

AUSTRALIA GUIDE: Extraterritorial Jurisdiction For Sexual Exploitation of Children in Travel And Tourism



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Australian Legal Remedies for Victims of Sexual Exploitation of Children in Travel or Tourism and Sex Trafficking

Australia is taking action to hold perpetrators accountable. Australian law recognizes that human trafficking and sexual exploitation of children in travel or tourism (SECTT) are particularly heinous violations of children's human rights.¹ Australia's SECTT and human trafficking statutes have the potential to hold perpetrators accountable by asserting extraterritorial jurisdiction over Australian citizens and residents.² Australia's *Criminal Code Act 1995* (Cth) criminalizes child sex offenses outside Australia where the offender is an Australian citizen or resident and the offending takes place overseas.

Australian offenders primarily abuse child victims in Southeast Asia and the Pacific Islands. Cases have arisen in Thailand, Malaysia, Indonesia, and the Philippines.³ However, cases may go unreported and unprosecuted because of challenges, including the increased sophistication of online offenses, the vulnerability of child witnesses and their families, and the difficulty in investigating and collecting evidence in overseas jurisdictions.⁴ In Australia, the agencies involved in investigating, arresting and prosecuting perpetrators of SECTT offenses report that

Australia's SECTT and human trafficking statutes have the potential to hold perpetrators accountable by asserting extraterritorial jurisdiction over Australian citizens and residents.² Australia's *Criminal Code Act 1995* (Cth) criminalizes child sex offenses outside Australia where the offender is an Australian citizen or resident and the offending takes place overseas.

referrals and prosecutions for these offenses are increasing.⁵ The Australian Federal Police (AFP) reported an 80% increase in the number of child exploitation charges and individuals pursued by the AFP in 2019-2020,⁶ and in the same period the Commonwealth Director of Public Prosecutions (CDPP) reported an increase in referrals to them for prosecution, in addition to a greater complexity of cases and increased offending online.⁷ The most recent available statistics show that there were at least 20 successful prosecutions for child sex offenses outside Australia from 2017 to 2018,⁸ and that the AFP charged 191 people with 1,847 alleged child abuse-related offenses in 2020.⁹

Despite the low number of prosecutions to date, Australia has taken significant strides to provide legal remedies for victims of child sexual exploitation in travel or tourism. That said, these remedies lie primarily in the criminal conviction of the perpetrator rather than compensation or damages to the victim(s). Australia's first National Strategy to Prevent Child Sexual Abuse, which will include strategies relating to SECTT, is due to be released in late 2021.¹⁰

¹ See further Brungs, Marianna, *Abolishing Child Sex Tourism: Australia's Contribution*, [2002] AUJ HR Rights 17; (2002) 8(2) Australian Journal of Human Rights 101, <http://classic.austlii.edu.au/au/journals/AUJHRights/2002/17.html>.

² See further Danielle Ireland-Piper, "Extraterritoriality and the Sexual Conduct of Australians Overseas" (2010) *Bond Law Review* Vol 22 Iss 2 Art 2, <http://www.austlii.edu.au/au/journals/BondLRev/2010/7.pdf>; Danielle Ireland-Piper, *Extraterritorial Criminal Jurisdiction: Does the Long Arm of the Law Undermine the Rule of Law?*, *Extraterritorial Criminal Jurisdiction & the Rule of Law* (2012) 13(1) Melbourne Journal of International Law, https://law.unimelb.edu.au/data/assets/pdf_file/0007/1687246/Ireland-Piper.pdf.

³ Analysis provided by the Australian Federal Police and cited in ECPAT, *Global Study on Sexual Exploitation of Children in Travel and Tourism Regional Report: Pacific* (2016), p 9, available https://www.ecpat.org/wp-content/uploads/2016/10/SECTT_Region-PACIFIC.pdf. This analysis of destination countries is supported by case law listed in Appendix A. The United Nations Office on Drugs and Crime (UNODC) lists Australia as part of the East Asia and Pacific region which is characterized by significant levels of both domestic and intraregional trafficking, UNODC *Global Report on Trafficking in Persons* (2020) p 151, https://www.unodc.org/documents/data-and-analysis/tip/2021/GlobalTIP_2020_Chapter6.pdf.

⁴ Australia's Commonwealth Director of Public Prosecutions (CDPP), 'Child Exploitation', *Crimes We Prosecute*, <https://www.cdpp.gov.au/crimes-we-prosecute/child-exploitation>; Melissa Curley and Elizabeth Stanley, "Extraterritorial Jurisdiction, Criminal Law and Transnational Crime: Insights from the Application of Australia's Child Sex Tourism Offences" (2016) *Bond Law Review* Vol 28 Iss 2 Art 4, <http://classic.austlii.edu.au/au/journals/BondLawRw/2016/8.pdf>.

⁵ This is perhaps in contrast to earlier figures which found that between 1994 and 2011, more than 30 people were charged with child sex tourism offenses in Australia, with a 70% success rate. These figures were considered to be "relatively high in international comparison," See James McNicol and Andreas Schloenhardt, "Australia's Child Sex Tourism Offences," *Current Issues in Criminal Justice* (March 2012) 23(3) 369, available <http://www.austlii.edu.au/au/journals/CICrimJust/2012/5.pdf>.

⁶ Australian Federal Police (AFP), *AFP Annual Report 2019-20* (16 September 2020), p 2, available <https://www.afp.gov.au/sites/default/files/PDF/Reports/02112020-afp-annual-report-2019-20.pdf>. The AFP Annual Report also includes figures such as the AFP's partnership with the Philippine Internet Crimes Against Children Center, which arrested 53 suspects and rescued 194 child victims from February 2019 to July 2020, p 3. The AFP also partners with agencies such as the Australian Transaction Reports and Analysis Centre (AUSTRAC) and the Australian Criminal Intelligence Commission (ACIC) to identify and then arrest individuals for child sexual offenses overseas, see Cubitt T, Napier S & Brown R (2021), "Predicting prolific live streaming of sexual abuse," *Trends and issues in crime and criminal justice* No. 634 (Canberra: Australian Institute of Criminology), p 3, available <https://www.aic.gov.au/publications/tandi/tandi634>.

