

<p>1 Tuesday, 12 February 2019 2 (10.00 am) 3 THE CHAIR: Good morning, everyone. Welcome to Day 2 of 4 this public hearing. 5 MS HILL: Good morning, chair: I understand that Mr Frank 6 has been taken unwell overnight and is not able to 7 attend today's hearing. We hope that he will feel 8 better tomorrow, though at present it is unclear whether 9 he will be fit to return this week. Mr Frank will 10 return, I understand, as soon as he is fit to do so, but 11 in the meantime, he will either following proceedings by 12 watching the live stream or reading the transcript. 13 Bearing in mind the steps Mr Frank will take to follow 14 proceedings, I understand you wish the hearing to 15 proceed in his absence. 16 THE CHAIR: Yes. We do hope Mr Frank feels better soon and 17 we know he will follow proceedings closely and carefully 18 on the link. 19 MS HILL: The core participants have been made aware of 20 the situation. If any wish to raise any concerns, I am 21 sure they will do so. Very well. There seem to be no 22 objections, chair. Are you happy to proceed? 23 THE CHAIR: Yes. 24 MS HILL: Chair, one other matter by way of housekeeping. 25 We have today on the timetable two witnesses this</p> <p style="text-align: center;">Page 1</p>	<p>1 morning by videolink and one witness this afternoon in 2 person. There are also two pieces of evidence that we 3 propose to read. Given the timings of the videolinks 4 and the live witness this afternoon, we may interpose 5 some of the read evidence at suitable points. But 6 everybody has been made aware of our read proposals, so 7 I hope that won't cause any difficulty. 8 I call, please, Seila Samleang. 9 MR SEILA SAMLEANG (affirmed) 10 Examination by MS HILL 11 MS HILL: Thank you very much, Mr Samleang. You have 12 helpfully provided the inquiry with a witness statement 13 dated 9 November 2018, chair, which I will formally 14 adduce. It is INQ003720. 15 Mr Samleang, you are the executive director of 16 APLE Cambodia; is that right? 17 <b>A. Yes, that's correct.</b> 18 Q. APLE stands for, as we have heard, Action Pour Les 19 Enfants; is that right? 20 <b>A. Yes, that's correct.</b> 21 Q. You have given some brief background information at 22 paragraphs 8 to 9 of your statement. Essentially, you 23 have been working for, I think, 13 years in this role; 24 you have a background degree in education and a degree 25 in law; and you have advanced law enforcement training.</p> <p style="text-align: center;">Page 2</p>
<p>1 Is that correct? 2 <b>A. Yes, that's correct.</b> 3 Q. So is this fair, that one of your significant roles is 4 to be a contact point in terms of sharing intelligence 5 and information in relation to human trafficking and 6 child sexual exploitation investigations? 7 <b>A. Yes, that's correct.</b> 8 Q. You co-ordinate information from international and 9 national agencies to make sure that co-operation in 10 relation to your casework is taking place? 11 <b>A. That is right.</b> 12 Q. You have given some overview information about the work 13 of APLE Cambodia in paragraphs 4 to 7 of your witness 14 statement. Can I try and summarise it in this way, and 15 I hope this is fair, that APLE's intention or mission is 16 to strengthen national, social and legal mechanisms for 17 the protection of children at risk. Initially, the 18 organisation helped police with investigations. As APLE 19 has gained more knowledge and expertise, its operations 20 have expanded. It now provides social support to those 21 affected by child sexual abuse and exploitation in 22 a number of regional offices in Cambodia. There is 23 a joint initiative between government and civil society 24 organisations, which I think APLE chairs, and, for the 25 last 15 years, APLE Cambodia has been working to</p> <p style="text-align: center;">Page 3</p>	<p>1 combat -- forgive me, chair, we seem to have a technical 2 problem with the screen. Do you wish to take a short 3 break while we try to resolve the technical issues? 4 (Break in transmission) 5 MS HILL: Mr Samleang, can you hear me? 6 <b>A. Yes, ma'am. I lost you when you said about the APLE 7 missions.</b> 8 Q. I see. I will not repeat the evidence that I have 9 given, but I will just formally confirm, I hope, by way 10 of summary, that the nature of APLE's work is to not 11 only assist with investigations of child sexual abuse, 12 but to provide social support for children affected by 13 abuse and exploitation and there have been reports 14 prepared by APLE that I will come to and that APLE, 15 I think, chairs the National Committee for Counter 16 Trafficking law enforcement working group in Cambodia; 17 is that right? 18 <b>A. Yes, that's all correct.</b> 19 Q. Please can you tell the chair and panel a little more of 20 what you say at paragraph 7 of your witness statement 21 about the nature of the sex offenders in Cambodia, 22 whether they are locals or foreign? 23 <b>A. Okay. So at APLE we work on all forms of child sexual 24 abuse and exploitation. They primarily focus on cases 25 involving the child and the child sex offender, which is</b></p> <p style="text-align: center;">Page 4</p>

<p>1 <b>also internally defined by APLE as street-based child</b>                  2 <b>sexual exploitation, which is mainly perpetrated by</b>                  3 <b>a foreign travelling sex offender.</b>                  4 <b>Overall in our statistic, the number of sex</b>                  5 <b>offenders being investigated by APLE has been majorly</b>                  6 <b>the Cambodian nationals themselves as part of</b>                  7 <b>the money-making crime. For example, facilitating</b>                  8 <b>sexual abuse perpetrated by a foreign sex offender, or</b>                  9 <b>things involving child trafficking for sexual purposes</b>                  10 <b>which were perpetrated by a foreign child sex offender.</b>                  11 <b>So that's why in our statistic you saw the majority</b>                  12 <b>of the offenders in our list was actually Cambodian,</b>                  13 <b>which is the top one country, and the top two is</b>                  14 <b>Vietnamese national, and then top three you have the US</b>                  15 <b>and then followed on by the French, the German and the</b>                  16 <b>British, and so on and so forth.</b>                  17 Q. I think you're referring there, Mr Samleang, to a report                  18 that the chair and panel have, and I'll bring this up,                  19 please, if I may. It is your exhibit SS1. It is                  20 INQ003685, and if we can go, please, to internal page 9,                  21 this is your report from February 2014, "An analysis of                  22 the trends and challenges in the field of child sexual                  23 abuse and exploitation in Cambodia". Internal page 9,                  24 table 1. So we are looking at table 1 on page 8 of                  25 the report.</p> <p style="text-align: center;">Page 5</p>	<p>1 Just to orientate the panel a bit, if I may, you                  2 will be very familiar with this report --                  3 <b>A. Yes.</b>                  4 Q. -- this is an analytical report based on a series of                  5 cases looked at by APLE. In this section of the report,                  6 your analysis is around offenders and victims and the                  7 legal process. This table indicates the number of child                  8 sex offenders in the sample divided up by nationality.                  9 I think the point you're making is that Cambodian                  10 included the number of 118, or 41 per cent. We see                  11 British, 18 in the number. We see American, 36; French,                  12 25. They seem to be the highest numbers, apart from,                  13 over the page, if we can scroll down, please, to the                  14 next page, Vietnamese, 26, and that's of the total of                  15 288 offenders that your analysis looked at.                  16 While we are in the report, Mr Samleang, can I pick                  17 out perhaps some further details for the panel. Can we                  18 go back, please, to our internal page 7, your internal                  19 page 6, under the heading "3.2. Methodology".                  20 <b>A. Yes.</b>                  21 Q. Can we scroll in on that first paragraph, please? The                  22 database contained offenders from 26 different                  23 nationalities, and noted that male offenders were                  24 disproportionately represented. Of the 288, 234 were                  25 male, compared with 54 who were female.</p> <p style="text-align: center;">Page 6</p>
<p>1 Can I go on, please, to our internal page 11, your                  2 internal page 10, where you refer to your table 2, and                  3 that's the number of victims divided by gender, and we                  4 see across the victims 492, 303 were boys, that's                  5 61.6 per cent; 189 were girls. And the report goes on                  6 to say:                  7 "It might surprise some that most victims in APLE                  8 cases are male. Considering that our focus is                  9 street-based exploitation, the findings are not                  10 surprising."                  11 You go on to explain why in the report. I think we                  12 will come back to some parts of this report later, but                  13 we can take it down for now, please.                  14 Going back, please, to your witness statement, in                  15 your paragraph 11, Mr Samleang, there's a section in                  16 your witness statement here where you give a lot of                  17 information to the panel about the particular context of                  18 child sexual abuse in Cambodia. Can you try and distil                  19 the key themes from those paragraphs for the panel,                  20 please? What are the key things about child sexual                  21 exploitation and abuse in Cambodia that you would like                  22 to stress to the panel?                  23 <b>A. So from that paragraph, I would like to highlight some</b>                  24 <b>of the key things there.</b>                  25 Q. It is the whole of that section, please. Sorry, it's</p> <p style="text-align: center;">Page 7</p>	<p>1 from paragraphs 11 to 23?                  2 <b>A. Paragraphs 11 to 23. So in this section, I try to</b>                  3 <b>highlight some of the key things that are actually the</b>                  4 <b>push factor for child sexual abuse and exploitation that</b>                  5 <b>are still happening in the country. So one of that is</b>                  6 <b>poverty. Cambodia is still being affected by poverty.</b>                  7 <b>Many families are poverty affected, and that's why many</b>                  8 <b>children have been left behind, the poverty, and being</b>                  9 <b>forced to work on the streets or living on the street,</b>                  10 <b>who are then vulnerable to sexual abuse or exploitation.</b>                  11 <b>Here, the second thing is about the legal system</b>                  12 <b>here. Not all cases are properly investigated or not</b>                  13 <b>investigated to the fullest extent possible in the</b>                  14 <b>country. A lot of cases have been reactive rather than</b>                  15 <b>proactive. That means there were less possibilities</b>                  16 <b>that the Cambodian police were able to prevent abuse</b>                  17 <b>from happening rather than allowing the abuse to take</b>                  18 <b>place and then react to it happening.</b>                  19 Q. Just pause there, please, Mr Samleang. We are having                  20 a little trouble hearing you. I think some of                  21 the evidence is a little difficult for us to follow.                  22 Could you speak a little more loudly or slowly? That                  23 perhaps might help in making it a bit more audible for                  24 us. I will perhaps just also, if I can, help by                  25 bringing up, please, paragraph 12 of your witness</p> <p style="text-align: center;">Page 8</p>

<p>1 statement. It is INQ003720_004. You mention the                  2 particular factors that perhaps lead children to be                  3 vulnerable in Cambodia. Paragraph 12 of your witness                  4 statement. You talk about children being vulnerable to                  5 sexual exploitation due to lack of education, stresses                  6 in the family such as alcoholism, domestic violence,                  7 debts, migrations, working on the street or                  8 a street-living lifestyle, drug use and peers engaging                  9 in similar high-risk behaviour. You make the point that                  10 your research has found a significant number of children                  11 were not aware that their relationship with a foreign                  12 national would result in sexual exploitation, perhaps                  13 due to naivety of the child and also sophisticated                  14 grooming techniques by the offender. Is that right?                  15 <b>A. That is correct, yes.</b>                  16 Q. You have done, I think -- just scroll down, please, to                  17 paragraph 14 -- specific research on the grooming                  18 techniques used by perpetrators in Cambodia and provided                  19 a report to the panel about that.                  20 Perhaps at paragraph 16, please, of your witness                  21 statement, you indicate that you have assisted up to the                  22 end of 2012, perhaps you have assisted with the                  23 prosecutions of 248 offenders and intermediaries,                  24 assisted in rescuing 565 children, provided social                  25 support to 689 victims and legal assistance to</p> <p style="text-align: center;">Page 9</p>	<p>1 551 children. In your Ten-Year Review, the panel can                  2 read that the investigation of 1,505 cases of child                  3 exploitation alongside the police, although those                  4 figures will have increased to date. Is that right?                  5 <b>A. That's correct.</b>                  6 Q. Can I ask you now some questions about your contact with                  7 law enforcement agencies. That begins at paragraph 24                  8 of your witness statement.                  9 <b>A. Yes.</b>                  10 Q. If you need some time to find any pages, please do let                  11 me know, Mr Samleang?                  12 <b>A. No, I'm okay. Go ahead. Paragraph 24.</b>                  13 Q. One of the themes that you have drawn out of your                  14 section here, between paragraphs 24 and 30, is the                  15 contact that you have with law enforcement agencies from                  16 different countries. You have mentioned that you work                  17 with those from the US, Australia, France, Germany, the                  18 Netherlands, Sweden and the UK. Can you tell the chair                  19 and panel, first of all, broadly, what your contact with                  20 law enforcement agencies normally involves? What do you                  21 normally do?                  22 I'm sorry, I don't know if we have lost the link                  23 again to the witness. It seems we may have a frozen                  24 screen again. I will just wait for the link to be                  25 restored.</p> <p style="text-align: center;">Page 10</p>
<p>1 (Break in transmission)                  2 MS HILL: Thank you, Mr Samleang. I'm sorry about that.                  3 Please can you just give the panel an overview of what                  4 you do in contact with law enforcement agencies? How                  5 does your contact with them work?                  6 <b>A. So I normally assume co-ordinator (inaudible) for the</b>                  7 <b>law enforcement agency. So a typical example would be</b>                  8 <b>that APLE receive information about suspected cases of</b>                  9 <b>sexually abused children. That would be my point to --</b>                  10 <b>regards the concern for the law enforcement agency, to</b>                  11 <b>provide with any information we hold and we would</b>                  12 <b>request the background checks. So the background</b>                  13 <b>checking information also helps us to determine whether</b>                  14 <b>that person is an interesting subject to look at and put</b>                  15 <b>our resources on and then co-ordinate effort with the</b>                  16 <b>police.</b>                  17 <b>So with that information, if any, I will then</b>                  18 <b>co-ordinate that information or such intelligence with</b>                  19 <b>the Cambodian national police just to make sure they are</b>                  20 <b>informed of whatever available information from the host</b>                  21 <b>country, from the home country, and then they would</b>                  22 <b>consider using that information to consider their</b>                  23 <b>potential or official investigation.</b>                  24 <b>Then my role would be to keep the concerned law</b>                  25 <b>enforcement agency informed of the updates to our</b></p> <p style="text-align: center;">Page 11</p>	<p>1 <b>progress. Another fact is, if APLE has taken any steps</b>                  2 <b>or (inaudible), that would be my role, to keep them</b>                  3 <b>informed, provide them more information, and also to</b>                  4 <b>advise our -- my local (inaudible) of what needs to be</b>                  5 <b>done and what kind of action needs to be taken by the</b>                  6 <b>Cambodian and the (inaudible).</b>                  7 Q. You make the point I think at paragraph 24 of your                  8 witness statement, Mr Samleang, that the US and                  9 Australian law enforcement agencies are on the ground                  10 and work with the Cambodian police in the country and                  11 gather evidence, which is different to the British                  12 approach. Can you tell us what your views are about                  13 that issue?                  14 <b>A. With US and Australian (inaudible) normal</b>                  15 <b>coordination (inaudible) ...</b>                  16 Q. I'm sorry, Mr Samleang, just pause there.                  17 Chair, I wonder if we might try to terminate the                  18 link and reinstate it. I think the shorthand writer is                  19 having difficulty hearing, as we are having difficulty                  20 following.                  21 Mr Samleang, we are struggling to hear your evidence                  22 very clearly. We are just going to try to improve the                  23 link. I'm sorry for the difficulty. If you just wait                  24 there for a moment.                  25 <b>A. Sure. No problem.</b></p> <p style="text-align: center;">Page 12</p>

1 Q. Mr Samleang, I think we are told that perhaps if you try  
 2 to speak slowly, we might be able to pick up -- the  
 3 speed might be able to accommodate it a bit better.  
 4 The question I asked you --  
 5 **A. Sure. I will try.**  
 6 Q. -- was about, what is your view of the difference in  
 7 approach between the US and the Australian law  
 8 enforcement agencies that have officers on the ground  
 9 and the NCA, the British approach, which is different?  
 10 What's your view about that, Mr Samleang?  
 11 **A. Okay. With my insight, the relationship and**  
 12 **co-operation with the US and Australia, for example,**  
 13 **I have found it very convenient to work with them. For**  
 14 **example, when we have any information about suspected**  
 15 **cases, I can easily reach out to their contacts just to**  
 16 **discuss initially about what we can do in that case, and**  
 17 **whether there should be a meeting in person to discuss,**  
 18 **you know, and talk through some confidential**  
 19 **informations, and then I do find it very convenient, you**  
 20 **get fast feedback and response without having to wait**  
 21 **for email communications or anything like that. Some of**  
 22 **the communication would be also easier ...**  
 23 **(Break in transmission)**  
 24 MS HILL: I'm sorry, chair, we now have a frozen screen.  
 25 This is definitely the link issue.

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1 **support the local investigation.**  
 2 **Officially, the police, Cambodian police, is the**  
 3 **actor of the investigation, so they conduct the**  
 4 **investigation according to the law and then they make**  
 5 **contact with the local court in order to get an initial**  
 6 **(inaudible) or investigation order from the prosecutor,**  
 7 **and then APLE will continue to assist the police, and**  
 8 **where (inaudible) and when they will need it. For**  
 9 **example, if they would need additional information or**  
 10 **clarification, or whether they would need APLE's**  
 11 **assistance to locate possible victims or families and**  
 12 **prepare the ground for them to (inaudible).**  
 13 Q. Can I bring up, please, paragraph 25 of your witness  
 14 statement, INQ003720\_008. I think by way of a summary,  
 15 you advocate, in appropriate cases, for the other  
 16 victims of the same offender to be included in  
 17 a particular investigation, and you have made the point  
 18 here that the role that some foreign law enforcement  
 19 agencies assist with is the more complex aspects of  
 20 the investigation, such as tracking down new victims, IP  
 21 addresses, potential distribution of child sexual abuse  
 22 materials when the abuse is online, et cetera. This  
 23 generally, you say, does not happen in cases where UK or  
 24 European sex offenders are involved. Is that because of  
 25 the different approach between the UK and European

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1 Mr Samleang, I think you just said in evidence that  
 2 you found that the on-the-ground approach with the  
 3 Australian and US authorities made communication with  
 4 them easier. Is this the case, that once an  
 5 investigation is opened by the local police, APLE also  
 6 sometimes becomes involved or carries out an  
 7 investigation itself? Just help us understand who is  
 8 doing the investigating here?  
 9 **A. So initially, APLE would provide information to the**  
 10 **police, just to request them for investigation**  
 11 **interviews initiated by themselves, but during the**  
 12 **meantime, we are also trying to facilitate some contact**  
 13 **with international resources to find out whether there**  
 14 **is information available somewhere to support the local**  
 15 **investigation. So the initial investigation -- but,**  
 16 **technically, we don't call it investigation, we call it**  
 17 **observation and information gathering, in order to help**  
 18 **the police to determine whether it is a case to be**  
 19 **investigated by the police, and whether there would be**  
 20 **enough information for the police to open their**  
 21 **investigation. So APLE, during that kind of initial**  
 22 **information gathering, will try to contact sometimes**  
 23 **possible victims, families, children, witnesses; also,**  
 24 **foreign police in the home country to find out whether**  
 25 **they have any intelligence or evidence that would**

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1 agencies and other agencies, or something else?  
 2 **A. I think that is because of the different approach and**  
 3 **also the communications between the Cambodian national**  
 4 **police with the agencies that are not present in**  
 5 **Cambodia. So communication may have difficulty to share**  
 6 **sufficient informations with each other.**  
 7 Q. Just scrolling down, please, to paragraph 26, you  
 8 clarify that these different approaches lead to  
 9 different ways in which the investigation operates. If  
 10 we can go down to the next page, please: that sometimes  
 11 police investigations run in parallel. In the US, an  
 12 investigation is always conducted by their own law  
 13 enforcement even if there is a local investigation going  
 14 on in Cambodia. Is that right?  
 15 **A. Yes, that is correct.**  
 16 Q. You have made clear, I think, earlier in your statement  
 17 that one of your key roles is, when the investigation or  
 18 law enforcement process ends, you, on APLE's behalf,  
 19 follow up on the deportation or otherwise of  
 20 the individual. Is that right?  
 21 **A. That is correct.**  
 22 Q. You indicate here at the end of this paragraph that when  
 23 the case comes to an end in Cambodia, if the offender is  
 24 deported home, they may be arrested at the airport and  
 25 prosecuted in their country of origin, sometimes for

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<p>1 offences that are not prosecuted in Cambodia, such as 2 child grooming. When you're talking here, is that 3 a description of what the American authorities do, or is 4 that of wider application?</p> <p>5 <b>A. So, yes, that is correct, and mostly the application 6 done by the Americans and also by the Australians.</b></p> <p>7 Q. You have made a point in your witness evidence at 8 paragraph 27 about your understanding of the double 9 jeopardy rule and the potential limitations that that 10 has on investigating crimes in Cambodia by the British 11 police. What's your evidence about that in summary, 12 Mr Samleang?</p> <p>13 <b>A. Well, most of the time when we discuss potential 14 investigations back in the UK, I often heard about the 15 challenge of double jeopardy rule in the UK in which the 16 same person cannot be prosecuted the same -- again for 17 the same crime, and I understand that is the rule in the 18 UK.</b></p> <p>19 <b>But also, my advocacy point in this area is for the 20 UK to perhaps consider reviewing the case here and see 21 if there is any potential case or new case or compelling 22 piece of evidence that could lead to prosecution of 23 the same person in the UK, and that has been always the 24 case for advocacy for APLE.</b></p> <p>25 Q. You make the point in this last part of your evidence</p> <p style="text-align: center;">Page 17</p>	<p>1 that because the UK generally does not conduct its own 2 parallel investigation, unlike some of the other 3 authorities, it's often difficult to find that new 4 evidence. Is that fair?</p> <p>5 <b>A. Yes, that's correct.</b></p> <p>6 Q. You have summarised, I think, already what you say at 7 paragraph 28, that your contact with the NCA, the 8 British authorities, is normally via email rather than 9 in person, and that, I think you said, makes it more 10 difficult to communicate; is that right?</p> <p>11 <b>A. That's right.</b></p> <p>12 Q. You indicate at 29 that when someone is due to be 13 released from a prison sentence, you personally inform 14 the NCA about that. If there is no deportation order in 15 place, though, you say that a sex offender is free to 16 leave the country. You make the point that there is no 17 duty on the Cambodian authorities to inform the UK 18 authorities about the release of a sex offender from 19 prison. There are no Civil Orders in Cambodia to create 20 restrictions on travel, and in theory, therefore, you 21 say a person is free and can continue to live in the 22 country, but you try and co-ordinate with the NCA and 23 alert them to the risks around that person. Is that 24 right?</p> <p>25 <b>A. That is right.</b></p> <p style="text-align: center;">Page 18</p>
<p>1 Q. You, I think, try and encourage the use of co-ordinated 2 deportation through the use of Cambodia's immigration 3 laws; is that correct?</p> <p>4 <b>A. Yes, that's correct.</b></p> <p>5 Q. Can I ask you some questions now, please, as best I can, 6 about the Civil Orders regime in particular. You have 7 given a certain amount of evidence in your witness 8 statement about the Green Notice system, which I think 9 is a slightly different process. That is the Interpol 10 process for notifying risks posed by individuals, for 11 passing warnings and intelligence on, but is not quite 12 the same, is it, as the Civil Orders regime -- that is 13 something slightly different. What you say in your 14 witness evidence is that you don't have such 15 understanding -- or much experience, forgive me, of 16 the Green Notice scheme, but you do, I think, generally 17 suggest that involving NGOs in these notifications would 18 be a significant improvement. Scroll in, please, on 19 paragraph 35 of your witness statement. It is internal 20 page 11. I think what you are saying is, if NGOs are 21 made aware of these notifications, not just the 22 immigration authorities, they are more likely to be 23 effective. Is that fair?</p> <p>24 Sorry, I think we may have lost our link again. 25 (Break in transmission)</p> <p style="text-align: center;">Page 19</p>	<p>1 MS HILL: I'm sorry to take you back, Mr Samleang. I have 2 been asked to address a further point with you under the 3 last heading. Could you go back, please, to 4 paragraph 24 of your witness statement, internal page 8. 5 I think you were talking there at the end of 6 paragraph 24 about a different approach that the NCA 7 takes. You say there: 8 "I'm concerned about what I believe are important 9 gaps in communication and follow-up between the NCA and 10 the Cambodian authorities." 11 Is there anything further that you would like to say 12 about that topic?</p> <p>13 <b>A. Well, I have a belief that efficient communication and 14 follow-up on some of the cases would actually result in 15 a different, you know, outcome of the prosecution here. 16 For example, once the British sex offenders are released 17 from bail or released after serving the sentence, the 18 case should be reviewed, some follow-up questions should 19 be asked to the Cambodian national police whether there 20 was anything else that should be done by the UK or 21 whether there would be potential deportation and 22 consideration by the Cambodian national police to report 23 the person back to the UK and then a possible 24 prosecution in the UK can be actually organised in order 25 to look at the same issue again.</b></p> <p style="text-align: center;">Page 20</p>

