child sex abuse images on its platforms. This framework is the needed action plan with concrete steps for industry, government, and all who care about the safety of our children.”**

**– Carol Hepburn, Attorney, Savage Law Firm**

**“Child sexual abuse irreparably changes a person’s life; nothing will ever be as it could have been. The sexual abuse of children has also been fundamentally and permanently altered by digital media. The digital documentation and dissemination of this abusive act infinitely increases the suffering of survivors. There is a sense of urgency to act, as we can no longer leave the protection and dignity of affected children at the mercy of industry. As a global community we must firmly commit to prioritizing children, which, first and foremost, includes adopting common standards for effective and proactive digital child and youth protection, and supporting tools such as Project Arachnid.”**

**– Julia von Weiler, Psychologist, Innocence in Danger e.V. Germany**

**“Each victimized child, each abusive exploitative image on the internet, represents a failure of our adult obligation to children. Each instance is exacerbated further by our reluctance and unwillingness to remove those offending images when we find them. This framework provides clear imperatives to all who are concerned that some of our children are subject to systematic abuse and trauma which lasts a lifetime, which by now is an undisputable fact. This is a call to action to hold ourselves, our government and the technology industry to account.”**

**– Dr. John Wiens, Past Chair, Canadian Centre for Child Protection**

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## FRAMEWORK FOR ACTION<sup>1</sup>

It is evident that child sexual abuse imagery<sup>2</sup> and its growing availability on the internet is a social epidemic substantially impacting the lives of children/survivors and all those trying to protect them. We must reverse this dynamic and start approaching the removal of child sexual abuse images and harmful/abusive images<sup>3</sup> of children from a protection and rights framework.

After 17 years of working in the space of online child sexual abuse and exploitation, the Canadian Centre for Child Protection (Canadian Centre) believes a new approach to the removal of child sexual abuse images and harmful/abusive images of children is urgently needed. In our organization, a major turning point came when we established Project Arachnid — a web platform designed to detect online child sexual abuse images proactively rather than waiting for the public to report them. The evidence made available by Project Arachnid prompted us to write this framework.

Project Arachnid brought to light the prevalence of images made prior to, and following, sexual abuse incidents; images that may not depict abuse or nudity, but are part of the sequence of the abuse images. Project Arachnid has also found images of physical child abuse and torture that are not overtly sexualized. As far as the Canadian Centre is aware, both categories of images do not fall under criminal definitions of child sexual abuse images in jurisdictions worldwide, and therefore, technology companies are not obliged to remove them. However, they are depictions of abuse and profoundly harmful to the children captured in those images.

As such, we are proposing a set of principles for action that a) prioritizes the best interests and protection of children, b) clarifies key roles and responsibilities, and c) ensures a coordinated, standardized, and effective response across jurisdictions.



Model in image and intended as illustrative.

### MEANING OF CHILD:

**For the purpose of this framework, a child means any person under the age of 18. In the context of child sexual abuse and harmful/abusive images/videos, if it is more likely than not that the person depicted is under 18, the material must be removed. Such removal will remain in place until the individual in the image or someone authorized to act on their behalf provides verifiable proof that the person is 18 OR OLDER.**

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<sup>1</sup> This document lays out a conceptual framework for the removal of child sexual abuse images and harmful/abusive images of children. The specific ways by which we operationalize this framework will be developed in the coming months.

<sup>2</sup> Within this framework, the term child sexual abuse images/imagery means those images or videos that fall within a criminal definition.

<sup>3</sup> The term harmful/abusive images of children encompasses all images or videos associated with the abusive incident, nude or partially nude images or videos of children that have become publicly available and is used in a sexualized context or connected to sexual commentary. It also includes publicly available images or videos of children being physically abused, tortured or restrained.

## I. THE BEST INTERESTS AND PROTECTION OF CHILDREN

By approaching the removal of child sexual abuse images and harmful/abusive images of children from a protection and rights framework, we are reaffirming the principle that every child is deserving of the rights to dignity, safety, privacy, freedom from harm, and security.

Removal of child sexual abuse images and harmful/abusive images/videos of children should be guided by the answer to the following questions: Would a reasonable person believe the image is of a child? Would a reasonable person believe the child within the image(s)/video(s) was being harmed due to the public availability of the material? If the answer to these questions is yes, immediate removal of the image(s)/video(s) should occur.

## II. CLARIFICATION OF ROLES AND RESPONSIBILITIES

We suggest that key roles in this response should be understood in the following ways:

- **Governments** must take a leadership role and provide the overarching policy framework to ensure the best interests of children are at the forefront of any content removal strategy. Unlike the current fractured criminal law approach, the framework must account for the global reality of the internet. Governments should work together to establish the global criteria for determining if an image or video should be removed.
- **Trusted/verified hotlines**<sup>4</sup> should be tasked with working with governments to determine the global criteria for removal and assessing any child sexual abuse and harmful/abusive images/videos for the purpose of issuing removal notices to industry. Hotlines should work with each other and with industry to ensure this material is promptly removed.
- **Industry**<sup>5</sup> should remove images/videos expeditiously upon request from a trusted/verified hotline or other appropriate authorities.<sup>6</sup> Industry should also be proactive, work together to develop and share compatible tools and data with each other and with trusted/verified hotlines.

Technology companies that do not directly provide services which allow for the creation, storage, or transmission of child sexual abuse and harmful/abusive images/videos of children may also be in a position to support the wider strategy. They can do this by withdrawing facilities or service from entities shown to be negligent or complicit in engaging in such behaviour.

<sup>4</sup> Trusted/verified hotlines are vetted (under an agreement) to work within Project Arachnid and/or well-established hotlines with proven practices for assessing images/videos that are a part of the INHOPE network of hotlines.

<sup>5</sup> In this report, industry is defined as a group of businesses that intersect with user-generated content by way of the internet. It is used as a broad sweeping term, encompassing large and small technology companies.

<sup>6</sup> Images/videos should also be removed when the request originates from the child or the family of the child.

“We want to remind industry that these are real children in these photos that they receive notices for. We want people to stop thinking of this as a victimless crime and separate child abuse imagery from pornography. Pornography is consensual between two adults. [Child sexual abuse material] is never a choice for that child; it is abuse and we never agreed to have it shared. The continuous trading of our imagery is a constant burden on our lives. We want governments to stop protecting the rights of these predators over the rights of the innocent children they are destroying. We are demanding that ALL images associated with a child’s abuse be removed quickly. Because whether it is a smiling headshot, or a tearful action shot, I can tell you firsthand that the smile in the head shot is hiding just as many tears.”

– A member of the Phoenix 11

### III. PRINCIPLES FOR ACTION

Every child has a moral and legal right to dignity, privacy, safety and security. In all cases, child sexual abuse images and harmful/abusive images of children will be assessed in accordance with the youngest child in the image/video, and those who have a role to play in the removal process (e.g., industry, hotlines) shall adhere to the following standards and guidelines:

1. All material recorded in the course of a sexually abusive scenario/incident<sup>7</sup> involving a child victim (identified and unidentified) will be actioned and removed immediately by industry.

A set of images capturing an abusive incident will often include photos of the child that do not meet the legal definition of child sexual abuse material, but are part of the continuum of abuse. For example, a video recording of a toddler who ends up being sexually abused may begin with the child standing in a dress beside a bed. A still image of that child in her dress is created from the start of that video and is part of the continuum of abuse. Such images typically are used to advertise where to find additional images/videos involving child sexual abuse.

Another tactic sometimes used to circumvent laws is to place emojis or black boxes/lines over the child’s sexual organs or crop abusive images. For instance, offenders may create a separate image of the child’s face or feet from the abuse material. Under this principle, industry members are to take action and remove ALL images that are derived from illegal images/videos, not just the material meeting the legal definition of child sexual abuse images.

Model in image and intended as illustrative.

<sup>7</sup> This includes incidents that appear to be self-generated.

- 2. Nude or partially nude images/videos\* of children that have been made publicly available (typically stolen from unsecured social media accounts or surreptitiously taken images), AND are used in a sexualized context, will be actioned and removed immediately by industry.**

Stolen/reposted images are commonly found within forums and chatrooms used by those with a sexual interest in children. These are typically images/videos which have not been properly secured, or may have been posted innocently to social media or in an online photo album (often by parents/family members). This makes it possible for offenders to take the material and make it publicly available in a vastly different context, such as in the context of sexualized commentary or chats.<sup>8</sup> Examples of these types of images include, but are not limited to, nude or partially nude images of children on the beach, at playgrounds, splash pads, babies on change tables, children urinating, and children nude/partially nude in what appears to be a home setting.

\* Industry is to action and remove immediately, publicly available images of **clothed** children where the offender appears in an image to be masturbating to/ejaculating on a clothed child, or on an image of a clothed child, or the image is used in a sexualized context as with the nude/partially nude images.

- 3. Images/videos of a child being physically abused, tortured, or restrained will be actioned and removed immediately by industry.**

With or without a sexual context, with or without nudity or semi-nudity, images or videos of children being physically abused, tortured, or restrained constitute an egregious breach of a child's right to dignity and privacy. This material often involves elements of sadism and child torture; for example: children being hogtied and gagged; being handcuffed or chained; being caged; being burned; being beaten/whipped/hit.

#### **SEXUAL MATURATION TRAINING:**

To help accurately assess if a person in an image is a child, the Canadian Centre annually receives sexual maturation rate training, which includes child physical development training, from forensic pediatricians for its child protection analysts and senior management. This training is also provided to the hotlines that participate in classifying images within Project Arachnid.

<sup>8</sup> Similar to principle one, with these images, offenders will sometimes use emojis or black boxes/lines to cover a child's sexual organs.

## Current Responses to Removal Notices by Age of Child

The following chart provides an overview of the current responses from industry to removal notices issued through Project Arachnid.<sup>1</sup>

	Image Category	VICTIM	CURRENT RESPONSE to Removal
<b>PREPUBESCENT</b> (0-8 yrs)	Child sexual abuse images	Identified and Unidentified	<b>MOSTLY REMOVED:</b> Exceptions include non-compliant operators that ignore notice requests for removal or providers that disagree with age assessments
	Child sexual abuse related images <sup>2</sup>	Identified	<b>UNKNOWN.</b> Based on the reluctance of some industry members to remove obvious child sexual abuse images, Project Arachnid currently does not send removal notices to providers regarding child sexual abuse related images. However, it can be inferred child sexual abuse related images often remain online.
		Unidentified	<b>UNKNOWN.</b> Same as above.
	Other harmful/abusive images <sup>3</sup>	Identified and Unidentified	<b>UNKNOWN.</b> Based on the reluctance of some industry members to remove obvious child sexual abuse images, Project Arachnid currently does not send removal notices to providers regarding other harmful/abusive images. However, it can be inferred, other harmful/abusive images of children often remain online.
<b>PUBESCENT</b> (9-12 yrs)	Child sexual abuse images	Identified and Unidentified	<b>MOSTLY REMOVED:</b> Exceptions include non-compliant operators that ignore notice requests for removal or providers that disagree with age assessments
	Child sexual abuse related images <sup>2</sup>	Identified	<b>UNKNOWN.</b> See explanation in prepubescent section (child sexual abuse related images).
		Unidentified	<b>UNKNOWN.</b> Same as above.
	Other harmful/abusive images <sup>3</sup>	Identified and Unidentified	<b>UNKNOWN.</b> See explanation in prepubescent section (other harmful/abusive images).
<b>POST-PUBESCENT</b> (13-17 yrs)	Child sexual abuse images	Identified	<b>MOSTLY REMOVED:</b> On occasion some providers push back
		Unidentified	<b>OFTEN QUESTIONED AND NOT REMOVED</b>
	Child sexual abuse related images <sup>2</sup>	Identified	<b>UNLIKELY.</b> See explanation in prepubescent section (child sexual abuse related images). Also, given the overly cautious removal approach, it is highly unlikely any image of an unidentified post-pubescent child would be taken down.
	Other harmful/abusive images <sup>3</sup>	Identified	<b>UNLIKELY.</b> See explanation in prepubescent section (other harmful/abusive images), and post-pubescent child sexual abuse related images.

**For further information on how Project Arachnid will carry out removal notices on the various reports please see Appendix A: Frequently Asked Questions.**

<sup>1</sup> As of December 2019

<sup>2</sup> Child sexual abuse related images: This includes still images/video frames/collages involving nudity, stages of undress, and/or clothed image associated to the sexual abuse of a child.

<sup>3</sup> Other harmful/abusive images: This includes physical abuse images, stolen/reposted images of nudist material, and/or stolen/reposted nude/partially nude images used to sexualize children and images of clothed children that involve masturbation/ejaculate, and/or are otherwise sexualized.

