STATEMENT FOR CHILD REDRESS INTERNATIONAL
WITNESS: WARREN BINFORD
STATEMENT: FIRST
DATE: 11 DECEMBER 2018

THE INDEPENDENT INQUIRY INTO CHILD SEXUAL ABUSE (IICSA) BEFORE
CHAIR PROFESSOR ALEXIS JAY OBE

WITNESS STATEMENT OF PROFESSOR W. WARREN H. BINFORD,
CHILD REDRESS INTERNATIONAL

I, W. WARREN H. BINFORD, of Child Redress International, DPA, United States of America, will say as follows:

1. I make this statement in order to assist the Independent Inquiry into Child Sexual Abuse ('the Inquiry') with its consideration of the issues arising in Phase 2 of the Children Outside the United Kingdom case study. I have recently been appointed as a Trustee to Child Redress International ('CRI'). I make this statement in response to the Rule 9 request from the Inquiry, seeking a corporate statement from CRI.

2. I am a tenured Professor of Law and Director of the Clinical Law Program at Willamette University College of Law in Salem, Oregon, and have taught, inter alia, international children's rights, human rights, and child and family advocacy since I joined the faculty in 2005. I hold a Juris Doctorate from Harvard Law School and an Ed.M. and a B.A., summa cum laude with distinction, from Boston University. I have published 60 law review articles, book chapters, essays, NGO publications, and editorials on a variety of topics, but primarily focused on children's rights. I have been selected as both a Fulbright Scholar and the Inaugural Fulbright Canada-Palix Foundation Distinguished Visiting Chair in Brain Science and Child and Family Health and Wellness at the University of Calgary in Alberta, Canada, where I researched the

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multidisciplinary effects of child sex abuse on survivors and legal protections to help ensure victims have access to adequate procedures to seek damages from those legally responsible and to the resources they need to ensure their full physical and psychological recovery and full social reintegration.

3. In the past five years, most of my research has focused on the changing nature of child sex abuse in the 21st century, including its increasingly global nature via the Internet and the need to modernize legal frameworks to better protect children and ensure survivors have access to the resources they need. My work during this period includes advising and collaborating with trustees at Child Redress International from 2014 to the present (including discussing the need for such an organization prior to its founding); representing the Dutch National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children as an amicus curiae in U.S. v. Paroline, which involved the question of restitution for child pornography victims; working with the Canadian Centre for Child Protection on the first international survey of child pornography survivors ever conducted, 2017 International Survivors’ Survey – Identifying and Responding to the Unique Needs of Victims of Child Sexual Abuse Imagery; researching and co-authoring Interfacing Law, Neuroscience, and Epigenetics to Support Childhood Sexual Abuse Victims in the 21st Century (work in progress); conducting research funded by the U. S. State Department interviewing approximately 60 frontline service providers (law enforcement, investigators, prosecutors, and victim advocates) to ascertain their capacity to respond to the changing nature of child sex abuse in the 20th century; working with the Oregon Attorney General on civil remedies for victims of revenge pornography; and publishing several academic articles and book chapters related to this topic (among others).\(^1\)

4. In total, I have practiced law for nearly 20 years, including eight with an international law firm and 12 in Willamette’s Clinical Law Program where I teach both international human rights and child and family advocacy through actual legal work. I also advise and provide training to a variety of governmental and non-governmental organizations both domestically and internationally and have conducted research, collaborated, taught, presented my research, or provided training involving various countries including the United Kingdom, Kenya, Cambodia, the Philippines, Thailand, China, Japan, South Africa, Australia, Canada, the Netherlands, Switzerland, Namibia, Swaziland, the Czech Republic, and Nepal. Representative organizations with whom I have collaborated or provided training, support, or advice include Save the Children, the International Red Cross, the International Criminal Court, the Child Exploitation and Obscenity Section (‘CEOS’) of the U.S. Department of Justice, the Department of Children’s Services in Kenya, the Dutch National Rapporteur on Human Trafficking in Human Beings and Sexual Violence Against Children, the Canadian Centre for Child Protection, UNICEF, the National Society for the Prevention of Cruelty to Children, and ECPAT-UK.