<p>1 <b>So my recommendation here would be for the NCA to</b>                  2 <b>increase communication and also add further resources to</b>                  3 <b>follow up on some of the cases that have been prosecuted</b>                  4 <b>in Cambodia.</b>                  5 Q. If we can scroll down, please, to the second part of                  6 paragraph 33 on page 11, and paragraph 34. Broadly, you                  7 refer there to communications with the NCA. At the end                  8 of paragraph 33, you say that in a particular case there                  9 was a British offender suspected of abusing children in                  10 Cambodia. The Cambodian police only interviewed some of                  11 the children. You did not receive an update from the                  12 British law enforcement about the case. You received an                  13 email from the NCA to inform you that the liaison                  14 officer in Bangkok was no longer the point of contact                  15 for Cambodia, that Vietnam is now where the liaison                  16 officer will cover Cambodia. Your experience is that                  17 the US law enforcement takes a very different approach                  18 because they are on the ground. You have gone on to                  19 explain that in further detail at paragraph 34.                  20 The advantages of having foreign liaison officers                  21 based in-country are that the Cambodian police do not                  22 have the capacity or expertise to examine digital                  23 evidence and cases are facilitated where foreign law                  24 enforcement agencies assist with this. They might                  25 deploy a specialist team. It is easier to collate</p> <p style="text-align: center;">Page 21</p>	<p>1 information from communities where foreign ex-pats are                  2 present where it is difficult for the Cambodian police                  3 to get information. The Cambodian police benefit from                  4 the use of undercover techniques which foreign law                  5 enforcement agencies employ because they lack the                  6 resources to conduct full investigations. They also                  7 lack the expertise in cross-border crimes. Does that                  8 provide a summary of the benefits of the on-the-ground                  9 approach that you are describing?                  10 <b>A. Yes, that's fair.</b>                  11 Q. Then I was actually asking you about paragraph 35, where                  12 you suggest that if there are to be notifications of                  13 the movements of sex offenders via either civil notices                  14 and notifications or Green Notices, sharing them with                  15 child protection NGOs and civil society would be                  16 beneficial. Can you explain to the panel why you think                  17 that would be the case?                  18 <b>A. Sharing of information with NGO would be essential, for</b>                  19 <b>example, affirmative action to be taken. For example,</b>                  20 <b>if APLE is seeking information about a concerned</b>                  21 <b>individual, APLE would take a preventative approach to</b>                  22 <b>actually assess the risk of the person on the children</b>                  23 <b>or communities, the person he is actually associating</b>                  24 <b>with and then find a reasonable ground to contact law</b>                  25 <b>enforcement agencies to provide them with information</b></p> <p style="text-align: center;">Page 22</p>
<p>1 <b>and their thoughts. There have been examples, and very</b>                  2 <b>good examples, in which the information shared with NGO</b>                  3 <b>has led to the prevention of child abuse. For example,</b>                  4 <b>the more recent two cases involving Australian national,</b>                  5 <b>we were informed of the concerned individual from</b>                  6 <b>Australia and we were able to assess the situations</b>                  7 <b>involving the person and children in the community, and</b>                  8 <b>we were able to take action that led to the prevention</b>                  9 <b>of this person, and in particular the person was</b>                  10 <b>actually deported from -- forgive me, not deported, but</b>                  11 <b>he left the country and his visa was not ...</b>                  12 <b>(Break in transmission)</b>                  13 MS HILL: Can I scroll in, please, on paragraph 36 of your                  14 witness statement at internal page 12.                  15 <b>A. Yes.</b>                  16 Q. Looking there at what happens with the US authorities                  17 where an individual goes back to the US, you make the                  18 point that information gathered by the on-the-ground                  19 teams is used when the individual goes back to America.                  20 You understand that some countries, like Australia, have                  21 a travel ban, but you make the point at the end of 36                  22 that, what would happen if a travel ban is imposed on                  23 someone in Cambodia but they choose to remain in                  24 Cambodia or travel back to Australia on another                  25 passport? Can you help the panel with what your</p> <p style="text-align: center;">Page 23</p>	<p>1 concerns are about those ways in which travel bans might                  2 operate or might not work effectively?                  3 <b>A. I think my concern is about the individual Australian</b>                  4 <b>suspected of child sexual abuse to remain in the country</b>                  5 <b>and then be -- might not be implemented in Australia.</b>                  6 <b>We have been discussing the possibility where the person</b>                  7 <b>with the ban should not also be allowed in Cambodia and</b>                  8 <b>then information should be shared with the immigration</b>                  9 <b>to discuss a potential deportation of the person to</b>                  10 <b>execute the ban imposed on that individual. But so far,</b>                  11 <b>we have had that challenge in which the individuals are</b>                  12 <b>still very keen to remain in the country. So nothing</b>                  13 <b>could be done in that situation.</b>                  14 Q. I think in your report from 2014 that we looked at                  15 before, you had a specific section looking at the                  16 problems around deportation. Can I bring up, please,                  17 INQ003685. So it is your exhibit 1, Mr Samleang, your                  18 2014 report, and it is the internal page 19 of that                  19 report under the heading "Deportation orders". In this                  20 section of the report, our internal page 20, there's                  21 a section here that describes what powers are in place                  22 in Cambodia. But, very broadly, the point is made that                  23 deportation is not mandatory in Cambodia. If you go,                  24 please, just over the page -- I'm just summarising                  25 this -- there's a paragraph, three paragraphs down, on</p> <p style="text-align: center;">Page 24</p>

<p>1 our page 21:                  2 "In those cases where a deportation is ordered,                  3 the ... procedure itself is not without flaws. In most                  4 cases Cambodia will make sure that an offender leaves                  5 the country, but where he or she goes is not of                  6 importance. The offenders can thus go to other                  7 South-east Asian countries that are known for child sex                  8 tourism. This is not a solution ..."                  9 And goes on to talk about how the passports are                  10 stamped if somebody -- in order to prevent deported                  11 individuals from entering Cambodia again. Is there                  12 anything else you would like to add on the deportation                  13 process?                  14 <b>A. Well, I don't think so. That's covering all the detail                  15 that's in that report already.</b>                  16 Q. Just while we are in this report, please, if I may, can                  17 I just go back, please, to our internal page 12, your                  18 internal page 11 and just pull out a couple of other                  19 points from the report, please. Under the heading                  20 "Prior convictions":                  21 "In APLE's database, 27.6 per cent of the travelling                  22 sex offenders ... had a previous conviction."                  23 There's further detail given at the foot of that                  24 page under the heading "Offenders' occupation":                  25 "From the 210 perpetrators, 61 were tourists and 149</p> <p style="text-align: center;">Page 25</p>	<p>1 were short- or long-term residents or businessmen in                  2 Cambodia. A worrying trend is visible in institutions                  3 that aim to benefit children. 14 perpetrators worked in                  4 such an institution ..."                  5 The panel can see over the page there is a section                  6 on law enforcement in Cambodia, and you broadly say that                  7 the law enforcement in Cambodia is still in its infancy.                  8 Investigations are of a relatively low quality and do                  9 not meet international standards for a range of reasons.                  10 In the next paragraph, police officers at the moment                  11 lack the knowledge, skills and equipment to conduct                  12 high-quality investigations.                  13 You finally, on this topic, have got a section in                  14 the report, beginning, please, at our internal page 16,                  15 your internal page 15, where you set out the ways in                  16 which sentencing can occur in Cambodia. The minimum                  17 sentences are referred to for some sexual offences; the                  18 ability to suspend sentences is set out, as are                  19 provisions in relation to parole and Royal pardons and                  20 compensation, which the panel can look at. I think your                  21 broad point about the legal processes is at internal                  22 page 19, please, your internal page 18, where you say at                  23 the foot of that page:                  24 "Child sex offenders who commit crimes in Cambodia                  25 can be extradited to their home country, but in APLE's</p> <p style="text-align: center;">Page 26</p>
<p>1 experience it is not really important where an offender                  2 is prosecuted, it is important that the prosecution is                  3 in no way manipulated by corruption. For western                  4 offenders, prosecuting them in their home country can be                  5 beneficial due to a stronger judicial system. Most                  6 western countries have good options to monitor a child                  7 sex offender after his or her release."                  8 I just want to deal with a few more points in this                  9 report so we don't have to come back to it. Internal                  10 page 23, please, your internal page 22, there is                  11 a chapter specifically on grooming techniques, and the                  12 panel can see very broadly the sort of things that have                  13 been derived from that. But it includes reference to                  14 keeping silence, reference to, if one looks, perhaps,                  15 and scrolls in on the foot of internal page 24, table 7,                  16 one can see the factors that you have drawn out --                  17 again, it is our internal page 24, table 7. Those are                  18 the sort of factors that have come out from your                  19 research on grooming, including giving money, dinner,                  20 presents, things of that nature.                  21 Then you have set out in the report, beginning,                  22 please, at our internal page 26, a series of examples                  23 from different countries. There's a German national                  24 case story, 5.1; a further example at paragraph 5.2;                  25 there's a British case at 5.3; and then there are two</p> <p style="text-align: center;">Page 27</p>	<p>1 others over the page at 5.4 and 5.5.                  2 The recommendations that this report made are at                  3 internal page 29. The headlines here were that you made                  4 the point that child sex offenders moved to more remote                  5 areas where a lack of NGOs and failing law enforcement                  6 make those areas appealing and make the children                  7 particularly vulnerable. Institution-based exploitation                  8 is increasing in Cambodia. Law enforcement officials                  9 need more and better training. Foreign offenders should                  10 be mandatorily deported from Cambodia. Over the page,                  11 financial compensation should be ordered in more cases                  12 and made effective. And foreign and international                  13 police and law enforcement agencies should assist the                  14 Cambodian national police with the arrest and                  15 prosecution of foreign offenders.                  16 I'm sorry to jump around, but that perhaps deals                  17 with some of the details of your report.                  18 Turning now to what you have said about the                  19 prosecution internationally, if I can deal with that                  20 now, please, Mr Samleang.                  21 Your experience, I think, of section 72 is perhaps                  22 reflected by the themes in that report, the difficulties                  23 in investigating in Cambodia. Often you've said there                  24 are victims not wanting to make complaints and there are                  25 some benefits of prosecuting offenders in their own</p> <p style="text-align: center;">Page 28</p>

<p>1 country. Is there anything else that you would like to                  2 add on prosecuting in the UK those who offend in                  3 Cambodia; on section 72, as we are calling it, as it is?                  4 <b>A. Well, a lot of the cases involving child sex offenders                  5 from overseas are very complex and victims are not very                  6 willing to come forward, and generally one of                  7 the techniques used by the sex offender is grooming, and                  8 in our experiences, in most of the cases involving                  9 foreign sex offenders, grooming is used, in which money                  10 was spent on the families and victims, and therefore                  11 they were not willing to come forward to give evidence.                  12 Locally, the Cambodian police would be more reactive and                  13 responsive if there is a formal complaint filed by the                  14 victim, and then they would be able to request an                  15 investigation from the court.                  16 In cases in which the victims were not confident to                  17 come forward, then that would be a very challenging                  18 situation for the police to investigate, and in that                  19 situation, in which the foreign law enforcement agency                  20 should be involved and try to support as much as                  21 possible the local investigation by providing                  22 reassurance and support from the foreign law enforcement                  23 agency itself and also any kind of information that                  24 could be shared with the local investigator so that it,                  25 you know, would be a motivation for the local police to</b></p> <p style="text-align: center;">Page 29</p>	<p>1 <b>investigate as well in the situation of a victim not                  2 willing to come up and complain.</b>                  3 <b>Generally, the challenge with the local                  4 investigation when there are no victims filing                  5 a complaint is that the investigation is generally not                  6 approved by the court for the police to carry out                  7 criminal investigation, and the court would require                  8 substantial information, for example, any kind of                  9 reasonable ground to suspect the person, and in this                  10 situation, I am personally still convinced that the                  11 information about, you know, previous background, for                  12 example, conviction or formal investigation back home                  13 would be crucial for the local police to actually                  14 convince the court to get the preliminary investigation                  15 order. And this is why I am still convinced that the                  16 involvement of foreign law enforcement agency would,                  17 first of all, secure local investigation; second,                  18 expedite the process, the investigative process; and,                  19 third, the abilities to investigate the case to the                  20 fullest extent, for example, the possibility to look at                  21 financial transactions if there was an indication that                  22 they were paid as part of the grooming process or maybe                  23 some sort of electronic communication between the                  24 suspect and the victim or the family that could be                  25 evidence for the police investigation or any type of</b></p> <p style="text-align: center;">Page 30</p>
<p>1 <b>monetary exchange or financial benefit to the victim or                  2 the family that could be easily traced by the foreign                  3 law enforcement agency then by the Cambodian national                  4 police. That is a really crucial situation in which                  5 many cases resulted in a proper investigation and formal                  6 investigation.</b>                  7 Q. Can I bring up, please, paragraph 39 of your witness                  8 statement. INQ003720_013. I think you have it in front                  9 of you, Mr Samleang.                  10 <b>A. Okay.</b>                  11 Q. There are perhaps some particular reasons that you give                  12 there about difficulties with prosecutions in Cambodia.                  13 You make the point that some offences do carry a harsh                  14 sentence, such as rape and trafficking, but others, such                  15 as child molestation or indecent and inappropriate                  16 touching, do not carry harsh sentences. Many of                  17 the foreign offenders are only charged with the offence                  18 of inappropriate touching for which the sentence is                  19 a minimum of one year and a maximum of three years and                  20 that possession of child pornography in Cambodia is not                  21 a criminal offence, which is problematic. So is one of                  22 the benefits of prosecution in the UK that it can fill                  23 a gap where there is no criminal offence for a certain                  24 activity in Cambodia?                  25 (Break in transmission)</p> <p style="text-align: center;">Page 31</p>	<p>1 MS HILL: Mr Samleang, I think you heard me refer to                  2 paragraph 39 of your witness statement. Are you,                  3 therefore --                  4 <b>A. Yes, I did.</b>                  5 Q. Are you saying to the panel effectively that the use of                  6 section 72 to prosecute somebody in England and Wales                  7 has the benefit of potentially filling a gap where                  8 a criminal offence has not been committed in Cambodia?                  9 <b>A. Yes, that's correct.</b>                  10 Q. You make the point at paragraph 40 that the successful                  11 prosecution in England and Wales under section 72 might                  12 have a deterrent effect on individuals in Cambodia; is                  13 that the case?                  14 <b>A. Yes, that's the case.</b>                  15 Q. I have a few questions for you, please, about Disclosure                  16 and Barring or background checks. I am going to bring                  17 up, please, paragraph 37 of your witness statement,                  18 where you have given some examples of institution-based                  19 abuse, about which we have heard, where you have                  20 referred there to some cases where a teacher from                  21 Australia and two from the US and the UK worked in NGOs.                  22 Two of them were found to have previous convictions.                  23 One was wanted in his home country for child sex crimes.                  24 You wrote in that report that the number of                  25 institution-based exploitation cases is rising and you</p> <p style="text-align: center;">Page 32</p>



<p>1 heard most of those perpetrators had previous                  2 convictions which you say underlines the need for                  3 preventative measures. You quote -- perhaps you can                  4 scroll in on the top of internal page 13 -- from that                  5 report questions about how can somebody with a previous                  6 conviction find a job in an institution, and you say:                  7 "People applying for a job in an NGO or school are                  8 rarely asked to provide a police clearance certificate                  9 in Cambodia. Convicted child sex offenders know this                  10 and misuse the situation. Cambodia lacks control and                  11 sanction mechanisms for [this]. Unregistered NGOs or                  12 NGOs that do not meet the minimum standards for                  13 alternative care are often allowed to continue their                  14 practice for a long time with no oversight."                  15 As far as the British international certificate is                  16 concerned, you welcome that, I think, as a step in the                  17 right direction, but you indicate this hasn't yet had                  18 a significant impact in Cambodia; is that right?                  19 <b>A. Yes, that is fair.</b>                  20 Q. One of the concerns you have, you say at 38, is that                  21 checks are often a voluntary process. A lot of NGOs                  22 have some awareness around this issue and make requests                  23 but many private companies do not. The biggest problem,                  24 you say, is there are public sector bodies that work                  25 with children, such as schools, which do not ask for</p> <p style="text-align: center;">Page 33</p>	<p>1 a background check. And at a domestic level, Cambodia                  2 needs to revise its law as well.                  3 Is there anything else you want to say about the                  4 processes in England and Wales, about the international                  5 certificate or anything else about the English and Welsh                  6 system for Disclosure and Barring and how it impacts on                  7 Cambodia?                  8 <b>A. Information about international child protection                  9 certification increasing in Cambodia, and it should be                  10 promoted as well, especially when businesses or                  11 investments by British national; especially, British                  12 schools should be well informed and should be motivated                  13 (inaudible) to implement this initiative.</b>                  14 <b>For me, I was involved in some of the situations in                  15 which I was asked for advice on the issue with                  16 international child protection certificates, in which                  17 I instructed the people to go online and asked them to                  18 apply for the application online. But, in fact, some of                  19 the schools that I talked to, they said that they had                  20 some challenges to implement that rule, because, first                  21 of all, the applicant was not willing to spend more                  22 money to get that certificate and, also, in Cambodia, it                  23 is not compulsory to provide that kind of background                  24 check for employment.</b>                  25 <b>It is -- it has also been a large (inaudible)</b></p> <p style="text-align: center;">Page 34</p>
<p>1 <b>businesses for recruiting international worker, such as                  2 British national, and especially in a particular school.                  3 Schools in Cambodia, international in Cambodia, are in                  4 high demand for British teacher. Generally, the                  5 employer would be very keen just to accept anyone who                  6 could take the position as soon as possible and they                  7 would not be actually very much keen to pursue the                  8 application of the international child protection                  9 certificate. So my understanding about this issue, it's                  10 actually the awareness of that certificate itself and                  11 also the sanctions or restrictions in Cambodia, and                  12 which the government should impose, for schools to                  13 implement that initiative.</b>                  14 Q. Can I ask you, please, to go to the end of your witness                  15 statement. INQ003720_015. Scroll in, please, on the                  16 last of the recommendations for reform that you make.                  17 You say there that one of the proposals for reform you                  18 make is specifically around improving the effectiveness                  19 of the ICPC through concrete actions such as mandating                  20 UK-based or registered companies, businesses or NGOs                  21 operating in Cambodia to undertake the background checks                  22 of their prospective employees. So you would make the                  23 international certificate process mandatory in Cambodia                  24 for those based in England and Wales; is that right?                  25 <b>A. That is correct.</b></p> <p style="text-align: center;">Page 35</p>	<p>1 Q. Perhaps we can scroll back to the beginning of your list                  2 of recommendations, internal paragraph 41. It is on                  3 page 14. You make some broad proposals at the top of                  4 paragraph 41 that the implementation of the regulatory                  5 framework needs to be enhanced; all legislative,                  6 administrative, social and other measures necessary to                  7 prevent and eliminate exploitation of children in travel                  8 and tourism; you propose a sex offenders' registry to                  9 ensure the activities of offenders are adequately                  10 monitored and restricted; improve practices in relation                  11 to the Green Notice system about warning other member                  12 states if a sex offender is travelling, including                  13 warning NGOs; increase presence and support of foreign                  14 law enforcement agencies in Cambodia by increasing                  15 support to the NCA; to simplify UK and Cambodian                  16 communications and enable the presence of NCA liaison                  17 officers in Cambodia; strengthening extra-territorial                  18 co-operation and practices with various countries;                  19 timely information sharing and responses to mutual legal                  20 assistance; a legal condition or provision that makes                  21 deportation of UK-convicted foreign child sex offenders                  22 mandatory; denying entry to any visitor for which the                  23 immigration authorities have received notification that                  24 they might pose a danger to children; and prosecuting UK                  25 national child sex offenders to the fullest potential of</p> <p style="text-align: center;">Page 36</p>

1 the law, including under section 72, where possible.  
 2 Those I think are the recommendations that you made  
 3 in your witness statement. Is there anything in  
 4 particular on those recommendations that you would like  
 5 to add, Mr Samleang?  
 6 **A. I would actually like to add on the recommendation**  
 7 **number 5, five down from the top, "strengthen**  
 8 **extra-territorial co-operation and practices with the**  
 9 **various countries". I still appreciate and, logically,**  
 10 **timely information sharing would lead to prevention, and**  
 11 **also there needs to be some immediate discussions and**  
 12 **considerations around the application of the unusual**  
 13 **legal system between Cambodia and the UK, and especially**  
 14 **a response to cases in which the British national are**  
 15 **looking for -- sexual interest in children. That should**  
 16 **be actually prioritised and the information should be**  
 17 **shared as soon as possible with the Cambodian**  
 18 **authorities.**  
 19 Q. My final question for you, Mr Samleang: I think you have  
 20 been provided with a document that the inquiry has  
 21 prepared, the inquiry legal team has prepared. It is  
 22 called "a list of key concerns and proposed reforms",  
 23 and it tries to summarise evidence that you and other  
 24 people have given about particular concerns about these  
 25 three legal frameworks and about particular reforms.

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1 the nature of those previous convictions? Were they  
 2 related to child sexual abuse or exploitation, or were  
 3 they previous convictions --  
 4 **A. Yes, they were specifically related to child sexual**  
 5 **abuse offences in their home country. So as soon as we**  
 6 **receive information about any suspected individual, then**  
 7 **we will provide that initial information to the law**  
 8 **enforcement agency of that country concerned, and then,**  
 9 **in those cases, they would advise us whether the person**  
 10 **was known in their system and, when they advised that**  
 11 **the person was known, then we would ask for specific**  
 12 **information, whether -- what kind of offence they were**  
 13 **known for. Information we received was such as they**  
 14 **were convicted or prosecuted for a child sexual abuse**  
 15 **offence or for rape or, you know, so on and so forth.**  
 16 **So all these cases were related to child sexual abuse**  
 17 **offences only.**  
 18 MS SHARPLING: That's very helpful, thank you.  
 19 MS HILL: Perhaps I can assist, Ms Sharpling, if I may: in  
 20 the report that Mr Samleang exhibits there is some  
 21 further detail on this: INQ003685\_012 under the heading  
 22 "Prior convictions". It is your internal page 11 of  
 23 your report, Mr Samleang.  
 24 There's a table there "Previous convictions of  
 25 foreign perpetrators". 27.6 per cent of the travelling

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1 I hope, Mr Samleang, you have had the chance to reflect  
 2 on this document?  
 3 **A. Yes, correct, I have.**  
 4 Q. Is there anything in particular you would like to say  
 5 that you disagree with or agree with from what's set out  
 6 in this document based on other people's witness  
 7 evidence?  
 8 **A. I don't have any disagreements.**  
 9 Q. Is there anything further that you would like to say,  
 10 Mr Samleang?  
 11 **A. No.**  
 12 MS HILL: Those are all my questions for you, Mr Samleang.  
 13 Thank you very much indeed. The chair and panel may  
 14 have some questions for you.  
 15 THE CHAIR: Yes, we do. Ms Sharpling does.  
 16 Questions by THE PANEL  
 17 MS SHARPLING: Hello, Mr Samleang. Can you hear me all  
 18 right?  
 19 **A. Hello, yes, I can hear you well.**  
 20 MS SHARPLING: Thank you very much. Just one question from  
 21 me: you very helpfully said in your report that  
 22 27 per cent of the travelling sex offenders had  
 23 a previous conviction. That's right, isn't it?  
 24 **A. That's correct.**  
 25 MS SHARPLING: I'm just wondering, were you informed of

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1 sex offenders, only foreign perpetrators were included  
 2 in this analysis, had a previous conviction. In about  
 3 70 per cent of the cases, the information is not known.  
 4 MS SHARPLING: It was the nature of the previous convictions  
 5 I was concerned about.  
 6 MS HILL: The point perhaps is there was a significant  
 7 number about whom the background wasn't known. It went  
 8 on to say:  
 9 "When all unknown cases are excluded, the situation  
 10 appears even more shocking."  
 11 Is what the report goes on to say.  
 12 **A. That's correct.**  
 13 THE CHAIR: Sir Malcolm?  
 14 PROF SIR MALCOLM EVANS: Thank you, Mr Samleang. Just two  
 15 questions from me, if I may, of a rather general nature.  
 16 In your experience, what is the nature of  
 17 the evidence and the threshold of evidence which appears  
 18 to be necessary to secure a conviction for child  
 19 prostitution in Cambodia?  
 20 **A. Under the Cambodian law, there is an article that says**  
 21 **a criminal investigation can only be initiated with**  
 22 **substantially incriminating evidence. The law doesn't**  
 23 **define specifically what it means by "substantially**  
 24 **incriminating evidence", and that is always interpreted**  
 25 **differently by different agencies in law enforcement.**