## BACKGROUND

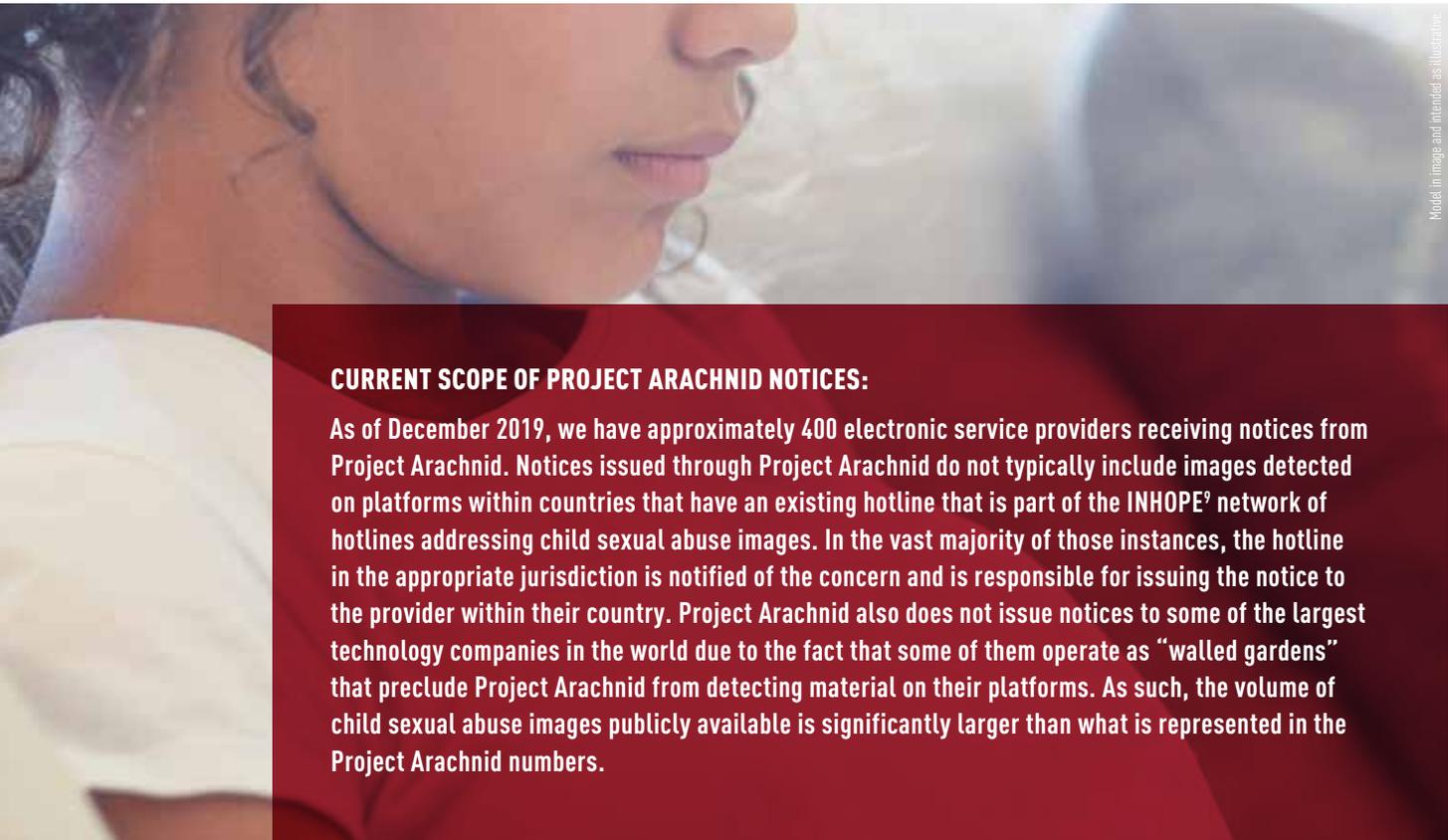
*How We Are Failing Children: Changing the Paradigm* is an urgent call to action for governments, industry, and hotlines around the world. The framework recognizes that children's interests and rights are transgressed by a range of abusive and harmful images that fall outside criminal definitions of child sexual abuse images, and the online protection of children requires significant clarification of roles and responsibilities in the removal of these images.

Current policies for the removal of child sexual abuse images have been focused on determining and removing material deemed illegal under criminal law. **In contrast, this framework is grounded in the best interests of the child, and the rights of children to dignity, privacy, and protection from harm.** The undeniable truth is the rights of a victimized child will be continually violated as long as images/videos of them being sexually harmed and abused are available on the internet.

Model in image and intended as illustrative.

### MEANING OF CHILD SEXUAL ABUSE IMAGES AND HARMFUL/ABUSIVE IMAGES:

Within this framework, the term child sexual abuse images means those images or videos that fall within a criminal definition. The term harmful/abusive images of children encompasses all images or videos associated with the abusive incident, nude or partially nude images or videos of children that have become publicly available and are used in a sexualized context or connected to sexual commentary. It also includes publicly available images or videos of children being physically abused, tortured or restrained.



### CURRENT SCOPE OF PROJECT ARACHNID NOTICES:

As of December 2019, we have approximately 400 electronic service providers receiving notices from Project Arachnid. Notices issued through Project Arachnid do not typically include images detected on platforms within countries that have an existing hotline that is part of the INHOPE<sup>9</sup> network of hotlines addressing child sexual abuse images. In the vast majority of those instances, the hotline in the appropriate jurisdiction is notified of the concern and is responsible for issuing the notice to the provider within their country. Project Arachnid also does not issue notices to some of the largest technology companies in the world due to the fact that some of them operate as “walled gardens” that preclude Project Arachnid from detecting material on their platforms. As such, the volume of child sexual abuse images publicly available is significantly larger than what is represented in the Project Arachnid numbers.

While operating Project Arachnid, we have become deeply concerned by the varying levels of commitment demonstrated by technology companies to safeguarding children. There have been a range of responses to notices issued by Project Arachnid and companies can occupy multiple categories — for example, we encounter companies that are both proactive as well as resistant. The spectrum of responses include:

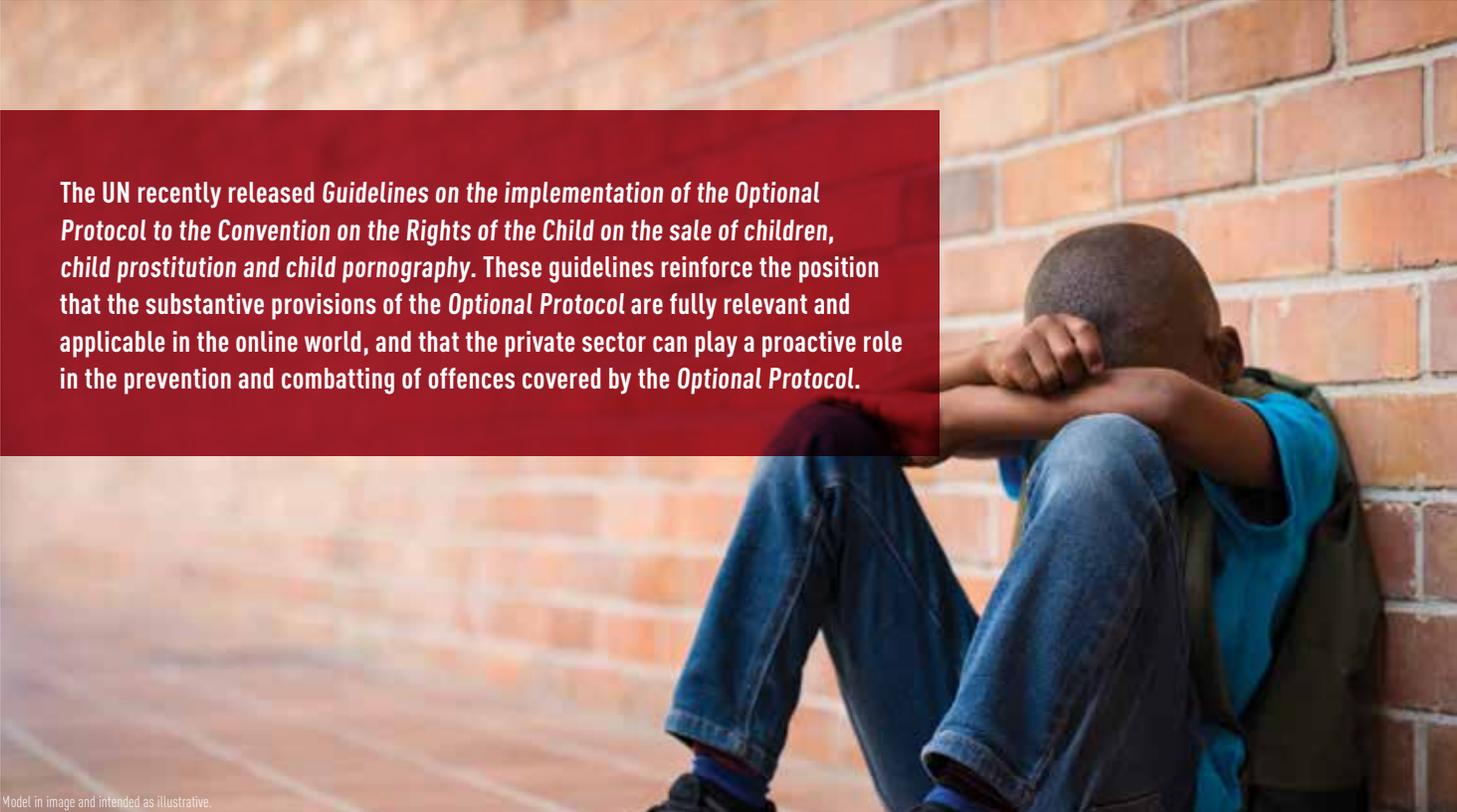
1. **Proactive:** Companies that actively seek to detect and prevent child sexual abuse imagery from being posted on their service. This typically involves the larger technology companies, but can include some smaller ones.
2. **Reactive:** Large and small companies that remove when notified, but do not actively seek to prevent child sexual abuse imagery on their service. Those that react to notices also have varying durations in removal time.
3. **Resistant:** Companies that debate/push back on removing the material, either not being satisfied that the image is a child or not agreeing that the image or video is illegal in nature.
4. **Non-compliant:** Companies that ignore take-down notifications or simply refuse to remove material that is clearly child sexual abuse imagery.
5. **Complicit:** Companies that knowingly allow child sexual abuse imagery on their services and may attempt to protect clients engaged in illegal activities.

<sup>9</sup> INHOPE is an active and collaborative global network of hotlines dealing with illegal content online. It supports the network of hotlines in combatting online child sexual abuse material.

Some companies will act on a wider set of images that are clearly harmful even if they are not necessarily illegal, while others base their response solely on statutory obligation. There is a lack of transparency and accountability in the process of image removal, and industry has had extensive discretion and authority on decisions tied to the removal of these images.

While some of the large technology companies engage in proactive scanning/blocking of child sexual abuse images, smaller technology companies may not have the expertise or the budget to implement such a solution. These companies rely more on a reactive approach whereby they only act once they are informed that they are hosting child sexual abuse images. In our experience, some of the smaller, less reputable companies are entirely deficient in their response to this issue. In our work on Project Arachnid, we have encountered cases in which small companies are exploiting loopholes and jurisdictional differences to evade authorities and obscure their identity and location, thus not only routinely avoiding their obligations to remove child sexual abuse images, but in some instances providing the platform that facilitates and promotes the exchange of such material. Notably, these quasi-legal or potentially criminal operators receive internet, technical, and professional support from larger internet transit providers who are generally not in a position to know this is occurring through their services.

We are hopeful the paradigm shift called for in this report will result in the change necessary to curb and even reverse the growing number of children abused and harmed online. We have a global responsibility to children to make a distinctive impact in eradicating child sexual abuse images and harmful/abusive images of children on the internet. Through increased collaboration, new strategies, and a united resolve among stakeholders, we are determined to make this a reality.



The UN recently released *Guidelines on the implementation of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography*. These guidelines reinforce the position that the substantive provisions of the *Optional Protocol* are fully relevant and applicable in the online world, and that the private sector can play a proactive role in the prevention and combatting of offences covered by the *Optional Protocol*.

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## UNDERSTANDING THE SCOPE OF THE PROBLEM: Public Availability of Child Sexual Abuse Images

There have been countless research projects and studies attempting to quantify the volume of child sexual abuse images on the internet. As a result, there is more than enough evidence to confirm an abundance of images and videos of children being sexually abused is available worldwide.

Consider the international hotlines that have been inundated with processing reports concerning child sexual abuse images:

- The National Center for Missing and Exploited Children's (NCMEC's) CyberTipline, the largest hotline of its kind in the world, averages approximately one million reports of child sexual exploitation each month and has received, in total, more than 45 million<sup>10</sup> reports. The majority of those reports involve electronic service providers reporting instances of suspected child sexual exploitation due to their proactive efforts.
- Over the last few years, the Canadian Centre's Cybertip.ca<sup>11</sup> hotline has moved from managing 4,000-5,000 reports/month from the public to processing approximately 100,000 reports/month as a result of Project Arachnid and the automated detection of suspected child sexual abuse images. In 2018, Cybertip.ca assessed double the amount of imagery it had in the previous 15 years combined.
- In early 2018, a joint report released by INTERPOL and ECPAT International<sup>12</sup> stated as of August 2017, the Internet Child Sexual Exploitation Database (ICSE) Database<sup>13</sup> contained over one million unique individual images and videos and that, "it is widely acknowledged that many millions of child sexual abuse images are currently in online circulation."<sup>14</sup>

The number of images/videos, while devastatingly harmful and abusive in and of themselves, only captures a sliver of the harm experienced by victims/survivors of child sexual abuse. Many of these victims have been sexually abused over the course of several years and not every act of abuse is recorded. When we use static numbers to quantify this social epidemic, it in no way captures the full extent of the problem, and the overall abusive experiences of victims and survivors.

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<sup>10</sup> As of April 2019.

<sup>11</sup> Cybertip.ca is Canada's tipline for addressing the online sexual abuse and exploitation of children.

<sup>12</sup> ECPAT International and INTERPOL, (2018), *Towards a Global Indicator on Unidentified Victims in Child Sexual Exploitation Material*. Interpol, 2018.

<sup>13</sup> Launched in 2009, ICSE is a tool for law enforcement to investigate child sexual abuse material in the form of images, videos and hashes.

<sup>14</sup> ECPAT International and INTERPOL, (2018), *Towards a Global Indicator on Unidentified Victims in Child Sexual Exploitation Material*. Interpol, 2018. page 20, quoting: Carr, J., and Hilton, Z. (2011), "Combating child abuse images on the internet — international perspectives". In J. Davidson and P. Gottschalk, (Eds.), "Internet Child Abuse: Current Research and Policy", 52-78, Abingdon: Routledge.

Model in image and intended as illustrative.

***“The sheer volume of child sexual abuse material online is almost inconceivable.”***

***– WePROTECT Global Alliance to End Child Sexual Exploitation Online<sup>15</sup>***

Model in image and intended as illustrative.

**The number of victims who have been identified and rescued is significantly less than the number of unidentified victims. For example, as of November 20, 2018, the NCMC CyberTipline had reviewed 267 million images and videos, yet only 15,800 victims are reported as having been identified by law enforcement.<sup>16</sup>**

Model in image and intended as illustrative.

**The public would likely be surprised by the number of child sexual abuse images on the internet compared to the number of police investigations and/or prosecutions of the individuals responsible for the creation and dissemination of such content; especially when you factor in the activity within the Tor<sup>17</sup> network.**

<sup>15</sup> The WePROTECT Global Alliance to End Child Sexual Exploitation Online is an international movement dedicated to national and global action to end the sexual exploitation of children online. Over 70 nations have signed on to the WePROTECT initiative, and it is led by a multi-stakeholder board, comprised of representatives from key countries, international and civil society organizations, and the technology industry.

<sup>16</sup> Source: [missingkids.org/theissues/sexualabuseimagery](https://missingkids.org/theissues/sexualabuseimagery).

<sup>17</sup> The Tor network allows users to remain anonymous with their online activity. Communication is encrypted and bounces through a network of relays run by volunteers around the globe.

Model in image and intended as illustrative.