⁷ Commonwealth Director of Public Prosecutions (CDPP), *CDPP Annual Report 2019-20* (25 September 2020), p 31, available <https://www.cdpp.gov.au/sites/default/files/Annual%20Report%202019-20.pdf>.

⁸ Commonwealth Director of Public Prosecutions (CDPP), "Statistics by Crimes Act / Criminal Code" 1 July 2018 to 30 June 2018, available <https://www.cdpp.gov.au/statistics/additional-tables>. There were also 521 offenses relating to the use of carriage services (internet provider) for child abuse material, although it is unclear how many related to overseas offenses.

⁹ Australian Centre to Counter Child Exploitation, "ACCCE Statistics 2020", available <https://www.acce.gov.au/resources/research-and-statistics/2020statistics>. Again, it is unclear how many of these offenses relate to overseas child victims.

¹⁰ See further Australian Government, National Office for Child Safety, *National Strategy to Prevent Child Sexual Abuse*, available <https://childsafty.pmc.gov.au/what-we-do/national-strategy-prevent-child-sexual-abuse>.

1. Criminal Prosecution

WHAT IS THE CRIMINAL LAW?

Australian law provides for criminal prosecution of Australian citizens and residents for sexually abusing and exploiting children, where the abuse occurs outside of Australia. In 2010, the Australian Parliament amended the *Crimes Act 1914* (Cth)¹¹ to add Division 272 to the *Criminal Code Act 1995* (Cth).¹² Entitled “Child sex offenses outside Australia,” this amendment expanded governmental authority to prosecute offenses committed outside Australia’s borders, including where the offense was not a crime in the overseas location where it was committed. An offender need not try to re-enter Australia to be found guilty¹³ and there is no requirement for trafficking or tourism to be elements of the offense.

One of the reasons that the government introduced specific laws punishing these crimes was to deter perpetrators. In the case of *R. v. Lee*, [2000] WASCA 73; 112 A Crim R 168, for example, the court stressed that “the purpose of the provisions of the Commonwealth legislation under which the applicant was charged ... was to provide a real and enforceable deterrent to the sexual abuse of children outside Australia by Australian citizens and residents.”¹⁴ The offender in *R. v. Lee* was found to have systematically abused at least 14 young girls between the ages of 11 to 15 years during a two-month stay in Cambodia, while on probation in relation to threats to kill his wife. The offenses included sexual intercourse, acts of indecency, and

possessing and displaying child pornography. The court found that Lee demonstrated no contrition and sentenced him to imprisonment for 11 years.

Similarly, the court in *Kaye v. R.*, [2004] WASCA 227, and Australian courts since have agreed that “the penalty should reflect the need for general deterrence, reinforced by the practical difficulties of detection because the acts of child molestation occur overseas.”¹⁵ In *Kaye v. R.*, the offender was based in Perth, Western Australia, and operated a travel service to Thailand where he arranged for young boys to provide sexual services to visitors to an apartment complex in Pataya, Thailand. This was revealed when a third party responded to a Perth newspaper advertisement listing the offender as a contact, and the offender arranged for the third party’s travel until police intervened. The offender was convicted of offering to assist a person to engage in committing an act of indecency on a person under the age of 16 years outside Australia contrary to child sex tourism provisions, and sentenced to six years imprisonment.

Relevant child sex offenses in the *Criminal Code Act 1995* (Cth) include sexual activities with children overseas (including their preparation or planning), the possession of child pornography and child abuse material and the use of technology to enable offenses, further outlined below.

¹¹ *Crimes Act 1914* (Cth), available <https://www.legislation.gov.au/Details/C2021C00127>

¹² *Criminal Code Act 1995* (Cth), available <https://www.legislation.gov.au/Details/C2021C00183>.

¹³ See further Danielle Ireland-Piper, “Extraterritoriality and the Sexual Conduct of Australians Overseas” (2010) *Bond Law Review* Vol 22 Iss 2 Art 2, <http://www.austlii.edu.au/au/journals/BondLRev/2010/7.pdf>; see also *Director of Public Prosecutions v. Pendleton* (2012) WASC 22. For further details and analysis of this topic for the 2003–2013 period, see Andreas Schloenhardt & Jarrod M Jolly, *Trafficking in Persons in Australia: Myths and Realities* (LexisNexis, 2013) Chapter 4 <https://law.uq.edu.au/research/our-research/human-trafficking-working-group/human-trafficking-resources/australian-policies>.

¹⁴ *R. v. Lee* [2000] WASCA 73; 112 A Crim R 168, [2] per Kennedy J, <https://jade.io/article/141578>.

¹⁵ *Kaye v. R.* [2004] WASCA 227, [66] per McLure J, <https://jade.io/article/143433>.

WHAT ARE THE CRIMINAL PENALTIES?