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<p>1 In my experience, dealing with sexual offences of 2 children, in most cases the police would consider the 3 reasonable grounds to ask for a criminal investigation 4 when there is a complaint by a victim that is testifying 5 to the fact that he or she has been sexually abused. 6 Abuse in the form of touching, penetration or 7 non-contact abuse, such as online and webcams or 8 production of child pornography. And then, depending on 9 the interpretation of that article by the police 10 investigator in consultation with the prosecutor. So, 11 in some cases, the information or evidence was actually 12 perceived differently by the police investigator and the 13 prosecutor. 14 But in most of APLE cases, the threshold would be at 15 least testimony of the victim, one or two confirming the 16 sexual act by the sex offender. 17 PROF SIR MALCOLM EVANS: Could I ask, that may be sufficient 18 then to launch the permission of the court to undertake 19 the investigation. What, in your experience, is the 20 court looking for in terms of the evidential threshold 21 for securing a conviction? 22 A. It depends on what offences have been suspected or 23 investigated. For example, if they are suspecting 24 a person committing an indecent act or sexual touching, 25 of course the minimal evidential threshold would be the</p> <p style="text-align: center;">Page 41</p>	<p>1 evidence of touching. So of course testimony of 2 the victim confirming that action, and then that would 3 be enough to secure. 4 PROF SIR MALCOLM EVANS: And for child prostitution? 5 (Break in transmission) 6 PROF SIR MALCOLM EVANS: Sorry, we seem to have lost the 7 link for a moment. Can you hear me again? 8 A. Yes, I hear you now. So your question about child 9 prostitution? 10 PROF SIR MALCOLM EVANS: Yes, the higher-level offence. 11 Would it be the same type of evidence would be required 12 by the court, ie, the evidence of the victim? 13 We seem to be having trouble. 14 (Break in transmission) 15 A. Yes, can you hear me now? 16 PROF SIR MALCOLM EVANS: Yes, thank you. 17 A. So I was saying that the evidence required for child 18 prostitution ... 19 (Break in transmission) 20 A. Can do you hear me well? 21 PROF SIR MALCOLM EVANS: Yes. 22 A. Okay. Can you hear me okay? 23 PROF SIR MALCOLM EVANS: Yes, thank you. 24 A. Hello? Okay. So from my experience, the evidential 25 requirement for child prostitution is basically</p> <p style="text-align: center;">Page 42</p>
<p>1 testimony of the child to confirm the sexual act of 2 performing, and, secondly, the evidence of financial or 3 economic evidence or monetary exchange. So if the 4 person is paying the child for a prostitution service, 5 that would be a child prostitution offence. So the 6 court would have to prove the exchange of financial 7 benefit or gain as part of the sexual interactions. 8 PROF SIR MALCOLM EVANS: Very briefly and finally, I notice 9 that in your report when you were talking about the 10 usefulness of countries exercising extra-territorial 11 jurisdiction rather than prosecutions taking place 12 locally, it is said in the report it is important that 13 the prosecution is in no way manipulated by corruption. 14 To what extent, in your experience, is that 15 a difficulty? 16 A. Well, unfortunately, we have found the issue of 17 corruption still common in a lot of these cases, 18 especially a perpetrator with monies and power are 19 coming here to abuse children and were able to pay 20 for -- you know, to escape justice was a common 21 challenge for us here. 22 So when we talk about local prosecution, we need to 23 make sure that the prosecution will be handled properly 24 and free of corruption. When we suspect that potential 25 corruption or bribery is involved in local prosecution,</p> <p style="text-align: center;">Page 43</p>	<p>1 then we would encourage the foreign law enforcement to 2 consider extra-territorial prosecution because then it 3 is absolutely free of corruption and bribery. 4 So that is always our recommendation when we are 5 looking at a child sexual -- territorial prosecution. 6 If the case is handled properly by the local proceeding, 7 we are happy that the prosecution should take place in 8 the country where the offence is committed. But from 9 our experiences, there have been circumstances in which 10 we were more convinced that the individual sex offenders 11 should have been prosecuted back home for some of 12 the benefits. It would be sending the (inaudible) also 13 when the person was convicted also back home that 14 everybody was informed back home, the media attention 15 would be on the person's crime back home and the person 16 had no possibility to bribe the system, and also to 17 manipulate. There were cases in which the perpetrator 18 came out after one year, two years, in gaol and then 19 misinformed the public that they were wrongly accused or 20 prosecuted by the Cambodian court. They were trying to 21 re-engage with the community again and complained that 22 they were still innocent, although the conviction was 23 actually given by the court. 24 That was a different situation, when we heard about 25 the prosecution back home in which the positive image</p> <p style="text-align: center;">Page 44</p>

<p>1 <b>was actually promoted as more -- much more severe</b>                  2 <b>sentencing given back home. For example, we talk about</b>                  3 <b>one year in Cambodia for a US national, but we were</b>                  4 <b>talking about 230 years for the same person back in the</b>                  5 <b>US. So that is really an active approach that we like</b>                  6 <b>to see in some of the cases here.</b>                  7 PROF SIR MALCOLM EVANS: Thank you very much indeed.                  8 THE CHAIR: We have no further questions. Thank you,                  9 Mr Samleang, for your evidence and for tolerating the                  10 technical difficulties.                  11 MS HILL: Thank you very much, Mr Samleang.                  12 (The witness withdrew)                  13 MS HILL: Chair, I think we will have a couple of minutes to                  14 close down the videolink and then my learned friend will                  15 read the statement of Carol Smolenski, which I think you                  16 will find towards the back of your bundle.                  17 Statement of MS CAROL SMOLENSKI (read)                  18 MS BENFIELD: Chair, good morning, I will read the statement                  19 of Carol Smolenski of ECPAT USA. It is dated                  20 23 November 2018 and is at tab D, document 1, and is                  21 referenced INQ003704:                  22 "I am the executive director and one of the founders                  23 of ECPAT USA. As executive director, I am responsible                  24 for the strategic overview of the organisation, youth                  25 empowerment and awareness of sexual exploitation,</p> <p style="text-align: center;">Page 45</p>	<p>1 educating the travel industry on steps to take to                  2 protect children and developing the advocacy programme.                  3 ECPAT USA campaigns on federal policy and legislation.                  4 ECPAT USA was the first organisation to work on the                  5 issue of child sexual exploitation in tourism in the                  6 United States. I am a nationally recognised leader                  7 working to stop the commercial sexual exploitation and                  8 trafficking of children in the US. Prior to this                  9 I worked at the Child Fund. I have been working in the                  10 field of children's rights for 27 years.                  11 "At ECPAT USA, I have overseen the development of                  12 the first research project on child trafficking in                  13 New York City and have developed and managed projects to                  14 stop the commercial sexual exploitation and trafficking                  15 of children in the United States, the Riviera Maya and                  16 Cancun sections of Mexico, Belize and in Brazil. We had                  17 government funding to run projects in Mexico, Belize and                  18 Brazil in order to educate the travel industry about how                  19 to protect children from child sex offenders, whether                  20 from the US or other places. The proximity of Mexico                  21 and Belize to the US made these countries a popular                  22 tourist destination and a popular destination for child                  23 sexual abuse. In 2009, we obtained US State Department                  24 funding to carry out the project in three cities in                  25 Brazil.</p> <p style="text-align: center;">Page 46</p>
<p>1 "As part of ECPAT International, ECPAT USA had                  2 initially focused on US perpetrators who travelled to                  3 South-East Asia to exploit children. In the late 1990s,                  4 we started to understand the scale of the problem and                  5 that US citizens were travelling to many other                  6 countries, including Mexico, Belize, the Dominican                  7 Republic and Brazil. For example, in Mexico it was well                  8 known that people were travelling to Acapulco to                  9 sexually exploit children. In Belize, I was informed                  10 that many US offenders went since they were able to                  11 drive there from the United States, speak English and                  12 that the country was poor, meaning that children were                  13 vulnerable.                  14 "Through our research we identified a number of case                  15 studies of US perpetrators travelling abroad to sexually                  16 exploit children. In this statement, I will focus on                  17 one case study to illustrate some of the challenges that                  18 we continue to face in the US. I am not able to respond                  19 to the questions set out in the Rule 9 letter which are                  20 specific to the UK legal regime as this falls outside of                  21 my expertise. However, I hope my evidence will assist                  22 the inquiry with its investigations concerning England                  23 and Wales by providing a comparative perspective.                  24 "The problem: the Manaus example.                  25 "Manaus is a Brazilian municipality in the Amazonas</p> <p style="text-align: center;">Page 47</p>	<p>1 state and is the main financial, economic and corporate                  2 centre of Northern Brazil. It serves as a major port                  3 for people seeking to travel through the Amazonian                  4 rainforest. It is an urban coastal city which attracts                  5 tourism from all around the world. It is also known as                  6 the environmental capital of Brazil. However, as                  7 documented in Brazil's ECPAT's country report in 2015,                  8 Manaus also has a sinister side, with high levels of                  9 sexual violence and which serves as a key transit stop                  10 where the transportation of sexually exploited children                  11 occurs. High levels of poverty mean that children are                  12 vulnerable to sexual exploitation in tourism and travel.                  13 "We chose to work in this city in Brazil as part of                  14 our State Department funded programme because we had                  15 learned about a shocking case of an American fishing                  16 tour operator in the Amazon. Allegations were made by                  17 four Brazilian women, against the former operator of                  18 a fishing tour company called Wet-a-line which sold                  19 trips to the Amazon. The company closed down in 2009.                  20 The allegation was the American who owned the company                  21 would recruit underage indigenous girls to come onto the                  22 boat, and who were then coerced into performing sex acts                  23 with tourists. The girls were between the ages of 12                  24 and 17 years old.                  25 "A civil case was filed against the tour operator in</p> <p style="text-align: center;">Page 48</p>

<p>1 the United States, which alleged that he actively                  2 recruited sex tourism customers from the US to come on                  3 the tours. The case was widely reported at the time.                  4 The defendant filed for a stay of the proceedings as he                  5 was being investigated for criminal charges at the time                  6 by both the US and Brazilian Governments. In 2012, the                  7 US Government ended their criminal investigation. The                  8 tour operator was thus never prosecuted in the US. He                  9 was, however, indicted in Brazil on April 29, 2009 for                  10 rape, attracting minors and facilitating their                  11 prostitution, benefiting from the exploitation of                  12 prostitution, and recruiting, transporting and hosting                  13 the minors who were forced into prostitution. It is                  14 understood, however, that he remains in the                  15 United States and I do not know why he has not been                  16 prosecuted for these crimes in the US or in Brazil.                  17 "I highlight this case as it illustrates the                  18 challenges of prosecuting transnational child sex                  19 offenders, and the scale of the problem. Some offenders                  20 travel abroad as tourists to commit criminal acts                  21 against children. Others embed themselves within the                  22 travel and tourism industry to facilitate and perpetrate                  23 this violence against vulnerable children, within                  24 vulnerable communities.                  25 "The case is also illustrative of a number of wider</p> <p style="text-align: center;">Page 49</p>	<p>1 phenomena which makes the prosecution of United States                  2 offenders who perpetrate sexual offences abroad                  3 difficult. These factors which hamper the prosecution                  4 of offenders include: the lack of co-operation from                  5 local law enforcement; the need to gather evidence in                  6 a way that can be presented in a US court; and the                  7 challenges of bringing the children who have been                  8 exploited to the US to testify. In addition, the                  9 ability of perpetrators to pay bribes to children or                  10 their families to prevent them from testifying is                  11 a major problem.                  12 "Thus, while US law enforcement and the                  13 United States Immigration and Customs Enforcement Team                  14 take child sexual exploitation perpetrated abroad,                  15 including criminal activity facilitated by the internet,                  16 seriously, there are often other factors which make it                  17 difficult to prevent, investigate and punish                  18 perpetrators.                  19 "The current proactive attitude of the US embassy                  20 staff and police comes from sustained training on this                  21 issue, and changes in the law in 2002 which allowed for                  22 extra-territorial prosecutions. Before this, embassy                  23 staff did not consider it to be a priority to                  24 investigate US nationals committing sexual offences                  25 abroad and the approach was to protect US nationals. In</p> <p style="text-align: center;">Page 50</p>
<p>1 my experience, this has now changed but only after                  2 significant investment in training and awareness                  3 raising.                  4 "Civil Orders.                  5 "The law in the US changed following the kidnap,                  6 sexual assault and murder of a 7-year-old child,                  7 Megan Kanka. Megan went missing in 1994 and was                  8 murdered by her neighbour, a sex offender. This led to                  9 a change in the law which now requires community                  10 notification of registered sex offenders. At the                  11 federal level, the law created a sex offender registry                  12 and amended the Violent Crime Control and Law                  13 Enforcement Act of 1994. This is commonly known as                  14 'Megan's Law'.                  15 "Additionally, in 2017, a law came into effect which                  16 provides a passport identifier under the International                  17 Megan's Law to Prevent Child Exploitation and Other                  18 Sexual Crimes Through Advanced Notification of                  19 Travelling Sex Offenders (Public Law 114-119). The law                  20 prohibits the Department of State from issuing                  21 a passport to a sex offender without a unique identifier                  22 or seal, which is printed inside the back cover of                  23 the passport. According to the State department travel                  24 website, the seal states:                  25 ""The bearer was convicted of a sex offence against</p> <p style="text-align: center;">Page 51</p>	<p>1 a minor, and is a covered sex offender pursuant to                  2 22 United States Code Section 212b(c)(1)'.                  3 "This law was controversial, and some people argued                  4 that it would violate constitutional rights.                  5 Practically speaking, it may also not prevent all sex                  6 offenders from travelling abroad, given that the                  7 information may not be understood by foreign immigration                  8 officials or some immigration officials may still allow                  9 entry. However, my experience is that those working in                  10 US embassies have found that the measure assists with                  11 policing sex offenders who travel abroad. On balance,                  12 I think it is a good measure to have because it has the                  13 desired effect to limit the travel of sex offenders.                  14 "To my knowledge, there are no other Civil Orders                  15 which regulate US citizens who travel abroad to commit                  16 sexual offences."                  17 That concludes the evidence of Carol Smolenski,                  18 chair.                  19 THE CHAIR: Thank you, Ms Benfield. We will now take the                  20 mid-morning break and return at 11.45 am.                  21 MS HILL: Chair, we will need slightly longer, in light of                  22 the videolink. So we will return, I think, at 12 noon                  23 to allow for the videolink to be changed over.                  24 THE CHAIR: Thank you.                  25 (11.30 am)</p> <p style="text-align: center;">Page 52</p>

1 (A short break)  
 2 (12.02 pm)  
 3 MS HILL: Thank you, chair. I call Marie-Laure Lemineur.  
 4 MS MARIE-LAURE LEMINEUR (affirmed)  
 5 Examination by MS HILL  
 6 MS HILL: Thank you very much, Ms Lemineur. Your witness  
 7 statement makes clear that you are the deputy executive  
 8 director for programmes at ECPAT International and you  
 9 live and work in Bangkok, Thailand; is that right?  
 10 **A. That is correct.**  
 11 Q. You have helpfully provided a witness statement to the  
 12 chair and panel which I will adduce, please, if I may in  
 13 full. It is INQ003703. Very briefly, you explain in  
 14 that statement, Ms Lemineur, that you have two decades  
 15 of experience in the field of human rights education and  
 16 the protection of children from abuse and exploitation,  
 17 and became deputy director of programmes at  
 18 ECPAT International in October 2018, but against  
 19 a background of very extensive work in the field; is  
 20 that right?  
 21 **A. That is correct.**  
 22 Q. You have provided the panel with several reports, and  
 23 I'd like formally, please, to adduce your exhibit LM2,  
 24 which is INQ003711, and your exhibit LM5, which is  
 25 INQ003707. Can I ask you to turn up, please,

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1 panel understand that, please?  
 2 **A. Yes, we do provide different programmes tackling those**  
 3 **two issues. However, through the work we have been**  
 4 **doing, advocacy, research, capacity building, we**  
 5 **realised that there is a lot of overlap, specifically**  
 6 **when it comes to legal challenges, number one --**  
 7 Q. Sorry, Ms Lemineur, could you say the last part again?  
 8 I think we couldn't hear the last part?  
 9 **A. Specifically when it comes to some legal challenges that**  
 10 **are shared, and also when it comes to the misuse of**  
 11 **technology, that is a common thread for some**  
 12 **manifestations.**  
 13 Q. I think you made the point at paragraph 7 of your  
 14 witness statement that often travel and tourism and  
 15 online exploitation overlap, in that a travelling  
 16 offender may take videos and photographs, and that may  
 17 be seen as a way of generating income. So there is  
 18 a practical overlap between those two areas as well.  
 19 You have made clear in your witness evidence that  
 20 you work in partnership with police agencies and the  
 21 relevant Crimes Against Children Team within Interpol,  
 22 and I think have generated with Interpol a joint  
 23 publication around -- towards a global indicator on  
 24 unidentified victims in child sexual exploitation  
 25 material. That's your exhibit LMI. Is that right?

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1 paragraph 4 of your witness statement, which sets out in  
 2 broad terms what ECPAT International's work is on sexual  
 3 exploitation of children in travel and tourism or SECTT.  
 4 Can I bring up, please, that paragraph and the  
 5 sections that follow it? It is INQ003703\_002. You  
 6 give, at paragraphs 4 to 12, Ms Lemineur, an overview of  
 7 the work that ECPAT does on these issues. Can you  
 8 perhaps just draw out the key points for the chair and  
 9 panel?  
 10 **A. Yes, I can. ECPAT International is a network of NGOs.**  
 11 **As of today, we have -- can you hear me?**  
 12 Q. Yes.  
 13 **A. As of today, we have 107 members in 95 countries. The**  
 14 **mandate of our organisation is to -- all manifestations**  
 15 **of sexual exploitation of children, including the**  
 16 **exploitation of children in the context of travel and**  
 17 **tourism, the sexual exploitation of children through the**  
 18 **medium of technology in situation of trafficking and**  
 19 **prostitution.**  
 20 Q. You have a number, I think, of specific programmes, and  
 21 you make clear, at paragraph 7 of your witness  
 22 statement, that a particular focus at the moment is the  
 23 sexual exploitation of children in travel and tourism  
 24 and online exploitation, but you make the point that  
 25 these often overlap. So just perhaps help the chair and

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1 **A. That is correct.**  
 2 Q. The top of our internal page 3 extracts part of that  
 3 report. Can I just scroll in on that, please. It is  
 4 the end of your paragraph 5, where the report made this  
 5 observation:  
 6 "Law enforcement attest to the particular challenges  
 7 that present in victim identification cases involving  
 8 travelling sex offenders who offend in developing  
 9 countries, where law enforcement capacity for victim  
 10 identification in the destination country may be  
 11 compromised or where prolific offenders simply forget  
 12 children they have victimised over the course of their  
 13 offending. All of these conditions can limit law  
 14 enforcement's ability to formally identify victims of  
 15 CSAM (child sexual abuse material)/CSEM (child sexual  
 16 exploitation material) where the offender has been  
 17 apprehended."  
 18 Is that what the report found?  
 19 **A. Yes.**  
 20 Q. You, I think, have made the point by way of further  
 21 context that the sexual exploitation of children in the  
 22 context of travel and tourism is a global problem. The  
 23 true extent of it remains hidden because of its illegal  
 24 nature. Is that right?  
 25 **A. This is correct. This is a form of criminality, so the**

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<p>1 <b>only data available that we have is either confidential</b>                  2 <b>figures from the police, so we can't share, or our own</b>                  3 <b>research that is usually qualitative research, not so</b>                  4 <b>much quantitative.</b>                  5 Q. You have also I think made the point in paragraph 8 of                  6 your witness statement -- perhaps we can bring that up,                  7 internal page 4 -- that although there are those                  8 limitations on the data in 2013, the UN Special                  9 Rapporteur estimated that 2 million children are                  10 sexually exploited each year worldwide. You go on to                  11 say --                  12 <b>A. That is correct.</b>                  13 Q. -- that research that you and others had done was cited                  14 to explain that the fear of negative repercussions may                  15 lead to difficulties in disclosure, which, again, is                  16 a further challenge on the data. Is that right?                  17 <b>A. This is correct.</b>                  18 Q. Just some final observations, please, in terms of                  19 the context. You go on to say at paragraph 9 that your                  20 position from ECPAT International is that this situation                  21 is a dynamic one:                  22 "A few decades ago, the prevailing assumption was                  23 that travelling sex offenders came almost exclusively                  24 from western countries and went to poor, developing                  25 countries. Today, we know that the lines between</p> <p style="text-align: center;">Page 57</p>	<p>1 destination, transit and source countries are blurred                  2 and the profile of offenders is diverse. Travelling                  3 child sex offenders can be domestic or regional                  4 travellers, as well as tourists, business travellers,                  5 volunteers or expats."                  6 Is that right?                  7 <b>A. This is correct.</b>                  8 Q. You make the point that the changes -- I think                  9 paragraph 11 -- in particular countries can also                  10 generate new challenges or different situations for the                  11 law enforcement agencies. The end of the civil war in                  12 Sri Lanka has meant it's become a major tourist                  13 destination, but your partners in Sri Lanka have drawn                  14 out the need for extra protection measures around                  15 hotels, airports, restaurants, and so on, that are                  16 needed if there is to be a greater influx of tourists?                  17 <b>A. Correct.</b>                  18 Q. You make the point, I think, at paragraph 12, that                  19 although the profile is high of travel and exploitation                  20 by western men, children are most often abused in their                  21 homes or by persons in their circle of trust, and in                  22 particular you flag, as others have, the issue of                  23 foreign offenders setting up orphanages or schools in                  24 which sexual abuse is perpetrated. Is that right?                  25 <b>A. Yes. May I -- this is correct, but may I clarify</b></p> <p style="text-align: center;">Page 58</p>
<p>1 <b>something?</b>                  2 Q. Please do.                  3 <b>A. When I talk about "circle of trust", I'm talking about</b>                  4 <b>children who are portrayed exclusively on pictures that</b>                  5 <b>are called child sexual abuse images. I'm not talking</b>                  6 <b>about children victims of travellers or tourists.</b>                  7 Q. I see. You have made the point, I think, that there is                  8 a range of nationals and a range of countries from which                  9 offenders come. You have referred, I think, there to                  10 LM5, and I will perhaps just bring up that report if                  11 I may, because it is a substantial piece of work. This                  12 global study contained a list of other reports that had                  13 been prepared, but also you have gone through this                  14 report in some detail in your witness evidence. Perhaps                  15 we can just bring up paragraphs 14 and onwards of your                  16 statement. It is INQ003703_006. The report itself we                  17 will come to, but in summary, this made the point that                  18 SECTT has expanded across the globe and outpaced efforts                  19 to respond at the international and national level;                  20 stressed the impact on individual children; looked at                  21 nine global regions. Then the main conclusions are at                  22 paragraph 16 of your statement: tourism is soaring while                  23 child protection lags behind; the growth of travel and                  24 tourism carries specific risks for children; there is no                  25 typical victim; no typical offender; power imbalances</p> <p style="text-align: center;">Page 59</p>	<p>1 fuel SECTT; legislation is not enough; data gaps and                  2 dilemmas undermine the response. Effective responses                  3 need to be replicated and scaled up.                  4 Are they the broad conclusions that the report                  5 reached?                  6 <b>A. It is.</b>                  7 Q. You make the point as a matter of fairness, I think, at                  8 paragraph 17, that the report did identify various                  9 regional trends but flagged that UK nationals abroad,                  10 taken in context, represent a small proportion of child                  11 sex offenders. Overall, tourism and SECTT in the                  12 South Asian region appears to be dominated by Asian men.                  13 Abuse in the region by foreign nationals from countries                  14 like the UK are of lower volume, but attract more                  15 attention. There would appear to be a stronger array of                  16 law enforcement options from their home jurisdiction                  17 available. Is that right?                  18 <b>A. That is correct.</b>                  19 Q. If I can bring up, for completeness, the report itself,                  20 INQ003707. The panel can see in this report that it's                  21 a very substantial document. It runs to some                  22 150-something pages. The executive summary at internal                  23 page 13, please. If we scroll in on the key findings by                  24 region, and then, over the page, it makes those key                  25 global findings, which I think reflect, if you scroll</p> <p style="text-align: center;">Page 60</p>

<p>1 down, perhaps, it reveals the need for a broader view of                  2 the SECTT issue and, over the page, that the child                  3 protection issues are not keeping up with the growth of                  4 tourism and points about there being no typical patterns                  5 to offenders and victims?                  6 <b>A. Correct.</b>                  7 Q. The policy recommendations are found at internal                  8 page 56, under the heading "Implications for policy and                  9 action", on the left-hand column, towards the bottom.                  10 There is a need for broader policies and actions to                  11 encompass a far wider range of offenders. Efforts need                  12 to look beyond tourism and focus on travel. Develop                  13 global, national and local situation analyses to define                  14 the scale of offending. Specialised agencies have quite                  15 rightly focused on rescuing the victims, but those                  16 dealing with perpetrators have valuable knowledge and                  17 experience that should be gathered and shared.                  18 Information and awareness raising for the general                  19 public, as well as capacity building, was also                  20 important.                  21 For completeness, can I direct the panel's attention                  22 to your chapter 5 which begins at internal page 85.                  23 That is an overview of the different responses to child                  24 sexual exploitation in travel and tourism. I will                  25 perhaps flag, as I think there was a question about it</p> <p style="text-align: center;">Page 61</p>	<p>1 yesterday, there is a heading "International framework                  2 for action" that sets out the different sources of human                  3 rights standards, political commitments and initiatives                  4 and various regional actions, and then, if one looks at                  5 internal page 95, I think this was the source of                  6 a question yesterday from the panel member Mr Frank,                  7 there is a section on the national plans of action that                  8 have been made by particular countries.                  9 Finally on this report, internal page 105, please,                  10 is chapter 6, which deals with proposals for next steps                  11 that we will perhaps come to in your evidence generally.                  12 But there is a section that runs through to page 109,                  13 I think, on that.                  14 Going back, please, if I may, Ms Lemineur, to your                  15 witness evidence, you talk about legislation at                  16 paragraph 22 and onwards of your witness statement.                  17 Help us, please, with what your general view is on the                  18 ability of legislation in this area to effect change?                  19 <b>A. I do think -- we do, as an institution, follow the model                  20 national response when we think of responses to                  21 manifestations of sexual exploitation and, in other                  22 words, we -- I mean, the model national response has                  23 been referenced in one of the documents that I read                  24 coming from you. We do think that this is a policy                  25 model that has a comprehensive focus when it comes to</b></p> <p style="text-align: center;">Page 62</p>
<p>1 <b>identifying proper response to the issue we are dealing                  2 with today and legislation is part of the response. It                  3 is a vital part of it and it is not enough. It needs to                  4 be -- a solid piece of legislation needs to be put in                  5 place. It needs to be implemented. But we do think                  6 that, unfortunately, this is not enough to tackle the                  7 problem and to move towards an efficient solution.</b>                  8 Q. Can I bring up, please, paragraph 23 of your witness                  9 statement. It is INQ003703_009. You make the point                  10 there that this is an area in which offenders use online                  11 forums to share tips and strategies on buying children.                  12 They operate with a sense of impunity and, therefore,                  13 one of the issues about the efficacy of legislation is                  14 that offenders keep themselves very well informed about                  15 the gaps in the legislation and, when a country tightens                  16 its laws, the offenders move elsewhere?                  17 <b>A. Correct. This is the ironic -- the irony in becoming                  18 more efficient and in adopting a stronger legislation is                  19 that somehow we have noticed that it will force or --                  20 yes, it will push the offenders to go somewhere else.                  21 They are always searching for legal loopholes and places                  22 where impunity is widespread.</b>                  23 Q. As far as the Civil Orders regime is concerned in the                  24 UK, I think you defer to your colleague, Ms Patel, who                  25 gave some evidence about that yesterday, but you have</p> <p style="text-align: center;">Page 63</p>	<p>1 addressed the issue of travel bans at paragraph 26 of                  2 your witness statement and also at paragraph 29. What's                  3 your view on imposing bans on known offenders from                  4 travelling completely?                  5 <b>A. We agree with this. We do think it's a valuable                  6 measure. We also think that we need to take some time                  7 to see the results and the impact of it based on the                  8 practice in Australia and the US, and so, with time, we                  9 will be able to document whether it's working and, if                  10 it's working, what are the consequences, whether this                  11 means that some offenders, instead of travelling,                  12 because they are banned from travelling, they then move                  13 on to internet and go and offend using internet instead                  14 of travelling. That could be, I guess, a consequence of                  15 being prevented from travelling.</b>                  16 Q. I think you make the point that, just because it might                  17 be difficult to enforce a Civil Order or a travel ban,                  18 at paragraph 26, it doesn't mean that it shouldn't be                  19 done. You give some potential negatives at paragraph 29                  20 of a travel ban. Let's scroll in, please, to                  21 paragraph 29 where you say in some contexts there might                  22 be a concern that this measure could be used for other                  23 purposes, such as targeting political dissidents rather                  24 than travelling sex offenders, so it is a complex issue,                  25 but, overall, you are in favour of this sort of measure;</p> <p style="text-align: center;">Page 64</p>