**“No child should have to endure the pain, the hardships, the loss of innocence or a normal life at the hands of an abuser and those who want take pleasure from the suffering of children.... The world needs to recognize that child sexual abuse and its imagery is not just a singular crime like a gunshot wound. The abuse may have occurred one time or a hundred times, but once that imagery is posted online the abuse is infinite and the mental scars created do not fade as easily as those made by stitches healing.”**

**– A member of the Phoenix 11**



Model in image and intended as illustrative.

## Hearing from Survivors

In 2016, our organization, along with NCMEC and other experts from around the globe, launched the International Survivors’ Survey (Survivors’ Survey)<sup>18</sup> for adult survivors whose childhood sexual abuse was recorded and, in most cases, distributed online. Over the course of a year and a half, 150 survivors from around the world completed the survey and contributed invaluable insight into the unique historical and current challenges faced by survivors.

As the first generation of victims whose abuse has been/may have been posted or circulated online, these survivors provided critical information to identify gaps in the systems that respond to and support victims of this crime.

<sup>18</sup> View the full results of the Canadian Centre for Child Protection’s International Survivors’ Survey at [protectchildren.ca/surveyresults](https://protectchildren.ca/surveyresults).

### INTERNATIONAL SURVIVORS' SURVEY — PRIMARY FINDINGS

- 87% of the respondents were 11 years of age or younger when hands-on abuse began, and for 56% of the survivors, the abuse began before the age of four. Deeply concerning was the duration of the abuse, which for 36% of the survivors continued into adulthood.
- The majority of respondents to the Survivors' Survey identified a parent or family member as their abuser — 50% of those were abused by one person (n=26), and 82% of those abused by multiple individuals were abused by a parent or family member (n=83).
- Nearly 70% of respondents indicated they constantly worry about being recognized by someone who has seen images/videos of their abuse (n=103), and 30 respondents reported being identified by someone who has seen images/videos of their abuse.
- When asked how the existence of the images/videos impacted them differently from the child sexual abuse itself, survivors frequently spoke of the permanence of the images/videos and that if the material was distributed, their circulation will never end, which underscored the powerlessness they felt about the imagery/videos.

Survivors told us the recording of the abuse and its continued online availability created an additional layer of trauma which coloured every aspect of their lives. Simply knowing such recordings exist, and that individuals around the world are able to view and take pleasure from them, evokes a variety of emotions including fear, shame, and a pervading sense of powerlessness. As so eloquently expressed by one such survivor:

*“I still believe these images can ruin my life. I will still feel ashamed of myself for a long time that so many people can look at them, even though the abuse is over. I can protect myself from being raped again, but there’s nothing I can do against these photos and videos being sold and stored.”<sup>19</sup>*

The knowledge their sexual abuse images/videos may be or are publicly available has an enormously negative impact on survivors. The impact of ongoing circulation significantly reduces the ability of survivors to cope with day-to-day stressors, maintain healthy relationships, and reach their full potential in educational and occupational pursuits. By taking concrete steps to curb the public availability of child sexual abuse images, the ongoing harm to survivors can be reduced.<sup>20</sup>

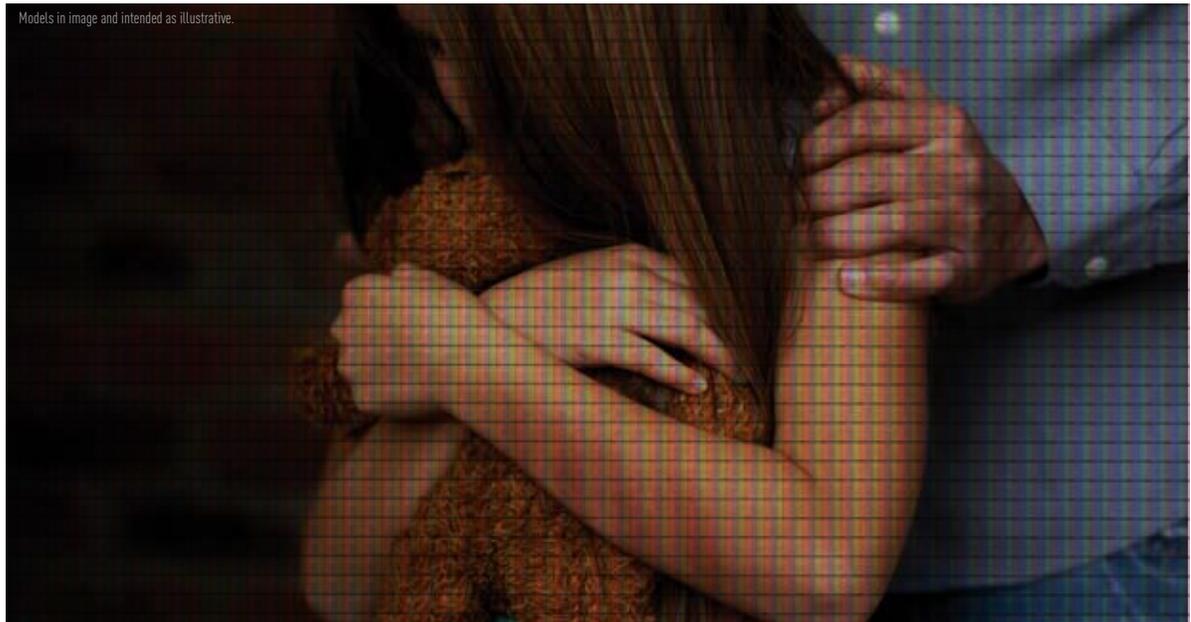
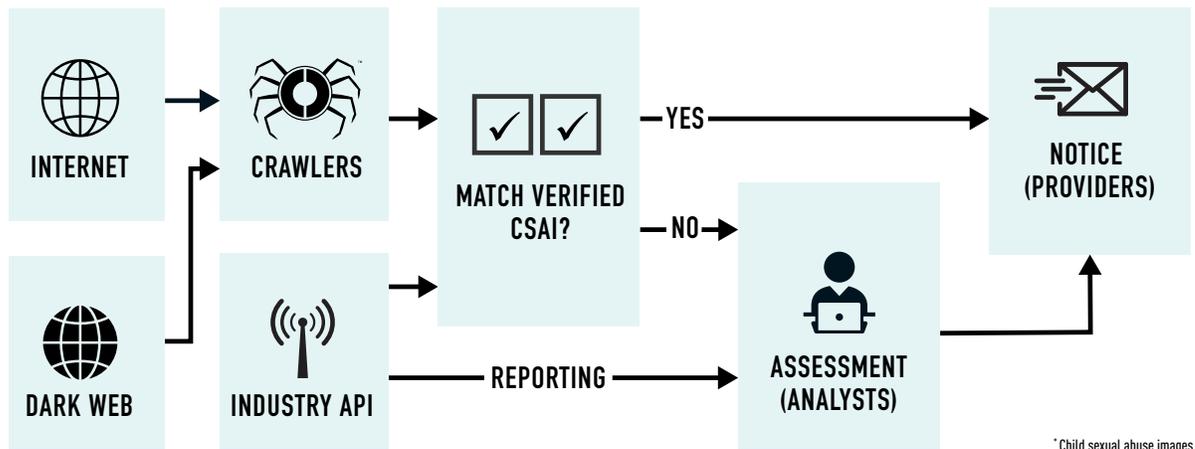
<sup>19</sup> Canadian Centre for Child Protection Inc., (2017), *Survivors Survey, Full Report*. Page 149.

<sup>20</sup> Canadian Centre for Child Protection Inc., (2017), *Survivors Survey, Full Report*. Page 90.

## Evidence Provided from Project Arachnid

In response to survivor concerns, in January 2017, the Canadian Centre launched Project Arachnid,<sup>21</sup> a platform for reducing the online availability of child sexual abuse images on the internet. In addition to crawling functions, the system has evolved into a platform that includes tools for industry to address child sexual abuse images. These tools make it easier for companies to be proactive in removing child sexual abuse images on their services.

### How Project Arachnid Works:\*



<sup>21</sup> Learn more at [projectarachnid.ca](http://projectarachnid.ca).

### Project Arachnid results as of December 2019:



Over 96 billion  
images processed



Over 13 million suspected  
images of child sexual abuse  
triggered for analyst review



More than 4,200 victim  
series<sup>22</sup> detected



Almost 5 million notices  
sent to industry



85% of the notices issued relate  
to victims who are not known  
to have been identified by police

In operating Project Arachnid, our agency has learned a significant amount about child sexual abuse images and abusive/harmful images of children. Cybertip.ca began archiving child sexual abuse images and harmful/abusive images of children in August 2017, which provided analysts with the much needed context surrounding victim series and the continuum of their abuse. Within a similar timeframe, our organization also received hash values<sup>23</sup> from NCMEC and began receiving hash values and other critical data sources from INTERPOL and the RCMP.

The important lessons gleaned from this pool of information are summarized below.

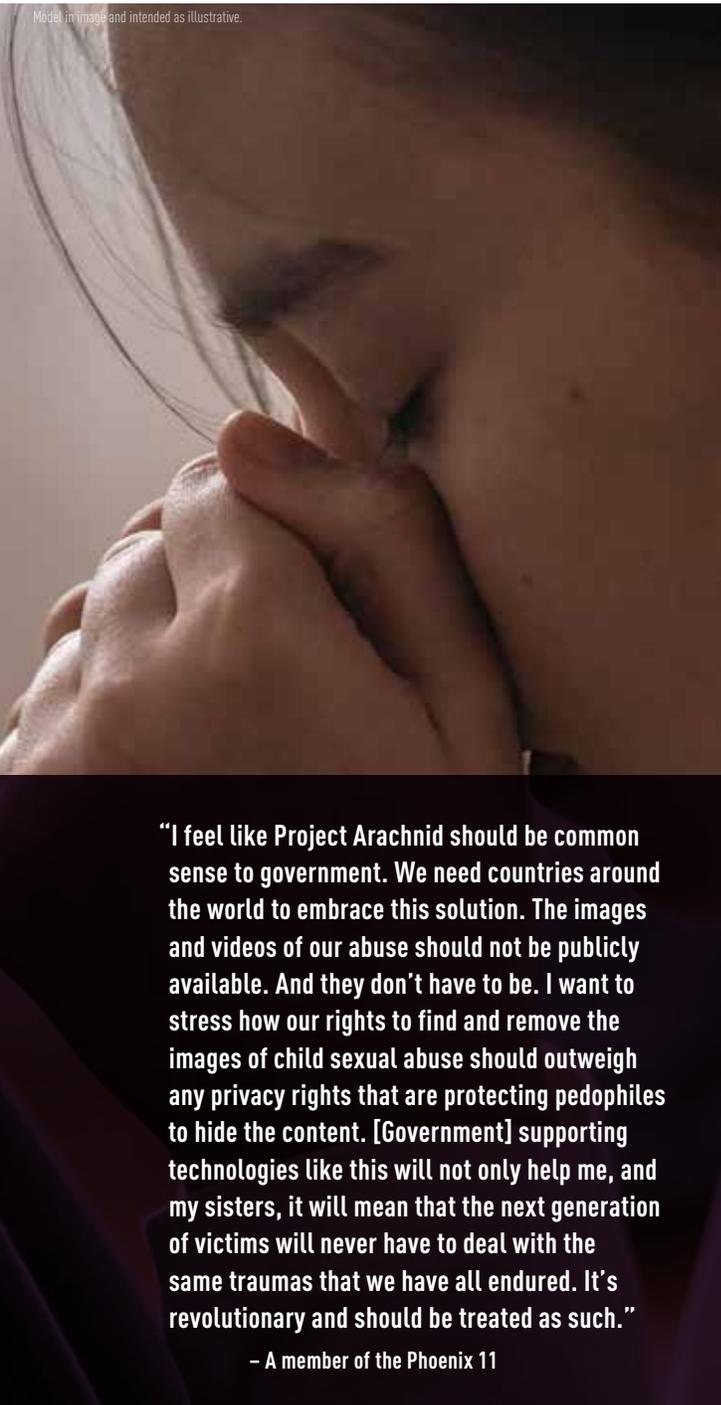
### Context is Key

While industry assessment of what is, and is not, a child sexual abuse image is based on the characteristics of the image itself, context is key to determining whether an image is abusive and harmful. Within Project Arachnid, analysts are seeing a tremendous amount of historical content, some that has been available for decades, as well as other content tied to known victim series (identified or unidentified). Previously, without that sequential context, many images of known victims were not connected by hotlines with the more egregious images of those victims, and therefore, not prioritized for removal. Images can now be connected to a known incident of child sexual abuse because of what the child is wearing or the location. Such images would not have been correlated by hotlines or industry to known victim series prior to our archiving images/videos.

<sup>22</sup> A victim series encompasses images/videos known to police that involve identified and unidentified child victims.

<sup>23</sup> A hash value is a numeric value of a fixed length, much like a fingerprint, that uniquely identifies data.

Model in image and intended as illustrative.



**"I feel like Project Arachnid should be common sense to government. We need countries around the world to embrace this solution. The images and videos of our abuse should not be publicly available. And they don't have to be. I want to stress how our rights to find and remove the images of child sexual abuse should outweigh any privacy rights that are protecting pedophiles to hide the content. [Government] supporting technologies like this will not only help me, and my sisters, it will mean that the next generation of victims will never have to deal with the same traumas that we have all endured. It's revolutionary and should be treated as such."**

**– A member of the Phoenix 11**

## **Legal Images Used to Further Victimize Children within Known Series**

We also now observe how legal images/videos of a child are being openly misused by offenders to re-victimize children (survivors) within known series. For example, offenders will comment on a survivor's current whereabouts or post other identifying information, such as the school/university a survivor is attending, the name of the sports team a survivor is on, a survivor's community involvement, images involving a survivor's friends/acquaintances, etc. This information may be used to determine a survivor's whereabouts or utilized as a gateway to point towards the location of a complete set of images/videos associated with a survivor. There have been some extreme instances where offenders seek images of survivors, now as adults, with their families and comment on their desire to offend against the survivor's own children.

## **Safety Risks to Victims**

In many of the recordings in circulation, whether they are child sexual abuse images or harmful/abusive images of children, the child is often fully visible and identifiable.<sup>24</sup> This visibility not only heightens the degree of the privacy violation, but also presents an obvious risk to the child's personal safety and psychological security, now and in the future. It means any person who knows the victim could possibly recognize them, and for someone who does not know the victim, they might be able to identify them in the future. Of even more concern, in some instances, the actual name of the child is posted along with the abusive imagery or the name of the child becomes known to the offending community through other means. Due to the ongoing availability of their child sexual abuse imagery, many of these children have had to change their name to avoid being identified and harmed by those who view them as sexual objects or commodities.<sup>25</sup>

<sup>24</sup> This is in stark contrast to the offender who is either not visible in an identifiable way (e.g., face is blacked or blurred out, or cut off) or is not visible at all in the image/video, which in some instances can make it appear as though the image/video was created by the victim alone.