5. This statement is made without the benefit of having sight of the disclosure or other witness statements. As such, I have set out an outline of CRI’s work on the issues in the Rule 9 request by reference to case studies that CRI has been working on through its casework, research and advocacy. Following time to consider the disclosure and once the Inquiry has had the opportunity to consider the cases I outline below, I may wish to respond to some of the issues raised in the materials and in other witness statements.

6. This statement is divided into the following sub-headings:
   - Child Redress International
   - CRI’s Work
   - Child Sexual Exploitation by U.K. Offenders: Contextualisation
   - The U.K.’s International Obligations
   - Section 72 of the Sexual Offences Act 2003
   - Work by DFID, INTERPOL and ACRO
7. This Statement primarily focuses on CRI and the issue of extra-territoriality, and not on the civil orders regime or vetting and barring. The CRI Board is currently considering a number of issues concerning civil orders and vetting and barring, and also some further matters concerning section 72 and whether the U.K. (or England and Wales specifically) should adopt a form of travel ban for certain offenders akin to that in operation in Australia. I intend to file a short second statement addressing these matters in December 2018.

Child Redress International

8. Child Redress International ('CRI') is an expert not-for-profit organisation which aims to promote children's rights, and to provide access to remedies, including compensation, for child victims of transnational crimes. It focuses on children who are victims and survivors of sexual exploitation in Southeast Asia.

9. CRI began after the founders became aware of the need to obtain compensation for child victims of sexual exploitation, which I discussed at length with one of the founders prior to the creation of CRI in order to ensure that children's rights to seek damages are enforced and that sexually abused children have access to the resources they need for their full recovery and full social reintegration. The founders originally contacted lawyers in the perpetrators' home countries to see if a) it was feasible to bring a compensation claim in their jurisdiction; and b) if they would represent the children in question on a pro bono basis. The organisation explored cases involving perpetrators from France, Canada, Germany, Singapore, and the U.K. It also then started to try to find lawyers for children in Cambodia, Vietnam, and the Philippines.

CRI's Work

10. CRI was founded in December 2014 and was initially named ICRP (International Child Redress Project). An official change of name is currently being undertaken. Much of the documentation and descriptions of CRI's work refers to CRI, ICRP or Child Redress interchangeably.
11. CRI is a new organisation that supports child victims who have been abused recently, but are being denied justice and accountability. Through community consultations and casework, CRI has partnered in the region with Children's Legal Bureau Cebu (Philippines), Y-Peer Pilipinas, Compassion International, International Justice Mission Pampanga (Philippines), APLE Cambodia, UNICEF East Asia & Pacific Regional Office, Microsoft Asia Pacific Region, Terre des Hommes Netherlands (Asia), Lift International (Thailand), Blue Dragon (Vietnam), Nvader Thailand and Project Karma (Indonesia).

12. CRI's work primarily relates to children in Southeast Asia who are sexually exploited in a range of ways and for different purposes, including children who are abused and then become the subject of child sex abuse imagery online ('CSAIO'; referred to in many criminal statutes and treaties as 'child pornography'), including through the 'dark web' (as was the case, for example, in the high profile case of U.K. national Richard Huckle). Hundreds if not thousands of vulnerable children from poor communities throughout Southeast Asia are sexually exploited by foreign men. CRI advocates for justice for these child victims. The pervasive abuse of children abroad is carried out, inter alia, by foreign tourists, long-term residents and, increasingly, by online predators.

13. CRI's work can be divided into the following categories: casework; research and advocacy; youth empowerment; and capacity building. CRI has built a network of specialised lawyers, including pro bono lawyers both in the regions where vulnerable children are targeted, as well as in countries where predators originate. These specialised pro bono lawyers can assist children from anywhere in the world and take on transnational cases in their own jurisdiction. CRI provides support to child victims in Southeast Asia through the legal process in coordination with their lawyers abroad. At the moment, CRI is involved in legal cases in the U.K., France, and Australia.