- a. Division 272.8 makes it an offense to engage in sexual intercourse with a child under the age of 16 years outside Australia (or to cause the child to engage in the sexual intercourse in the presence of the defendant), with a maximum penalty of **25 years of imprisonment**.
- b. Division 272.9 makes it an offense to engage in sexual activity, other than sexual intercourse, with a child under the age of 16 years outside Australia, (or to cause the child to engage in the sexual activity in the presence of the defendant) with a maximum penalty of **20 years imprisonment**.
- c. Division 272.10 makes it an **aggravated offense** to commit any of the above offenses where the child victim:
 - i. has a mental impairment at the time of the offense, or
 - ii. is under the care, supervision, or authority of the defendant, or the defendant is in a position of trust or authority over the child, or
 - iii. is subjected to cruel, inhuman or degrading treatment in connection with the sexual activity, or
 - iv. the child dies as a result of physical harm suffered in connection with the sexual activity.The penalty for an aggravated offense is **imprisonment for life**.
- d. Division 272.11 is the offense of persistent sexual abuse on two or more separate occasions during any period, carrying a maximum penalty of **30 years of imprisonment**.
- e. Division 272.12 makes it an offense to engage in sexual intercourse with a young person aged 16 or 17 years outside Australia where the defendant is in a position of trust or authority over the young person (or to cause the young person to engage in the sexual intercourse in the presence of the defendant), carrying a penalty of **10 years of imprisonment**.
- f. Division 272.13 is the offense of engaging in sexual activity, other than sexual intercourse, with a young person aged 16 or 17 years, outside Australia where the defendant is in a position of trust or authority over the young person (or to cause the young person to engage in the sexual activity in the presence of the defendant), carrying a maximum penalty of **seven years of imprisonment**.
- g. Division 272.14 makes it an offense to procure a child under 16 (or who the defendant believes to be under 16) to engage in sexual activity outside Australia. The section does not require the sexual activity actually to take place or the child to be a real person; the person need only have the intention of procuring the child for that purpose. The maximum penalty for an offense against this section is **15 years of imprisonment**.
- h. Division 272.15 makes it an offense to groom a child under the age of 16 (or who the defendant believes to be under 16) to engage in sexual activity outside Australia, carrying a maximum penalty of **15 years of imprisonment**. Again, the offense does not require the sexual activity to be possible or the child to be real. The term “grooming” generally refers to behavior aimed at making it easier for an offender to procure a child for sexual purposes.
- i. Divisions 272.18 and 272.19 are the offenses of benefiting from or encouraging sexual offenses against children outside Australia, and apply whether or not the offense was committed, carrying a maximum penalty of **25 years imprisonment**.
- j. Division 272.20 prohibits preparation or planning of an offense relating to sexual intercourse or other sexual activity with a child, carrying a maximum penalty of between **5 to 10 years of imprisonment**.
- k. Division 273 contains offenses involving child abuse material outside Australia, including possessing, controlling, producing, distributing or obtaining that material, with maximum penalties ranging between **15 to 30 years of imprisonment**.

The above provisions are supplemented by offenses in Division 474 of the *Criminal Code Act 1995* (Cth), which prohibit using a carriage service (internet provider) to procure children, transmit indecent communication or for child pornography material, carrying maximum penalties of between **15 to 30 years of imprisonment**.

Section 233BAB of the *Customs Act 1901* (Cth) also prohibits the unlawful importation and exportation of child pornography or child abuse material, which carries a maximum penalty of imprisonment for **10 years or 2,500 penalty units (currently \$AUS275,000) or both**.¹⁶

¹⁶ *Customs Act 1901* (Cth), available <https://www.legislation.gov.au/Details/C2021C00307>; and *Foreign Passports (Law Enforcement and Security) Act 2005* (Cth), available <https://www.legislation.gov.au/Details/C2017C00405>.

Australian laws in relation to passports and foreign travel documents also allow the government to bar registered sex offenders from international travel without permission.¹⁷ Travel violations are a federal offense punishable with **five years of imprisonment**.¹⁸

If a person is convicted of a federal offense, in addition to any penalty imposed on the offender, the court may order that the offender make reparation to any person in respect of any loss suffered as a direct result of the offense.¹⁹ The order for reparation (restitution or compensation) is treated as a civil debt and is enforceable as a final judgment of the court. In Australia, reparation can encompass both restitution (the return of the exact property taken by an offender) and compensation (the provision of monetary or other recompense by the offender for any loss, damage or injury

suffered as a result of the crime).²⁰ The sorts of loss and expense a reparation order can cover may include medical and counseling expenses, loss of income and property.²¹

To date, there have been no court-ordered reparation orders made in SECTT cases (although one out-of-court confidential reparation agreement was reached between the parties in June 2021 in the as-yet unsentenced and unreported case of Geoffrey William Moyle,²² discussed further below). Reparation has been made for lost wages in human trafficking prosecutions, such as the June 2021 case of a Sydney couple found guilty by the NSW District Court of forced labor and harboring an unlawful non-citizen. The defendants were sentenced to between two to three years imprisonment and ordered to pay \$70,000 to the victim.²³

CAN A PERPETRATOR WHO HAS BEEN PROSECUTED ABROAD STILL BE PROSECUTED IN AUSTRALIA?

The Criminal Code Act 1995 (Cth) bars Australia from convicting a defendant already convicted or acquitted in a country other than Australia for the same act.²⁴ Thus, if an Australian citizen has been prosecuted overseas, the

defendant cannot stand trial for the same crime in Australia. However, an Australian citizen can be convicted in Australia for an act committed overseas, even if the overseas jurisdiction does not recognize the act to be criminal.²⁵

¹⁷ *Australian Passports Act 2005* (Cth), available <https://www.legislation.gov.au/Details/C2017C00404>.

¹⁸ Under Division 271A.1 of the *Criminal Code Act 1995* (Cth), available <https://www.legislation.gov.au/Details/C2021C00183>.

¹⁹ Section 21B of the *Crimes Act 1914* (Cth), available <https://www.legislation.gov.au/Details/C2021C00127>.

²⁰ See National Judicial College of Australia, "Reparation Orders", *Commonwealth Sentencing Database* (2021), available <https://csd.njca.com.au/principles-practice/7-ancillary-order/reparation/>.

²¹ Commonwealth Director of Public Prosecutions (CDPP), "Reparation Orders and Victims of Crime" (2021), available <https://victimsandwitnesses.cdpp.gov.au/sites/default/files/2019-02/Reparation%20orders.pdf>.

²² Natarsha Kallios, "Adelaide paedophile agrees to send Cambodian child victim 'significant amount' of cash in Australian first", ABC News (28 June 2021), available <https://www.abc.net.au/news/2021-06-28/adelaide-paedophile-compensates-cambodian-child-victim/100248944>; Meagan Dillon, "Cambodian children abused by paedophile Geoffrey Moyle could receive compensation", ABC News (27 January 2021), available <https://www.abc.net.au/news/2021-01-27/victims-of-paedophile-geoffrey-moyle-could-be-compensated/13094642>; Helen Sullivan, "Cambodian child sexual abuse victim seeks compensation in Australian legal first", *The Guardian* (23 February 2021), available <https://www.theguardian.com/law/2021/feb/23/cambodian-child-sexual-abuse-victim-seeks-compensation-in-australian-courts>.