1 is that right?  
 2 **A. This is correct. This is correct. We promote the idea**  
 3 **of travel ban and we try to educate policy makers and**  
 4 **CSOs to put the topic on agendas when we have**  
 5 **discussions and discuss their concern and explain to**  
 6 **them how it works and how it is working in other**  
 7 **countries so that they are educated about it and the**  
 8 **benefits of it.**  
 9 Q. You also indicate that your organisation is in favour of  
 10 countries enacting a sex offenders register, but there's  
 11 also been some resistance to that. Is that right?  
 12 We may have lost our link.  
 13 (Break in transmission)  
 14 MS HILL: I'm sorry, Ms Lemineur, about that. Can I ask  
 15 what your view is on countries that enact sex offenders  
 16 registers, what your organisation's position is on that?  
 17 **A. As an organisation, we agree with it. We also**  
 18 **acknowledge that there are cultural contexts where there**  
 19 **is a lack of understanding of what it implies and a lot**  
 20 **of concerns regarding possible misuse by local**  
 21 **authorities of this type of (inaudible), given the**  
 22 **political context and -- yes, given the political**  
 23 **context.**  
 24 Q. I think, again, is it a concern about there being a lack  
 25 of trust in government and potentially such a register

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1 **cases are overstretched, highly committed, struggling**  
 2 **a lot, willing to do the best they can, but they're**  
 3 **struggling with maybe challenges that are proper to the**  
 4 **cultural/social environment, and sometimes they are**  
 5 **successful and sometimes they are not that successful,**  
 6 **though they try very hard to make it happen on their**  
 7 **hand.**  
 8 Q. You reference in particular your contact with the UK  
 9 liaison officer. Is this a UK liaison officer for the  
 10 NCA in Thailand?  
 11 **A. Yes, it was until -- I haven't talked to her until --**  
 12 **I think one year ago, so I'm not sure if it's still her,**  
 13 **the same person, but, yes, we have contact with her.**  
 14 Q. You make the point that this liaison officer is very  
 15 involved, attends regular meetings with her counterparts  
 16 in a group known as the FANC, meets to discuss  
 17 operations regularly and collaborate with local police.  
 18 Is there anything else that you wish to say about the  
 19 work of liaison officers on the ground?  
 20 **A. Yes, that the contact we have been having with a UK**  
 21 **liaison officer and the -- many others from different**  
 22 **countries, they are willing to collaborate with us.**  
 23 **They understand us -- when I say "us", I mean civil**  
 24 **society organisations. They do understand the value of**  
 25 **having us on board, in the sense that we can share**

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1 being misused?  
 2 **A. Correct.**  
 3 Q. You make clear at paragraph 24 that  
 4 ECPAT International's position is to advocate for all  
 5 countries to enact extra-territorial legislation. You  
 6 make the point that many or most European countries have  
 7 and some countries in South-East Asia have, including  
 8 the Philippines, Malaysia and Indonesia for  
 9 internet-related or internet-facilitated crimes. Your  
 10 position overall is to advocate all countries do this  
 11 and close those loopholes that presently allow offenders  
 12 to commit those crimes with impunity. Is that right?  
 13 **A. That is correct.**  
 14 Q. I think you make the point, in fairness, at 25, that  
 15 even the most well-resourced countries find that CSE is  
 16 a major issue and it is difficult to prosecute those who  
 17 offend in this manner and countries with limited  
 18 resources perhaps find that even more difficult. Is  
 19 that correct?  
 20 **A. That is correct.**  
 21 Q. Then help us, please, with what your experience is, at  
 22 paragraph 27, of contact with the NCA and Interpol in  
 23 these sort of cases?  
 24 **A. My experience is that officers and civil servants who**  
 25 **are engaged in identifying offenders and working on**

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1 **information with them and it's sort of a relationship in**  
 2 **that sense, we can share information with them and they**  
 3 **can help us. We do receive referrals from the general**  
 4 **public, so we immediately send it on to them -- to some**  
 5 **of them, and they very actively cooperate with us when**  
 6 **this is the case.**  
 7 Q. I think you, on this issue, make the point at  
 8 paragraph 28 of your witness statement that sometimes in  
 9 particular countries there's a lack of understanding  
 10 that child sexual exploitation is a priority and a lack  
 11 of understanding of the trauma sustained by children  
 12 that's present, you say, through the whole state system,  
 13 from police and lawyers and members of the judiciary.  
 14 Is that something that you have witnessed in different  
 15 countries?  
 16 **A. Yes, even across sectors. You could have some**  
 17 **departments within the police where they have been**  
 18 **trained and they understand, but the rest of the system**  
 19 **doesn't follow, or vice versa, you can have some judges**  
 20 **or prosecutors but then the police is not properly**  
 21 **trained, they are understaffed, they just don't work the**  
 22 **way they should be working to be efficient.**  
 23 Q. You have made a series of proposals, I think, at the end  
 24 of your witness statement, paragraph 30. Could I bring  
 25 that up, please. It is INQ003703\_011. Your proposals

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<p>1 for reform are to this effect. At 30(a), that there is                  2 greater funding from the British Government to train                  3 local actors through judicial training and law                  4 enforcement academies; that embassy, DFID and/or the                  5 Department for Foreign Affairs, perhaps the FCO, through                  6 bilateral co-operation programmes, play an important                  7 role in raising awareness and placing pressure on other                  8 states when engaging with them to make child protection                  9 a priority; you believe this should be a priority policy                  10 item for the British Government and advocate for                  11 measures that would further enhance the protection of                  12 children through participation in multilateral                  13 organisations at regional and international levels;                  14 again, you stress the need for, in your view, more                  15 budget allocation to the NCA/CEOP; that the tourism                  16 element of government should engage with its                  17 counterparts and embed strategies with an element of                  18 child protection; you think there's a greater need for                  19 the IT sector to play a more active role; a greater need                  20 for a budget for campaigns within schools; and then,                  21 perhaps more specific to this phase, the British                  22 Government could consider assessing the travel ban                  23 legislation in place and its results as per UK laws in                  24 light of the systems in place in Australia and the USA                  25 to decide if there is a need for enhancing/improving the</p> <p style="text-align: center;">Page 69</p>	<p>1 current model.                  2 Is there anything else you would like to say about                  3 those particular proposals, Ms Lemineur?                  4 <b>A. No, except that you can – I would like to reiterate</b>                  5 <b>that through those recommendations you can, once again,</b>                  6 <b>observe that we do insist that we need to have</b>                  7 <b>a comprehensive perspective when it comes to tackling</b>                  8 <b>the problem from different sectors, not only police or</b>                  9 <b>(inaudible) perspective.</b>                  10 Q. I think, Ms Lemineur, you have been provided with                  11 a document prepared by the inquiry that summarises                  12 a list of concerns and proposed reforms that other                  13 witnesses, including yourself, have made. Have you had                  14 the chance to consider that document?                  15 <b>A. I have.</b>                  16 Q. Is there anything in particular you would like to say                  17 about it or agree with or disagree or amplify on it?                  18 <b>A. Yes. About paragraph 14, I do agree – this is</b>                  19 <b>a reference to NGOs and the sharing or notification with</b>                  20 <b>NGOs.</b>                  21 Q. We will perhaps bring it up on the screen for everybody.                  22 It is INQ004049, paragraph 14?                  23 <b>A. May I go ahead?</b>                  24 Q. Yes, please do.                  25 <b>A. I do agree with this. I think it is a good idea,</b></p> <p style="text-align: center;">Page 70</p>
<p>1 <b>provided that we bear in mind there are ethical issues</b>                  2 <b>at stake. Unfortunately, not all NGOs are legitimate</b>                  3 <b>NGOs. We even know that – you know, offenders are</b>                  4 <b>setting up NGOs. So standards need to be put in place</b>                  5 <b>and background checking needs to happen to make sure</b>                  6 <b>that they are legitimate NGOs.</b>                  7 <b>Also, it's not the role of NGOs to play the role of</b>                  8 <b>the police. One thing is to support the police, the</b>                  9 <b>other is to substitute the police. There is a fine line</b>                  10 <b>between the two. So we need to be very aware of that.</b>                  11 <b>I have another comment regarding, actually, 32,</b>                  12 <b>footnote 32.</b>                  13 Q. We will bring that up on the screen. That's about                  14 I think your proposal, in fact, around more resourcing                  15 to NCA/CEOP?                  16 <b>A. I'm still talking about footnote 32 on page 5.</b>                  17 Q. Forgive me, it is footnote 32 on page 5, I'm sorry. Is                  18 that right? It's footnote 32?                  19 <b>A. Correct. So there is a comment about some governments</b>                  20 <b>not cooperating because of their penalty issues and</b>                  21 <b>human rights issues. Even though we agree with that, we</b>                  22 <b>could see the problem – this is an offenders' right</b>                  23 <b>perspective, it is offenders' focus. If we look at the</b>                  24 <b>other side of the coin, if we have a victim-centred</b>                  25 <b>perspective, a child rights perspective, we might have</b></p> <p style="text-align: center;">Page 71</p>	<p>1 <b>a different opinion and decide to cooperate with those</b>                  2 <b>countries.</b>                  3 Q. Thank you.                  4 <b>A. Also, on page number 8, paragraph 8, where it says that</b>                  5 <b>the victims' cases heard in the countries –</b>                  6 Q. Which numbered paragraph are you on? Page 8, and which                  7 number is it?                  8 <b>A. No, page 6, sorry.</b>                  9 Q. It is (viii) on page 6, I think?                  10 <b>A. Correct.</b>                  11 Q. The view that it is better for victims to have their                  12 cases heard in the countries where offences occur, which                  13 may be right. That's reflecting the evidence to date.                  14 What's your response to that, Ms Lemineur?                  15 <b>A. Whereas I do agree, it's not always the case, because,</b>                  16 <b>actually, we do know that some victims are being</b>                  17 <b>threatened, so being in their home country can be</b>                  18 <b>a situation preventing them from participating or</b>                  19 <b>testifying.</b>                  20 <b>I just heard a case from group ECPAT Colombia this</b>                  21 <b>morning and they were saying they arrested a (inaudible)</b>                  22 <b>gang within Colombia, but they are all non-Colombians,</b>                  23 <b>and that they are threatening the victims and the judges</b>                  24 <b>and that, even though they moved from one province to</b>                  25 <b>the other, they simply – the judges and prosecutors are</b></p> <p style="text-align: center;">Page 72</p>

<p>1 <b>backing out and they are clearly not addressing the case</b>                  2 <b>as they should be because there are threats to the</b>                  3 <b>victims and to the prosecutors and the judges within the</b>                  4 <b>country.</b>                  5 Q. Thank you. Are there any other observations you have on                  6 this document, Ms Lemineur?                  7 <b>A. Yes. Page 7, number 22.</b>                  8 Q. Bilateral agreements.                  9 <b>A. Correct. Along with this, we do think that we need some</b>                  10 <b>political pressure to sort of work with the governments</b>                  11 <b>of the countries and make them understand that it is an</b>                  12 <b>important issue and that it needs to be -- the legal</b>                  13 <b>issue needs to be developed and implemented.</b>                  14 Q. Thank you.                  15 <b>A. You're welcome. Other than that, I would like to say</b>                  16 <b>that I agree with all of the proposals.</b>                  17 <b>(Break in transmission)</b>                  18 <b>A. I'm back.</b>                  19 MS HILL: Thank you, Ms Lemineur. Was there something you                  20 were in the middle of saying? Have you completed your                  21 observations on that document?                  22 <b>A. I have.</b>                  23 Q. Finally from me, for completeness, I mentioned earlier                  24 on your exhibit LM2. Can I just formally bring up,                  25 please, on the screen INQ003711. It is a short expert</p> <p style="text-align: center;">Page 73</p>	<p>1 paper prepared by ECPAT International around access to                  2 justice for the child victims of sexual exploitation in                  3 travel and tourism. It sets out perhaps some of                  4 the very initial difficulties in this area. If you go                  5 to internal page 2, there are particular barriers to                  6 children perhaps being identified in Nepal, the                  7 Philippines and Thailand. "The myth of the willing                  8 victim", is a heading. Discrimination against the                  9 adolescent victim. The elusive nature of the child's                  10 best interests. Failure to inform and consult victims.                  11 Then there is a further heading about barriers to                  12 entering the justice system on the next page, children's                  13 reluctance to report, police inaction, children being                  14 treated as a criminal. Then finally, barriers to                  15 securing justice once in the system, children being                  16 pressured to make a decision about whether to                  17 participate, I think, a lack of family support or other                  18 adult champion, and threats to their safety, that                  19 perhaps feeds in with what you have just said.                  20 Finally, over the page, issues around support for                  21 the children, the hardships of the criminal process and                  22 failure to secure convictions and post-trial remedies.                  23 Because I think you make the point in this final part                  24 that only a tiny fraction of sexually exploited children                  25 will see their exploiters brought to justice, and there</p> <p style="text-align: center;">Page 74</p>
<p>1 are further issues around compensation and so on. So                  2 that's just to adduce that report formally.                  3 Ms Lemineur, many thanks. Those are all my                  4 questions, unless the chair and panel have any questions                  5 for you?                  6 THE CHAIR: No, thank you. We have no questions. Thank you                  7 very much, Ms Lemineur.                  8 MS HILL: Thank you. We will have the link taken down.                  9 Thank you very much, Ms Lemineur.                  10 (The witness withdrew)                  11 MS HILL: My learned friend will summarise the evidence of                  12 Father Shay Cullen before our lunch break.                  13 Statement of FATHER SHAY CULLEN (read)                  14 MS FAURE WALKER: Chair, I am going to be dealing with the                  15 evidence of Father Shay Cullen. Your bundle part E. He                  16 has made two witness statements that I will ask to be                  17 adduced in full. The Relativity references are                  18 INQ002621 -- that's the statement dated 11 September --                  19 and INQ003532 -- that's the witness statement dated                  20 7 November.                  21 In his witness statements, Father Shay Cullen deals                  22 with all three topics that you are concerned with, but                  23 I am going to be jumping around a little bit within the                  24 statement so that we can try and keep the evidence                  25 within topic.</p> <p style="text-align: center;">Page 75</p>	<p>1 Dealing first of all with his background, and I'm at                  2 the first witness statement, paragraphs 2 to 10, in                  3 summary, he was the founding member and president of                  4 the People's Recovery Empowerment and Development                  5 Assistance Foundation, or PREDA, based in the                  6 Philippines where Father Shay has been working since                  7 1969. PREDA was founded in 1974 with local people. It                  8 provided assistance in various ways and expanded                  9 activities to assist with recovery of victims of sexual                  10 abuse.                  11 At paragraph 6, the witness refers to having had                  12 ongoing involvement in the prosecution of child sex                  13 offenders, and he and staff at PREDA continue to collect                  14 evidence for local and international prosecutions. The                  15 work of the organisation includes the protection of                  16 therapeutic intervention of children who are victims of                  17 sex trafficking, and it is licensed to carry out child                  18 protection functions in the Philippines.                  19 Now dealing with the topic of Civil Orders from                  20 paragraph 11 of his first witness statement, he says as                  21 follows, and I will read out paragraphs 11 to 13:                  22 "I have been advised on the FTO, RHSO, SHPO and SRO                  23 (I will collectively refer to these as 'the Orders')                  24 framework available in the UK.                  25 "I have not been directly involved in any cases</p> <p style="text-align: center;">Page 76</p>

<p>1 where, to my knowledge, those British citizens were at 2 the same time subject to any one of the Orders. 3 "Despite this, my experience in the Philippines and 4 the prevalence of offending in the Philippines by UK 5 nationals causes me to believe the Orders only have 6 limited value for the protection of children abroad from 7 sex tourists or resident UK nationals, when in the UK 8 are not known to authorities, offend outside the UK in 9 the knowledge they can do so with relative impunity." 10 From paragraphs 14 to 34, the witness refers to the 11 example of Douglas Slade, so I will read parts and 12 summarise other parts of this section of the witness 13 statement: 14 "It is worthy to note in this section my experience 15 in the case of Douglas Slade as Mr Slade was continually 16 offending against children in the Philippines whilst the 17 orders were available, but through holes in the 18 framework Mr Slade was never subject to one. 19 "I believe the Slade case and my involvement in it 20 highlights the danger posed by UK child sex offenders to 21 children in disadvantaged countries like the Philippines 22 where robust systems do not exist to ensure those 23 individuals who leave the jurisdiction of the UK are not 24 monitored and in particular, such as was the case with 25 Mr Slade, are forgotten.</p> <p style="text-align: center;">Page 77</p>	<p>1 "Mr Slade was convicted in 2016 of sex offences 2 committed against children in the UK between 1965 and 3 1980." 4 At paragraphs 17 to 18, Father Shay refers to 5 Mr Slade being named in the press in the 1970s as being 6 associated with Paedophile Action for Liberation and the 7 Paedophile Information Exchange. Then in paragraph 19: 8 "I first became aware of Mr Slade in the 1990s when 9 Mr Slade had taken up residence in a prosperous area of 10 Angeles City and had a swimming pool. He was accused 11 and charged in the Philippines of sexually abusing the 12 boys as he taught them to swim and was first prosecuted 13 for child sex offences in the Philippines. Later, he 14 bought a house directly adjacent to a primary school in 15 Angeles City in the Philippines and lured boys into the 16 house with sweets and to watch television." 17 The witness then goes on to explain that he was 18 prosecuted in the Philippines for alleged sex crimes 19 against children in 1995 and 2014. He was acquitted 20 but, according to the witness, was captured on film in 21 2014 admitting to escaping conviction with bribes. 22 Despite having been well known to the British 23 authorities, it seems no action had been taken to notify 24 the Filipino authorities. No steps were taken to 25 prosecute him in the UK. He was never subject to any</p> <p style="text-align: center;">Page 78</p>
<p>1 Civil Order. The witness suggests that this was because 2 he was outside the relevant police area. 3 Paragraph 29. Father Shay says that the Slade case 4 is concerning on a number of levels, namely: 5 "(a) the UK authorities, to the best of my 6 knowledge, only sought to extradite Mr Slade after 7 I brought the case to the attention of UK visiting NPCC 8 workers, child protection workers, in 2014. 9 "The UK authorities, to the best of my knowledge, 10 never investigated Mr Slade in the Philippines, kept 11 account of Mr Slade in the Philippines or collected 12 evidence concerning his offending in the Philippines, 13 despite Mr Slade's known risk to children following his 14 departure from the UK in the 1980s. 15 "Mr Slade ultimately deported himself voluntarily 16 after it became clear he was no longer welcome in the 17 Philippines and he believed he might have been able to 18 escape the UK authorities and then abscond to Cyprus (he 19 did not, due to the admirable work of Avon &amp; Somerset 20 Police in obtaining a warrant in time to arrest Mr Slade 21 at Heathrow). 22 "(d) the UK was ultimately unable to extradite 23 Mr Slade as there is no extradition treaty between the 24 UK and the Philippines which is in force. 25 "The Philippine police were not, to the best of my</p> <p style="text-align: center;">Page 79</p>	<p>1 knowledge, at any stage prior to the introduction of 2 the sexual offences Act 2003 or after its implementation 3 notified of Mr Slade's history and significant risk of 4 offending." 5 The witness says at paragraph 31 that with the 6 introduction of Sexual Risk Orders, a person like 7 Mr Slade could be prevented from travelling. However, 8 it would not be able to capture a person not known to 9 the authorities in the UK or who is able to leave the UK 10 prior to an order being made. 11 At paragraph 33, the witness raises systems for 12 information sharing. 13 I am going to now jump ahead -- I am going to return 14 to Mr Slade when dealing with section 72, but I'm just 15 going to jump ahead now in the statement, still on the 16 topic of Civil Orders, to paragraph 42, please. Could 17 I ask the evidence handler to put up on the screen 18 INQ002621, the witness statement, page 7, and in 19 particular paragraphs 44 to 48, please. 20 Under the heading "Father Cullen and/or PREDA's 21 observations on the efficacy of the Orders, including 22 any observations on the ways in which their efficacy 23 could be improved", the witness at paragraphs 44 to 48 24 sets out a number of proposals for improvements in the 25 system. As we can see, he says that -- suggests</p> <p style="text-align: center;">Page 80</p>

<p>1 investment in UK law enforcement agents posted abroad                  2 who will be mandated to conduct investigations with                  3 local enforcement agencies, and so forth.                  4 Robust systems of co-operation between the UK                  5 authorities and local law enforcement. And supporting                  6 the protection of child witnesses, including therapeutic                  7 intervention post rescue. Cancelling the passports of                  8 child sex offenders, such as is the case in Australia,                  9 and/or placing a stamp in the passports of convicted                  10 child sex offenders, such as is the case in the US. And                  11 ratifying and implementing the extradition treaty                  12 between the UK and the Philippines.                  13 The witness goes on at paragraph 49 to paragraph 50                  14 to say that, while he is aware of a recent example of an                  15 SHPO regime order working, he suggests they fail to                  16 prevent or deter the most difficult offenders to detect.                  17 Just moving on now to paragraph 86 -- that can go                  18 down, thank you, now. Paragraph 86 of this witness                  19 statement, still on the topic of Civil Orders, and                  20 continuing the theme of passports, at paragraphs 86 to                  21 90 he refers to recommendations in relation to                  22 passports. He refers to the case of Leslie Russon, who                  23 was seemingly able to travel between the UK and                  24 South-East Asia after being released from prison for                  25 committing sexual offences against teenagers. He</p> <p style="text-align: center;">Page 81</p>	<p>1 remained in the Philippines from 2015 to 2018 before                  2 being returned. He was never, it seemed, placed under                  3 any Civil Order, despite offending.                  4 At paragraph 91, the witness refers to posts online                  5 which sex offenders share tactics by which they can                  6 enter countries with lax entry requirements. At                  7 paragraph 92, the witness refers to the requirement for                  8 registered sex offenders to notify of foreign travel and                  9 says this is simply not effective enough.                  10 At paragraph 93, the witness refers to the                  11 Australian approach that has already been referred to,                  12 and cancelling passports in certain circumstances, and                  13 suggests that it should not need a court order --                  14 dealing with paragraph 95 now -- but, rather, it ought                  15 to be recognised that any person who commits a child sex                  16 crime is a risk to children outside the UK.                  17 At paragraph 96, the witness suggests consideration                  18 of the efficacy of the international Megan's Law in the                  19 United States, which places a unique identifier in the                  20 passports of individuals. Then, at paragraph 101,                  21 a subject which overlaps between the Civil Orders and                  22 section 72 issues, suggests there should be ratification                  23 of an extradition treaty between the United Kingdom and                  24 the Philippines.                  25 Just going back to section 72 evidence, could we go</p> <p style="text-align: center;">Page 82</p>
<p>1 back to paragraph 35. At paragraphs 35 to 41, this is                  2 going back to the case of Slade, and the witness refers                  3 to the failure, as he sees it, to prosecute                  4 Douglas Slade for crimes committed in the Philippines                  5 which heightens the injustice suffered by the children                  6 that Mr Slade is alleged to have abused. He asks the                  7 inquiry to consider taking action as referred to at                  8 paragraph 38.                  9 At paragraphs 40 to 41, the witness cites an example                  10 of a successful prosecution in Germany as a case in                  11 which extra-territorial jurisdiction worked.                  12 Then, paragraph 51, also on the topic of section 72,                  13 he says as follows, and I will read this out:                  14 "It is a common perception amongst international sex                  15 tourists who travel abroad and offend against poor                  16 vulnerable street children, children at risk or children                  17 who are victims of human traffickers and forced into                  18 commercial sexual exploitation that they, as travelling                  19 sex offenders, are outside the scope of prosecution.                  20 This perception is largely correct as, taking the UK as                  21 an example, where no evidence of sexual offending                  22 against children is collected abroad, there is                  23 subsequently no basis to prosecute the offender back in                  24 the UK.                  25 "Moreover, those same sex offenders also offend in</p> <p style="text-align: center;">Page 83</p>	<p>1 the justified belief that bribes can be made if caught,                  2 that families of victims can receive out-of-court                  3 settlements encouraged by local barangay officials or                  4 they are in and out of the country quick enough to                  5 escape suspicion, detection and apprehension.                  6 "This does not have to be the position. As noted                  7 above, a sex crime committed abroad is considered a sex                  8 crime for the purposes of the Sexual Offences Act. As                  9 such, there is scope to effect prosecutions of UK child                  10 sex offenders who commit sex crimes against children in                  11 the Philippines and other disadvantaged countries if                  12 resources are dedicated to collecting evidence, securing                  13 witnesses and cooperating with local police and NGOs                  14 protecting child victims."                  15 Still on the topic of section 72, at paragraphs 55                  16 onwards, the witness gives an example of a case of                  17 Mr Benjamin, a US national. This is an example of                  18 investigators in the Philippines working in conjunction                  19 with foreign law enforcement. Mr Benjamin ran a bar in                  20 the Philippines in which underage girls were offered for                  21 sexual exploitation to foreign sex tourists, but steps                  22 were taken by PREDA to assist and make law enforcement                  23 aware. Paragraph 59, if I could pick it up there:                  24 "In February 2013, the joint operation between PREDA                  25 social workers, the DSWD social workers [the Philippine</p> <p style="text-align: center;">Page 84</p>