14. CRI also carries out research on new areas of law for the following: online multi-jurisdictional crimes; access to compensation across borders; and access to justice for foreign victims. The organisation conducts local advocacy related to children's legal rights to access remedies, including physical and mental health recovery services, educational needs, reintegration assistance, and financial
compensation. Bringing compensation cases against Western sex offenders on behalf of victims of child sex abuse abroad sends a clear message to survivors that they are supported and their rights will be defended and helps ensure that perpetrators cannot operate with impunity.

**Child Sexual Exploitation by U.K. nationals: Contextualisation**

15. I recognize that IICSA has a separate investigation into the Internet, but in light of the rapidly changing nature of child sex abuse in the 21st century due to new technologies, no thorough investigation into the Protection of Children Outside the U.K. will be complete without examining the unique needs of a significant number of CSAIO victims who reside outside of the U.K., but have been abused by U.K. nationals. Some of these offences involving physical contact and constitute ‘hands on’ abuse. Others involve remote or what is sometimes called ‘hands off’ abuse. Many involve both. The impact of sexual abuse on children is often profoundly harmful to the child, even when no physical contact is made between the offender and the victim.

16. The complexities of the harm from CSAIO are documented in the 2017 ‘International Survivors Survey’ published by the Canadian Centre for Child Protection [EXHIBIT WB/1]. Many of the same symptoms and experiences described by victims of CSAIO are described by child victims of webcam child sex tourism in the Philippines in a study conducted by Terres des Hommes [EXHIBIT WB/2]. This document explains at page 22:

> ‘Webcam child sex tourism is often classified as a ‘hands-off’ crime, which indicates that no physical contact takes place between the victim and the perpetrator, i.e. the viewer of the webcam sex performance. This classification is misleading, because in the case of webcam child sex tourism, live abuse in front of the webcam often does take place. In addition to this, it is important to realize that in many cases a third party is involved, like a parent or a middle man.’

17. Similar findings are reported in academic research [EXHIBIT WB/3]. This means that if we are to hold offenders accountable in supporting their victims’
full physical and psychological recovery and full social reintegration and access to seek damages from the offenders, we must recognize that the investigation focused on the protection of children outside the U.K. will necessarily entail some overlap with the Internet investigation.

18. The Internet investigation may have already informed the IICSA that we are witnessing a significant increase in the number of so-called 'hands off' sexual abuse crimes, such as internet exploitation including livestreamed child sexual abuse involving children located thousands of miles away from the perpetrator as well as CSAIO being trafficked en masse across jurisdictions. Although the U.K. has made significant progress in reducing the amount of CSAIO hosted on its servers (less than one percent of sites hosting CSAIO are currently located in the U.K., down from approximately 18 percent at the beginning of the 21st century), the fact remains that 274 websites are still hosting CSAIO in the U.K. Moreover, the Home Office has identified 80,000 U.K. residents who have had law enforcement action taken against them, and thus, are believed to pose a sexual threat to children online, both through CSAIO, as well as through an increase in livestreamed child sexual abuse. As will be detailed in my next statement, only a handful of civil orders appear to have been issued despite the tens of thousands of offenders identified by law enforcement.

19. Although some assume that 'hands on' child sex abuse, that is sexual abuse physically perpetrated by the U.K. national on the child, is worse than 'hands off' or cyber child sex abuse where the U.K. national accesses (or 'possesses'), traffics (or 'distributes'), or produces CSAIO either in person or remotely (including livestreaming child sex abuse regardless of whether the abuse is also recorded), recent research such as the studies cited above and victim statements tell us that many survivors find the trafficking in the images of their abuse have a profound traumatic impact on them that is as bad or worse than hands on child sex abuse. Survivors in Europe, North America (Canada and the United States), and Southeast Asia report similar feelings of depression, anxiety, and suicidal ideation that most therapists are ill-equipped to treat. Of