²³ The judgment in this case remains unavailable but was widely reported by Australian media including L Chung, "Sydney couple who kept woman like 'slave' will repay \$70,000 and face jail time", *Sydney Morning Herald* (27 June 2021), available <https://www.smh.com.au/national/nsw/sydney-couple-who-kept-woman-like-slave-will-repay-70-000-and-face-jail-time-20210625-p5846q.html>; and, E Magtibay, "Sentencing for Sydney couple who admitted to slavery-like offenses", *SBS News* (28 June 2021), available https://www.sbs.com.au/language/english/audio/sentencing-for-sydney-couple-who-admitted-to-slavery-like-offenses_2.

²⁴ Divisions 272.29 and 273.3 of the *Criminal Code Act 1995* (Cth) prevent this double jeopardy.

²⁵ Such is the extraterritorial reach of the *Criminal Code Act 1995* (Cth). For commentary, see further Melissa Curley and Elizabeth Stanley, "Extraterritorial Jurisdiction, Criminal Law and Transnational Crime: Insights from the Application of Australia's Child Sex Tourism Offenses" (2016) *Bond Law Review* Vol 28 Iss 2 Art 4, <http://classic.austlii.edu.au/journals/BondLawRw/2016/8.pdf>, and Margaret Healy, *Prosecuting Child Sex Tourists at Home: Do Laws in Sweden, Australia, and the United States Safeguard the Rights of Children as Mandated by International Law*, 18 *FORDHAM INT'L L.J.* 1852, 1915 n.11 (1995).

AUSTRALIA'S EXTRATERRITORIAL APPLICATION OF SEXUAL EXPLOITATION OF CHILDREN IN TRAVEL OR TOURISM LAW

Despite Australia's expansive body of anti-human trafficking and child exploitation legislation and investigation training efforts, there have been relatively few cases or convictions to date.²⁶ However, as noted above, there appears to be a significant increase in referrals and prosecutions for these offenses.

Extraterritorial jurisdiction for prosecution in Australia is most likely when: (1) the authorities of the overseas locale decide not to prosecute offenders because the authorities are either unwilling or unable to do so, and; (2) adequate evidence and resources are available to engage in extraterritorial prosecution.²⁷

In a case prosecuted under earlier SECTT legislation in Australia, *XYZ v. Commonwealth* (2006) HCA 25; 227 CLR 532,²⁸ an Australian citizen was accused of committing sexual offenses against a child in Thailand between July and December 2001. The accused appealed his case to the High Court of Australia, arguing that the child sex tourism legislation was not a valid law of the Commonwealth because of its extraterritorial reach. A majority of the High Court found that the laws were constitutionally valid. It remains unreported whether XYZ was then successfully prosecuted in a lower court for the offenses.²⁹

In *DPP v. Pendleton* [2012] WASC 22 (20 January 2012),³⁰ the court found that the defendant was a serious danger to the community and should be detained in custody for an indefinite term for care, control and treatment due to being a dangerous sexual offender. The defendant had served a long sentence for multiple sexual offenses against young girls but had renounced his Australian citizenship to obtain a British passport which would have allowed him to travel to

South East Asia and potentially commit more sexual offenses upon release from prison. The defendant's plans were uncovered and his "entrenched" pedophilia was considered so significant that the court determined "he faces the bleak possibility of life in detention forever".³¹

In *R v Leask* [2013] WASCA 243,³² the Supreme Court of Western Australia rejected an appeal by the Commonwealth against the sentence of the defendant. The defendant had pleaded guilty to five counts of using a carriage service (internet provider) to engage in sexual activity with five girls between 13 and 15 years between April 2010 and October 2011. Three of the girls were based in the United States, while two were based in Australia. The court took into account victim impact statements written for or on behalf of the girls, that they were "humiliated, sexually corrupted and greatly traumatized"³³ and sentenced the defendant to a total of 3.5 years imprisonment to be served through an 18 month intensive supervision order and 100 hours of unpaid community work.³⁴

In *DPP v. Le Gassick* [2014] VCC 128,³⁵ the defendant pleaded guilty to 23 charges of SECTT offenses, including causing and attempting to cause underage girls in the Philippines to engage in sexual activity in his presence. He paid money to accounts in the Philippines and procured at least 54 individual children to engage in sexual activities, including live 'sex shows' via webcam or otherwise online. The defendant traveled to the Philippines on one occasion with the intention of engaging in sexual activities with minors, and had plans to travel on to Thailand.³⁶ The evidence was provided by images and videos taken by the defendant, who was sentenced to 11 years imprisonment.

²⁶ See Chief Federal Magistrate Pascoe, *The Problem of Enforcement in Extraterritorial Laws Relating to Sex Tourism* (25th LawAsia Annual Conference, 2012), available http://www.federalcircuitcourt.gov.au/wps/wcm/connect/fccweb/reports-and-publications/speeches-conference-papers/2012/speech-pascoe-sex-tourism#_ftn36, citing James McNicol and Andreas Schloenhardt, "Australia's Child Sex Tourism Offenses", *Current Issues in Criminal Justice* (March 2012) 23(3) 369, p 378 available <http://138.25.65.17/au/journals/CICrimJust/2012/5.pdf>, which found that between 1994 and 2011, more than 30 people were charged with child sex tourism offenses in Australia, with a 70% success rate. These numbers were considered "relatively high in international comparison."

²⁷ Melissa Curley, *Combating Child Sex Tourism in South-east Asia: Law Enforcement Cooperation and Civil Society Partnerships*, *Journal of Law and Society*, Vol. 41, No. 2, June 2014, ISSN: 0263-323X, p. 285.

²⁸ *XYZ v Commonwealth* [2006] HCA 25; 227 CLR 532, available <https://jade.io/article/374>.

²⁹ Murray, Sarah "Back to ABC after XYZ: Should we be Concerned About 'International Concern'?" [2007] FedLawRw 12; (2007) 35(2) Federal Law Review 315, available <http://classic.austlii.edu.au/au/journals/FedLawRw/2007/12.html>.

³⁰ *DPP (WA) v Pendleton* [2012] WASC 22 (20 January 2012), available http://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/wa/WASC/2012/22.html?context=1;query=DPP%20AND%20pendleton%20%20mask_path=.

³¹ *DPP (WA) v. Pendleton* [2012] WASC 22 (20 January 2012) [279].