<p>1 Department of Social Welfare and Development] and the                  2 NBI [National Bureau of Investigation] and the US                  3 Homeland Security officer resulted in the raid of                  4 a hotel where 15 girls were rescued and confirmed as                  5 minors offered into the sex trade.                  6 "Mr Benjamin was held in prison and tried and later                  7 pleaded guilty to sex charges and was sentenced to                  8 a prison term and, after imprisonment, was ordered to                  9 pay significant compensation to the main complainant                  10 child victim."                  11 The witness goes on to explain that Mr Benjamin was                  12 also prosecuted in the USA after being returned there                  13 in March 2018.                  14 At paragraph 62:                  15 "The prosecution of Mr Benjamin in the US was only                  16 made possible through the involvement of US law                  17 enforcement officials who were able to gather reliable,                  18 credible evidence in relation to the investigation and                  19 collect that evidence through direct involvement in the                  20 investigation."                  21 Just summarising paragraphs 63 to 64, the witness                  22 says:                  23 "The case of Mr Benjamin is a perfect example of the                  24 positive results ... where there is co-operation."                  25 And it can also serve to deter others. At</p> <p style="text-align: center;">Page 85</p>	<p>1 paragraphs 65 to 75 the witness cites another example of                  2 a case that is currently being investigated involving                  3 a US national which again provides an illustration of                  4 positive results from co-operation between PREDA and US                  5 law enforcement.                  6 At paragraph 75, the witness says that there are                  7 examples, however, of where a lack of co-operation and                  8 the presence of the UK authorities can result in lost                  9 opportunities. He goes on at paragraph 76 to refer to                  10 the sexual assault and murder of a child in October 1994                  11 in East London, and how one of the perpetrators fled to                  12 the Philippines and was able to hide out in a sex                  13 tourist enclave. The UK authorities, he said, had no                  14 investigative officers in South-East Asia and so asked                  15 the Australian federal officers in Manila to help find                  16 the alleged perpetrator.                  17 They contacted PREDA to assist and the suspect was                  18 located and he was eventually returned to the UK and                  19 prosecuted.                  20 The final sentence of paragraph 77, the witness                  21 observes:                  22 "Without the Australian Federal Police and the PREDA                  23 team, he would not have been found and brought to                  24 justice for his despicable crime."                  25 The witness goes on to give further examples of</p> <p style="text-align: center;">Page 86</p>
<p>1 Peter Scully, an Australian convicted in the                  2 Philippines, and his capture there was due to the close                  3 co-operation between Philippine federal police and                  4 Australian police familiar with the Filipino criminal                  5 jurisdiction.                  6 Paragraph 79, the example of Michael Clark is given,                  7 who was convicted and jailed in October 1996 after PREDA                  8 had worked cooperatively with local police. The witness                  9 says at paragraph 80:                  10 "There are many UK paedophiles raping and abusing                  11 children daily in the Philippines and no investigation                  12 or undercover work is being done to identify them, many                  13 have criminal records in the UK."                  14 Going on to paragraph 81:                  15 "It is not acceptable that the child abusers be                  16 allowed to leave the UK and abuse children abroad with                  17 impunity. It would appear that such crimes abroad by UK                  18 nationals are ignored by the UK authorities and the                  19 IICSA has a unique opportunity to do much to protect                  20 children by bringing the force of UK law enforcement                  21 upon them and remove them from continuing their                  22 child abuse."                  23 At paragraph 82 he says:                  24 "I believe that the UK should, at the very least,                  25 demonstrate the same commitment which is shown by the US</p> <p style="text-align: center;">Page 87</p>	<p>1 and Australia. As I understand it, there is currently                  2 one UK officer based in South-East Asia who is based in                  3 Jakarta, Indonesia. This is entirely inadequate to                  4 tackle a very serious problem where countries like the                  5 Philippines with poor children become a playground for                  6 UK paedophiles to abuse at will and do so with impunity                  7 and no accountability whatsoever."                  8 At 83, he asks the inquiry to recognise the need for                  9 the UK to allocate further law enforcement resources and                  10 budget to the investigation and gathering of evidence.                  11 At paragraph 84 he particularises the                  12 recommendation. He suggests appointing four officers to                  13 the Philippines and other neighbouring countries, which                  14 would send an important message.                  15 In paragraph 85:                  16 "In cases where there are no charges of child abuse                  17 filed against the suspects in the Philippines but where                  18 there is strong evidence against them credible in a UK                  19 court of law, other means to bring them to justice in                  20 the UK can be available. For example, many suspects                  21 have invalid or fake visas and are overstaying in the                  22 Philippines. As such, they are illegal, undocumented                  23 aliens and the Philippine immigration authorities are                  24 usually ready and willing to arrest them and deport them                  25 to their country of origin after they pay a hefty fine</p> <p style="text-align: center;">Page 88</p>

<p>1 to the Bureau of Immigration. In this way, suspects can 2 be quickly returned to stand trial in the UK. However, 3 a UK presence in the Philippines is essential." 4 At the end of the witness statement, the witness, at 5 paragraph 110, touches upon the topic of vetting and 6 barring, and just expresses his concerns about proper 7 vetting and checks of volunteers working for charities. 8 This is a topic he refers to in his second witness 9 statement. 10 Chair, I see the time, but shall I continue to 11 summarise the second witness statement? I don't 12 anticipate it is going to take very long? 13 THE CHAIR: Yes, please. 14 MS FAURE WALKER: This is the second witness statement, 15 dated 7 November 2018. 16 In this witness statement, Father Shay expands upon 17 section 72 and also touches upon vetting and barring. 18 At paragraphs 3 to 5, he refers to having been 19 involved in 17 cases concerning the prosecution of 20 foreigners for suspected child abuse committed in the 21 Philippines, and at paragraph 3 refers to the Russon 22 case again. He reads out a series of questions 23 specifically concerning -- he refers to a series of 24 questions that can be raised in respect of the Russon 25 case in particular.</p> <p style="text-align: center;">Page 89</p>	<p>1 From paragraphs 12 to 21, still on the topic of 2 section 72, he says that he understands that when it was 3 put to the Secretary of State for Justice 4 in February 2018 about the number of times section 72 5 has been used, she was unable to give a figure. 6 Father Shay's legal advisers have found an example of 7 a reported case on the use of section 72 with a positive 8 result, and that's the case of R v Babic in 2018. But 9 he hasn't found others. 10 But he observed that this would appear to be 11 a relatively simple prosecution. He goes into details 12 at paragraphs 16 to 21 and in particular summarises the 13 facts of the case at paragraph 17, as you will see. In 14 summary, the witness believes it is not a representative 15 example, though, of the difficulties associated with 16 section 72 prosecution because, as the witness reminds 17 us at paragraph 27, it can be fettered by the collection 18 of evidence by UK authorities and in the Babic case 19 there was a confession. 20 Paragraph 28, and perhaps this could be put up, 21 please. The reference is INQ003532_005. The witness 22 sets out recommendations to improve the effectiveness of 23 section 72, for the UK Government again to commit 24 resources to the prosecution of UK offenders, and, 25 again, reiterates his recommendation of appointing</p> <p style="text-align: center;">Page 90</p>
<p>1 officers to the Philippines; that a budget is allocated 2 for law enforcement for the gathering and collection of 3 evidence; there is a higher level of co-operation 4 between foreign law enforcement in those countries which 5 are highly frequented by UK sex tourists; and there is 6 a commitment to the preservation of key witness by the 7 allocation of funds to their protection and therapeutic 8 treatment. 9 Moving on to the topic of vetting and barring, he 10 deals with this from paragraph 31. He does not proclaim 11 to be an expert in vetting and barring but suggests that 12 there is a lack of clarity in schedule 1 to the 13 Rehabilitation of Offenders Act (Exemptions) Order as to 14 the ambit in relation to a volunteer who works with 15 children. At paragraph 43 he suggests the inquiry 16 consider implementing an offence of negligent failure to 17 protect a child. That's at paragraph 43, as I say. 18 Perhaps that can be brought up, INQ003532_008, 19 paragraph 43. He cites there the legislation in 20 Victoria in Australia and suggests that such an offence 21 in the UK could be considered. 22 Then, next, if I could ask that page 9 of 23 the witness statement is now brought up, INQ003532_009, 24 where the witness summarises what he believes are the 25 shortcomings in the vetting and barring system. As</p> <p style="text-align: center;">Page 91</p>	<p>1 mentioned before, amendment to schedule 1 of 2 the Rehabilitation of Offenders Act (Exemptions) Order; 3 requiring charities to obtain overseas criminal records 4 checks for employees or volunteers who will be assigned 5 to work with children; and considering the viability of 6 a criminal offence such as the Victorian failure to 7 protect offence that we have just seen. 8 MS HILL: Thank you, chair. 9 THE CHAIR: Thank you. We will now take the lunch break and 10 return at 2.05 pm. 11 (1.07 pm) 12 (The short adjournment) 13 (2.05 pm) 14 MS HILL: I call, please, Professor W Warren H Binford, 15 please. 16 PROFESSOR W WARREN H BINFORD (sworn) 17 Examination by MS HILL 18 MS HILL: Thank you very much, Professor Binford. You have 19 kindly provided the inquiry with three witness 20 statements which I will formally adduce, please, dated 21 11 December 2018 and 6 February 2019. They are to be 22 found at CRS000021, CRS000022 and CRS000026. 23 You are giving evidence in your capacity, Professor, 24 as a trustee to Child Redress International, but please 25 just summarise very briefly for the chair and panel your</p> <p style="text-align: center;">Page 92</p>

1 academic and professional background?  
 2 **A. I have 20 years' experience practising law both at an**  
 3 **international corporate firm and this is my 14th year as**  
 4 **a law professor. I'm Professor of Law and Director of**  
 5 **the Clinical Law Programme at Willamette University.**  
 6 **I have conducted a significant amount of research on**  
 7 **children's rights, including a heightened focus on the**  
 8 **sexual abuse of children, particularly the types of**  
 9 **sexual abuse of children that you see in the**  
 10 **21st century with imagery being created and much of that**  
 11 **research has focused specifically on the children's**  
 12 **rights to restitution and other forms of compensation to**  
 13 **support their full recovery, physical recovery and**  
 14 **psychological recovery and integration into their**  
 15 **communities. That's included multi-disciplinary**  
 16 **research that looks at the impact on the child's**  
 17 **developing brain as well as a genetic expression and**  
 18 **tries to look at the multitude of ways in which these**  
 19 **particular types of crimes impact children profoundly.**  
 20 Q. Some of the work you have done has looked in particular  
 21 at the impact of child sexual abuse or pornography on  
 22 survivors. That's a particularly novel piece of work  
 23 that you're involved with; is that right?  
 24 **A. Yes, that's part of what I was just describing. In**  
 25 **addition to that, I worked with the Canadian Centre for**

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1 that right?  
 2 **A. That's exactly right. So that's actually what first**  
 3 **began my involvement in this particular area of**  
 4 **children's rights, is that I worked on the Paroline v US**  
 5 **case which looked at the restitution statute in the US**  
 6 **from an international legal framework and in that case**  
 7 **I was representing the Dutch National Rapporteur on**  
 8 **child sex trafficking.**  
 9 Q. You have indicated at paragraph 4 of your witness  
 10 statement -- we will bring this up, the final part of  
 11 this question, CRS000021\_003, paragraph 4. For the  
 12 panel's note, you indicated that the countries in which  
 13 you carried out training or research include the  
 14 United Kingdom but a long list of many other countries,  
 15 and the organisations with whom you have worked include  
 16 the International Criminal Court, Save the Children, the  
 17 US Department of Justice, as we have already alluded to,  
 18 and various other NGOs; is that right?  
 19 **A. Yes, but there's one correction. So the US State**  
 20 **Department grant that I received last year is different**  
 21 **than the US Department of Justice work that I did. For**  
 22 **the US Department of Justice, what I did was I surveyed**  
 23 **countries and their responses under their obligations to**  
 24 **the second optional protocol. So I looked at what the**  
 25 **emerging trends are in countries responding to child sex**

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1 **Child Protection and that did the first major survey of**  
 2 **child pornography or child sex abuse imagery survivors**  
 3 **ever published.**  
 4 Q. You indicate also at the end of paragraph 3 of your  
 5 witness statement that some of the research that you  
 6 have done has been funded by the US State Department and  
 7 dealt with the ability to respond to the changing nature  
 8 of child sexual abuse; is that fair?  
 9 **A. Yes. So last year, what I did was, I interviewed**  
 10 **approximately 60 front-line service providers such as**  
 11 **prosecutors, law enforcement and social workers to find**  
 12 **out what kind of capacity they have to respond to**  
 13 **21st century child sex abuse. So, again, that's**  
 14 **focusing specifically on remote live sexual performances**  
 15 **that is -- you know, that form of sexual exploitation of**  
 16 **children, as well as the imagery, as it's being**  
 17 **trafficked, and we looked at everything from what kind**  
 18 **of training the front-line service providers were**  
 19 **provided as well as what type of psychological support**  
 20 **that they need, as well as technological capacity and**  
 21 **their ability to keep up with perpetrators in light of**  
 22 **the changing technologies that are available to them.**  
 23 Q. Some of the work that you have done, just putting it  
 24 briefly, also focuses on the ability of victims to seek  
 25 civil remedies or damages for the abuse done to them; is

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1 **abuse imagery and so I was able to identify three major**  
 2 **trends and one of them was the assignment of victim**  
 3 **advocates or attorneys to represent the children in**  
 4 **proceedings in which they're the victim.**  
 5 **I also identified that more countries are setting up**  
 6 **victims' funds to make it easier for children to receive**  
 7 **compensation and, in addition to that, I recognised that**  
 8 **a number of countries are consolidating children's**  
 9 **claims for compensation and other forms of restitution,**  
 10 **et cetera, into the criminal proceedings so that the**  
 11 **children aren't traumatised by a second -- having to**  
 12 **participate in a second proceeding, and I note that at**  
 13 **the very beginning you did ask for my education as well,**  
 14 **and I didn't mention that, but I have a Bachelor of Arts**  
 15 **in literature and psychology summa cum laude with**  
 16 **distinction from Boston University. I also have**  
 17 **a Master of Education, also from Boston University and**  
 18 **that's in early childhood. And then I also have**  
 19 **a doctorate from Harvard Law School.**  
 20 Q. Thank you very much for clarifying that, Professor. Can  
 21 I move on now, please, to an overview, please, of  
 22 the work of Child Redress International. You have set  
 23 this out in some detail in your witness statement,  
 24 paragraphs 8 through to 14, but can I perhaps just try  
 25 and summarise it in this way, that, as you have already

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<p>1 alluded to, the origins of CRI were perhaps focused                  2 particularly around the need for the victims of sexual                  3 exploitation to obtain compensation, but the work that                  4 is done now is quite significantly broader than that.                  5 Is that just a very simple summary of the work of CRI?                  6 <b>A. So, yes.</b>                  7 <b>Q.</b> The work that is currently done primarily relates to                  8 children in South-East Asia who are sexually exploited                  9 in a range of ways and for different purposes, but you                  10 work in partnership with a series of organisations that                  11 we will perhaps look at, at paragraph 11, please, of                  12 your witness statement.                  13 We can see that there is mention there of                  14 APLE Cambodia, from whom we have heard already, but                  15 several other organisations that you partner with, in                  16 paragraph 11. The work is divided up, according to your                  17 paragraph 13, into the categories of casework, research,                  18 advocacy, youth empowerment and capacity building. You                  19 work with a network of lawyers, including pro bono                  20 lawyers in different countries, from whom we will also                  21 hear indirectly through what you have gathered from                  22 them. You carry out research on new areas of law                  23 including online multijurisdictional crimes, access to                  24 compensation across borders -- this is paragraph 14 --                  25 and access to justice, as well as carrying out a range</p> <p style="text-align: center;">Page 97</p>	<p>1 of local advocacy projects related to children's rights                  2 and the access to remedies. Is that a broad summary of                  3 the work that CRI do?                  4 <b>A. Yes, it is.</b>                  5 <b>Q.</b> I'd like to turn now to paragraphs 15 to 22, please,                  6 which is where you indicate or give an overview context,                  7 if you like, for the issue of child sexual exploitation                  8 by UK nationals. Are there some key themes that you                  9 would like to draw to the panel's attention that you                  10 have elicited from your work in this field about the                  11 context that they might wish to have regard to, for                  12 example, around the role of the internet, the increased                  13 understanding of the impact of abuse on children? What                  14 are the key themes that you would like to draw out for                  15 the panel?                  16 <b>A. Well, one of the things that I've discovered in my                  17 research focused specifically on the UK is that                  18 a tremendous amount of progress has been made,                  19 particularly around becoming aware of and putting                  20 restrictions on the internet-based exploitation of                  21 children. This appears to be under very strong                  22 leadership of David Cameron, who recognised the type of                  23 exploitation that was happening on this platform, and                  24 began a number of initiatives that have had a very                  25 significant impact in, for example, reducing the number</b></p> <p style="text-align: center;">Page 98</p>
<p>1 <b>of platforms where child sex abuse imagery is being                  2 hosted in the UK.</b>                  3 <b>At the same time, as I started to move beyond my                  4 core focus of research, which is the internet-based                  5 crimes against children, and started to look at hands-on                  6 offences, I was quite shocked to see that the UK appears                  7 to be behind other developed countries with regard to                  8 having boots on the ground in providing the support                  9 that's necessary to support local law enforcement in the                  10 region where our organisation primarily operates, and                  11 I have tried to identify what might be the cause for                  12 that disconnect between the progress that the UK has                  13 been making with regard to internet crimes.</b>                  14 <b>I mean, truly the UK has become arguably the                  15 international leader in certain areas, so that, for                  16 example, right now everybody has their eyes on you as                  17 far as age verification is concerned with regard to                  18 childhood exposure to toxic pornography and, if you're                  19 successful in that undertaking, it's likely that many                  20 other western and northern countries will follow suit.                  21 But, you know, in reading the witness statements for the                  22 inquiry, I noted that, again and again, it's been                  23 pointed out that the experience of law enforcement and                  24 civil society in the region where we focus the UK's                  25 involvement has been largely absent in some of</b></p> <p style="text-align: center;">Page 99</p>	<p>1 <b>the hands-on crimes that are being perpetrated against                  2 children in that region.</b>                  3 <b>Q.</b> Just taking a few more details, please, from your                  4 witness statement about the first of those propositions,                  5 can I bring up, please, paragraph 18 of your witness                  6 statement, CRS000021_007, please. You make the point                  7 here that the UK has made significant progress in                  8 reducing the amount of online material. The figures                  9 that you give here are less than 1 per cent of sites                  10 hosting this material are currently located in the UK,                  11 down from approximately 18 per cent at the beginning of                  12 the 21st century. There are still 274 sites hosting                  13 this material in the UK. The UK Home Office has                  14 identified 80,000 UK residents who have had law                  15 enforcement action taken against them and thus are                  16 believed to pose a sexual threat to children online.                  17 These are the sort of figures, I think, is this right,                  18 that are leading you to conclude that England and Wales                  19 are doing well on that aspect?                  20 <b>A. It is doing better than many countries, you know,                  21 particularly the US and Canada, which are two of                  22 the other countries that I've studied.</b>                  23 <b>Q.</b> You have also mentioned in your witness statement                  24 earlier, please, at paragraph 16, the impact of CSAIO --                  25 that's child sex abuse imagery online -- on children.</p> <p style="text-align: center;">Page 100</p>

<p>1 What's the understanding you have reached from your work 2 on that topic? 3 <b>A. As to the impact on survivors?</b> 4 Q. Uh-huh. 5 <b>A. So the survivor survey was quite shocking to us because 6 we had theories going into it about what survivors were 7 going to report, which was the significance of the harm 8 that the imagery causes them. The reason why we were 9 aware of that is because we had been reading victim 10 statements in the US and the victims describe the impact 11 that the trafficking and the imagery had, and, 12 specifically, many of us, including myself, had made an 13 assumption that the trafficking and the imagery wasn't 14 as harmful to the survivors as the actual hands-on 15 abuse, and what the survivors described -- some, not 16 all -- is that it actually is far worse because the 17 images they had no control over and it was being 18 circulated, trafficked, again and again and again, and 19 so they felt that they were being perpetually 20 victimised. That created, you know -- I'm not 21 a psychologist, but I just use this phrase, which is 22 a continuous traumatic stress disorder, which is not an 23 official disorder, or anything, but it just gives my 24 mind a frame of reference that it's experiencing this 25 trauma on a continuous basis each time another</b></p> <p style="text-align: center;">Page 101</p>	<p>1 <b>perpetrator is found trafficking in those images.</b> 2 <b>So when we conducted this survey, we were expecting 3 to see that kind of trauma, which we did see in the 4 survey, but then there were some trends that I had 5 really underestimated, which was the number of children 6 who were experiencing hands-on abuse through organised 7 networks that I don't think that I appreciated how much 8 of these abuses are happening in these organised 9 criminal networks, and we were surprised by how young 10 the victims were when they first started to become 11 abused, and we also were surprised by how long the abuse 12 lasted.</b> 13 <b>So for many of the victims, the abuse lasted until 14 they reached adolescence. For others, the abuse lasted 15 until they reached adulthood, and for some of them 16 beyond adulthood. This is one of the reasons why it's 17 so important to ensure that these victims have 18 therapeutic interventions, because they grow up being 19 sexually abused, they don't realise how abnormal the 20 abuse is, and so, when a UK national or anyone is found 21 to be abusing children, it's critical that we identify 22 who those victims are and make sure that they have the 23 therapeutic supports that they need to end the cycle of 24 abuse that's likely to continue otherwise.</b> 25 <b>Even if you are able to remove that one or that</b></p> <p style="text-align: center;">Page 102</p>
<p>1 <b>group of abusers from the child, because it's something 2 that they have become -- that's become normalised for 3 them, unless they have a support system that helps them 4 to understand what's happened to them and a way forward, 5 then it's likely that they could end up in this cycle of 6 continuous abuse, even independent of any imagery that 7 may have been created of the abuse.</b> 8 <b>The other thing that was surprising to me was the 9 number of parents who were involved in the abuse. You 10 know, as a mother myself, it's hard for me to imagine, 11 but not just -- you know, I, in my mind, had a framework 12 that this was primarily, you know, mum's boyfriend, 13 uncles, et cetera, and the reports from the survivors 14 themselves indicated that, in fact, this is often mum 15 and dad who are part of a criminal network and making 16 them available for hands-on sexual abuse which, in our 17 case, because we were focusing specifically on abuse 18 that had been recorded, then is recorded online -- is 19 recorded and then circulated online.</b> 20 Q. I think you make the point at paragraph 21 of your 21 witness statement that the particular need for support 22 for the victims of online abuse is because of its 23 potentially perpetual nature. You say here at 24 paragraph 21: 25 "Imagine if rather than treating former soldiers to</p> <p style="text-align: center;">Page 103</p>	<p>1 cope with their memories of war, therapists had to treat 2 their patients to function in a perpetual war zone", 3 because of this concern of perpetual re-traumatisation 4 which makes the need for support particularly acute. Is 5 that fair? 6 <b>A. Yes, that's exactly right. So it's trying to help 7 someone learn how to cope, knowing that they're going to 8 live the Vietnam War indefinitely, in reality. This is 9 their continuing reality. This is what has led to the 10 conclusion of Dr Julia von Weiler, which is that this 11 type of crime, which is so new to society, is so severe 12 that even the therapists don't know how to prepare their 13 clients to cope with it and that they're experiencing 14 that -- they, the therapists, are experiencing secondary 15 trauma and reporting that they themselves are suffering 16 psychologically from trying to support these survivors 17 and not knowing how to treat them. So we really need to 18 start to shift resources as an international community, 19 given how prevalent this is becoming, to make sure that 20 we are able to identify what are effective forms of 21 treatment for survivors, and to ensure that therapists 22 receive adequate training in order to support the 23 children who live these experiences.</b> 24 Q. Finally on this topic, can I come to the end of 25 paragraph 19 of your witness statement, so internal</p> <p style="text-align: center;">Page 104</p>