<sup>25</sup> Under the *United Nations Convention on the Rights of the Child*, a child has the right to preserve his or her identity and name. Yet once an offender has tied a child's real name to a child sexual abuse image or harmful/abusive image, not only is that child's safety and security at risk, the child's right to retain their identity and name is potentially violated.

## Extracting Images from Video Content to Entice Offenders and Advertise New Content

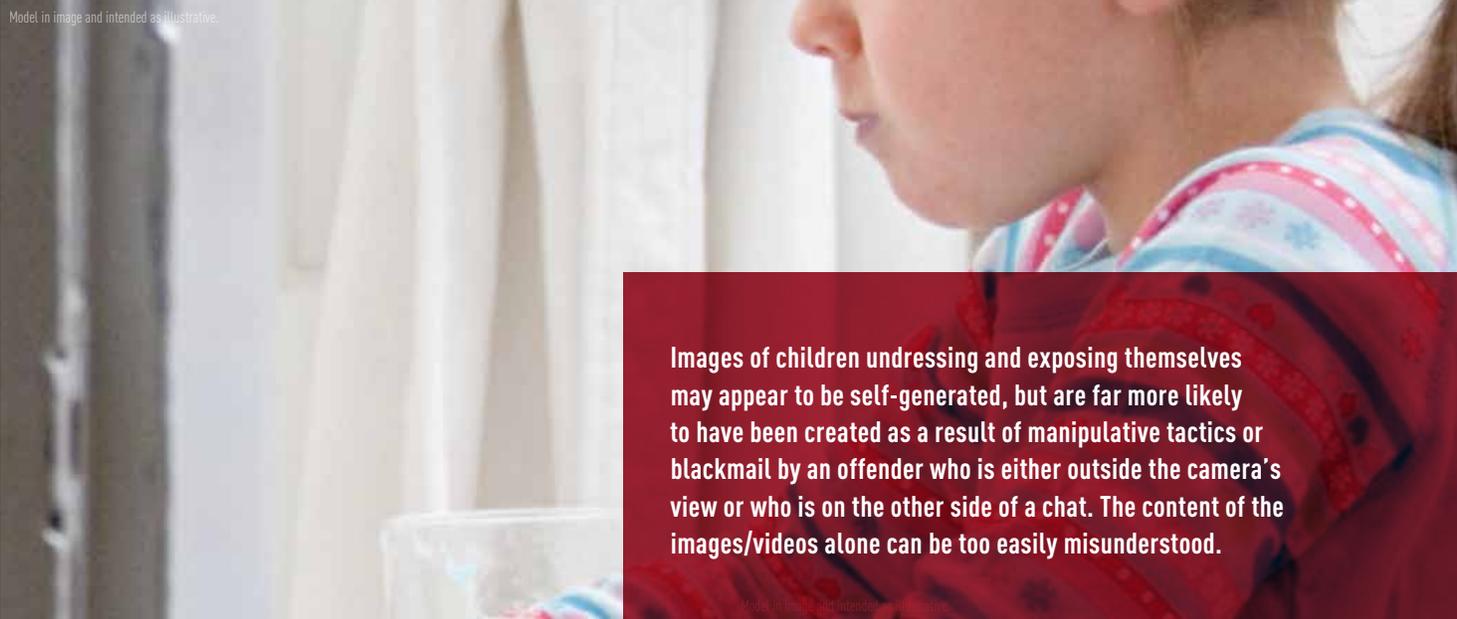
Still images — in some cases, thousands of them — are extracted from child sexual abuse videos to entice offenders to collect every still image associated with a video, to promote new content, and to draw attention to new victims. These images are also used by offenders to create new video files or collages of one or multiple victims connected to the most egregious aspects of the sexual assaults. This material is used by offenders to build their collections, as well as to leverage in trading with other offenders.

Additionally, it is not uncommon for offenders to create compilation video files made up of short clips from other complete videos of child sexual abuse. These are frequently used to show other offenders the extent of their collection or to promote their sexual preferences/interest in particular children or series. Since each compilation video file has a unique hash value that differs from the hash value associated with the original video(s), each one is a “new” file that must be separately reviewed and assessed before a notification can be sent for removal.

## Young Children Manipulated by Offenders and Recorded Over Live Stream

Through Project Arachnid, we have seen an increase in the number of images/videos of children who appear to be between the ages of 8-12 years old undressing, exposing genitalia, and/or carrying out sexual acts over live streaming services/apps. In these live stream recordings, it appears that the children are manipulated or coerced into filming themselves in private spaces such as bedrooms or bathrooms. It is fairly common to see objects like toothbrushes, pencils, crayons, and sometimes hair brushes being inserted into a child’s vagina or anus. In many cases, recordings also involve other children who may be either peers or older or younger siblings. Offenders then share excerpts of these recordings, or share them in their entirety, with other offenders on chat sites, forums, and the dark web. When shared, the excerpt typically involves a still of the coerced sexual act. Sometimes we also see still images produced prior to or after the coerced sexual act, that do not contain the coerced sexual acts, as a way of “safely” advertising the availability of the full recording/content on other services.

Model in image and intended as illustrative.



Images of children undressing and exposing themselves may appear to be self-generated, but are far more likely to have been created as a result of manipulative tactics or blackmail by an offender who is either outside the camera’s view or who is on the other side of a chat. The content of the images/videos alone can be too easily misunderstood.



Model in image and intended as illustrative.

**“We never knew that there was any hope for getting the images of our abuse taken down from the internet. We always thought it was another thing that we could not control. Now that we know that there are actually ways to do it, we want it all shut down. We don’t want any more children to have to deal with what we deal with if that can be fixed.”**

**– A member of the Phoenix 11**

### **Stolen Pictures Commonplace in Pedophile Forums**

Stolen pictures are commonly found by Project Arachnid within pedophile forums and chatrooms. The images may have been originally posted innocently, but are reposted and used in a way that sexualizes and harms children. The images are posted to pages/chats that include horrific text, comments, or graphics that add a sexual connotation to an otherwise innocent image of that child.

Offenders also take pictures of themselves ejaculating on these otherwise legal images of children that are posted on specific pages/chats. Safety risks to children are further elevated when, in many of these forums and chatrooms, offenders also claim to have access to the child in some capacity (e.g., child in the neighbourhood, relative).

Through Project Arachnid, we also see offenders posting and commenting on what appears to be self-generated intimate images or videos of tweens/teens. Whether or not the youth is aware of its circulation, these children are re-victimized every time their images are viewed, and may also face elevated safety risks depending upon what additional information is shared about them.

### **Images/Videos of Known Identified Victims Being Used to Groom New Victims**

Through Project Arachnid, we have seen many images/videos where the offender is photographed/recorded showing the child they are grooming, or newly abusing, the images of sexual abuse of another known/identified victim/series. Offenders will use this tactic in an effort to introduce and normalize sexual contact and/or use it as an instructional guide on what the child should do and how the child should behave during the sexual abuse incident(s).

### **Large Volume of Adolescent Content on Adult Pornography Sites**

As a result of receiving other data related to victims (e.g., victims identified by law enforcement), Cybertip.ca is now aware of a significant volume of child sexual abuse images that includes pubescent/post-pubescent victims. Particularly in the case of adolescent content, confirmation of the identity and age of a minor in an image/video provides the opportunity to issue notices requesting its removal. Project Arachnid regularly detects child sexual abuse images involving identified pubescent and post-pubescent children on adult pornography sites, which is unlawful and must be removed.

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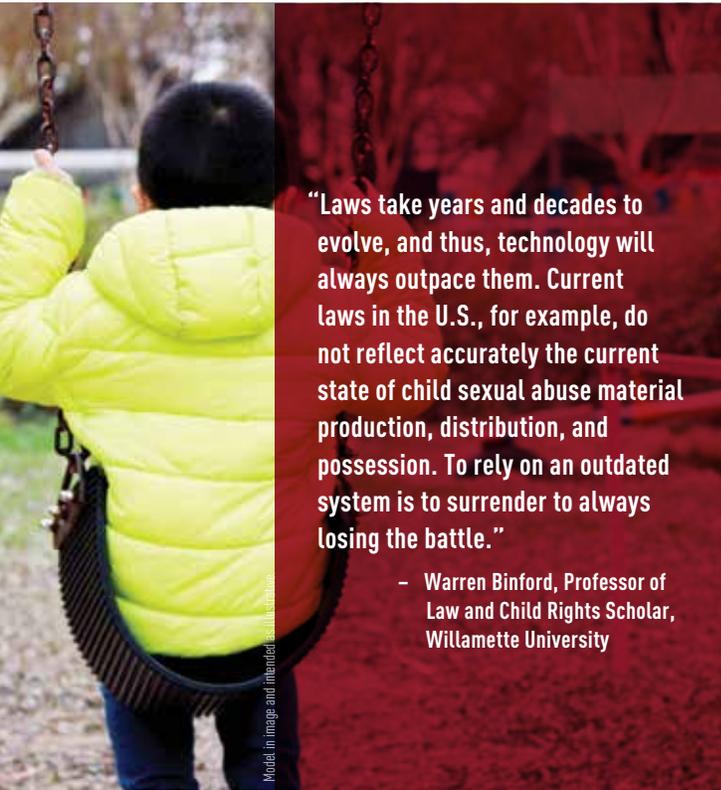
## WHAT ARE THE PROBLEMS WITH CURRENT RESPONSES?

The overwhelming pace of technological progression, along with the significant online offender population, has resulted in a lack of cohesiveness in responses to child sexual abuse imagery around the globe. This problem includes a rigid adherence to criminal law definitions and the criminal standard of proof (beyond a reasonable doubt) to determine criterion for removal, inconsistent assessment processes, a failure to consider the ongoing harm to a child victim when content is not removed, a failure to connect the continuum of harm to child victim(s), and other risks to the safety and rights of children. The lack of a standardized response is also reflected in the inconsistency with which industry's terms of service are being applied. We are facing a serious challenge in finding ways to reverse the tide.



**“We are hearing more and more examples of perpetrators of these crimes gaining privacy rights that ease their ability to continue to perpetrate, such as the recent announcement by [a popular platform] to implement end-to-end encryption in their messaging software, but what we are not hearing about are concrete plans regarding the protection and privacy of children whose images of sexual abuse are shared through this software. I am here to represent the millions of children that no one will ever hear about in the media or who will not be heard in a courtroom and ask that governments take the responsibility of protecting the rights and privacy of children into their hands and force industry to account for these rights as well. To stop a global epidemic we must address child sexual abuse imagery and its distribution as a committed and united front.”**

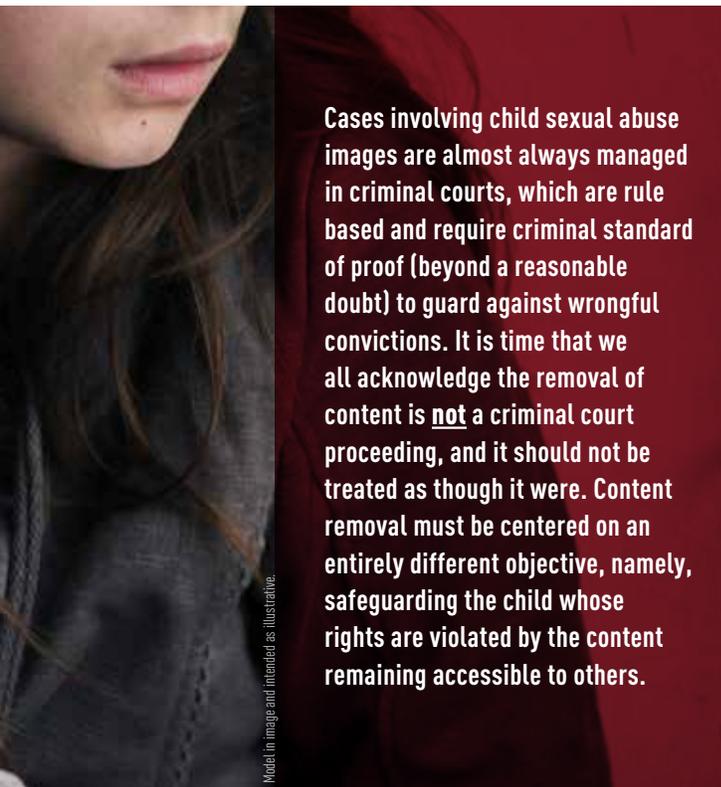
**– A member of the Phoenix 11**



**“Laws take years and decades to evolve, and thus, technology will always outpace them. Current laws in the U.S., for example, do not reflect accurately the current state of child sexual abuse material production, distribution, and possession. To rely on an outdated system is to surrender to always losing the battle.”**

– Warren Binford, Professor of Law and Child Rights Scholar, Willamette University

Model in image and intended as illustrative.



**Cases involving child sexual abuse images are almost always managed in criminal courts, which are rule based and require criminal standard of proof (beyond a reasonable doubt) to guard against wrongful convictions. It is time that we all acknowledge the removal of content is not a criminal court proceeding, and it should not be treated as though it were. Content removal must be centered on an entirely different objective, namely, safeguarding the child whose rights are violated by the content remaining accessible to others.**

Model in image and intended as illustrative.

## **Overly Reliant on Criminal Law Definitions and Criminal Standard of Proof to Address Removal**

There are fundamental problems with using, in isolation, criminal law definitions of child sexual abuse images to determine what images/videos should be removed from public view. **These laws were intended only for use in a criminal court context and were drafted narrowly and with precision to support the imposition of very serious criminal law sanctions. When those same definitions are relied upon to determine what content needs to be removed, it means a significant proportion of harmful/abusive images of children remains online.**

Content moderation based upon narrow legal definitions does not serve the best interests of children/victims whose child sexual abuse images have been recorded and shared online. Far too many harmful and abusive images of children do not meet the criminal threshold in many jurisdictions. For example, within Project Arachnid, analysts frequently see close-up images of children with what appears to be semen on their face. We know these images are sometimes not removed by some within industry because they state they cannot verify the substance is semen when the images are seen in isolation. Essentially, they are asking, “Is it beyond a reasonable doubt that this is semen on the child’s face?” Instead, the appropriate question is, “In the context of this image, is it more likely than not that a person viewing the image would perceive that this is semen on the child’s face?” Criminal definitions do not contemplate or account for the wide range of harmful and abusive images that are widely available and are far too restrictive when used to make decisions about image removal. Further, it is inappropriate to require proof to a criminal standard, and to remove only that which is unquestionably illegal, when the objective of removal is not punitive — it is to protect victims of child sexual abuse images from further victimization and harm.