³² *R. v. Leask* [2013] WASCA 243, available <https://jade.io/article/304236>.

³³ *R. v. Leask* [2013] WASCA 243 [47].

³⁴ It was noted in the case that the sentencing posed "considerable difficulty" as there were a number of "unusual and compelling subjective considerations" to be taken into account despite the very serious offending [94]-[95]. This included that the defendant was a young first offender, aged 21 years, he cooperated with police, pleaded guilty at the first opportunity and suffered from severe depression, anxiety and stress brought on by cyber-bullying [95].

³⁵ *DPP v. Le Gassick* [2014] VCC 1288 (12 August 2014), available http://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/vic/VCC/2014/1288.html?context=1;query=Le%20Gassick;mask_path=.

³⁶ *DPP v. Le Gassick* [2013] VCC 1288 (12 August 2014) [38]-[39].

In *DPP (Cth) v. Beattie* [2017] NSWCCA 301,³⁷ the defendant was given an overall sentence of 14 years of imprisonment for 21 offenses of causing children in the Philippines to engage in sexual intercourse through instructions given by the defendant while in Sydney via real-time video link. The case in the appeal court was largely concerned with the adequacy of the sentence imposed by the lower courts but is also notable for its commentary that because the appeal criminal courts “do not usually see graphics depictions of sexual offending” there is “a real risk that the true impact of the offending on victims, being children overseas (in this case in the Philippines), is underestimated.”³⁸ The offenses took place on 12 separate occasions between March and November 2012, perpetrated against approximately 17 boys aged between 10 to 14 years, none of whom gave a victim impact statement in the matter.

In *DPP v. Chen* [2020] VCC 385,³⁹ the defendant pleaded guilty to 34 overseas sexual offenses against children in the Philippines, including sexual intercourse and encouraging others to procure underage girls for sexual activities. The offenses took place between 2010 to 2017 during 25 visits to the Philippines, where the defendant sexually abused 26 female children aged between 13 and 17 years. The defendant filmed the majority of the offenses and

was also charged with possession of a large amount of child pornography. At least one victim provided a victim impact statement,⁴⁰ which was considered by the court when it sentenced the defendant to 18 and a half years imprisonment.

In *R. v. Kunsevitsky* [2020] VSC 41 (29 January 2020),⁴¹ Australia’s “worst pedophile”⁴² was sentenced to 35 years of imprisonment and reporting obligations for life for 59 sexual offenses against 44 child victims over a 16-year period from 2002 to 2017 in Australia, the Philippines, Singapore, and Indonesia. He was also convicted of the production and importation of child pornography. The defendant had been based in Singapore and was arrested upon return to Australia after a referral from German police to Australian authorities regarding online material. Once an Australian victim was identified, the police discovered child exploitation material in the defendant’s possession, which led to identifying the overseas victims.⁴³ No victim impact statements were filed by any overseas victims, but the lone Australian victim had their victim impact statement read aloud at the plea hearing by his mother.⁴⁴

See Appendix A for a summary of these and other relevant cases.

³⁷ *DPP (Cth) v. Beattie* [2017] NSWCCA 301, available <https://www.caselaw.nsw.gov.au/decision/5a275165e4b058596cbacbfd>.

³⁸ *DPP (Cth) v. Beattie* [2017] NSWCCA 301 [6].

³⁹ *DPP v. Chen* [2020] VCC 385, available <https://jade.io/article/725544>.

⁴⁰ *DPP v. Chen* [2020] VCC 385 [101]-[103], available <https://jade.io/article/725544>.

⁴¹ *R. v. Kunsevitsky* [2020] VSC 41 (29 January 2020), available http://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/vic/VSC/2020/41.html?context=1;query=kunsevitsky;mask_path=.

⁴² Judge Champion of the Victorian Supreme Court described the activities as “the worst level and type of such offending I have seen, and is shocking”, *R. v. Kunsevitsky* [2020] VSC 41 [8]; see also Australian Associated Press, “Australia’s worst paedophile is jailed for 35 years after abusing nearly 50 boys in four countries”, *Daily Mail Australia* (29 January 2020), available <https://www.dailymail.co.uk/news/article-7941173/Australias-worst-paedophile-Boris-Kunsevitsky-jailed-35-years.html>.

⁴³ *R. v. Kunsevitsky* [2020] VSC 41 [96]-[101]. See further Commonwealth Director of Public Prosecutions (CDPP), “Paedophile jailed for crimes in Australia and Southeast Asia”, CDPP (29 January 2020), available <https://www.cdpp.gov.au/news/paedophile-jailed-crimes-australia-and-southeast-asia>.

⁴⁴ *R. v. Kunsevitsky* [2020] VSC 41 [102]-[109].

CAN OPERATORS OF CHILD SEXUAL EXPLOITATION TOURS BE PROSECUTED UNDER THE LAW?

The *Criminal Code Act 1995* (Cth) specifically states that encouraging a sexual offense against children may result in 25 years of imprisonment,⁴⁵ and also prohibits conduct associated with child sexual exploitation tours such as benefiting from, preparing or planning for sexual offenses against children outside Australia.

In *R. v. David Anthony Hudson*, (Unreported, Supreme Court of NSW, 1999) the defendant was part of a ring of four men who organized a child sexual exploitation trip to Thailand.⁴⁶ Three of the four men were Australian, only one of whom was charged by Thai authorities. Both Hudson and the other Australian were charged in Australia for sexual offenses and child exploitation, rather than with having encouraged the sexual offense.⁴⁷ The defendant was sentenced to over five years of imprisonment.

In *Harry Ernst Ruppert* (unreported judgment of the County Court in Victoria, August 19, 1998), the defendant was charged with encouraging adults to have sex with children by writing a series of sexually explicit letters to adults in Ghana in which he encouraged them to engage in sexual activity with children.⁴⁸ After pleading guilty, the judge gave Ruppert a six-month suspended sentence with a \$500 good behavior bond.

In *Kaye v. R.* [2004] WASCA 227,⁴⁹ the defendant operated a travel service to Thailand which arranged for young boys to provide sexual services to visitors to Pataya, Thailand. The defendant was convicted and sentenced to six years of imprisonment.