<p>1 page 8, the end of paragraph 19, where you talk about                  2 the nature of novel content around internet-based                  3 abusive material, so research is suggesting that imagery                  4 is increasingly being provided experimentally by                  5 children and that sometimes that imagery is produced as                  6 a result of the grooming of the child. The adult                  7 offender may then use the imagery of the child to extort                  8 more imagery from the child. Just help us understand                  9 that a little more, because this seems to be an element                  10 of experimentation or novelty that you are describing?                  11 <b>A. Right. So there are really two lines of practices that</b>                  12 <b>we are seeing here. So the one is what was covered in</b>                  13 <b>the Terre des Hommes report that discussed the</b>                  14 <b>exploitation of children in the Philippines by having</b>                  15 <b>them perform sexual acts live streamed primarily to</b>                  16 <b>perpetrators in developed countries, and that research,</b>                  17 <b>Terre des Hommes, found that the children in Philippines</b>                  18 <b>experienced some of the same psychological consequences</b>                  19 <b>as children in the US with regard to the trafficking in</b>                  20 <b>their images that some of the children said, you know,</b>                  21 <b>"It was one thing when I knew that I was receiving</b>                  22 <b>a small amount of money to perform for this person and</b>                  23 <b>it was just once and I would never see him again and</b>                  24 <b>I was able to buy rice for my siblings, but when I found</b>                  25 <b>out that he in turn had trafficked those images, that's</b></p> <p style="text-align: center;">Page 105</p>	<p>1 <b>when I had this feeling of loss of control and started</b>                  2 <b>to feel ashamed", and they reported feelings of</b>                  3 <b>depression, anxiety, et cetera.</b>                  4 <b>So that's something that we have been seeing for</b>                  5 <b>a number of years in South-East Asia and in particular</b>                  6 <b>we have taken a close look at it in the Philippines, but</b>                  7 <b>then there's another type of exploitation that's going</b>                  8 <b>on, and this is going on more in western countries, and</b>                  9 <b>what we are seeing there is, we're -- you know,</b>                  10 <b>perpetrators are developing relationships with children</b>                  11 <b>online and trying to convince them, either disclosing</b>                  12 <b>who the perpetrator is or not, pretending to be someone</b>                  13 <b>else, and trying to get them to, you know, share images</b>                  14 <b>of themselves in, you know, the nude, or at least part</b>                  15 <b>of their bodies. Sometimes they will -- it's sometimes</b>                  16 <b>referring to as "sexting" in the United States.</b>                  17 <b>The concern is that we have both the remote</b>                  18 <b>exploitation of children going on in South-East Asia and</b>                  19 <b>Kenya and other countries where there's a heightened</b>                  20 <b>economic vulnerability, but it's not just unique to</b>                  21 <b>those children, it's also happening in the west on</b>                  22 <b>a more voluntary basis and usually not for money in the</b>                  23 <b>west.</b>                  24 Q. I'd like to turn now to the section of your first                  25 witness statement that deals with the UK's international</p> <p style="text-align: center;">Page 106</p>
<p>1 obligations because you do anchor quite a bit of your                  2 later evidence in this. Can you perhaps give the panel                  3 an overview of why you say the UK's international                  4 obligations are relevant to these topics and what they                  5 are insofar as the panel need to understand?                  6 <b>A. Yes. This actually was the foundation of all my work in</b>                  7 <b>this area, so in working with the Dutch National</b>                  8 <b>Rapporteur, I studied the international legal framework</b>                  9 <b>and what the state's parties obligations are under both</b>                  10 <b>the Convention on the Rights of the Child as well as the</b>                  11 <b>Second Optional Protocol which deals with the sale of</b>                  12 <b>children, child pornography and child prostitution,</b>                  13 <b>which is the language the United Nations originally</b>                  14 <b>used. In looking at that, you know, in noting that the</b>                  15 <b>United Kingdom is a party to that treaty, to both the UN</b>                  16 <b>Convention on the Rights of the Child, as well as the</b>                  17 <b>Second Optional Protocol, I noted that the UK, for</b>                  18 <b>example, has obligations to provide support and</b>                  19 <b>collaboration, both with local law enforcement as well</b>                  20 <b>as with civil society. I noted also that there are</b>                  21 <b>obligations to make sure that the child is able to</b>                  22 <b>participate in the judicial process in a way that is</b>                  23 <b>sensitive to the unique needs of the child. These have</b>                  24 <b>to do with both the child's age and making sure that the</b>                  25 <b>child has her -- his or her privacy protected as well as</b></p> <p style="text-align: center;">Page 107</p>	<p>1 <b>that they are able to, you know, have the care that they</b>                  2 <b>need even during the judicial process, and by "care"</b>                  3 <b>I mean the therapeutic and psychological care that they</b>                  4 <b>need in order to process what's going on during that</b>                  5 <b>legal process and, in addition, that they're able to</b>                  6 <b>seek compensation, that they have a right to adequate</b>                  7 <b>procedures to seek compensation for the harms that were</b>                  8 <b>caused them.</b>                  9 <b>I think those are some of my main points about what</b>                  10 <b>the UK's obligations are under the international</b>                  11 <b>protocol. Of course, you know, I could give you</b>                  12 <b>20 different or more sections of both the CRC and the</b>                  13 <b>Optional Protocol that range from everything from the</b>                  14 <b>best interests of the child and the fact that</b>                  15 <b>essentially the obligation to take into consideration</b>                  16 <b>the best interests of the child means that there need to</b>                  17 <b>be thoughtful decisions made about whether or not to</b>                  18 <b>extradite a perpetrator from a foreign country or</b>                  19 <b>whether to prosecute that person in the country where</b>                  20 <b>the crime has committed, and right now there's no</b>                  21 <b>evidence that that's being done.</b>                  22 Q. You anchor also the obligation in article 4 of                  23 the Optional Protocol in this way:                  24 "To take such measures as may be necessary to                  25 establish jurisdiction over these particular offences</p> <p style="text-align: center;">Page 108</p>

<p>1 where the alleged offender is present in its territory                  2 and it does not extradite him/her to another state party                  3 on the ground that the offence has been committed by one                  4 of its nationals."                  5 So if an offender is in the UK, you make the point                  6 it has an obligation to establish jurisdiction with the                  7 only exception being that the offender has been                  8 extradited for the crime and the country to which they                  9 are being extradited is also a party to it.                  10 That's another element perhaps of the obligations                  11 here that you draw out?                  12 <b>A. Absolutely. We often think of international law as</b>                  13 <b>making the exercise of extra-territoriality as being</b>                  14 <b>permissive, and there are a number of circumstances</b>                  15 <b>under the Second Optional Protocol in which it's</b>                  16 <b>actually restrictive and the prosecution is mandatory,</b>                  17 <b>similar to what we would see in the Convention against</b>                  18 <b>torture in section 7. So, you know, we have another</b>                  19 <b>example of it in international law, and this is one of</b>                  20 <b>those crimes that we consider to be so severe on</b>                  21 <b>a global basis, as a global community, that we want to</b>                  22 <b>make sure that those countries who are hosting</b>                  23 <b>perpetrators are clearly mandated to prosecute those</b>                  24 <b>crimes in their jurisdiction. This is especially</b>                  25 <b>important because, you know, even when we were drafting</b></p> <p style="text-align: center;">Page 109</p>	<p>1 <b>the Second Optional Protocol, we understood that there</b>                  2 <b>was a lot of regional exploitation that was going on</b>                  3 <b>against children in developing countries that didn't</b>                  4 <b>have the same resources as the countries -- the source</b>                  5 <b>countries for the perpetrators, so particularly North</b>                  6 <b>America and Europe, and so, you know, the drafters of</b>                  7 <b>the Second Optional Protocol in those countries that</b>                  8 <b>have ratified it recognised that there's some</b>                  9 <b>vulnerability, some heightened vulnerabilities, that the</b>                  10 <b>population of children may have in these countries and</b>                  11 <b>thus it wanted to make sure that there was a mandatory</b>                  12 <b>obligation here to prosecute, and then there's a very</b>                  13 <b>generous optional, you know, or permissive opportunity</b>                  14 <b>to prosecute as well, and that's when I believe the UK</b>                  15 <b>should be guided by the best interests of the child.</b>                  16 Q. We will come back to some points of detail on                  17 section 72. But before I come to the Civil Orders                  18 topic, can I ask you to adduce, please, CRS000022,                  19 paragraphs 5 and onwards, and, Professor, this is the                  20 area of your witness statement, the second witness                  21 statement, where you report, effectively, discussions                  22 that you have had with some lawyers, I think, in the                  23 Philippines and in India to try and illustrate some of                  24 these issues for the panel.                  25 So help us, please, with what you draw from your</p> <p style="text-align: center;">Page 110</p>
<p>1 discussions with lawyers in the Philippines that you                  2 believe may assist the panel?                  3 <b>A. So, basically, what we are being told is that because</b>                  4 <b>the United Kingdom isn't present immediately after an</b>                  5 <b>offence has been identified, it makes it difficult to</b>                  6 <b>identify the victims at that time, and to gather the</b>                  7 <b>evidence that would help ensure a successful</b>                  8 <b>prosecution.</b>                  9 <b>Because the victims were not identified in one of</b>                  10 <b>the cases that we offered assistance on, the children</b>                  11 <b>have -- were afraid of being re-traumatised and their</b>                  12 <b>families were afraid of being re-traumatised by</b>                  13 <b>participating in a process, even though that judicial</b>                  14 <b>process would have hopefully entitled them to</b>                  15 <b>therapeutic intervention as well as compensation, but we</b>                  16 <b>believe that if the UK were on the ground at that time</b>                  17 <b>and providing support alongside the local authorities,</b>                  18 <b>that they would have had the same level of success that</b>                  19 <b>the US and Australia does, both of whom have boots on</b>                  20 <b>the ground in many of these locations.</b>                  21 Q. I think the particular example that was given to you                  22 from the Philippines was around an individual understood                  23 to be from England and Wales, named Mr Griffiths, who                  24 was reported to have abused, kidnapped and killed                  25 a 7-year-old boy in the Philippines, and the concerns</p> <p style="text-align: center;">Page 111</p>	<p>1 that you have raised around that case are that you were                  2 told by your contact in the Philippines that it was                  3 understood that he had frequently visited the                  4 Philippines, had been in and out of the area some                  5 17 times since 2006, and you set out information about                  6 your understanding about the prosecution or attempt to                  7 prosecute him; is that right?                  8 <b>A. So, yes, and I apologise, because I thought you were</b>                  9 <b>talking about one of our other contexts in the</b>                  10 <b>Philippines. The context that I was referring to was</b>                  11 <b>where we were trying to provide support. This was</b>                  12 <b>a different situation, and the relevance of this</b>                  13 <b>particular individual is that he was able to travel</b>                  14 <b>frequently, 17 times in one year, to the Philippines,</b>                  15 <b>even though he had engaged repeatedly in really</b>                  16 <b>egregious crimes against children, and it shows that the</b>                  17 <b>current system of travel restrictions isn't effective.</b>                  18 <b>And we have heard this at Child Redress</b>                  19 <b>International from the immigration officers who are on</b>                  20 <b>the ground there in South-East Asia, that many of them</b>                  21 <b>don't recognise what their restrictions are, they are</b>                  22 <b>not able to run background checks, the information</b>                  23 <b>doesn't go out, and it is one of the reasons why we are</b>                  24 <b>asking for a uniform travel ban to be placed on everyone</b>                  25 <b>convicted of child sex offences in the UK, and it would</b></p> <p style="text-align: center;">Page 112</p>

1 **be presumptive, and so they would have to prove that**  
 2 **they should be allowed to travel and that the people**  
 3 **who -- the information that you have about who has been**  
 4 **subjected to travel restrictions be not only shared with**  
 5 **local authorities, but be shared with trusted civil**  
 6 **society organisations as well.**  
 7 Q. In a similar way, please go on to the next page of your  
 8 witness statement and help the panel with the key points  
 9 that you learnt from your discussions with colleagues at  
 10 the iProbono organisation, I think in India, about some  
 11 particular cases that were taking place there?  
 12 **A. Yes. In this case, basically, we saw a similar issue**  
 13 **with regard to a UK national committing multiple crimes**  
 14 **against multiple children, all of them egregious. One**  
 15 **of the lessons that we learned from this particular case**  
 16 **study is that the background checks that are done**  
 17 **currently are ineffective in identifying who are**  
 18 **problematic and, you know, making sure that certain**  
 19 **people are not given access to children.**  
 20 A lot of these crimes happened in a school and it  
 21 also highlights the level of corruption that is  
 22 witnessed in some of these countries, and that's one of  
 23 the reasons why it's important for the UK to make sure  
 24 that it has support personnel on the ground, including  
 25 prosecutors and social workers, as well as law

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1 **there should be a presumptive travel ban and that for**  
 2 **those who have been identified as being at risk of**  
 3 **offending, that the travel restriction should be**  
 4 **utilised more robustly, and that's not happening now.**  
 5 Q. I'm just taking some points of detail, if I may.  
 6 Paragraph 16 of this witness statement, the next page,  
 7 please. You say there also that one of the main  
 8 weaknesses with the Civil Order system is that it places  
 9 reliance on a sex offender to notify authorities of  
 10 their intention to travel, and another weakness is the  
 11 notification being shared with immigration officers  
 12 rather than NGOs on the ground, if you like. You pick  
 13 that up at paragraph 18. Can you tell us anything  
 14 further about the first of those points? Is there  
 15 anything further you want to add about the onus being  
 16 put on the offender to notify of travel?  
 17 **A. Yes, and thank you for bringing that up because I forgot**  
 18 **to say that when you first asked me what our concerns**  
 19 **were.**  
 20 **One of the things that was both reassuring and**  
 21 **disheartening at the same time is, in reading the**  
 22 **witness statements from the other participants in this**  
 23 **inquiry, some of the local law enforcements in the UK**  
 24 **reported that they, too, were struggling with the fact**  
 25 **that the perpetrators are not necessarily fulfilling**

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1 **enforcement, so that they can provide support to these**  
 2 **children, you know, being aware of the corruption and**  
 3 **making sure that people don't fall through the cracks**  
 4 **because of that corruption.**  
 5 Q. I'd like to turn now to the evidence that you give about  
 6 Civil Orders in particular and travel bans more  
 7 generally. That begins at paragraph 15 of this witness  
 8 statement.  
 9 Your position, I think, as an organisation, from  
 10 CRI, is that you do have concerns about how the Civil  
 11 Order system currently operates and you believe there  
 12 are some weaknesses within the system; is that right?  
 13 **A. That is correct.**  
 14 Q. Emerging from that casework or more generally, what are  
 15 the key concerns that you have around how the  
 16 Civil Orders system operates?  
 17 **A. The key concerns that we have is that the travel**  
 18 **restrictions aren't placed on offenders nearly often**  
 19 **enough. It seems to be, you know, an extreme exception,**  
 20 **rather than a general rule, and so there appear to be**  
 21 **a lot of people who are falling through the cracks and**  
 22 **continue to be able to prey on children in South-East**  
 23 **Asia, Kenya and other countries of heightened**  
 24 **vulnerability for children.**  
 25 **We believe that, for those who are convicted, that**

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1 **their obligations to notify and that they're also not**  
 2 **receiving enough information about where the offender is**  
 3 **going and with whom they are going and where they are**  
 4 **staying, so that the persons who are charged with**  
 5 **managing the offenders and making sure they don't**  
 6 **re-offend are not able to conduct investigations to make**  
 7 **sure that they're not abusing children when they do go**  
 8 **abroad.**  
 9 **Basically, you know, there is too much reliance on**  
 10 **people who have a high level of incentive to not**  
 11 **disclose where they are going and, even when they do**  
 12 **disclose, it is not clear that the right people are**  
 13 **receiving the words so that their activities -- their**  
 14 **abusive activities in other countries can be monitored**  
 15 **and hopefully prevented.**  
 16 Q. The second point that you made in paragraph 16 that you  
 17 pick up later in paragraph 18 was a proposal I think we  
 18 heard also this morning, that if there are to be  
 19 notifications of the travel of a known or suspected  
 20 offender, that NGOs, suitably vetted, and CSOs -- civil  
 21 society organisations -- also be brought into that  
 22 conversation, if you like. Can you tell us anything  
 23 more about that proposal, Professor?  
 24 **A. Well, a couple of things. I mean, one is that the**  
 25 **United Kingdom has an obligation to do this, both under**

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<p>1 <b>the Lanzarote Convention as well as under the Second</b>                  2 <b>Optional Protocol, that you are supposed to be working</b>                  3 <b>with both NGOs and civil society organisations, and in</b>                  4 <b>our experience in South-East Asia, you don't appear to</b>                  5 <b>be doing that on a routine basis. It appears to be</b>                  6 <b>quite exceptional when it happens at all.</b>                  7 <b>It really doesn't recognise the very crucial role</b>                  8 <b>that these organisations play, particularly in</b>                  9 <b>South-East Asia, that these are countries that don't</b>                  10 <b>have the level of resources that you and I have in our</b>                  11 <b>home countries. It's critical to recognise that they</b>                  12 <b>really help to fill some of the crucial gaps,</b>                  13 <b>particularly around, you know, identifying perpetrators</b>                  14 <b>who are connecting with those who are known or suspected</b>                  15 <b>of trafficking children, as well as making sure that</b>                  16 <b>they're receiving the supports they need if, in fact,</b>                  17 <b>the child ends up being abused.</b>                  18 <b>So there seems to be a complete disregard for this</b>                  19 <b>legal obligation under the international treaties, and</b>                  20 <b>that's part of our concern.</b>                  21 Q. I think, for completeness, we still have on the screen                  22 article 10 of the Lanzarote Convention that does talk                  23 about the need to collaborate with civil society,                  24 I think in article 10, paragraph 2?                  25 A. Yes, that's correct.</p> <p style="text-align: center;">Page 117</p>	<p>1 Q. Moving on through your witness statement to paragraph 20                  2 of this witness statement, you highlight there                  3 article 26 of the Lanzarote Convention, the obligation                  4 on states to ensure that there can be legal liability                  5 for offences established in accordance with the                  6 Convention, including companies, and I think you raise                  7 here the issue of sanctions for companies involved in                  8 facilitating child sexual exploitation abroad being                  9 something that your organisation would also recommend?                  10 A. Yes.                  11 Q. Do you want to talk a little bit further about that?                  12 A. Yes, it's interesting because when I woke up this                  13 morning in my hotel, The Telegraph was on my doorknob                  14 and it talked about how the NSPCC is talking about                  15 holding -- imposing criminal sanctions for social media                  16 platforms that fail to protect children. There is an                  17 increasing recognition of the role that companies play                  18 in modern society, and the facilitation that they may do                  19 knowingly or, you know, maybe negligently, but, in any                  20 event, they are facilitating the abuse of children and                  21 we need to hold them responsible for doing a better job                  22 of monitoring who is getting on the aeroplanes and where                  23 they are going and do they have a right to go there.                  24 Similarly to what we have done with terrorism. We have                  25 taken terrorism very, very seriously. If an air carrier</p> <p style="text-align: center;">Page 118</p>
<p>1 allows a terrorist to get on their aeroplane and doesn't                  2 properly vet them, they can be held financially                  3 responsible for that. Certainly we should hold                  4 child abuse perpetrators to the same standards and make                  5 sure that corporate entities that are making, you know,                  6 millions or even, you know, hundreds of millions or                  7 billions of dollars off of their businesses, make sure                  8 that they are not facilitating the abuse of children                  9 globally.                  10 So we would like to see more accountability on the                  11 part of corporations for preventing these types of                  12 crimes. It is just too easy to get on an aeroplane now                  13 and abuse children and fly home. You referred to the                  14 case a few moments ago where one perpetrator flew in and                  15 out of the Philippines 17 times a year and nobody was                  16 paying attention to him.                  17 Q. Scroll in, please, to the end of paragraph 21, just to                  18 amplify the example you have given which is in relation                  19 to the regulations around terrorism. You point out that                  20 this led to, in March 2015, it's been in force since                  21 then, but in the first year of operation, 1,132 people                  22 were refused travel because of the need for these checks                  23 to take place. I think you're marrying that up and                  24 saying that sort of process could apply to the child                  25 sexual exploitation context?</p> <p style="text-align: center;">Page 119</p>	<p>1 A. That's correct. I'd like to just add that, you know,                  2 one of the things that happens with children who are                  3 sexually abused and when their parents are involved,                  4 which we sometimes see everywhere in the world, but                  5 including in South-East Asia, is that when children have                  6 been betrayed by a loved one, there is a particular kind                  7 of harm that's caused children that we saw in our survey                  8 of survivors that you don't see when it is a stranger,                  9 and so, by having strangers coming in from out of                  10 the country, providing financial incentives to your                  11 parents to allow you to be abused, which the parents may                  12 agree to do out of an economic desperation, you're                  13 creating an even more profound harm than that suffered                  14 if, say, you know, a terrorist who is a stranger harms                  15 you for some reason. So it's really important to see                  16 kind of the really insidious nature of child sex abuse                  17 crimes, particularly where we're seeing, you know,                  18 family involvement such as we are seeing in very poor                  19 countries in South-East Asia.                  20 Q. Moving then to the topic of a travel ban and trying to                  21 pull together your two witness statements on this topic,                  22 paragraph 23, please, the next paragraph down on this                  23 witness statement, you make the point that you do have                  24 some concerns as an organisation about the effectiveness                  25 of travel bans because of the problem you have alluded</p> <p style="text-align: center;">Page 120</p>

1 to, offenders not notifying the police of their  
 2 intention to travel and because, once notification is  
 3 made from the UK, it's not necessarily acted upon by  
 4 front-line immigration officers in the country of  
 5 destination.  
 6 Is there anything that you can amplify those two  
 7 points with, Professor?  
 8 **A. Well, I may have misheard you, but I think you referred**  
 9 **to it as the travel ban. Our concern is not with regard**  
 10 **to the travel ban, it's the current scheme of Foreign**  
 11 **Travel Orders and those being ineffective.**  
 12 Q. Forgive me, under the heading of "Travel ban" in your  
 13 statement, that's what you talk about. Amplify the  
 14 points about travel orders, please?  
 15 **A. Yes. So currently, in addition to Foreign Travel Orders**  
 16 **not being frequently included with regard to sentencing,**  
 17 **what we are seeing is, once again, they're not notifying**  
 18 **the appropriate authorities before they leave. Even if**  
 19 **they do, the authorities in the country where they are**  
 20 **going to prey on children, that they are -- that those**  
 21 **authorities are not always recognising the restrictions**  
 22 **that are put on them and they don't really have the**  
 23 **resources to track them, make sure that they're not**  
 24 **making connections to known or suspected criminal**  
 25 **networks that might be trafficking in children, and**

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1 **A. Well, I think that the reason why that example is there**  
 2 **is because we do know that there are areas where, you**  
 3 **know, child sex abusers who are travelling, that they go**  
 4 **to certain areas where they know that they can get away**  
 5 **with it, and Angeles City is one of those areas, so**  
 6 **that's an example of, you just can't -- if you have**  
 7 **someone who has a history of known abuse or is at risk**  
 8 **of offending, you shouldn't allow them to go to a region**  
 9 **where you know that they are likely to be able to offend**  
 10 **children readily and especially if they can get away**  
 11 **with it.**  
 12 Q. I think the way that your second and third witness  
 13 statements fit together is along these lines, Professor,  
 14 that when you gave your second witness statement -- we  
 15 can go on, please, to the next page of this -- your  
 16 position was that you personally supported a travel ban  
 17 akin to the Australian model, albeit that CRI had not  
 18 yet formed a view on it. But by the time of your third  
 19 witness statement, I think the trustees at CRI had in  
 20 fact agreed that they did support also this proposal as  
 21 well; is that fair?  
 22 **A. That is correct.**  
 23 Q. In your opinion -- let's look at paragraph 27 -- you  
 24 felt that there needs to be a range of different  
 25 strategies used here, but you say, in your opinion,

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1 **that's one of the gaps that both CSOs and NGOs can help**  
 2 **fill, by collaborating more with them, as well as if you**  
 3 **have foreign liaison or international liaison officers**  
 4 **in each of those countries, they then can be involved in**  
 5 **monitoring UK citizens who have a history or have been**  
 6 **deemed to be at risk of abusing overseas.**  
 7 Q. Then turning to the issue of whether there should be in  
 8 fact more robust travel bans, I think one example that  
 9 you have given at paragraph 24 is from a mission that  
 10 was conducted to the Philippines by CRI where in  
 11 Angeles City the understanding was that child sex webcam  
 12 dens were prevalent. This has been termed the second  
 13 largest sex tourism city in the world. One of  
 14 the findings from your mission, if I have understood it  
 15 correctly, was the concern that parents, local  
 16 officials, neighbours, police and government officials  
 17 were all involved in this exploitation creating  
 18 a general environment of impunity. You traced the  
 19 history, perhaps, of this area being prevalent for sex  
 20 tourism, if I can call it that, being from when there  
 21 had been an American military base in the area in the  
 22 early part of the 1900s.  
 23 Looking at whether there should be a ban on travel,  
 24 does this particular example help us understand whether  
 25 or not travel bans would be effective?