## Inconsistent and Subjective Assessment Process Coupled with Lack of Training on Sexual Development

Over the last number of years, hotlines and industry have been the primary agents tasked with assessing content to determine whether it meets the threshold of illegal material for the purpose of removal. This process typically relies on conducting a developmental age assessment of the child in question, along with whether there appears to be any sexual activity or sexual purpose to the content. From our experience, this assessment process can be highly subjective, inconsistent, and is cautious to the point of absurdity in some instances.

As a result of inconsistencies in assessing a child's sexual maturation, hotlines may not issue notices to industry, industry may refuse to remove the image, or there may be reluctance to take it down without further verification the child in question is without a doubt under 18. Through notices generated by Project Arachnid, our organization is experiencing pushback from some large technology companies on requests to remove sexual abuse images associated with children we believe to be as young as 10-12 years of age.

When children are in the early stages of puberty and are unidentified, the images of their abuse are often not removed immediately. For some industry members, any signs of sexual maturation (e.g., axillary and pubic hair, breast buds, a curve in the hips) will result in an image not being removed in spite of having received a request for removal from a trusted/verified hotline. In these situations, removal only happens once industry receives some kind of age verification from law enforcement that the child is under 18, presumably to ensure adult pornography is not taken down.





### ADULT FREEDOM OF EXPRESSION AND CHILD RIGHTS:

The impetus for the removal of child sexual abuse images and harmful/abusive images of children is grounded in the child's inherent right to dignity and their right to privacy. Removal should not be considered as being in competition with the right to freedom of expression. At an international level, freedom of expression is recognized to carry with it special duties and responsibilities under Article 19 of the International Covenant on Civil and Political Rights, in that such rights can be restricted, "for respect of the rights or reputation of others" and "for the protection of ... public health or morals." Child sexual abuse images that meet the threshold for illegality are categorically not protected forms of speech. Child sexual abuse imagery has no social value, and its public availability constitutes a clear and continuing violation of the rights of a vulnerable group that virtually all nations recognize is worthy of protection.

Early signs of sexual development dominate and unduly influence the assessment criteria and removal process, resulting in countless images/videos of children remaining online. The pace at which children sexually develop varies considerably and can also vary depending on ethnicity, so it is imperative that indicators beyond sexual development form part of the assessment. In many instances, it would be crystal clear to the average person that the individual in the image is still a child. Moreover, research suggests the stress of sexual abuse may trigger early pubertal development:<sup>26</sup>

*"In North America, the age of onset of puberty — as evidenced by the development of secondary sexual characteristics such as breast development, pubic and axillary (armpit) hair and growth of testicles and penis — occurs typically between the ages of 8 and 13 years in girls and 9 and 14 years in boys. (There has been noted a trend towards earlier age of onset of pubertal changes in developed countries. As well, racial differences even within North America exist for the onset of puberty). Pubertal development is often complete by the age of 17 years in girls and 18 years in boys, (although males may continue to show some continued increase in height, and facial hair after the age of 18). This suggests, however, that in images where only minor signs of puberty are evident, the children are well under the age of 18 years and almost certainly much younger."*

– Dr. Debbie Lindsay, Forensic Pediatrician

The repercussions for children/survivors whose child sexual abuse is recorded and shared online is immense. Once a child sexual abuse image or video is made available in one online location, any delay in removal, or refusal to remove, permits others to save and share the material. Inaction perpetuates the ongoing traumatic cycle of abuse that survivors face day in and day out.

<sup>26</sup> 1.J Adol Health Care 1980 Sep;1(1):26-9. "Normal ages of pubertal events among American males and females," *Pediatrics*, October 2002, VOLUME 110 / ISSUE 4; Tiejian Wu, Pauline Mendola, Germaine M. Buck. "Ethnic Differences in the Presence of Secondary Sex Characteristics and Menarche Among US Girls: The Third National Health and Nutrition Examination Survey, 1988–1994." *Pediatrics*. 2002 Oct; 110(4):752-7.

## Failure to Remove All Images in an Abuse Series

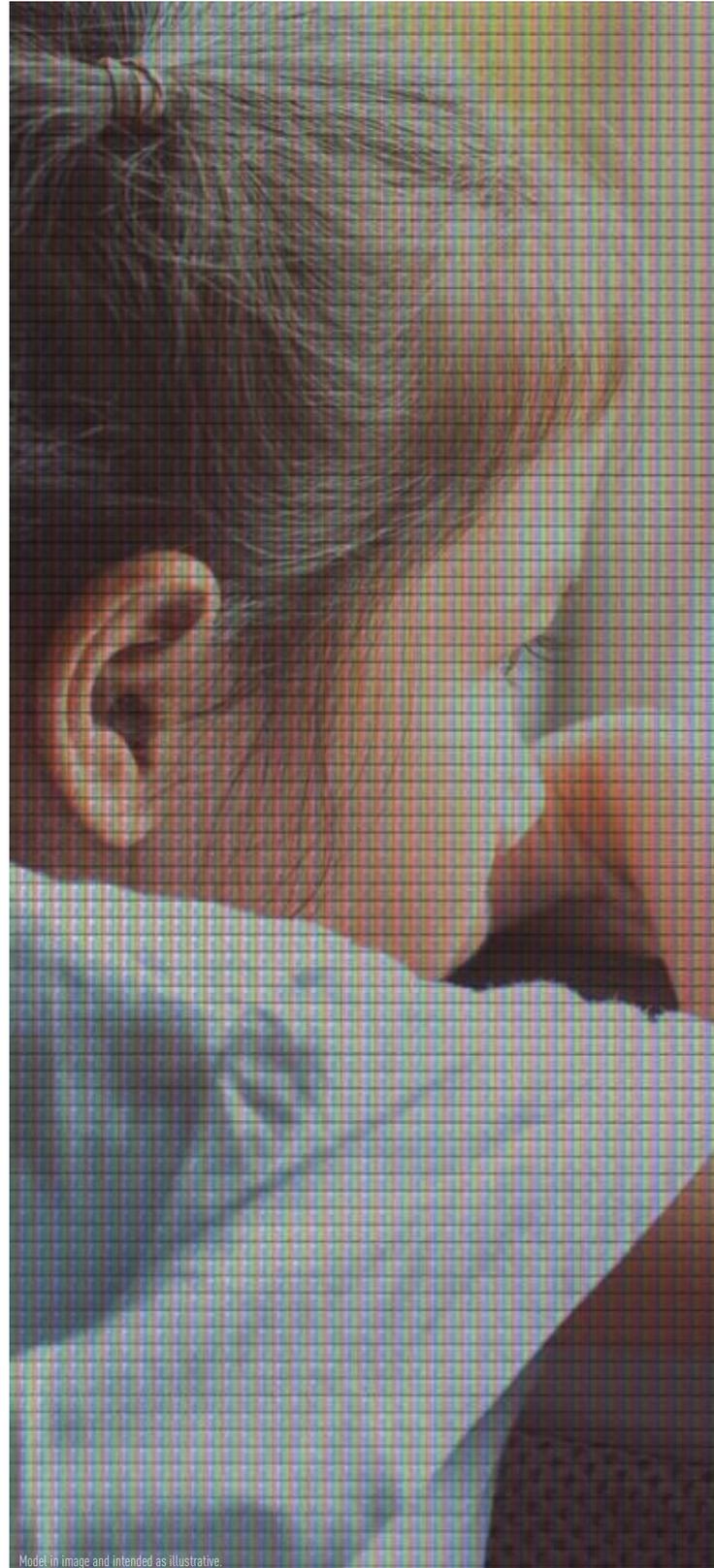
As previously mentioned, in a victim series of child sexual abuse images, numerous images are often associated with the abusive incident(s). It may start with still images that, to anyone other than an offender, seem innocuous (clothed and partially clothed), but then progress to the child being sexually abused. While it may be true that some of these images alone may not technically meet a criminal threshold, or neatly fit within the industry threshold for removal, they are a part of a continuum of abuse experienced by the child.

Additionally, there is a demand and interest for some offenders in collecting the full series, which includes seemingly harmless imagery as well as illegal imagery. Since the seemingly harmless imagery is not viewed as illegal, these images are being deliberately used by offenders, who likely anticipate they won't be removed, to point to and provide information about child victims, as well as to boast to other offenders about their in-depth knowledge of a specific series or victim(s). To our knowledge, these images are typically not being removed, despite being associated with a known series of images and being used to actively re-victimize children and advertise pathways to child sexual abuse imagery.

## Failure to Address Long-Term Safety Risks for Survivors

Some of the more dangerous offenders even go so far as to maintain an interest in survivors over a longer period of time. Examples include offenders seeking out pictures of survivors, now as adults, and posting/commenting about the victim's historic abuse scenarios, as well as their current status, which can include legal pictures of survivors with current friends/partners, schools they attend, their children, etc. There is obvious ongoing harm to the survivor, as well as privacy and safety risks that extend beyond the survivor to include their families.

Offenders can and do try to locate survivors. This has meant some survivors choose to stay off the digital grid entirely, some participate only under a pseudonym, and others severely limit their online social engagement and public accessibility, even in their work life.



Model in image and intended as illustrative.

## Physical Abuse Often Not Addressed

It is becoming increasingly common to see violent images/videos being made available online that involve the physical abuse of a child. Similar to child sexual abuse imagery, for this type of material to exist, a child must be physically abused. These images/videos are not re-enactments or parodies — they are actual, raw, physical assaults upon children. The physical abuse is extreme (slapping, punching or throwing the child) and sometimes includes elements of bondage (children who are tied/confined around their necks, arms, legs and/or ankles) or even physical torture. By the very nature of the content networks within which this type of content proliferates (in which users can easily share, like, and/or comment), the child depicted is continually and relentlessly exploited and degraded.

The ongoing availability of these images/videos is a repeated violation of the privacy of these children; it is dehumanizing and represents an assault on their dignity every time the material is viewed. The children within these recordings are commonly fully visible and possibly identifiable to anyone who may know them. This type of material can be used to fuel or incite harm to children by individuals who have an interest, sexual and non-sexual alike, in the degradation, pain, and torture of children. The accessibility and prevalence of this content can also contribute to normalizing and desensitizing the public, thus increasing the risk of violence to children. Images and videos of the physical abuse of children should be eradicated with haste in order to decrease demand for new content and distribution, as well as to eliminate the ongoing harm from the continued availability of this material.



Model in image and intended as illustrative.



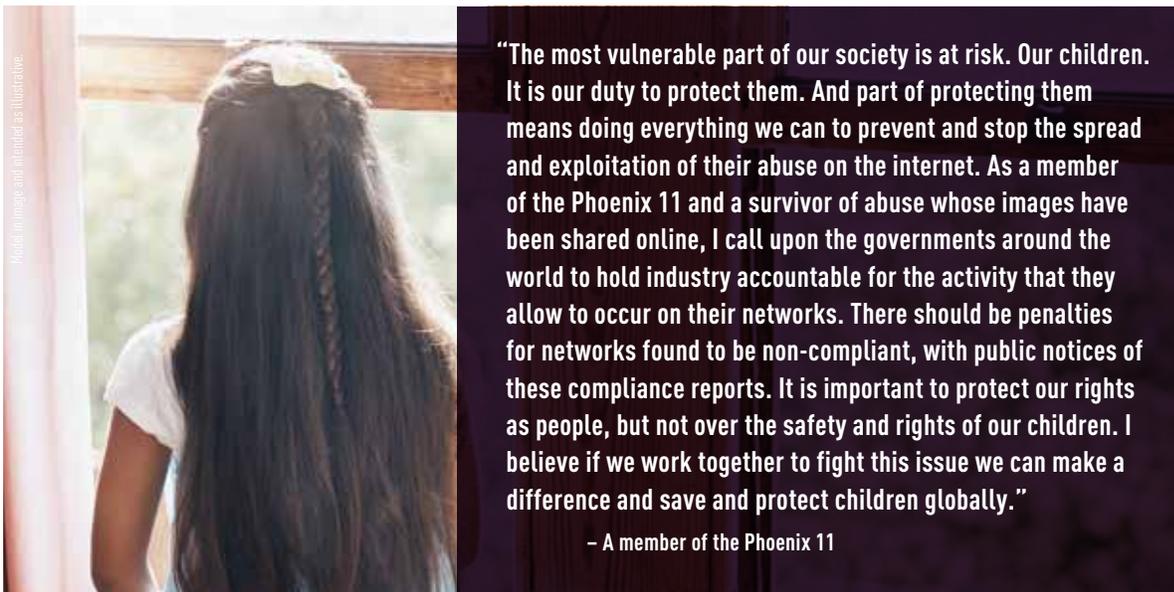
Model in image and intended as illustrative.

**Within many of the technology companies' terms of service, it is common to see broad language used about what the platform does not permit. For example, infringement upon another person's rights, infringement upon another person's intellectual property, content depicting acts of physical harm, content depicting sexual exploitation or sexual assault, content depicting child exploitation, or child sexual abuse images. Therefore, industry have already given themselves the power to remove child sexual abuse images and harmful/abusive images of children by way of their own terms of service.**

## Arbitrary Application of Terms of Service by Industry

Today, there are thousands of companies in the world providing services that are misused through the uploading of child sexual abuse images and harmful/abusive images of children. Some within industry are taking active steps to reduce online child sexual abuse and exploitation, while others are only reactive, or worse, doing nothing at all to tackle this serious social epidemic — resulting in harmful, abusive, and illegal, content remaining accessible on their platforms for extended periods of time. Without a united approach to this global problem, child sexual abuse images, as well as harmful/abusive images of children will continue to fester and multiply online, fuelling networks of offenders.

Industry has been able to create their own rules in relation to the use of their service. The companies interpret and apply these rules without any real avenues for review or appeal by members of the public. Industry is operating independent of any meaningful oversight and this has inevitably resulted in arbitrary decisions associated with image removal.