DO THE CHILDREN HAVE TO TESTIFY IN AUSTRALIAN COURTS?

Vulnerable witness protections are provided for in the *Crimes Act 1914* (Cth) which allow children to give evidence via closed-circuit television, video-recordings and through anonymous victim impact statements.⁵⁰ Australia permits support people and adults to be with the child while giving evidence,⁵¹ certain people to be excluded from the courtroom while child evidence is given⁵² and restricts publications identifying child witnesses or complainants.⁵³ These provisions are complemented by protections specifically relating to SECTT offenses in the *Criminal Code Act 1995* (Cth), which further allows video-link testimony

from outside Australia if the attendance of the witness would cause unreasonable expense, inconvenience, psychological distress or harm to the witness, or cause the witness to become so intimidated or distressed that their reliability as a witness would be significantly reduced.⁵⁴ The witness is still subject to defense cross-examination as the defendant's right to a fair trial must be protected,⁵⁵ however, there are special provisions in the *Crimes Act 1914* (Cth) that disallow inappropriate or aggressive cross-examination of child witnesses.⁵⁶ Furthermore, all children who are victims of child sex offenses outside Australia and online child sex

⁴⁵ See *Criminal Code Act 1995* (Cth), Division 272.19.

⁴⁶ See James McNicol and Andreas Schloenhardt, "Australia's Child Sex Tourism Offenses", *Current Issues in Criminal Justice* (March 2012) 23(3) 369, available <http://138.25.65.17/au/journals/CICrimJust/2012/5.pdf>, p. 378.

⁴⁷ See James McNicol and Andreas Schloenhardt, "Australia's Child Sex Tourism Offenses", *Current Issues in Criminal Justice* (March 2012) 23(3) 369, available <http://138.25.65.17/au/journals/CICrimJust/2012/5.pdf>, p. 378.

⁴⁸ Harry Ernst Ruppert (unreported judgment of the County Court in Victoria, 19 August 1998). See also, Law Council of Australia, Submission to Senate Legal and Constitutional Affairs Committee Inquiry into Crimes Legislation Amendment (Child Sex Tourism Offenses and Related Measures) Bill 2007 (October 2007), 8, available https://www.aph.gov.au/parliamentary_business/committees/senate/legal_and_constitutional_affairs/completed_inquiries/2004-07/child/submissions/sublist.

⁴⁹ *Kaye v. R.* [2004] WASCA 227, <https://jade.io/article/143433>.

⁵⁰ *Crimes Act 1914* (Cth), Part IAD, available <https://www.legislation.gov.au/Details/C2021C00127>; see Vitit Muntarbhorn, Paradoxes And Paradigms Of Child-Sex Tourism, NATION, Jan. 8, 2000 available at 2000 WL 6313284 (asserting that courts should permit video-link testimony, which can help protect children in extraterritorial cases from further trauma); Kalen Fredette, *International Legislative Efforts to Combat Child Sex Tourism: Evaluating the Council of Europe Convention on Commercial Child Sexual Exploitation*, Boston College International and Comparative Law Review, Volume 32 | Issue 1 Article 2, Winter 11-1-2009.

⁵¹ Sections 15YJ and 15YO, *Crimes Act 1914* (Cth).

⁵² Section 15YP, *Crimes Act 1914* (Cth).

⁵³ Section 15YR, *Crimes Act 1914* (Cth).

⁵⁴ Division 279.2, *Criminal Code Act 1995* (Cth).

⁵⁵ David, Fiona "Child Sex Tourism Legislation is no 'Paper Tiger'" [2000] AUFPPatypus 30; (2000) 69 Platypus: Journal of the Australian Federal Police, Article 8, available at <http://classic.austlii.edu.au/au/journals/AUFPPatypus/2000/30.html>; Section 15YM, *Crimes Act 1914* (Cth).

⁵⁶ Section 15YE, *Crimes Act 1914* (Cth). Also, where a defendant is self-represented, the defendant is not allowed to cross-examine the child under sections 15YF-15YG, *Crimes Act 1914* (Cth). Further protections from cross-examinations appear in sections 15YH-15YHA.

exploitation offenses are referred to the Witness Assistance Program (WAP) of the Commonwealth Director of Public Prosecutions (CDPP),⁵⁷ which works closely with the child victim and their family to provide support and services.⁵⁸

Sometimes, especially when the child sexual abuse occurs within the family or in the defendant's immediate social network, the victims' testimony is not required. For example, the defendant in *The Queen v. Andrew Justin Harman* (unreported decision of His Honor Judge Ross, Melbourne County Court, 8 December 1997)⁵⁹ was successfully prosecuted for sexual offenses. The defendant committed these crimes while staying with relatives in the United States. The defendant cooperated with the Australian prosecution and pled guilty, making it unnecessary for the children to testify.

In a recent case of *Re Daniel Mark Knowles* (unreported, District Court of NSW, 18 August 2020),⁶⁰ the defendant

pleaded guilty to transmitting and requesting illicit sexual material from two girls under the age of 16 years in the UK. The girls had been his students while he was based as a teacher in the UK. The CDPP reported that as the matter involved Snapchat communications, "most of the prosecution's case primarily relied on the testimony of the two victims," who were greatly assisted through the process by the CDPP's Witness Assistance Service (WAS).⁶¹ Both victims provided victim impact statements, one read by the prosecution at sentence and the other read by the victim via audio-visual link from her home in the UK.⁶² The defendant was sentenced to three years of imprisonment.

It also appears from the case law analyzed in Appendix A, that many recent SECTT offenses involve technology and carriage services services (internet provider), meaning that digital evidence (along with any photographic and film material seized) can increasingly be relied upon in these prosecutions.

HAVE CHILDREN TESTIFIED IN CRIMINAL CASES IN AUSTRALIAN COURTS IN THE PAST?

Of the cases that have gone to trial, many of the defendants have pled guilty, meaning that child witnesses have not been required to testify. However, there are cases such as *R. v. ONA* [2009] VSCA 146,⁶³ reviewed further below, where the seven-year-old victim was brought to Australia with her mother to give evidence at the defendant's committal hearing. The court noted that the defendant's guilty plea "occurred very late in the process, after he was aware that

[they] had returned to Australia to give evidence against him,"⁶⁴ showing the impact such evidence can have.