course, the so-called ‘hands off’ abuse constitutes physical and sexual abuse of the child, which is often carried out under the direction of the perpetrator who may be thousands of miles away in a foreign country, such as the U.K. Although there are numerous reports of livestreaming and CSAIO being produced and distributed for money, often times, adults exchange CSAIO among themselves for new imagery in a continuous pursuit of novel content. Recent research suggests that at least in Western countries, imagery is increasingly being provided experimentally by children and that, sometimes, that imagery is produced as the result of grooming by an adult. The adult offender may then use the imagery of the child to extort more imagery from the child, which the offender may traffic internationally via the internet. While some of the images are still, others are video recorded, while others are livestreamed. All of these forms of ‘hands off’ abuse are very real and contemporary forms of child sexual exploitation, and prove especially insidious because the child’s abuse is recorded in images that may be circulating on the Internet to perpetuate the abuse of the child among countless offenders indefinitely, so the child experiences continuous revictimization.

20. Indeed, German therapists treating survivors of CSAIO reported that they themselves experienced secondary trauma related to their inability to effectively treat the victims in a 2010 study conducted by Julia von Weiler [EXHIBIT WB/3]. Some therapists found the situation ‘hopeless’ because the survivors lacked control over the situation due to the fact that the imagery could be reproduced forever and the survivors could be publicly recognized—a fear that the 2017 International Survivors’ Survey confirms that a significant number of survivors fear and many report that they have experienced. Indeed, even the nomenclature preferred for ‘survivors’ does not accurately reflect the experiences of this group of victims/survivors because they continue to be victimized over and over again as their abuse imagery is perpetually shared, in many cases across the globe. Rather than treating someone to recover from a past trauma, 21st century therapists working with this population are challenged

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2 Exhibit WB/1.
to develop a framework of effective treatments that enable victims to cope effectively with continuous victimization.

21. Although I am not a psychologist, my familiarity with CSAIO victims' experiences causes me to think of this as a 'Continuous Traumatic Stress Disorder,' as distinct from a 'Post-Traumatic Stress Disorder.' Imagine if rather than treating former soldiers to cope with their memories of war, therapists had to treat their patients to function in a perpetual war zone. This is what today's therapists who have the courage and ingenuity to try to treat CSAIO victims have to prepare their clients to cope with: living in a perpetual state of potential retraumatization. The costs of doing so are tremendous, but the costs of not doing so are even greater.

22. Since there has been a significant increase in cross-border trafficking of CSAIO and livestreamed child sex abuse in the 21st century, this means that nations must develop systems both to transfer the appropriate resources to and from perpetrators and their victims in ways that are both effective and efficient. No one has accomplished this thus far and the U.K. can establish itself a leader in doing so.

The UK's International Obligations

23. The increasingly global nature of child sex abuse and the transformative impact of the Internet has made child sex abuse an increasingly cross-border crime that necessitates both visionary legislators and cooperation between law enforcement and authorities in all of the countries involved. The victims' home country, the perpetrator's home country, and the country hosting the abusive material all have duties and obligations to children who find themselves in situations of extreme vulnerability due to this type of abuse.

24. The U.K. has a number of international legal obligations to ensure that victims of child sex abuse, CSAIO, and livestreamed child sex abuse have access to cross-border remedies. These obligations are derived from treaties such as the United Nations Convention on the Rights of the Child (see, e.g., Article 39) and
the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography, which provides 'States Parties shall ensure that all child victims of the offences described in the present Protocol have access to adequate procedures to seek, without discrimination, compensation from those legally responsible.' Article 9(4).

25. The U.K.'s obligation to ensure equal access to adequate procedures to seek compensation is in addition to the U.K.'s obligations under Article 9(3) of the Optional Protocol to 'take all feasible measures with the aim of ensuring appropriate assistance to victims of such offences, including their full social reintegration and their full physical and psychological recovery.' However, in the U.K.'s 2012 country report documenting its compliance with the Optional Protocol, which was filed with the United Nations Committee on the Rights of the Child, the U.K. and Northern Ireland simply conveyed deference to general jurisprudential systems of compensation available to all crime victims. This approach fails to take into consideration the unique trauma of child sex abuse crimes and the profound impact that such crimes have on survivors, as well as the lower rates of reporting, investigation, and prosecution of such crimes, especially when the offense involves a U.K. resident and a child in a distant country, where poverty is often prevalent. Expecting a Filipino child who has been sexually abused by a U.K. resident to rely on the same system that an adult U.K. resident has should her car be stolen by another U.K. resident demonstrates that the government is failing to address the rapidly changing nature of child sex abuse crimes in the 21st century, which increasingly includes a (1) 'hands off' stage of (2) continuous victimization, which may never end and is (3) often cross-border, as explained further above.