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1 anyone who has been convicted of a sex crime against  
 2 children should not be allowed to travel  
 3 internationally, and support methods of seeking  
 4 exceptions where the onus is on the offender seeking  
 5 permission to travel, not the other way around:  
 6 "I therefore support a presumptive travel ban where  
 7 exceptions should be sought by the offender in court."  
 8 That remains your view, I think?  
 9 **A. That is my view.**  
 10 Q. Help us, then, please, with the current situation in the  
 11 US, about which we have heard a little, where  
 12 individuals have their passports revoked, when they  
 13 apply for a new passport their passport gets stamped in  
 14 the last page with details of their convictions. What's  
 15 your view on the effectiveness of that system?  
 16 **A. I deem it ineffective.**  
 17 Q. Can you help us with why?  
 18 **A. Yes. The reason why is because the officers, the**  
 19 **immigration officers in the countries that are being**  
 20 **targeted by people travelling to commit sexual abuse on**  
 21 **children, they don't always look at the page, they don't**  
 22 **always recognise what it is that they're seeing, and**  
 23 **even if they do, they don't always have the resources to**  
 24 **prevent the person from coming into the country or they**  
 25 **might not be able -- they don't have the resources to**

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<p>1 <b>follow the person when they're in the country. So, as</b>                  2 <b>you can see from some of the exhibits that I submitted</b>                  3 <b>to the inquiry, Americans continue to make up a large</b>                  4 <b>number of offenders in the region.</b>                  5 Q. Then if I can bring up, please, just to finish this                  6 topic, CRS000026_002. That's your third witness                  7 statement, Professor, by which point you clarified                  8 I think quite recently for us that the board of trustees                  9 of CRI have now had the opportunity to consider all of                  10 the evidence and its considered policy position,                  11 paragraph 7, is now that it does support a travel ban                  12 for convicted sex offenders akin to the Australian                  13 model. CRI remains concerned about how the current                  14 Foreign Travel Order system operates. You do not think                  15 a stamp ban akin to the US model would work in practice.                  16 Paragraph 9, overall considers that a travel ban would                  17 be a proportionate remedy, given that the UK is not                  18 otherwise able to control sex offenders once they travel                  19 to countries where there is a weak rule of law system.                  20 Is there anything else on the topic of travel bans that                  21 you would like to share?                  22 <b>A. I'm sorry, I organised some of our thoughts here. No.</b>                  23 Q. Just finally then on this topic, could I ask you to look                  24 at the list of concerns and proposed reforms document                  25 that I think you have been provided with, and perhaps</p> <p style="text-align: center;">Page 125</p>	<p>1 just bring up on screen INQ004049. Professor, you will                  2 see at paragraphs 1 through to 19 there is a section                  3 that summarises evidence that other people have given,                  4 including yourself, of both concerns and proposed                  5 reforms to the Civil Orders regime. Is there anything                  6 else on those points that you would like to add?                  7 <b>A. No, I agree with all of those.</b>                  8 Q. The proposed reforms as well that are set out at                  9 paragraph 8 and onwards, you agree with those?                  10 <b>A. Yes, I do.</b>                  11 Q. I turn now to the topic of extra-territoriality under                  12 section 72, CRS000021, paragraph 29. Again, I think the                  13 starting point for your evidence on this topic is                  14 a concern, putting it simply, is this right, about                  15 underutilisation of this section?                  16 <b>A. I'm sorry, I don't know which document you're looking</b>                  17 <b>at.</b>                  18 Q. Sorry, it is your first witness statement, if we can                  19 bring it up on the screen, CRS000021, paragraph 29.                  20 Internal page 12. Your first witness statement, where                  21 you deal, moving on now to section 72.                  22 <b>A. I'm there.</b>                  23 Q. Your first point, I think, holistically, is your concern                  24 that this is not used sufficiently regularly, a concern                  25 about it being rarely used. Is that right?</p> <p style="text-align: center;">Page 126</p>
<p>1 <b>A. That's exactly right.</b>                  2 Q. You have listed the cases of which you are aware at                  3 paragraph 35. The concern you have, I think, is that                  4 the underutilisation of this section means that it                  5 doesn't have, firstly, a deterrent effect or                  6 a preventative effect; is that right?                  7 <b>A. That's correct.</b>                  8 Q. And the concerns you also have, I think, relate to, as                  9 you say at paragraph 35, situations where there is a gap                  10 in the criminal law in the country where the offence is                  11 perpetrated. So you say at paragraph 35 that in many                  12 countries in South-East Asia being in possession of                  13 child sexual abuse material is not a criminal offence,                  14 and so, if, in those cases, the prosecution does not                  15 take place extra-territorially, it won't happen at all.                  16 Is that one of your concerns?                  17 <b>A. Yes, it is.</b>                  18 Q. You allude at paragraph 36 of your witness statement to                  19 the double jeopardy issue. What's your particular                  20 concern around that, Professor?                  21 <b>A. Well, my concern is that, you know, there is an</b>                  22 <b>exception for double jeopardy around the child sex abuse</b>                  23 <b>and it's not really being recognised, so that people are</b>                  24 <b>not being prosecuted by the UK, even when the UK could</b>                  25 <b>prosecute.</b></p> <p style="text-align: center;">Page 127</p>	<p>1 Q. I think you amplify that slightly at 36 by saying,                  2 essentially, that if there's been a prosecution or an                  3 investigation that has not been successful on the first                  4 occasion, that the requirement for new and compelling                  5 evidence in order to initiate a prosecution is                  6 particularly difficult because the first investigation                  7 had not been done as fully as might have been hoped for.                  8 Is that right?                  9 <b>A. Right, and this goes back to my earlier point, which is</b>                  10 <b>why it's so important to have UK teams in each of</b>                  11 <b>the countries where these crimes are prevalent, so that</b>                  12 <b>we can ensure that appropriate investigations are taking</b>                  13 <b>place at that time, that all victims are identified, and</b>                  14 <b>that an informed decision is made whether it be in the</b>                  15 <b>best interests of the child to prosecute in the country</b>                  16 <b>where the crime was committed or whether it would be</b>                  17 <b>better for -- in the best interests of the child for the</b>                  18 <b>perpetrator to be prosecuted in the UK.</b>                  19 Q. You make the point at paragraph 37 of this witness                  20 statement that discrimination is recognised as                  21 a contributing root cause in various child protection                  22 concerns. Do you want to amplify that a little bit,                  23 Professor?                  24 <b>A. Well, simply that, you know, one of the four key values</b>                  25 <b>of the principles of the UN Convention on the Rights of</b></p> <p style="text-align: center;">Page 128</p>



<p>1 <b>the Child, which of course is the most widely ratified</b>                  2 <b>human rights treaty in the history of the world, is the</b>                  3 <b>concern about discrimination and making sure that</b>                  4 <b>children are not discriminated against. What we are</b>                  5 <b>seeing here in the area of child sexual abuse, in</b>                  6 <b>particular with regard to travelling perpetrators, is</b>                  7 <b>kind of an intersectional discrimination, where</b>                  8 <b>different characteristics of the children that make them</b>                  9 <b>especially vulnerable to sex abuse are part of what is</b>                  10 <b>perhaps contributing to a lack of responsibility being</b>                  11 <b>taken by the home countries of the perpetrators, and so</b>                  12 <b>examples of characteristics that lead to intersectional</b>                  13 <b>discrimination would include poverty, nationality, race,</b>                  14 <b>whether or not they are a migrant child, et cetera.</b>                  15 Q. Just picking up this theme, then, please, in your second                  16 witness statement, paragraph 31, you go so far as to say                  17 this at paragraph 31 -- CRS000022_011, that your                  18 opinion, CRI's opinion, is that the underutilisation of                  19 section 72 itself amounts to a form of discriminatory                  20 treatment of these children, because you rely on data                  21 that indicates the number of convictions that have taken                  22 place in relation to children who were sexually abused                  23 in England and Wales and you compare that to the low                  24 numbers of prosecutions for crimes relating to children                  25 abused overseas, and your argument, therefore, if I have</p> <p style="text-align: center;">Page 129</p>	<p>1 understood it correctly, is that those children overseas                  2 who are already the victims of the intersectional                  3 discrimination that you have described are then further                  4 discriminated against because prosecutions are                  5 significantly less likely in their cases. Is that                  6 a fair summary of what you have said?                  7 <b>A. Oh, yes, it's a very accurate summary. I think part of</b>                  8 <b>my frustration is, in preparing for the inquiry,</b>                  9 <b>I looked at the Children's Act, and I saw that there is</b>                  10 <b>a responsibility to safeguard the welfare of the child,</b>                  11 <b>which is essentially what appears to be a domestication</b>                  12 <b>of the best interests principle from the UN Convention</b>                  13 <b>on the Rights of the Child. Yet it appears -- that</b>                  14 <b>applies, of course, to the NCA and, you know, due to</b>                  15 <b>a recent amendment, and what it appears is that,</b>                  16 <b>although there is no distinction between children in the</b>                  17 <b>UK and children who are harmed by UK nationals out of</b>                  18 <b>the country, there doesn't seem to be the same level of</b>                  19 <b>commitment to the prosecution of the UK perpetrators</b>                  20 <b>when the child is outside the country as is evident here</b>                  21 <b>in the UK.</b>                  22 Q. Your proposals in relation to section 72 are then picked                  23 up, I think, in this third statement. Please can                  24 I bring up CRS000026_003, please. You set out at                  25 paragraph 10 and onwards your proposals here in relation</p> <p style="text-align: center;">Page 130</p>
<p>1 to, firstly, you propose here that the NCA should revise                  2 its protocols on how investigations into child sexual                  3 abuse abroad are carried out. It should not be assumed                  4 that law enforcement in South-East Asia operates                  5 competently and efficiently and to the same standards as                  6 the UK, and you flag recent indications around the rule                  7 of law documentation, which we will perhaps come to.                  8 You then go on to look at this issue about "boots on                  9 the ground". Can you help us a little bit more with                  10 what your proposals are here, Professor?                  11 <b>A. Yes. So, basically, we have a model for it in the</b>                  12 <b>national response framework that was developed through</b>                  13 <b>We Protect under David Cameron's leadership, and this</b>                  14 <b>provides for a multisectorial, multi-disciplinary</b>                  15 <b>approach to combating these issues and providing the</b>                  16 <b>victims with support, and we propose that a similar</b>                  17 <b>framework should be applied to these types of crimes,</b>                  18 <b>you know, with the hands-on abuse of children in</b>                  19 <b>South-East Asia. In addition to that, we believe that</b>                  20 <b>the British Government should allocate more resources to</b>                  21 <b>both prosecuting these crimes and providing support and</b>                  22 <b>this should include, for example, not only prosecutors,</b>                  23 <b>victim advocates, law enforcement, but also social</b>                  24 <b>workers and therapists to make sure that the children's</b>                  25 <b>rights under the Second Optional Protocol are fully</b></p> <p style="text-align: center;">Page 131</p>	<p>1 <b>realised.</b>                  2 Q. You have drawn out some examples, I think, at                  3 paragraph 11 of this witness statement, that the                  4 assistance of England and Wales-based officers on the                  5 ground overseas would be to assist with taking timely                  6 physical, medical and electronic evidence and witness                  7 statements, helping avoid the common reliance in                  8 South-East Asia on victim testimony in court, which is                  9 re-traumatising for victims, and could assist with this                  10 issue of witnesses not willing to give evidence due to                  11 pressure being put on them. Is that right?                  12 <b>A. Yes, that's exactly right. One of the other witnesses</b>                  13 <b>talked about the fact that after the UK was notified of</b>                  14 <b>a perpetrator committing crimes against the children in</b>                  15 <b>that country, that the UK was very slow to respond and</b>                  16 <b>that they didn't see anyone from the UK get involved in</b>                  17 <b>that case for many months, whereas some of the other</b>                  18 <b>countries who had been notified in similar crimes</b>                  19 <b>responded immediately and were assisting with the</b>                  20 <b>investigation.</b>                  21 Q. We heard shortly before the lunch break about the case                  22 of Douglas Slade. My learned friend Ms Faure Walker                  23 read that evidence. You have made the point I think at                  24 paragraph 12 of your statement that, although those                  25 victims were connected to a lawyer in the UK to assist</p> <p style="text-align: center;">Page 132</p>

<p>1 them in bringing a damages claim against Mr Slade, there                  2 were difficulties in finding a litigation friend in                  3 Angeles City for them and they had difficulties in                  4 providing testimony. So I think a decision was taken by                  5 some families not to pursue the case. But your view is                  6 that, had there been a UK law enforcement professional                  7 involved from the beginning, they might have been more                  8 likely also to secure damages. Is that right?                  9 <b>A. Yes. So this is the case that I referred to mistakenly                  10 earlier in my testimony. So, basically, what happened                  11 was, at that time, the local law enforcement did not                  12 fully investigate and there was a failure to identify                  13 all of the victims, and so, when additional victims were                  14 identified subsequently and we tried to provide support                  15 for them, at that point there was a fear of                  16 re-traumatisation, and we believe that if the UK were                  17 involved and had been providing investigative support on                  18 the ground and also had made available to the child                  19 victims who were identified at that time that they could                  20 have been supported in a way that would have made them                  21 more comfortable participating in both the prosecution                  22 process as well as their redress, which would include --                  23 for example, could have included restitution or other                  24 forms of compensation.</b>                  25 Q. At paragraphs 13 and 14 I think you pick up support for</p> <p style="text-align: center;">Page 133</p>	<p>1 the request by Mr Samleang that we heard this morning,                  2 that the UK has a foreign liaison officer on the ground                  3 in every country where there's a credible suspicion that                  4 sex offenders travel regularly to abuse children. Some                  5 countries might well need more than one foreign liaison                  6 officer, but that would be the minimum requirement that                  7 you envisage. You go on to say at the very least you                  8 recommend there should be such officers present in                  9 Vietnam, Cambodia, Thailand, the Philippines, Indonesia,                  10 Malaysia and India. You also request the NCA to liaise                  11 further with other experts and civil societies and                  12 organisations in other parts of the world but this needs                  13 to be an ongoing and regularly reviewed position. Is                  14 that right?                  15 <b>A. That's correct. What we would really like to see is                  16 a team of professionals being on the ground in each of                  17 these countries.</b>                  18 Q. You express concern at paragraph 17 of your witness                  19 statement about where the policy responsibility for                  20 section 72 lies. You have identified evidence from the                  21 Foreign Commonwealth Office and the Ministry of Justice                  22 about this, and we will have some evidence read from the                  23 Ministry of Justice in due course. But is this right,                  24 that your concern is that the department with policy                  25 responsibility, the Ministry of Justice, does not appear</p> <p style="text-align: center;">Page 134</p>
<p>1 to have carried out any reviews on the efficacy of                  2 section 72?                  3 <b>A. Yes, it is. Part of my concern is that the Lanzarote                  4 Convention compels the UK Government to conduct studies                  5 of this sort, and it doesn't appear that there's been                  6 any analysis that there's not sufficient collation and                  7 analysis of data to show whether or not this is working                  8 effectively. What we see is the back end of this, which                  9 is a significant number of UK nationals who are making                  10 it into South-East Asia and not being sufficiently                  11 prosecuted for their crimes in a way that's compliant                  12 with the Second Optional Protocol, the Lanzarote                  13 Convention and the Convention on the Rights of the                  14 Child.</b>                  15 Q. I think you share the concern by others that section 72                  16 is an in extremis option and you propose that the MoJ                  17 should issue guidance making clear that that's not the                  18 case; is that right?                  19 <b>A. Yes. So what we'd like is for statutory guidance to be                  20 issued, both with regard to section 72 as well as with                  21 regard to the Children's Act, to make clear that it                  22 should be considered, you know, relatively common in                  23 light of the disparity between resources of                  24 the countries in which these crimes are being committed                  25 and the source countries of the perpetrators, that</b></p> <p style="text-align: center;">Page 135</p>	<p>1 <b>section 72 be utilised far more frequently than it is,                  2 and also that statutory guidance be issued and make                  3 clear that under the Children's Act the same obligation                  4 to safeguard the welfare of the child is extended to                  5 children who are victims of UK nationals.</b>                  6 Q. Just to summarise perhaps what's at 19 through to 21 of                  7 your third witness statement, you have identified within                  8 the documentation that you have seen the operational                  9 guidance for ILOs -- NCA000305, I don't think you need                  10 to bring it up -- and you have also referenced some                  11 Foreign Commonwealth Office documentation, both of which                  12 you interpret as suggesting that both the NCA and FCO                  13 staff are being encouraged or informed by guidance to                  14 accept that section 72 is a last resort option, and you                  15 think this is incorrect?                  16 <b>A. That's correct. It appears that there may be a crisis                  17 of leadership right now in the United Kingdom, such that                  18 there is a widespread recognition that there is --                  19 everybody laughs.</b>                  20 Q. I'm hearing laughter behind me, I'm sorry. Carry on.                  21 On this issue, you're talking about?                  22 <b>A. Yes, that there's a crisis of leadership, you know, with                  23 regard to travelling to foreign destinations to sexually                  24 exploit children, and that in reading through the other                  25 witness statements, they affirmed what our suspicion</b></p> <p style="text-align: center;">Page 136</p>

<p>1 <b>was, which is that there are many people who would</b>                  2 <b>support the -- or there are a number of people, I will</b>                  3 <b>say, that would support a greater exercise of</b>                  4 <b>section 72, but in fact, because they don't view it as</b>                  5 <b>their direct responsibility, they view themselves as</b>                  6 <b>being in a support role of carrying out a more robust</b>                  7 <b>utilisation of section 72.</b>                  8 Q. So you also would like to see, would you, that that                  9 documentation that is given to the NCA staff and the FCO                  10 staff you would propose be corrected so that staff are                  11 not under the impression that section 72 is to be rarely                  12 or uniquely used; is that fair?                  13 <b>A. Yes, and, based on the witness statements that I saw</b>                  14 <b>from the -- that we saw from the law enforcement in the</b>                  15 <b>UK, there seemed to be an underappreciation of, you</b>                  16 <b>know, the frequency and robustness with which law</b>                  17 <b>enforcement can utilise that particular section.</b>                  18 Q. Can I bring up, please, paragraph 22 of your witness                  19 statement where you deal with the dual criminality                  20 loophole, if I can call it that. Can you give the chair                  21 and panel your evidence about that, please, Professor?                  22 <b>A. Sorry, this is the third witness statement?</b>                  23 Q. It is. Paragraph 22:                  24 "CRI is highly concerned about the dual criminality                  25 loophole in section 72."</p> <p style="text-align: center;">Page 137</p>	<p>1 Perhaps identify what you understand that to be and                  2 what your concerns are?                  3 <b>A. Right. So in our analysis of this section, it appears</b>                  4 <b>that there are some residents in the UK for whom</b>                  5 <b>section 72 cannot be used to prosecute. So this would</b>                  6 <b>be an offender who is a UK resident but not a British</b>                  7 <b>national, and that's unless the act is also an offence</b>                  8 <b>in the country in which it was committed.</b>                  9 <b>So that, for example, if an offender committed</b>                  10 <b>a crime in Vietnam and the possession of child</b>                  11 <b>pornography were not a crime in Vietnam -- I would have</b>                  12 <b>to confirm whether or not that is true; in some</b>                  13 <b>South-east Asian countries, despite the fact that they</b>                  14 <b>are also state's parties to the Second Optional Protocol</b>                  15 <b>they haven't fulfilled their obligations to criminalise</b>                  16 <b>all of the acts that are called for criminalisation</b>                  17 <b>under that treaty. In any event, let's say the</b>                  18 <b>possession of child pornography is not a crime in</b>                  19 <b>Vietnam, it is a crime in the United Kingdom, the person</b>                  20 <b>is a resident in the United Kingdom but they are not</b>                  21 <b>a national of the United Kingdom, there appears to be</b>                  22 <b>a loophole in section 72 that would prevent their</b>                  23 <b>prosecution under this section.</b>                  24 Q. You would be concerned that that would be exploited by                  25 those with knowledge of that?</p> <p style="text-align: center;">Page 138</p>
<p>1 <b>A. Yes, so I think it is necessary for the government to</b>                  2 <b>close this loophole.</b>                  3 Q. You draw the panel's attention very briefly, please,                  4 paragraph 24 of your witness statement, to a very recent                  5 case, something reported in the Guardian in January of                  6 this year, about a British man recently arrested on                  7 suspicion of child abuse in Nepal on his 16th visit to                  8 the country. I don't think we need to bring it up, but                  9 it is your exhibit CRS000027. You say there is                  10 obviously a question around why section 72 did not at                  11 least yet appear to have been used in that case; is that                  12 right?                  13 <b>A. That's correct.</b>                  14 Q. A few further points, please, on section 72 that I have                  15 skipped over that I should come back to on the                  16 documents, if I may. You have drawn the panel's                  17 attention to a document from a particular police force                  18 in this country, from Sussex Police. Can I have this                  19 document brought up, please, CRS000005. It is your                  20 exhibit WB5. You had found, I think, yourself, this                  21 document on the internet. It is some guidance that's                  22 given to police officers within that force. The point                  23 is made, I think, under the heading "Initial action" on                  24 the second page of this document, that the initial                  25 response to victims reporting offences which have</p> <p style="text-align: center;">Page 139</p>	<p>1 occurred abroad should be no different to that for                  2 offences committed in this country. But I think over                  3 the page, under the paragraph headed "Civil action", you                  4 have highlighted for the panel that this police force                  5 seemingly is being told that the possibility of                  6 a criminal prosecution in this country is extremely                  7 unlikely, and then goes on to talk about a damages                  8 claim. But are you drawing that to the panel's                  9 attention because this is perhaps a further example, in                  10 your view, is it, of a negative interpretation of                  11 the use of section 72 being given?                  12 <b>A. Yes, and one of the other take-aways from this</b>                  13 <b>particular section is that it's a reminder that, even</b>                  14 <b>when a victim is entitled to bring a civil action, they</b>                  15 <b>won't be successful in prosecuting that action if there</b>                  16 <b>hasn't been a conviction that's already been achieved</b>                  17 <b>and sufficient evidence that's been gathered, which is</b>                  18 <b>another reason why it's so critical for the UK to</b>                  19 <b>provide boots on the ground in South-East Asia.</b>                  20 Q. Can I also now bring up your exhibit WB18, CRS000018.                  21 Again, this is a report -- I think it is fair to call it                  22 a report -- that's been prepared by the Human                  23 Trafficking Legal Center. This is providing the panel                  24 with some information about the US position. If you go                  25 through to the second page, please, it is the US legal</p> <p style="text-align: center;">Page 140</p>

<p>1 remedies for minor victims of sex tourism and sex 2 trafficking. This sets out -- if you go, please, to 3 internal page 4, if you have it, it's the internal 4 page 3 of the document. It sets out information about 5 how offences are prosecuted in the US under the 6 extra-territoriality provisions under the Protect Act, 7 and it details that, as of June 2018, federal 8 prosecutors have brought at least 68 criminal cases for 9 actual or attempted sexual abuse of children overseas. 10 There is further information given on the next page, 11 please, about the ability for perpetrators to be 12 prosecuted in the US, even if they have been prosecuted 13 abroad, and about sex tour operators being prosecuted 14 and children testifying in the US courts in some cases. 15 Finally on this report, please, internal page 12 for 16 our numbering, the report itself internal page 11, 17 appendix A -- the panel can perhaps scroll through the 18 appendix -- sets out all of the cases where there has 19 been a federal criminal prosecution in the US and the 20 extra-territoriality provisions. We can see in the 21 middle column the country of abuse, I think it is done 22 alphabetically, from which the offending -- where the 23 offending was said to have occurred, and we can see the 24 sentences imposed in some of these cases -- well, in all 25 of these cases, in fact, except those that were in</p> <p style="text-align: center;">Page 141</p>	<p>1 progress. 2 Then one can see, I think, for completeness, at 3 appendix B, cases where there had been both a criminal 4 and civil case and the damages recovered in the final 5 column, and the final appendix, internal page 20, is 6 cases where there had only been -- well, there had 7 solely been a civil damages claim. Is that right? 8 <b>A. That's correct. It's always concerning when the US is</b> 9 <b>the standard setter in an area where we have such</b> 10 <b>a severe problem of sex abuse.</b> 11 Q. Bear with me a second, please, Professor. You have 12 dealt, I think, in slightly further detail with the US 13 position at paragraph 30 of your witness statement, your 14 second witness statement. Can I please bring up 15 CRS000022_010. Scroll in, please, on paragraph 30. You 16 have highlighted for the panel there the US Protect Act 17 about which we have heard: 18 "It allows the US to prosecute anyone who travels to 19 the US to sexually abuse a child. In addition to 20 allowing the US Government to criminally prosecute 21 offenders in a Federal Court and to seek restitution for 22 victims, the Protect Act also creates a private right of 23 action for victims so that they can seek civil 24 remedies." 25 It also provides, as we have heard, for the</p> <p style="text-align: center;">Page 142</p>
<p>1 extra-territorial provision. Approximately 68 offenders 2 have been prosecuted, you draw out there the 3 countries -- Cambodia, Haiti, the Philippines, Thailand 4 and other countries. Over 19 have led to compensation 5 for the victims, approximately 11 cases in a civil sense 6 have been brought on behalf of foreign victims. You 7 give the payout figures there for victims ranging 8 between \$950,000 to \$12 million. Is there anything else 9 about the US system for extra-territoriality that you 10 would wish to draw to the panel's attention? 11 <b>A. I think that there's an important point here that goes</b> 12 <b>back to the crisis of leadership that I referred to</b> 13 <b>earlier, that this came about under the second</b> 14 <b>George Bush, and he had made it one of the priorities of</b> 15 <b>his presidency to take on human trafficking, and</b> 16 <b>particularly child sex trafficking. When you have that</b> 17 <b>kind of national leadership, it can bring together</b> 18 <b>different parties from society to set higher standards</b> 19 <b>for protections for children. I think, just like the</b> 20 <b>leadership that David Cameron has shown with regard to</b> 21 <b>online sex offences, I think that the Protect Act and</b> 22 <b>the entire legal framework that was developed during</b> 23 <b>that period of the US history has proven that you can</b> 24 <b>have a profound impact on the protection of children.</b> 25 Q. Just finally on this topic, please, Professor, could</p> <p style="text-align: center;">Page 143</p>	<p>1 I ask you to look at the concerns and reforms document. 2 Perhaps we could bring this up, please, INQ004049_005, 3 please. 4 You I think have had the chance to reflect on this, 5 Professor. There is set out, at paragraph 20 and 6 onwards, a list of concerns that others have identified, 7 including yourself, around section 72. Then at 8 paragraphs 22 through to 39, a list of proposed reforms. 9 Is there anything you would like to add or comment on in 10 terms of what's been identified here? 11 <b>A. Well, we do agree with many of the concerns that have</b> 12 <b>been raised, and, in addition to the low numbers of</b> 13 <b>prosecution that have already been highlighted and the</b> 14 <b>possible reasons for this challenge, which includes the</b> 15 <b>lack of leadership at the ministerial level, as well as</b> 16 <b>the varying media focus on these issues, I would like to</b> 17 <b>try and emphasise the need for the model national</b> 18 <b>response, similar to what we see under We Protect. We</b> 19 <b>need to make sure that there is that fresh guidance that</b> 20 <b>we talked about earlier with regard to the change of</b> 21 <b>approach, so that this is not an in extremis act.</b> 22 <b>You know, finally, I want to make sure that -- this</b> 23 <b>is something I have forgotten to say so far, which is</b> 24 <b>with regard to the right of review. Currently, children</b> 25 <b>who are located in the UK have the right to review</b></p> <p style="text-align: center;">Page 144</p>