In the second case ever to be heard under Australia's original 1994 "child sex tourism" laws, an Australian diplomat, John Holloway, was charged with having sexual intercourse with 13- and 14-year-old boys in Phnom Penh, Cambodia. The boys were brought to Australia to testify in the ACT Magistrates Court via closed-circuit television from a

⁵⁷ Commonwealth Director of Public Prosecutions (CDPP), 2021 *National Legal Direction: Witness Assistance Service Referral Guidelines* (July 2021), available <https://www.cdpp.gov.au/sites/default/files/2021%20WAS-Referral-Guidelines.pdf>.

⁵⁸ See further CDPP, "What is the role of the Witness Assistance Service", *Victims and Witnesses*, available <https://victimsandwitnesses.cdpp.gov.au/your-role-and-prosecution/people-involved-prosecution-process/what-role-witness-assistance-service>; CDPP Victims of Crime Policy (18 July 2019), available <https://www.cdpp.gov.au/publications/cdpp-victims-crime-policy>; CDPP, *National Legal Directions: Right of Review - Prosecutions involving child and certain other complainants* (March 2021), available <https://www.cdpp.gov.au/sites/default/files/national-legal-direction-right-of-review-prosecutions-involving-child-and-certain-other-complainants.pdf>.

⁵⁹ *The Queen v Andrew Justin Harman* (unreported decision of His Honour Judge Ross, Melbourne County Court, 8 December 1997), reviewed in David, Fiona "Child Sex Tourism Legislation is no 'Paper Tiger'" [2000] AUFPPlatypus 30; (2000) 69 Platypus: Journal of the Australian Federal Police, Article 8, available at <http://classic.austlii.edu.au/au/journals/AUFPPlatypus/2000/30.html>.

⁶⁰ Case reviewed by Commonwealth Director of Public Prosecutions (CDPP), "Australian teacher used position of trust to exploit UK children", *Case Reports* (2020-2021), available <https://www.cdpp.gov.au/case-reports/australian-teacher-used-position-trust-exploit-uk-children>.

⁶¹ Further CDPP, "What is the role of the Witness Assistance Service", *Victims and Witnesses*, available <https://victimsandwitnesses.cdpp.gov.au/your-role-and-prosecution/people-involved-prosecution-process/what-role-witness-assistance-service>; CDPP Victims of Crime Policy (18 July 2019), available <https://www.cdpp.gov.au/publications/cdpp-victims-crime-policy>; CDPP, *National Legal Directions: Right of Review - Prosecutions involving child and certain other complainants* (March 2021), available <https://www.cdpp.gov.au/sites/default/files/national-legal-direction-right-of-review-prosecutions-involving-child-and-certain-other-complainants.pdf>.

⁶² Commonwealth Director of Public Prosecutions (CDPP), "Australian teacher used position of trust to exploit UK children", *Case Reports* (2020-2021), available <https://www.cdpp.gov.au/case-reports/australian-teacher-used-position-trust-exploit-uk-children>.

⁶³ *R. v. ONA* [2009] VSCA 146, available <https://jade.io/article/95251>.

⁶⁴ *R. v. ONA* [2009] VSCA 146 [141], available <https://jade.io/article/95251>.

separate court room and had their names suppressed by media.⁶⁵ Media reports state that the boys were questioned about their motives, reliability and previous sexual experiences,⁶⁶ with the case eventually dismissed by the Chief Magistrate for lack of evidence.⁶⁷

There have been some successful prosecutions where evidence was solely collected in Australia, without the need to refer to overseas or child witnesses. In *The Queen v. Jesse Spencer Pearce* ([1997] QCA 303,⁶⁸ the defendant was successfully prosecuted for two sex tourism crimes for illicit acts with children in Thailand, without the Thai children testifying against the defendant.⁶⁹

As outlined above in regard to children's testimony in Australian courts, sexual abuse of children in tourism offenses trigger a specific regime of witness protections, including video link evidence, provided for in Division 279 of the *Criminal Code Act 1995* (Cth).⁷⁰

Sometimes a victim impact statement is read at trial, with the privacy of the victim remaining intact. However, defendants have used such statements in the past to claim their actions caused minimal harm. For example, in *Elliott Merrill v. The Queen* [2018] VSCA 62,⁷¹ the 61 year-old Australian defendant admitted to having a sexual relationship with a 14-year-old girl in Vietnam along with possessing child pornography. After pleading guilty, the defendant submitted a victim impact statement from the victim where she stated that the offending had not had any emotional, psychological or physical impact on her, that she was suicidal prior to meeting the defendant and that "she took responsibility for what had occurred." Despite this information, the defendant was sentenced to five years and three months imprisonment as the court found that a child's consent or purported consent can never be a mitigating factor.⁷²

HOW CAN CASES BE REPORTED TO AUSTRALIAN AUTHORITIES?

If you are a victim of child sex offenses or sexual exploitation or know someone who is, you can contact:

The Australian Federal Police (AFP) (<https://www.afp.gov.au/>) at 1800 333 000 or report traveling Australian child sex offenders via the online form available at https://forms.afp.gov.au/online_forms/cst_form.

The Australian Centre to Counter Child Exploitation (<http://www.accce.gov.au/>) where you can report the allegations at <http://www.accce.gov.au/report>.

The Australian Border Force (ABF) (<https://www.abf.gov.au/>), at 1800 009 623 or you can make a report at <https://www.homeaffairs.gov.au/about-us/what-we-do/borderwatch/reporting>.

Local police authorities in your state /territory in Australia (see <https://info.australia.gov.au/information-and-services/public-safety-and-law/police-and-crime-prevention/police-services-states>) or in your home country if outside Australia.

The Australian chapter of ECPAT (<https://www.ecpat.org/>), where you can report at <https://www.ecpat.org/what-we-do/report-child-exploitation/>.

⁶⁵ Lindsay Murdoch, "Khmer boys testify against Holloway", *The Phnom Penh Post* (15 November 1996), available at <https://www.phnompenhpost.com/national/khmer-boys-testify-against-holloway>.