26. Moreover, it is critical to note that victims have rights to both seek compensation from those legally responsible and to assistance from states parties to ensure the children's full social reintegration and their full physical and psychological recovery and that these are stand-alone rights that exist independent of one another. Moreover, the Optional Protocol makes clear that the right to adequate procedures to seek damages from those legally responsible for their victimization must be 'without discrimination' (Art. 9(4)) or 'unnecessary delay'.
(Art. 8(1)(g)). In other words, the fact that a child victim of trafficking or CSAIO by a U.K. national is located in another country does not relieve the U.K. (or any other state party to the Optional Protocol) from ensuring that the child victim promptly has both (1) assistance to ensure their 'full social reintegration and their full physical and psychological recovery' (emphasis added) and (2) 'access to adequate procedures' to seek damages from those legally responsible. Of course, victims of child trafficking and CSAIO have many other rights as well, such as privacy (Art. 8(1)(e)), safety (Art. 8(1)(f)), participation (Art. 8(1)(c)), etc. However, in light of CRI's work, this statement is primarily focused on rights to redress.

27. The U.K.'s obligation to affirmatively assert jurisdiction over these crimes is made clear by Article 4 of the Optional Protocol, which mandates that states parties such as the U.K. 'take such measures as may be necessary to establish its jurisdiction over the above-mentioned offences when the alleged offender is present in its territory and it does not extradite him or her to another State Party on the ground that the offence has been committed by one of its nationals.' Art. 4(3). In other words, if an offender is in the U.K., it has an obligation to establish jurisdiction, with the only exception being that the offender has been extradited for the crime and the country to which they are being extradited is also a party to the Optional Protocol. Additionally, the Optional Protocol makes clear that the U.K. also must try to establish jurisdiction over these crimes if (1) the alleged victim is a U.K. national; (2) the alleged offender is a U.K. national; or (3) the alleged offender makes the U.K. his habitual residence. Considered together, it is clear that the U.K., as with all countries that are parties to the Optional Protocol, is obligated to do far more to prosecute offenders and protect children than is currently evident based on CRI's work in this area thus far.

28. The legal obligations that the U.K. has assumed by ratifying these treaties challenge the country to do better in crafting a legal system that is more accessible not only to U.K. residents who have been victimized, but to the children in other countries who are increasingly victimized as well, and need access to resources to ensure 'their full social reintegration and their full
physical and psychological recovery,' which they are entitled to as a matter of right.

Section 72 of the Sexual Offences Act 2003

29. I am not an expert on the law in England and Wales, but I have conducted some research when I was first approached about testifying before the Inquiry and also rely heavily on the expertise of my CRI colleagues.

30. Current research suggests that the U.K. is not sufficiently pursuing cross-border remedies for victims of child sex abuse whose offenders are U.K. citizens. To CRI’s knowledge, convictions under s72 are very unlikely. I exhibit an extract of a guidance police document from Sussex Police that deals with this and states that the ‘possibility of a criminal prosecution [under s72] in this country is extremely unlikely’ [EXHIBIT WB/5].

31. To CRI’s knowledge, only the following individuals have been convicted under section 72 since 1 May 2004:

a) Barry McCloud in 2010. This was the first time s.72 was applied in relation to an offence against a girl in Goa. Mr McCloud was jailed for life.
b) David Andrew Graham in 2013 following a sexual offence committed in Cambodia. Mr Graham was jailed for life.
c) Simon Harris in 2015. Mr Harris divided time between U.K. and Kenya. He abused two children in Kenya between 2003 and 2013. He was the director of charity VAE, which places volunteer gap-year students and postgraduates from the U.K. in schools in poor rural areas.
d) Richard Huckle. He travelled abroad and groomed children whilst doing voluntary work in Malaysia. He was involved in online discussions on the dark web. In 2016 he was convicted under s72. However, there has since been work undertaken by investigative journalists suggesting that he may also have abused children in other countries.
e) Matthew Falder. In 2018, he was jailed for 32 years. He was the target of an international intelligence operation after blackmailing children into sending images to him online.