<p>1 a decision not to prosecute, and we'd like to see -- we                  2 believe that children outside the UK also have that                  3 right to review, but currently it's not being protected                  4 and they're not being allowed to exercise it because of                  5 a lack of outreach identification of victims and                  6 outreach to those victims by the UK. So we would like                  7 to make sure that not only those victims are able to                  8 exercise their right to review when a decision not to                  9 prosecute is made, but also that local NGOs and CSOs are                  10 given that right to review the case on the child's                  11 behalf and to exercise that right of review.</p> <p>12 Q. I think, just to bring this up, and then perhaps we can                  13 take a short break, but if I bring up CRS000026_011, you                  14 have dealt in your third witness statement with the                  15 right of review issue. You make the proposal that the                  16 victims of child sexual abuse abroad should have the                  17 right to review both decisions not to investigate and                  18 decisions not to prosecute. Is that right?</p> <p>19 A. That's correct.</p> <p>20 MS HILL: Professor, I have a few more questions for you,                  21 I think probably about 15 minutes, and then we will have                  22 some reading, so perhaps we should take a short break.</p> <p>23 THE CHAIR: We will return at 3.35 pm.                  24 (3.20 pm)                  25 (A short break)</p> <p style="text-align: center;">Page 145</p>	<p>1 (3.36 pm)                  2 MS HILL: Professor, I just have a few more questions,                  3 please. I would like to begin by adducing your evidence                  4 WB4, which I should have come to earlier. Can I bring                  5 this up, please. It's CRS000004_001. This is a report                  6 from August 2014 prepared by the United Nations Office                  7 on Drugs and Crime, but it's focused specifically on                  8 improving the response to child sex offending in                  9 South-East Asia. There are a couple of pages, please,                  10 I would like to draw to the panel's attention.                  11 Can we go, please, to internal page 17. It is                  12 internal page 4 of the report itself, where there is                  13 a section on child sex offenders that attempts to                  14 define, if one goes to the very last paragraph on this                  15 page, please, child sex offenders as being into two                  16 broad categories: situational and preferential. It                  17 says, in this context, preferential child sex offenders                  18 actively seek children for sex and can be divided into                  19 two broad groups: paedophiles and other preferential                  20 offenders. Over the page, it tries to categorise the                  21 major patterns of behaviour in this way: those who are                  22 seducers, who use affection, attention and/or gifts to                  23 lure children, who perhaps engage in grooming;                  24 introverted offenders; and sadistic offenders. It goes                  25 on to give further detail about how behaviour in some</p> <p style="text-align: center;">Page 146</p>
<p>1 senses is predictable but perhaps in some senses is less                  2 so. Is that right?</p> <p>3 A. Yes.</p> <p>4 Q. The report at internal page 20 -- the report itself,                  5 page 7 -- gives a breakdown of the nationalities of                  6 foreign perpetrators in Thailand on the left, which one                  7 can see from the statistics on this table UK offenders                  8 were 30 per cent of the perpetrators and, in Cambodia,                  9 UK was 9 per cent of the perpetrators.</p> <p>10 The report also details certain types of grooming                  11 techniques, at internal page 23. We perhaps don't need                  12 to bring that up. But then, at internal page 38, there                  13 is a section about improving the response to this sort                  14 of abuse and exploitation, and talks in broad terms                  15 about the difficulties with local policing, the tension,                  16 perhaps, between traditional policing methods being                  17 ineffective and the need for more proactive policing                  18 methods and sets out a range of other issues around the                  19 criminal justice response.</p> <p>20 At the top of internal 41, report page 28, specific                  21 mention is made of weaknesses with the alerting and                  22 notification systems of the sort that I think perhaps                  23 you have alluded to.</p> <p>24 Just finally on this, can I take you to the last                  25 page of the exhibit that you have brought to the panel's</p> <p style="text-align: center;">Page 147</p>	<p>1 attention. It's internal page 45, report page 32. The                  2 conclusions of this report were that, as we can see,                  3 tackling child sexual exploitation is no simple task.                  4 There needs to be effort from a multitude of actors.                  5 Action in one country will be insufficient. The                  6 conclusion at the final paragraph was:                  7 "The analysis has indicated some relatively basic                  8 steps involving international co-operation and the                  9 standardisation of approaches, which would create                  10 a supportive platform for the more sophisticated efforts                  11 to strengthen dedicated capacities. A new determination                  12 to safeguarding children is not beyond the region's                  13 ability: it is the minimum required to combat the                  14 shocking actions of child sex offenders."                  15 That report dates back to August 2014, Professor,                  16 but does that broad conclusion still reflect your view?</p> <p>17 A. Yes, it does.</p> <p>18 Q. A few questions, then, please, on Disclosure and                  19 Barring. You have dealt with this --</p> <p>20 A. I'm sorry, before we move on to Disclosure and Barring,                  21 may I just say that another benefit to making sure that                  22 there is UK involvement with these investigations is                  23 that, in addition to identifying the victims, the                  24 photographic evidence, the imagery, that may have been                  25 created can be controlled by law enforcement early on in</p> <p style="text-align: center;">Page 148</p>

<p>1 <b>the process and can help prevent it from being further</b>                  2 <b>distributed or trafficked in, which could help prevent</b>                  3 <b>some of the re-traumatisation that we talked about at</b>                  4 <b>the very beginning of my testimony.</b>                  5 Q. Thank you. Can I ask you, please, to look at your                  6 second witness statement, paragraph 32, and bring this                  7 up, please. CRS000022_011, where you say this:                  8 "CRI is of the view that the current Disclosure and                  9 Barring system in the UK is not adequate and robust                  10 enough."                  11 Because, in particular, British nationals employed                  12 abroad by organisations not based in England and Wales                  13 and non-British nationals being employed by                  14 organisations such as the British Council abroad                  15 illustrate the gaps in this process; is that right?                  16 <b>A. That's correct.</b>                  17 Q. Your position for CRI is that you would recommend the                  18 mandatory use of the international child protection                  19 certificate. So help us a little bit further with that,                  20 please?                  21 <b>A. Well, basically, you know, rather than focus -- having</b>                  22 <b>to focus so much on the back end of children who have</b>                  23 <b>been exploited and abused, it's much better to prevent</b>                  24 <b>the abuse and exploitation from happening in the first</b>                  25 <b>place, and one of the main ways that we can do that is</b></p> <p style="text-align: center;">Page 149</p>	<p>1 <b>to identify those who have a history of offending and</b>                  2 <b>then prevent them from being placed in situations where</b>                  3 <b>they can continue to offend, particularly in countries</b>                  4 <b>and regions where they are more likely to enjoy</b>                  5 <b>impunity.</b>                  6 <b>So what this focuses on is the fact that there</b>                  7 <b>appears to be a piecemeal background check system in the</b>                  8 <b>UK and some of the charities who are on the ground are</b>                  9 <b>not able to find out all of the history that might</b>                  10 <b>reveal to them that someone has a history of offending.</b>                  11 <b>This would include not just prosecutions, but looking at</b>                  12 <b>the person's CV, having specialists analyse where they</b>                  13 <b>have been and what they have done, the types of</b>                  14 <b>positions they have held to try to identify whether or</b>                  15 <b>not this appears to be a perpetrator, and also to make</b>                  16 <b>sure that the background checks aren't just required for</b>                  17 <b>trustees and the trustees of the organisations for</b>                  18 <b>UK-based organisations, but that also everyone who is</b>                  19 <b>likely to have access to children undergoes a robust,</b>                  20 <b>global background check through one uniform source.</b>                  21 Q. Just to pull up, please, paragraph 34 of this witness                  22 statement, the key things that you flesh out there are                  23 that you recommend that the international certificate                  24 process is made mandatory; you also endorse                  25 recommendations made by Edvectus, I think; that the</p> <p style="text-align: center;">Page 150</p>
<p>1 certificate process should cover more robust                  2 international checking, including what you have just                  3 described, the CV analysis, referencing and behavioral                  4 red flagging -- I think that's having an expert                  5 involved, as you've said. Thirdly, you recommend that                  6 the checks would not only look at the applicant's                  7 country of training, but also their last country of                  8 residence and that would require better information                  9 sharing; is that right?                  10 <b>A. That's correct. One of the worst abusers in the</b>                  11 <b>United States was someone who was able to travel country</b>                  12 <b>to country and abused, you know, dozens and dozens of</b>                  13 <b>children in different schools all around the world. One</b>                  14 <b>of the reasons he was able to get away with it is</b>                  15 <b>because we don't have a robust background check system</b>                  16 <b>right now, internationally, and it appears, in studying</b>                  17 <b>the UK system, that there are a lot of opportunities for</b>                  18 <b>growth in that area as well.</b>                  19 Q. You pick up this issue I think or had already dealt with                  20 this issue at paragraph 38 of your first witness                  21 statement. It is CRS000021_015, where you recognised,                  22 I think, that the Department for International                  23 Development -- that's DFID -- Interpol and ACPO's                  24 criminal records office were working to create a global                  25 list of sexual predators working in foreign aid. You</p> <p style="text-align: center;">Page 151</p>	<p>1 indicate that CRI would like to see tougher criminal                  2 checks being conducted in other professions too, such as                  3 the religious sector and the teaching sector; is that                  4 right?                  5 <b>A. That's correct. One of the obligations that the UK has</b>                  6 <b>as a state party to many of these treaties is they are</b>                  7 <b>supposed to be entering into agreements with other</b>                  8 <b>parties so there is bilateral and multi-lateral</b>                  9 <b>co-operation.</b>                  10 Q. You had noted the recent programme by those                  11 organisations, DFID, Interpol and ACPO, to employ up to                  12 nine specialists and investigators to work in Africa and                  13 Asia to support National Criminal Bureaux in high-risk                  14 countries. Is that an example of perhaps the beginnings                  15 of some of what you have referred to elsewhere as "boots                  16 on the ground"?                  17 <b>A. Yes, there is no question that the UK can do this and it</b>                  18 <b>appears in some areas they're starting to do so.</b>                  19 Q. You have dealt with, in your statement at                  20 paragraph 35 -- just briefly, please, I think you have                  21 touched on this, it is internal page 13 -- the need, you                  22 say, for a multi-disciplinary approach. The funding of                  23 the We Protect global alliance which is based around                  24 a model national response framework. The panel hasn't                  25 yet, although they will, heard very much about that</p> <p style="text-align: center;">Page 152</p>

<p>1 particular initiative. Could you just give the panel 2 a little more information about that? 3 <b>A. So, yes. We Protect is something that was started 4 largely under former Prime Minister David Cameron and he 5 did it in partnership with other leaders here in the UK 6 and also one of our top people in the United States, 7 Ernie Allen. Basically, what they did was, they 8 recognised that it's critical that we put together teams 9 across sectors and with a variety of expertise in 10 different disciplines and ensure that there is support 11 for the efforts to both prevent online abuse from 12 happening as well as to provide support when it does 13 happen. There was a significant amount of funding that 14 was allocated to this effort, and that funding has been 15 translated into collaboration with other organisations, 16 such as UNICEF, and it appears that those efforts have 17 been somewhat successful, from looking at some of 18 the statistics that we shared earlier.</b> 19 Q. Finally on the Disclosure and Barring topic, can I ask 20 you to turn up, please, the list of concerns and 21 reforms. It's INQ004049_009. Just cast your eye over 22 the points made at paragraphs 40 I think right through 23 to the end, in fact, and see if there is anything there 24 you would like to comment on or respond to? Is there 25 anything that you disagree with or agree with</p> <p style="text-align: center;">Page 153</p>	<p>1 particularly that you would like to observe on or 2 amplify? 3 <b>A. I'm sorry --</b> 4 Q. I'm sorry, there's a section in this that deals with 5 Disclosure and Barring. 6 <b>A. Right.</b> 7 Q. A list of concerns and a list of reforms? 8 <b>A. Yes. I'm looking at those and I'm comparing it to my 9 analysis from previously. So in this draft, is there 10 a provision regarding strengthening the way in which 11 schools seek and provide references? This is a project 12 that's currently being taken on by the International 13 Task Force On Child Protection.</b> 14 Q. Paragraph 61 I think tries to capture that? 15 <b>A. Perfect. Okay. That's what I was looking for. Thank 16 you.</b> 17 Q. Some of these are derived from your witness evidence, 18 Professor. But if there is anything else in particular 19 that someone else has said here that's been summarised 20 that you want to comment on, please let us know? 21 <b>A. No, there's not. Thank you.</b> 22 Q. Just a few final points, please, if I may, Professor. 23 In your third witness statement, I think you pulled 24 together some themes that you had drawn and concerns you 25 had identified from the disclosed material. I hope</p> <p style="text-align: center;">Page 154</p>
<p>1 I have been through the majority of them already, but 2 you did touch only briefly on the issue of safeguarding 3 which I think is picked up at paragraph 25 of your third 4 witness statement. It is CRS000026_009. I think the 5 broad point that you make is that the obligations under 6 the domestic legislation, the Children Act, sections 11 7 and 28, should apply, you're suggesting, to the work of 8 bodies such as the NCA to give more focus to the need to 9 safeguard and promote the welfare of children. Is that 10 what you're saying here? 11 <b>A. Yes, it is.</b> 12 Q. For the panel's reference, if we need to come to it in 13 due course, sections 11 and 28 are at CRS000023. 14 You propose that the government issue new guidance 15 on how those provisions apply to the NCA's obligations 16 in safeguarding and promoting children abroad; is that 17 right? 18 <b>A. That's correct. Not because it's not there, but just 19 because it doesn't seem to be clearly understood, given 20 the lack of efforts towards safeguarding foreign 21 children.</b> 22 Q. You lead, then, into, I think, an observation around the 23 role of supporting victims here. You go on, I think, in 24 your witness evidence to deal with -- in fact, forgive 25 me, before we get there, another proposal you made at</p> <p style="text-align: center;">Page 155</p>	<p>1 paragraph 29 was that there should be some kind of 2 category guidance to require those with contact with the 3 child victims to refer those victims for legal advice 4 and support in the way that modern slavery guidance 5 currently does. Is that right? 6 <b>A. They are obligated to do so under the international law.</b> 7 Q. For the panel's reference, you have provided the panel 8 with the Department for Education guidance on migrant 9 children, which does set out a very thorough set of 10 principles to be applied. That's CRS000024, although we 11 don't need to, I think, bring that up. 12 But going on, then, you express concern about the 13 lack of support provided to victims. Is there anything 14 further about that topic that you would like to provide 15 the panel with information on? 16 <b>A. I think I've said quite a bit about the need of victims 17 for support and the fact it's not currently being 18 offered and that this should be a top priority.</b> 19 Q. You have already referred, I think, to the right to 20 review, and you have talked about your understanding of 21 the various barriers that children face in securing 22 redress for the wrongs done to them. Is there anything 23 else that you would like to say about that topic? 24 <b>A. No, I think I've addressed that fully.</b> 25 Q. Finally, you deal with the role of</p> <p style="text-align: center;">Page 156</p>

1 the Charity Commission, I think at your paragraph 39, so  
 2 if we can scroll down, please, to paragraph 39 of this  
 3 witness statement. Having identified the concerns about  
 4 Disclosure and Barring, you question whether there's  
 5 a greater potential role for the Charity Commission  
 6 where charities file their accounts and things of that  
 7 nature. Those running organisations need to be  
 8 subjected to checks. Is there anything in particular  
 9 that you would like to add about that?  
 10 **A. No, this was my point just a few moments ago, when**  
 11 **I said that we should make sure that robust background**  
 12 **checks are done for the persons who are on the ground in**  
 13 **the charity, and not just the trustees of the charity.**  
 14 **But I failed to mention the role of**  
 15 **the Charity Commission, so I apologise.**  
 16 Q. You have suggested that there is a need for research  
 17 along the lines you suggest of the rapid evidence  
 18 assessment that the inquiry itself did on what can be  
 19 learnt from other jurisdictions about preventing and  
 20 responding to child sexual abuse. You propose that  
 21 there is a need for research on what other countries are  
 22 doing in relation to the mandates and operational  
 23 protocols of their foreign liaison officers. Is that  
 24 because you believe there's room for learning about how  
 25 different foreign liaison officers operate on the

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1 **that the UK is much better positioned to protect the**  
 2 **welfare of these children than the countries in which**  
 3 **they reside and where they may have been exploited or**  
 4 **abused.**  
 5 Q. You draw that, do you, from the fact that the UK is  
 6 positioned relatively high, but some of the countries  
 7 about which we have heard are relatively low on this  
 8 list?  
 9 **A. That's correct.**  
 10 Q. I think, although I don't need to bring it up, you have  
 11 provided a much more detailed report at your exhibit  
 12 WB21: CRS000025 is the World Justice Project rule of law  
 13 index, which I think is perhaps a similar piece of work  
 14 to this. Is that right? It is a much longer report but  
 15 it performs a similar function; is that the summary?  
 16 **A. Yes. What we are basically looking at are countries**  
 17 **where there is a rather weak rule of law system for**  
 18 **a variety of reasons, but the bottom line is, they are**  
 19 **not able to fully protect the children, especially from**  
 20 **sophisticated predators like you'd find in a UK national**  
 21 **and resource predators.**  
 22 Q. Could I ask you to cast your eye over the very last part  
 23 of the reforms and concerns document. Beginning at  
 24 paragraph 67 there are a series of perhaps wider  
 25 proposals for reform in this area. Is there anything

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1 ground?  
 2 **A. Oh, absolutely, and I think this is one of the key roles**  
 3 **where the UK can start to establish its leadership in**  
 4 **the field. One of the witness statements talked about**  
 5 **the fact that the UK used to have more leadership in**  
 6 **organising training around responding to the changing**  
 7 **nature of child sex abuse and how to combat it on the**  
 8 **ground and that they have taken a more background role**  
 9 **in recent years in participating in those trainings**  
 10 **internationally, and this is an example where the UK can**  
 11 **jump start its involvement and start to become a leader**  
 12 **again in this area.**  
 13 Q. I think the final document I wish to adduce -- I'm not  
 14 sure we need to bring it up -- you have provided as your  
 15 exhibit WB22 the global ranking on access to justice for  
 16 children 2011. It is -- in fact, we will bring it up  
 17 briefly -- CRS000029. I think this gives a global  
 18 ranking -- is this right? -- of the ways in which  
 19 different countries ensure access to justice for  
 20 children. We can go to the list beginning at internal  
 21 page 2, please. We saw England and Wales under the UK  
 22 heading at number 10. But what are the points that you  
 23 draw from this list of countries that you think is  
 24 pertinent for the panel?  
 25 **A. What's so important about this ranking is that it shows**

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1 there that you would wish to comment on, disagree with,  
 2 agree with or adopt?  
 3 **A. So I would support making sure that the evidence that's**  
 4 **undertaken is collated with a single agency. I think**  
 5 **that's the only thing that I'd like to emphasise at this**  
 6 **time.**  
 7 Q. Is there anything you disagree with or agree with in  
 8 these proposals that are made by others?  
 9 **A. I agree with all of the recommendations.**  
 10 MS HILL: Thank you, Professor. Those are all the questions  
 11 I have for you.  
 12 THE CHAIR: Thank you. We have some questions from  
 13 Sir Malcolm.  
 14 Questions by THE PANEL  
 15 PROF SIR MALCOLM EVANS: Thank you very much,  
 16 Professor Binford. Just a couple of questions, really  
 17 asking for some clarity of your understanding concerning  
 18 the scope of the international obligations which you  
 19 have been alluding to throughout the presentation and  
 20 discussion this afternoon.  
 21 I think the first question that I have is, what do  
 22 you consider to be the scope of the obligation to  
 23 prosecute under the Optional Protocol, rather than the  
 24 scope of the obligation -- or, rather, the capacity to  
 25 criminalise? There's clearly an obligation to make

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1 something an offence within the jurisdiction.  
2 **A. Yes.**  
3 PROF SIR MALCOLM EVANS: But that's not the same thing as  
4 the obligation to prosecute. Do you think that the  
5 obligation to prosecute within the protocol is  
6 sufficiently robust?  
7 **A. Well, the -- I think that you have to read it in the**  
8 **context of its intersection both with other provisions**  
9 **in the Optional Protocol as well as the Convention on**  
10 **the Rights of the Child. If you look at section 4 of**  
11 **the Optional Protocol, it makes clear that the UK is**  
12 **required to prosecute in instances where the perpetrator**  
13 **commits a crime in the UK or one of its territories or**  
14 **any of its vessels, such as aircraft and ships,**  
15 **et cetera. It also is obligated to prosecute where the**  
16 **offender is in the UK and has not been prosecuted in the**  
17 **other country or where the other country does not -- is**  
18 **not a party to the protocol.**  
19 **So those are some of the circumstances where the UK**  
20 **is obligated to prosecute.**  
21 **Prosecution is permissive where it involves a UK**  
22 **national regardless of whether the UK national is**  
23 **currently in the UK. There also is an obligation to --**  
24 **there is also the option to prosecute if the victim is**  
25 **a UK national. But the mandated obligations to**

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1 **other countries have even fewer. You know, the**  
2 **Protect Act set up this right to recovery 16 years ago,**  
3 **and I do not believe that there is a sufficient recovery**  
4 **being made by victims.**  
5 **One of the analyses that I did about three years ago**  
6 **was an informal analysis that I did not publish, but**  
7 **basically, what it was, was looking at when victims are**  
8 **most likely to receive an award, and what I found is**  
9 **that when there was a guardian ad litem who was**  
10 **appointed or if the victim was being represented by an**  
11 **attorney, they were much more likely to receive an award**  
12 **either through the criminal system or through the civil**  
13 **section.**  
14 **So, you know, I think that we can take some lessons**  
15 **from that, which is that, although the US does have this**  
16 **ability for civil damages, it's underutilised, but it's**  
17 **more likely to be utilised if the victim is given legal**  
18 **support in order to exercise their right to seek**  
19 **compensation.**  
20 PROF SIR MALCOLM EVANS: Thank you very much.  
21 **A. You're welcome.**  
22 THE CHAIR: Thank you. We have no further questions. Thank  
23 you, Professor Binford.  
24 **A. Thank you.**  
25 **(The witness withdrew)**

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1 **prosecute really are focused on where the prosecution**  
2 **isn't happening in the other country and the perpetrator**  
3 **is here in the UK or on one of the vessels or**  
4 **territories, et cetera.**  
5 PROF SIR MALCOLM EVANS: Okay. Thank you. The other  
6 question that I have is whether you could tell us  
7 a little bit more, very briefly, about what you  
8 described earlier as the ability to bring a civil action  
9 if you were a victim overseas, in the US courts. Could  
10 you just explain that a little bit more, about your  
11 understanding of how this is working in practice, and  
12 I am assuming this would be subject to enforcement  
13 action too?  
14 **A. Well -- what do you mean "enforcement action"?**  
15 PROF SIR MALCOLM EVANS: Let's say you get an award and you  
16 need to enforce the award.  
17 **A. Yes, okay. So my snarky remark earlier when I said it's**  
18 **always disappointing when the UK is setting standards in**  
19 **this area, I have been very critical of the lack of**  
20 **civil actions that are brought on behalf of victims, and**  
21 **so then when -- in looking at the situation here**  
22 **relative to other countries and doing a more comparative**  
23 **analysis, I was disappointed to learn that, whereas we**  
24 **have, you know, less than 100 Civil Orders that have**  
25 **been or civil awards that have been identified, that**

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1 MS HILL: Chair, we are entirely in your hands. We have  
2 some evidence that could be read, but it would take  
3 about 25 minutes to do it properly. So I think  
4 perhaps -- it wasn't on the timetable for today. We are  
5 content to fit it in later in the week.  
6 THE CHAIR: Yes, we will do that. That concludes today's  
7 hearing.  
8 (4.01 pm)  
9 (The hearing was adjourned to  
10 Wednesday, 13 February 2019 at 10.00 am)  
11  
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