## Willingness to Provide Services to Non-Compliant Operators

In select cases, Project Arachnid has drawn our attention to websites (imageboards) hosting copious amounts of child sexual abuse images and harmful/abusive images of children, frequently made available through bulletproof hosting services.<sup>27</sup> Bulletproof hosting services provide their customers with protection from DDoS attacks and also help to hide the true location of the host. These features can be attractive to sites dedicated to child sexual abuse and other illegal activities, therefore many such sites utilize bulletproof providers. It has been our experience that many of these bulletproof providers ignore takedown notices. Experience has shown that getting images/videos taken down often requires contact with the upstream provider(s) of the bulletproof host before any action is taken. Some upstream providers take action when notified and others fail to act.

<sup>27</sup> Bulletproof hosting is a service provided by some domain hosting or web hosting firms that allows their customer considerable leniency in the kinds of material they may upload, make available, and distribute. This leniency has been taken advantage of by spammers and providers of online gambling or child sexual abuse images.



Model image and created as illustration

**“Seeking to remove images before circulation or as soon as is feasible after circulation is the best way to restore a child back to a life worth living.”**

- Dr. Sharon Cooper, Developmental and Forensic Pediatrician and Adjunct Professor of Pediatrics, University of North Carolina at Chapel Hill School of Medicine.

## CONCLUSION

This framework is an urgent call to action for those in a position to make change happen for children. It is no longer an option to accept the status quo. We know too much about the ways in which children are being exploited and victimized online and we know we must change the path we are on. It is not enough to confine removal to what is clearly illegal. Adopting criteria that is focused on what is in the best interest of the victimized child, and for children in general, is required. Their dignity rights, their privacy rights, and their right to be safe and secure from harm must take precedence.

As we continue our fight against online child abuse, we cannot combat this complex problem without continued collaboration and an understanding of our shared responsibility. We have to continue to strive to do more to protect our children. They deserve nothing less.

**“For the first time in those 20 years I now feel hopeful. I feel hopeful that people are fighting for me to be free of my abuse. To have the peace of mind of knowing that my abuse will one day be forgotten. Not so much forgotten by me, it will always be a part of me, but the public fact of my abuse — that can change.”**

- A member of the Phoenix 11



Model image and created as illustration

In order to elicit change, awareness must be drawn to the issue of child sexual abuse images, its removal, and the profound impact it has on survivors. A compelling example is the series of articles recently released by *The New York Times* on the prevalence of child sexual abuse images, and industry's failure to address this rampant epidemic. Notably, the feature "Child Abusers Run Rampant as Tech Companies Look the Other Way"<sup>28</sup> provided much public discussion and even prompted a bipartisan group of U.S. Senators to draft a call to action letter to American industry.

In November 2019, the Canadian Centre launched a short survey for the public to weigh in on the responsibility industry bears in the removal of child sexual abuse images online. In just over three weeks, 2,000+ people completed the survey with these notable results:

- **83%** felt a technology company who does not remove child sexual abuse imagery on its service companies should be criminally charged. Another **15%** felt companies should be fined for failure to remove.
- **91%** felt governments should pass laws that require technology companies to meet safety standards that include penalties for non-compliance.
- **94%** felt that technology companies who are notified that stolen images of children are being reposted/shared in a sexual context on their services and platforms should be required by law to remove the stolen images.

Find the survey at: [survey.c3p.ca/csam\\_survey](https://survey.c3p.ca/csam_survey)

<sup>28</sup> Dance, Gabriel J.X., Keller, Michael H. "Child Abusers Run Rampant as Tech Companies Look the Other Way." *The New York Times*. November 9, 2019.

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## APPENDIX A: FREQUENTLY ASKED QUESTIONS

*How we are Failing Children: Changing the Paradigm* aims to transform the way we understand and respond to the serious, global epidemic of child sexual abuse images and harmful/abusive images of children on the internet. To date, this issue has been approached from the perspective of what is or is not “criminal” rather than tackling it based on what is in the best interests of children and what is needed to safeguard them from harm.

Removal has also hinged, for the most part, on the subjectivity of industry<sup>29</sup> who have had extensive authority on decisions tied to content removal, coupled with virtually no oversight or accountability.

While the framework raises critical awareness about offending behaviour online and the risks facing children, the undeniable truth is the rights of a victimized child will be continually violated as long as images/videos of them being sexually harmed/abused are available on the internet. This must change.

### CONSIDERATIONS:

This document outlines some of the considerations and challenges the Canadian Centre for Child Protection (Canadian Centre) worked through in developing the framework and the paradigm shift needed to address the removal of child sexual abuse images and harmful/abusive images of children. The framework and its corresponding principles for action calls for a holistic approach that prioritizes every child’s right to security, dignity, privacy, and freedom from abuse.

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#### How does this framework fit in with the right to freedom of expression?

- Freedom of expression is one’s right to express their own ideas freely without state interference and is an important right in any democratic political framework. However, it is generally accepted that one’s right to express themselves does not extend so far as to permit one to violate the rights of other people and cause them harm, particularly if the individual harmed is from a vulnerable group. Even the United States, which protects virtually all types of free speech, has found that child sexual abuse images which meet the criminal standard are not protected speech.<sup>30</sup>
- Removing child sexual abuse images and harmful/abusive images of children is grounded in a recognition of children’s inherent rights to dignity, privacy, and security of the person. Removing images that have no intrinsic social value and constitute a clear and continuing violation of the rights of a child should not be considered being in competition with the right to freedom of expression.

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<sup>29</sup> Industry is defined as a group of businesses that intersect with user-generated content by way of the internet. It is used as a broad term, encompassing the large and small technology companies.

<sup>30</sup> For example, see: *New York v. Ferber*, 458 U.S. 747 (1982) and *Osborne v. Ohio*, 495 U.S. 103 (1990). See also, Kathleen Anne Ruane, *Freedom of Speech and Press: Exceptions to the First Amendment*, (September 8, 2014), Congressional Research Service. Available online at: [www.crs.gov](http://www.crs.gov).

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**While it makes sense that clearly illegal images of children are not protected by freedom of expression, the framework also requires removal of images that are not clearly illegal. Isn't this censorship?**

- No. Removing harmful/abusive images of children that were created and are distributed without their consent is not censorship. Censorship is the removal or suppression of content that may be objectionable or offensive to some, whereas these images cause actual harm to actual children as a direct result of their public availability and, as such, go well beyond being merely objectionable or offensive. Moreover, many of these images clearly violate the legal rights of children, such as the right to dignity and privacy. Removal of such images is a recognition of the obligation that all adults, and society in general, have to protect vulnerable children from harm. That duty is recognized in numerous international instruments and it is reflected in laws directed towards the protection of children from abuse.<sup>31</sup>
- Adults do not have the unfettered right to violate the rights of children by posting and disseminating pictures that cause them harm. Nor does industry have the right to continue to permit such images to be publicly available online. A picture, in today's world, can cause untold damage to a child in a matter of minutes; damage that can be extremely difficult to undo. The intent of the framework is to highlight that reality and to underscore that the criminal law standard is not the right standard in the removal context.
- While adults certainly have the right to freedom of expression, children also have rights, and it is their rights that, to date, have not been accounted for in a serious way. The public nature of these images certainly violates the child's right to dignity and privacy, as well as the right to control the use of their likeness. There is no reason to believe the children in these images ever consented to their private humiliation being made publicly accessible to a global audience. The continued circulation of such imagery intrudes upon the child's right to be left alone and their right to control their own information and identity.
- The continuum of harm to the child is an important aspect of removal. The abused child is the focus of these images. While it may be true that some of these images, in isolation, may not technically meet a criminal threshold, or neatly fit within the industry threshold for removal, that does not take away from the fact they are a part of a continuum of abuse experienced by the child victim. These are not benign images devoid of context. The images are made publicly available on the internet to enhance the sexual response of the viewer in an environment dedicated to the sexual harm and abuse of children.

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<sup>31</sup> UN General Assembly, Convention on the Rights of the Child, 20 November 1989, United Nations, Treaty Series, vol. 1577, p. 3, available at: <https://www.ohchr.org/en/professionalinterest/pages/crc.aspx>. *The Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography (the Optional Protocol)*, 25 May 2000, available at: <https://www.ohchr.org/EN/ProfessionalInterest/Pages/OPSCRC.aspx>, International Covenant on Civil and Political Rights, 16 December 1966, United Nations, Treaty Series, vol. 999, p. 171 available at: <https://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>.

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**By removing these images are you not losing the opportunity to potentially identify a child victim or an offender?**

- No. It is important to understand the volume and extent of child sexual abuse images and harmful/abusive images of children being made available online is almost impossible to contemplate. Allowing images/videos to languish online in the hopes that it may eventually lead to the rescue of that child is not reasonable or realistic. That said, it has been our experience the vast majority of child sexual abuse images made available and circulating on the public internet involve historic content. This means many of the images/videos Project Arachnid has encountered have been posted and shared online for numerous years and many of the children appearing in those images and videos are now likely adults.
- Moreover, unlike in the past, at least 33 countries<sup>32</sup> currently have mandatory reporting legislation schemas that require service providers to report suspected child sexual abuse images on their networks. Those countries include the U.S., Canada, Australia, China, and France, among others. A notice request for removal in many countries may also trigger mandatory reporting to either law enforcement or a designated organization. This means if such images/videos are new as opposed to historic, the information is provided to those in a position to investigate and potentially rescue the child.
- Notice and takedown measures cannot be set in opposition to law enforcement efforts. Police around the world are inundated with files concerning child sexual exploitation and abuse; therefore, a variety of measures are required to tackle the mass volume of these images/videos circulating online. The images/videos made publicly available on the internet must be immediately removed upon detection to better protect the child whose rights are being violated by its continued public availability.

**Seventy governments from around the world have signed onto a number of key pillars in the *WeProtect Global Alliance Model National Response*<sup>33</sup> for preventing and tackling child sexual exploitation and abuse. One of those pillars is advocating the use of notice and takedown procedures to stem the proliferation of child sexual abuse images online. The WeProtect Global Alliance has recognized the problem is out of control and must be addressed with a multitude of approaches.**

- Robust notice and takedown measures align with the voices of survivors. Nearly 70% of the respondents to the Canadian Centre's International Survivors' Survey<sup>34</sup> indicated they constantly worry about being recognized by someone who has seen images/videos of their abuse (n=103).

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<sup>32</sup> International Centre for Missing and Exploited Children, *Child Sexual Abuse Material: Model Legislation & Global Review: 9<sup>th</sup> Edition*, 2018.

<sup>33</sup> Source: <https://www.weprotect.org/the-model-national-response/>

<sup>34</sup> Source: <https://protectchildren.ca/en/programs-and-initiatives/survivors-survey/>

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### What happens if an image is encountered that appears to have never been seen before by law enforcement?

- For notices issued through Project Arachnid, if the child sexual abuse image/video does not appear to match any of the hashes within the international law enforcement databases,<sup>35</sup> the image is securely sent to the RCMP to add to the national database and shared with Interpol for submission into the ICSE database.<sup>36</sup>

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### How do you take a global approach to removal when there are varying legal definitions around the world regarding what constitutes child sexual abuse images?

- In many countries, if a person has child sexual abuse images in their possession, that person could be charged with and convicted of a criminal offence. For this reason, the definition of what is illegal is limited. **Criminal law definitions were intended only for use in a criminal court context and were drafted narrowly and with precision to support the imposition of very serious criminal law sanctions.** When those same definitions are relied upon to determine what needs to be **removed**, it means a significant proportion of harmful/abusive images of children remains online. This problem is compounded by some industry members erroneously applying a criminal standard of proof (beyond a reasonable doubt) to the assessment of these images. We witness the evidence of this through Project Arachnid.
- In our experience, the laws about what is and is not criminal are not well understood, and far too many harmful/abusive images of children are not being removed for fear of removing something that “might” be legal. Instead, industry applies a cautious, subjective and rigid approach to the assessment process. This means often it is only the most egregious images/videos that are removed from the internet. When the issue is removal, narrow interpretations of what is and is not criminal, and requiring proof to a criminal law standard, does not serve the best interests of children/victims whose child sexual abuse has been recorded and shared online. The focus when determining what is taken down must, therefore, shift to what is in the best interest of the victimized child.

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<sup>35</sup> The Canadian Centre has received hashes from the National Center for Missing and Exploited Children, and receives hashes from the RCMP and Interpol (ICSE), and also utilizes hashes generated through its operation of Cybertip.ca.

<sup>36</sup> The ICSE database is an international image and video database maintained by Interpol that is used for intelligence and investigative purposes by specialized investigators. See: <https://www.interpol.int/Crime-areas/Crimes-against-children/Victim-identification>.

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**Why aren't the current measures good enough — especially when you consider that many of the large technology companies seem to be doing a lot to curb the issue of child sexual abuse images on their services?**

- As a result of operating Project Arachnid and issuing notices to large, medium, and small members of industry, we are seeing varying responses to safeguarding children on the internet. Some are doing proactive detection, while others rely on their users to report abuse; some are strong at removal once notified, others enter into extensive debates or ignore notices all together; some will act on a wider subset of images that are clearly harmful even if they are not necessarily illegal, while others may base their response solely on statutory obligation. The issues raised in the framework are not blanket statements about all businesses that intersect with user-generated content, but rather speak to the challenges our organization is facing in getting child sexual abuse images removed — and the pressing need to also address those images that are harmful/abusive to children. What is abundantly clear is the current, fragmented efforts are failing children and there's an urgent need for more to be done to change this paradigm.
- Industry is currently blind to context which is critical when determining what should be removed. Industry generally assesses images/videos one at a time as opposed to in context with all the images/videos associated with a victim series. Industry does not know if a particular child has been identified and rescued by law enforcement. In short, industry narrowly assesses images based upon what is inside the four corners of the image. This approach results in a significant amount of child sexual abuse images and harmful/abusive images of children remaining on the internet. This is why the role of trusted/verified hotlines is crucial.
- This framework is about turning the removal debate on its head and focusing on the protection and rights of children. Content moderation based upon narrow legal definitions does not serve the best interests of children/victims whose child sexual abuse has been recorded and shared online, and far too many harmful and abusive images of children do not meet the criminal threshold in many jurisdictions. More can also be done within the confines of the terms of service defined by many industry members as it relates to sexual, abusive, or harmful images that do not meet criminal law definitions.

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<sup>37</sup> A victim series encompasses images/videos known to police that involve identified and unidentified child victims.