32. There might be more individuals who have been arrested/charged/convicted under S.72, but CRI does not have that data.

33. British sex offenders who commit sexual abuse against children abroad are rarely prosecuted in British courts. The Council of Europe Lanzarote Convention reinforces the need for States to undertake these prosecutions of their own nationals. In addition to the other mandates explained above, the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography also requires parties to criminalise child prostitution whether or not the acts occur domestically or transnationally. CRI is of the opinion that s72 is a powerful tool in combatting sexual abuse of children abroad by nationals from England and Wales, particularly in cases where local laws are inadequate.

34. For example, in 2016, CRI was referred a case where a French national allegedly raped a child in Vietnam in 2012 and was not convicted for rape in Vietnam because raping a male child in that jurisdiction was not a criminal offence at the time. The alleged offender was extradited back to France where he is currently awaiting trial in Paris for the rape under French law.

35. It is CRI’s understanding that in many countries in Southeast Asia, being in possession of child sex abuse material is not criminalised [EXHIBIT WB/6]. It is the responsibility of British government to use its powers under s72 to ensure perpetrators do not abuse children with impunity. CRI is of the view that only a concerted and multidisciplinary approach will prevent and combat sexual exploitation and protect the rights of children across borders. This need for a multidisciplinary approach has been advocated for by the U.K. Home Office, through their co-founding of and significant funding of the We PROTECT Global Alliance to End Child Sexual Exploitation Online, which is based around a
Model National Response framework that calls for cross-sectoral and multi-disciplinary collaboration.4

36. CRI notes that Part 10 of the Criminal Justice Act 2003 (the 2003 Act) reformed the law relating to double jeopardy, by permitting retrials in respect of a number of very serious offences, where new and compelling evidence has come to light. Previously, the law did not permit a person who has been acquitted or convicted of an offence to be retried for that same offence. In light of the low number of convictions under s72 of the Sexual Offences Act 2003, CRI remains concerned that the 'new and compelling evidence' test and the requirement to obtain the Director of Public Prosecution's consent under s76 of the Sexual Offences Act 2003 prevent effective prosecutions from taking place. Due to lack of operational law enforcement expertise in relation to evidence collection in Southeast Asia, it is always challenging to obtain compelling evidence, especially a long time after the fact (which would seem to be a requirement to fulfill the 'new' component of 'new and compelling evidence'), which is a contributing factor to a very low conviction rate in the region [EXHIBIT WB/4].

37. Discrimination is recognised as a contributing root cause in various child protection concerns. Together with other factors, such as poverty and conflict, discrimination causes the marginalisation and exclusion of certain children in society and thus increases their vulnerability to human rights violations. Children in poverty, children belonging to minority groups, to indigenous communities, or to lower castes, children with disabilities, migrant children, street children, are especially vulnerable to abuse and exploitation because they occupy a marginal position in society. CRI's expert opinion is that children abroad at risk of being exploited by foreign nationals (including by sex offenders from England and Wales) are being discriminated against on multiple, distinct levels, including their age and nationality. CRI endorses the use of the term 'intersectional discrimination against children' for this category of individuals.

Work by DFID, INTERPOL and ACRO

38. CRI endorses the recent work by the Department for International Development (‘DFID’), INTERPOL and the Association of Chief Police Officers’ Criminal Records Office (‘ACRO’) in creating a global list of sexual predators working in foreign aid. CRI would like to see toughened criminal checks being conducted in other professions too, such as in the religious sector and the teaching sector.

39. CRI notes that the recent programme between DFID, INTERPOL and ACRO will deploy up to nine specialists and investigators to work in Africa and Asia to support national criminal bureaus in high-risk countries.

Statement of Truth

I believe the facts stated in this Witness Statement are true.

Signed DPA Dated 11 December 18