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**What if industry is not interested in adopting the framework's Principles for Action?**

- The purpose of the framework is to mobilize the global community and engage governments, industry, and hotlines around the world to change the present-day responses for addressing the epidemic of child sexual abuse images and harmful/abusive images of children on the internet.<sup>38</sup>
- Industry plays a critical role in reducing the availability of child sexual abuse images and harmful/abusive images of children on the internet given the images/videos are uploaded to their services. They are in the best position to take down these images/videos and do not need to limit themselves to a criminal definition as removal is not about enforcing criminal law. Moreover, industry has a variety of tools at their disposal to address this issue, including applying their own terms of service, which are typically broad enough to remove images/videos that may not be illegal per se, but are of a sexual or exploitative nature.
- If industry is not interested in adopting the Principles for Action in the removal of child sexual abuse images and harmful/abusive images of children, governments must take a leadership role and provide the overarching policy framework to ensure the best interests of children are at the forefront of any content removal strategy. There is an urgent need for all of us (industry, governments, and hotlines) with key roles and responsibilities in the removal of this material to be working together.

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**The Principles for Action seem to place the same priority on the removal of nude images of children as it does on the most egregious of sexual assaults. Should we not be prioritizing the removal of images and videos where children are being sexually assaulted?**

- The harm facing children cannot be measured or addressed by solely focusing on the worst of the worst. The Principles for Action are associated with a broad framework which focuses on doing what is in the best interest of children when considering their personal safety, security, and privacy, regardless of whether a particular nation has opted to “criminalize” the particular type of image in question.
- Within Project Arachnid, analysts encounter a wide range of imagery, some of which meets the threshold for a notice to providers. Through this process, we witness the multitude of ways in which offenders are promoting sexual interest in children. Offenders are interested in a broad spectrum of images/videos related to known child victim series and, as such, we see the posting of images/videos where children are fully clothed<sup>39</sup> and visible, all the way to the extreme sexual assaults. This framework takes a holistic approach at addressing removal from the perspective of what is in the best interest of children when considering their safety and privacy.

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<sup>38</sup> Child sexual abuse material includes child pornography under a criminal definition, as well as other images and videos that are harmful to children.

<sup>39</sup> The full spectrum of harm includes legal picture of survivors as adults with partners, friends, children of their own, and the interest among offenders in continuing to stalk and seek them out online.

### How would the framework be operationalized?

Through the assessment/verification process within Project Arachnid, trained analysts distinguish between images that are considered Interpol Baseline (worst of the worst) and those that are harmful/abusive images of children but might not meet a criminal threshold in all countries. When issuing a request for removal of the images, other information, such as whether that child has been identified by law enforcement, is also shared. Such information has proven to be critical in getting images removed that show children with signs of puberty, and images that do not depict an overt sexual act.

The projected plan is to augment the current notice process for child sexual abuse images with a second type of notice. The following outlines these two different notices for providers that receive removal requests:

1. Notices requesting the removal of child sexual abuse images/videos. The term child sexual abuse images include those that fall within a criminal definition (including the worst of the worst that would meet most countries' threshold for illegal images).

*Note: Removal notices involving child sexual abuse images/videos may not trigger mandatory reporting in the countries that have this type of reporting regime.*

2. Notices requesting the removal of harmful/abusive images of children. These include:
  - a. All material recorded in the course of a sexually abusive scenario/incident<sup>40</sup> involving a child victim (identified and unidentified)
  - b. Nude or partially nude images/videos of children that have been made publicly available (typically stolen from unsecured social media accounts or surreptitiously taken images), **AND** are used in a sexualized context. Publicly available images of clothed children where the offender appears in an image to be masturbating to/ejaculating on a **clothed** child, or on an image of a clothed child, or the image is used in a sexualized context as with the nude/partially nude images are also included.
  - c. Images/videos of children being physically abused, tortured or restrained

*Note: Removal notices involving harmful/abusive images of children may not trigger a mandatory reporting requirement depending upon the country of jurisdiction.*

This suggested framework is just that; it's a foundation of research, ideas, and broad suggestions from which to build a more detailed, solid structure that not only better safeguards children, but ensures all those that have a role to play in the protection of children can work together to do so.

If you have further questions regarding *How we are Failing Children: Changing the Paradigm*, Project Arachnid, or the Canadian Centre, please contact us at [protectchildren.ca/contact](https://protectchildren.ca/contact)

<sup>40</sup> This includes incidents that appear to be self-generated.

## APPENDIX B

### The United Nations Convention on the Rights of the Child (UNCRC)

#### *An analysis of select provisions in relation to the issue of child sexual abuse images/videos on the internet*

The *United Nations Convention on the Rights of the Child (UNCRC)* is an international instrument that reinforces the fact children are people with legal and human rights. It is the most widely ratified human rights treaty in the history of the world, with virtually every country having ratified it.<sup>41</sup> Closely tied to the *UNCRC* is the *Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography (the Optional Protocol)*, which, to date, has been ratified by over 175 countries, and signed by an additional nine countries. Both of these instruments reflect the international commitment to recognizing the inherent vulnerability of children and their need for special care and assistance.

The following tables contain an analysis of select provisions of the *UNCRC* and the *Optional Protocol* in relation to the issue of child sexual abuse imagery on the internet.

ARTICLE 3 – BEST INTERESTS OF THE CHILD	How this relates to victims of child sexual abuse images
<ol style="list-style-type: none"> <li data-bbox="191 1024 690 1220">1. <b>In all actions concerning children</b>, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, <b>the best interests of the child shall be a primary consideration.</b></li> <li data-bbox="191 1245 678 1507">2. States Parties undertake to <b>ensure the child such protection and care as is necessary for his or her well-being</b>, taking into account the rights and duties of his or her parents, legal guardians, or other individuals legally responsible for him or her, <b>and, to this end, shall take all appropriate legislative and administrative measures.</b></li> </ol>	<ul style="list-style-type: none"> <li data-bbox="751 1024 1279 1255">• The best interests of the child has not been the primary consideration when dealing with the removal of child sexual abuse images. Important decisions about removal have been largely left in the hands of industry, and removal has been restricted to that which is clearly and unequivocally illegal.</li> <li data-bbox="751 1276 1302 1402">• The protection and care that is necessary for victims of child sexual abuse images is for all images/videos connected to the abusive incident to be removed from the internet.</li> <li data-bbox="751 1423 1279 1549">• States Parties must take legislative and administrative measures to manage this issue, particularly since “voluntary” removal strategies have failed to address it.</li> </ul>

<sup>41</sup> The notable exception being the United States of America, which has signed the treaty, but not yet ratified it.

<p><b>ARTICLE 8 — RIGHT TO IDENTITY</b></p> <ol style="list-style-type: none"> <li>1. States Parties undertake to respect the <b>right of the child to preserve his or her identity</b>, including nationality, <b>name</b> and family relations as recognized by law without unlawful interference.</li> <li>2. Where a child is <b>illegally deprived of some or all</b> of the elements of his or her identity, States Parties <b>shall provide appropriate assistance and protection, with a view to re-establishing speedily his or her identity.</b></li> </ol>	<p><b>How this relates to victims of child sexual abuse images</b></p> <ul style="list-style-type: none"> <li>• Some victims of child sexual abuse images are forced to either legally change their name or conceal their true identity online because the person who abused them posted it online with their image, or the online community has found out who they are.</li> <li>• As long as imagery is publicly available, it is not possible for these victims to re-establish their identity.</li> <li>• The assistance and protection to be provided should include removal of the imagery and proactive efforts to remove the association of the child's name with the abusive imagery.</li> </ul>
<p><b>ARTICLE 12 — RIGHT TO BE HEARD</b></p> <ol style="list-style-type: none"> <li>1. States Parties shall assure to the child who is <b>capable of forming his or her own views the right to express those views freely in all matters affecting the child</b>, the views of the child being given due weight in accordance with the age and maturity of the child.</li> <li>2. For this purpose, <b>the child shall</b> in particular be provided the <b>opportunity to be heard in any judicial and administrative proceedings</b> affecting the child, <b>either directly, or through a representative or an appropriate body</b>, in a manner consistent with the procedural rules of national law.</li> </ol>	<p><b>How this relates to victims of child sexual abuse images</b></p> <ul style="list-style-type: none"> <li>• Whenever child sexual abuse images are publicly available, and/or an individual accesses, shares, or is found in possession of child sexual abuse images of a particular child, it is a matter that affects the child.</li> <li>• An extremely high number of individuals whose abuse is portrayed within child sexual abuse images are not in a position to object to the public availability of their material. In some cases this may be because they have not ever been identified by police, or they are still being abused, or it may be because they are not aware that the images are publicly available. Others may be aware the images are available, but are subject to control and coercion by their abuser such that they lack the capacity to request its removal, or they lack the resources and expertise to be able to tackle the issue on their own. Accordingly, the requesting hotline should be viewed as a proxy for the child(ren) since it is the hotlines that are tasked with assessment and issuing notices for removal.</li> <li>• In terms of court proceedings, the opportunity to be heard may be in the form of a victim impact statement where criminal proceedings are involved, or in a civil suit if the victim is able to obtain legal representation.</li> </ul>

<p><b>ARTICLE 16 — RIGHT TO PRIVACY</b></p> <ol style="list-style-type: none"> <li>1. No child shall be subjected to arbitrary or unlawful interference with his or her privacy, family, home or correspondence, nor to unlawful attacks on his or her honour and reputation.</li> <li>2. The child has the right to the protection of the law against such interference or attacks.</li> </ol>	<p><b>How this relates to victims of child sexual abuse images</b></p> <ul style="list-style-type: none"> <li>• Many images/videos of child sexual abuse show the face of the victim and, in some instances, the child's name, location, age, and other identifying information.</li> <li>• Individuals in chatrooms and other public forums engage in discussion about the children in the images/videos, including providing information about the child's current location and content obtained from the child, a parent or a family member's social media profile.</li> <li>• The continued public availability of the child sexual abuse images results in repeated violations of the child's privacy, honour, and reputation.</li> <li>• The actions of individual members of the offending community also violate the child's privacy, honour, and reputation.</li> </ul>
<p><b>ARTICLE 19 — PROTECTIVE MEASURES</b></p> <ol style="list-style-type: none"> <li>1. States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.</li> <li>2. Such protective measures should, as appropriate, include effective procedures for the establishment of social programmes to provide necessary support for the child and for those who have the care of the child, as well as for other forms of prevention and for identification, reporting, referral, investigation, treatment, and follow-up of instances of child maltreatment described heretofore, and, as appropriate, for judicial involvement.</li> </ol>	<p><b>How this relates to victims of child sexual abuse images</b></p> <ul style="list-style-type: none"> <li>• The children who appear in child sexual abuse images have all been subjected to some form of physical or mental violence, injury or abuse, maltreatment or exploitation. It is known that a significant proportion of these children were in the care of a parent/legal guardian or other caregiver at the time of the abuse.</li> <li>• Support for these victims includes removing the photos/videos that are publicly available since their ongoing availability serves to compound the harm from the original experience and creates a new harm due to the privacy violation and ongoing exploitation of the child. It also constitutes a new and continuing abuse at the hands of others.</li> </ul>

<p><b>ARTICLE 32 — ECONOMIC EXPLOITATION</b></p> <p>1. States Parties recognize the right of the child to be protected from <b>economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child’s education, or to be harmful to the child’s health or physical, mental, spiritual, moral or social development.</b></p> <p>2. States Parties shall take legislative, administrative, social and educational measures to <b>ensure the implementation of the present article.</b> To this end, and having regard to the relevant provisions of other international instruments, States Parties shall in particular:</p> <ol style="list-style-type: none"> <li>(a) Provide for a minimum age or minimum ages for admission to employment;</li> <li>(b) Provide for appropriate regulation of the hours and conditions of employment;</li> <li>(c) Provide for appropriate penalties or other sanctions to ensure the effective enforcement of the present article.</li> </ol>	<p><b>How this relates to victims of child sexual abuse images</b></p> <ul style="list-style-type: none"> <li>• Some of the individuals who create child sexual abuse images make it available to others at a cost.</li> <li>• Some of the individuals who create child sexual abuse images pay money or give gifts to the victim to further exploit the child.<sup>42</sup></li> <li>• Some of the networks upon which child sexual abuse images reside may make a profit based on the number of users, ad revenue, etc. While recognizing that no reputable networks would seek to profit from child sexual abuse images, not all networks are reputable. Moreover, regardless of whether or not a network is reputable, if certain users are using particular networks because they are able to share/view child sexual abuse images on such networks, or because by using such networks they can evade detection, the networks may, nonetheless, be making a profit from the child sexual abuse images, albeit indirectly.</li> </ul>
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<sup>42</sup> In addition to the above, it should be noted that Article 3(b) of the International Labour Organization’s (ILOs) *Worst Forms of Child Labour Convention, 1999 (No. 182)* identifies “the use, procuring or offering of a child for ... the production of pornography or pornographic performance” to be one of the worst forms of child labour. In addition, the ILOs Recommendation 190 (section 11) calls upon members to cooperate with international efforts aimed at prohibition and elimination of the worst forms of child labour as a matter of urgency by detecting and prosecuting those involved.

<p><b>ARTICLE 34 — PREVENTATIVE MEASURES</b></p> <p>States Parties undertake to <b>protect the child from all forms of sexual exploitation and sexual abuse</b>. For these purposes, States Parties shall in particular take all appropriate national, bilateral and multilateral measures to <b>prevent</b>:</p> <ul style="list-style-type: none"> <li>(a) <b>The inducement or coercion of a child to engage in any unlawful sexual activity;</b></li> <li>(b) <b>The exploitative use of children in prostitution or other unlawful sexual practices;</b></li> <li>(c) <b>The exploitative use of children in pornographic performances and materials.</b></li> </ul>	<p><b>How this relates to victims of child sexual abuse images</b></p> <ul style="list-style-type: none"> <li>• Child sexual abuse images are created through the sexual abuse and exploitation of a child.</li> <li>• Some child sexual abuse images are created through prostitution.</li> <li>• “Pornographic performances and materials” is broader in scope than child pornography and arguably captures a much wider range of imagery than is currently “criminalized” (such as sexualized child modelling images, nudist images made public, and what is termed abusive/harmful images in this framework).</li> </ul>
<p><b>ARTICLE 35 — PREVENT ABDUCTION, SALE AND TRAFFICKING OF CHILDREN</b></p> <p>States Parties shall take all appropriate national, bilateral and multilateral measures to prevent the abduction of, the sale of <b>or traffic in children</b> for any purpose <b>or in any form</b>.</p>	<p><b>How this relates to victims of child sexual abuse images</b></p> <ul style="list-style-type: none"> <li>• The public availability and sharing of child sexual abuse images is a form of trafficking – it is trafficking in child sexual abuse material.</li> <li>• Moreover, images of children who are being abused may be shared with others or used to “advertise” the child and the offender’s access to the child.</li> </ul>
<p><b>ARTICLE 36 — PROTECTION FOR ALL OTHER FORMS OF EXPLOITATION</b></p> <p>States Parties shall protect the child against all other forms of exploitation prejudicial to any aspects of the child’s welfare.</p>	<p><b>How this relates to victims of child sexual abuse images</b></p> <ul style="list-style-type: none"> <li>• It is prejudicial to a child’s welfare to have their image traded and information about them discussed within chatrooms and forums focused on the sexual abuse and exploitation of children.</li> </ul>

**ARTICLE 39 — PSYCHOLOGICAL RECOVERY AND SOCIAL REINTEGRATION**

States Parties shall take all appropriate measures to **promote physical and psychological recovery and social reintegration** of a child victim of any form of neglect, **exploitation, or abuse; torture or any other form of cruel, inhuman or degrading treatment or punishment**; or armed conflicts. Such recovery and reintegration shall take place in **an environment which fosters the health, self-respect and dignity of the child.**

**How this relates to victims of child sexual abuse images**

- A child depicted in a child sexual abuse image is a child victim under Article 39 and, as such, is entitled to have “all appropriate measures” taken to promote their psychological recovery and social reintegration.
- What each individual victim may need to promote their physical and psychological recovery will no doubt vary, but what is universally needed by all child victims is for their child sexual abuse images, and harmful/abusive images, to be permanently removed from public view.
- Permanent removal is critical to creating an environment that fosters the health, self-respect, and dignity of the child.
- While permanent removal may not always be possible due to the actions of individual offenders, when such images become publicly available, expeditious removal is essential. Without expeditious removal, psychological recovery and social reintegration is made much more difficult given the continued exploitation of the child.

## Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography

<p><b>ARTICLE 2 – DEFINITIONS</b></p> <p>For the purposes of the present Protocol:</p> <p>...</p> <p>(c) Child pornography means any representation, by whatever means, of <b>a child engaged in real or simulated explicit sexual activities or any representation of the sexual parts of a child for primarily sexual purposes.</b></p>	<p><b>How this relates to victims of child sexual abuse images</b></p> <ul style="list-style-type: none"> <li>The definition, particularly the latter part (representation of the sexual parts of a child for primarily sexual purposes), is far broader than the definition used in most criminal statutes, and it is absolutely broader than the definition applied by industry when considering removal.</li> </ul>
<p><b>ARTICLE 3 – ACTS TO BE CRIMINALLY PROHIBITED</b></p> <p>1. Each State Party shall ensure that, as a <b>minimum</b>, the following acts and activities are <b>fully covered</b> under its criminal or penal law, whether such offences are committed domestically or transnationally or on an individual or organized basis:</p> <p>...</p> <p>(c) Producing, <b>distributing, disseminating, importing, exporting, offering, selling or possessing</b> for the above purposes child pornography as <b>defined in article 2.</b></p> <p>2. Subject to the provisions of the national law of a State Party, the same shall apply to an attempt to commit any of the said acts <b>and to complicity or participation</b> in any of the said acts.</p>	<p><b>How this relates to victims of child sexual abuse images</b></p> <ul style="list-style-type: none"> <li>This covers what needs to be criminalized at a minimum.</li> <li>The obligation is to ensure the acts are fully covered regardless of where the offence is committed, which implies that to the extent jurisdictional issues may be interfering with tackling these issues, nations must ensure these issues are resolved in order to fulfill their commitments under the <i>Optional Protocol</i>.</li> <li>Article 3, section 2 could be used to support the introduction of sanctions against industry members who arguably do participate in the activity in some circumstances (particularly where notifications are ignored), as well as those who may be complicit in the abuse of their services. This leads into the discussion under Article 4 below.</li> </ul>

<p><b>Article 4 – ESTABLISHING JURISDICTION</b></p> <ol style="list-style-type: none"> <li>1. Each State Party shall take such measures as may be necessary to establish its jurisdiction over the offences referred to in article 3, paragraph 1, <b>when the offences are committed in its territory</b> or on board a ship or aircraft registered in that State.</li> <li>2. Each State Party may take such measures as may be necessary to <b>establish its jurisdiction over the offences</b> referred to in article 3, paragraph 1, in the following cases: <ol style="list-style-type: none"> <li>(a) When the <b>alleged offender is a national</b> of that State or a person who has his habitual residence in its territory;</li> <li>(b) When the <b>victim is a national</b> of that State.</li> </ol> </li> </ol>	<p><b>How this relates to victims of child sexual abuse images</b></p> <ul style="list-style-type: none"> <li>• Article 4, section 1 obligates that a State Party take measures to assert jurisdiction “when the offences are committed in its territory.” What is meant by “in its territory” is arguably quite broad when it comes to online offences.</li> <li>• Article 4, section 2 permits a State Party to assert jurisdiction in a given instance when either the offender or the victim is a national.</li> <li>• The mandatory obligation and optional power set out in this Article could arguably underpin a requirement for State Parties to assert jurisdiction more broadly than is presently the case.</li> <li>• International cooperation in the regulation of industry is also essential given that, to date, the jurisdictional complexities have hampered the ability of governments to regulate the online world in a way that takes into account the public interest and the best interests of the child.</li> </ul>
<p><b>ARTICLE 6 – MUTUAL ASSISTANCE</b></p> <ol style="list-style-type: none"> <li>1. States Parties shall afford one another the <b>greatest measure of assistance in connection with investigations or criminal or extradition proceedings</b> brought in respect of the offences set forth in article 3, paragraph 1, <b>including assistance in obtaining evidence at their disposal necessary for the proceedings.</b></li> <li>2. States Parties shall carry out their obligations under paragraph 1 of the present article in conformity with any treaties or other arrangements on mutual legal assistance that may exist between them. In the absence of such treaties or arrangements, States Parties shall afford one another assistance in accordance with their domestic law.</li> </ol>	<p><b>How this relates to victims of child sexual abuse images</b></p> <ul style="list-style-type: none"> <li>• It is well known that police investigative efforts in relation to child sexual abuse images are often exceedingly difficult due to the inter-jurisdictional nature of the internet.</li> <li>• While formal treaties are in place to facilitate the sharing of information, in many instances the time and procedures required to utilize such treaties are ill-suited to the digital realm, resulting in critical evidence and information to prosecute offenders and identify and rescue victims being potentially unavailable when needed (e.g., network has already deleted the information, preservation request not able to be provided to the right entity in a timely manner), and certainly not available within a reasonable timeframe.</li> </ul>

**ARTICLE 9 – PREVENTATIVE LAWS, PROMOTE AWARENESS, ENSURE ASSISTANCE, COMPENSATORY REMEDIES, PROHIBIT DISSEMINATION**

1. States Parties shall adopt or strengthen, implement and disseminate **laws, administrative measures, social policies and programmes to prevent** the offences referred to in the present Protocol. **Particular attention shall be given to protect children who are especially vulnerable to such practices.**
2. States Parties shall **promote awareness in the public at large, including children**, through information by all appropriate means, education and training, **about the preventive measures and harmful effects of the offences** referred to in the present Protocol. In fulfilling their obligations under this article, States Parties shall encourage the participation of the community and, in particular, children and child victims, in such information and education and training programmes, including at the international level.
3. States Parties shall take all feasible measures with the aim of **ensuring all appropriate assistance to victims of such offences, including their full social reintegration and their full physical and psychological recovery.**
4. States Parties shall ensure that **all child victims of the offences described in the present Protocol have access to adequate procedures to seek, without discrimination, compensation for damages from those legally responsible.**
5. States Parties shall take appropriate measures aimed at effectively **prohibiting the production and dissemination of material advertising the offences described in the present Protocol.**

**How this relates to victims of child sexual abuse images**

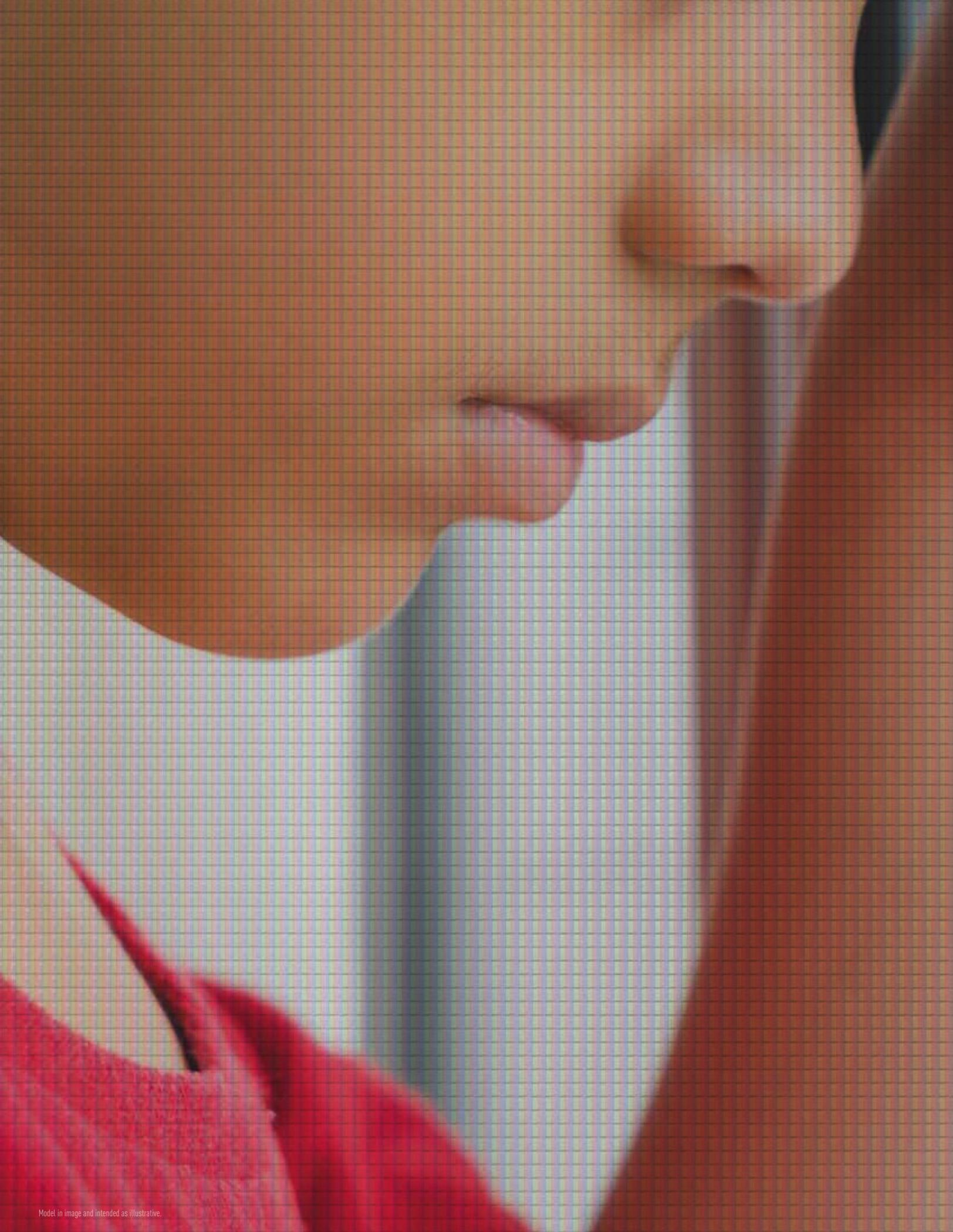
- Criminal offences are necessary to address and deter offending behaviour, but effective prevention and protection requires a more holistic approach that is focused on raising awareness about the long term impacts of child sexual abuse images on its victims, and identifying and assisting children who have been victimized or who are vulnerable to victimization.
- Children who are especially vulnerable include pre-verbal children, children with disabilities, children living in poverty or with individuals suffering from addictions or mental health issues, children not attending school, children in state care, Indigenous children, and female children.
- Full social reintegration and full physical and psychological recovery is what State Parties have committed to under the protocol. Yet full social reintegration and psychological recovery has proven to be very difficult for those whose child sexual abuse imagery remains publicly available. Victims try to move forward with their lives, but have said that they feel they are re-victimized each time images/videos of their abuse are viewed, possessed, or trafficked. It is, therefore, an essential component of full social reintegration and full psychological recovery that such imagery be removed from the internet.
- For victims of child sexual abuse images, those who are legally responsible include the person who created the image/video, all persons who subsequently access, keep, or traffick it, and all companies that allow the image/video to remain accessible to others after being informed of the nature of the image/video and its location. Presently, a victim's ability to seek compensation from parties other than the initial abuser are not well established in most countries.
- The laws presently in place may, in some countries, prohibit production and dissemination of material advertising the offences, but such laws are clearly not effective given the ease with which offenders are able to amass collections of child sexual abuse images.

**ARTICLE 10 — INTERNATIONAL COOPERATION**

1. States Parties shall take all necessary steps to **strengthen international cooperation by multilateral, regional and bilateral arrangements for the prevention, detection, investigation, prosecution and punishment of those responsible for acts involving the sale of children, child prostitution, child pornography and child sex tourism.** States Parties shall also promote international cooperation and coordination between their authorities, national and international non-governmental organizations and international organizations.
2. States Parties shall promote **international cooperation** to assist child victims in their **physical and psychological recovery, social reintegration and repatriation.**
3. States Parties shall **promote the strengthening of international cooperation in order to address the root causes, such as poverty and underdevelopment, contributing to the vulnerability of children** to the sale of children, child prostitution, **child pornography** and child sex tourism.
4. States Parties in a position to do so shall provide financial, technical or other assistance through existing multilateral, regional, bilateral or other programmes.

**How this relates to victims of child sexual abuse images**

- International cooperation to facilitate the prevention, detection, investigation, prosecution, and punishment of those responsible for child sexual abuse images is integral to protecting victims of child sexual abuse images. As noted above, however, these systems do not work as well as they could or should. If more State Parties assert jurisdiction over these matters as required and permitted by Article 4, existing gaps can be addressed.
- Full psychological recovery and full social reintegration is difficult to achieve for those victims whose child sexual abuse images remain online given the present reality of re-victimization that occurs each time the imagery is accessed, shared, or traded. For this reason, more must be done to reduce the public availability of this material, and all parties who can take action, must.
- For example, there are now examples coming to the attention of police in developed countries of offenders taking advantage of the high rates of poverty within underdeveloped countries to direct abuse that is live streamed. In addition, it is apparent that vulnerable women are targeted in order to gain access to children for the purpose of producing child sexual abuse images.





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