⁶⁶ Lindsay Murdoch, "Khmer boys testify against Holloway", *The Phnom Penh Post* (15 November 1996), available at <https://www.phnompenhpost.com/national/khmer-boys-testify-against-holloway>.

⁶⁷ Julian Linden, "Aust. Ambassador cleared of sex charges", *UPI Archives* (13 November 1996), available <https://www.upi.com/Archives/1996/11/13/Aust-ambassador-cleared-of-sex-charges/8325847861200/>; Alan Thornhill, "Judge Dismisses Child Sex Charges Against Diplomat", *AP News* (13 November 1996), available <https://apnews.com/article/6bd257073abcc3339a78c3ff1f212a2a>.

⁶⁸ *The Queen v Jesse Spencer Pearce* (1997) QCA 303, available <https://jade.io/article/206648?at.hl=%255B1997%255D+QCA+303>.

⁶⁹ This may have been due in no small part to the defendant admitting his guilt and providing information to police during interviews, which led police to interview Australian child victims and pursue investigations from there, *The Queen v Jesse Spencer Pearce* [1997] QCA 303 per White J, available <https://jade.io/article/206648?at.hl=%255B1997%255D+QCA+303>.

⁷⁰ *Criminal Code Act 1995* (Cth), available <https://www.legislation.gov.au/Details/C2021C00183>.

⁷¹ *Elliott Merrill* (A Pseudonym) v *The Queen* [2018] VSCA 62, available <https://jade.io/article/574964>.

⁷² *Elliott Merrill* (A Pseudonym) v. *The Queen* [2018] VSCA 62 [22], available <https://jade.io/article/574964>.

Other resources for criminal investigation and prosecution of sexual exploitation of children in travel or tourism include:

<https://www.dfat.gov.au/international-relations/themes/people-smuggling-trafficking/Pages/people-smuggling-and-trafficking>

<https://www.afp.gov.au/what-we-do/crime-types/child-protection/travelling-child-sex-offenders>

<https://www.homeaffairs.gov.au/about-us/our-portfolios/criminal-justice/crime-prevention/child-sexual-abuse>

<https://www.cdpp.gov.au/crimes-we-prosecute/child-exploitation>

WHAT ARE THE CIVIL DAMAGES AVAILABLE TO VICTIMS?

Unlike jurisdictions such as the U.S., the current law in Australia does not provide civil remedies to child victims of sexual offenses perpetrated outside Australia by Australian citizens or residents. Civil damages based on tortious actions such as trespass to person, false imprisonment, psychiatric injury, or deceit remain unavailable to child victims where the relevant conduct occurred outside Australia.⁷³

Although reparation orders that provide restitution or compensation to victims are available upon criminal conviction of the defendant (discussed above), there have been no court-ordered awards made in relation to child sex offenses outside Australia to date. The case of Geoffrey William Moyle, which is before the South Australian District Court at the time of this writing, is the first Australian case to have considered the issue of compensation for overseas

child victims. Moyle pleaded guilty to 11 offenses, including the sexual abuse of Cambodian children between 2002 and 2005. At a sentencing hearing in January 2021, the court put a freeze order on Moyle's assets at the request of the prosecution while the court considered whether it could make any kind of compensation order. A confidential reparation agreement was settled between the parties outside of court in June 2021 with no further details released or available. As of September 2021, the sentence was yet to be handed down.⁷⁴

Statutory compensation for victims of crime is available in each State and Territory of Australia, however, there are also issues for child victims of SECTT offenses trying to access this compensation, discussed below.

ARE THERE OTHER FORMS OF COMPENSATION FOR CHILDREN VICTIMIZED BY AUSTRALIAN PERPETRATORS?

There is currently no national compensation scheme in Australia applicable to child victims of sexual offenses that have occurred outside Australia. While victims of crime within Australia may be able to access compensation through the separate State or Territory victims of crime schemes, the act of violence must have occurred within that Australian State or Territory for the victim to be eligible to receive

any financial assistance.⁷⁵ A further hurdle for child victims outside Australia, is that the offense for which they are trying to access compensation must be an offense under the State or Territory law, whereas the relevant SECTT offenses within Australia are contained within Commonwealth law (the *Criminal Code Act 1995* (Cth), discussed above).

⁷³ For analysis and discussion of the potential avenues for trafficking and slavery victims to seek tortious damages where the victim was within Australia at the time of the alleged conduct, see Pam Stewart, "Tortious Remedies for Deliberate Wrongdoing to Victims of Human Trafficking and Slavery in Australia" (2011) 34(3) *University of New South Wales Law Journal* 898, available <https://ssrn.com/abstract=2463943>.

⁷⁴ Natarsha Kallios, "Adelaide paedophile agrees to send Cambodian child victim 'significant amount' of cash in Australian first", *ABC News* (28 June 2021), available <https://www.abc.net.au/news/2021-06-28/adelaide-paedophile-compensates-cambodian-child-victim/100248944>; Meagan Dillon, "Cambodian children abused by paedophile Geoffrey Moyle could receive compensation", *ABC News* (27 January 2021), available <https://www.abc.net.au/news/2021-01-27/victims-of-paedophile-geoffrey-moyle-could-be-compensated/13094642>; Helen Sullivan, "Cambodian child sexual abuse victim seeks compensation in Australian legal first", *The Guardian* (23 February 2021), available <https://www.theguardian.com/law/2021/feb/23/cambodian-child-sexual-abuse-victim-seeks-compensation-in-australian-courts>.

⁷⁵ See, for example, the *Victims Rights and Support Act 2013* (NSW), which establishes the relevant scheme in the Australian state of New South Wales, available <https://legislation.nsw.gov.au/view/whole/html/inforce/current/act-2013-037>, and the *Victims of Crime Assistance Act 1996* (Vic), which establishes a similar scheme in the Australian State of Victoria, available <https://www.legislation.vic.gov.au/in-force/acts/victims-crime-assistance-act-1996/066>.

While the Australian Government has received recommendations for establishing a national compensation scheme for victims of modern slavery and trafficking in Australia,⁷⁶ it is unclear whether such a scheme envisages compensation for victims of child sex offenses outside Australia. These SECTT offenses are contained under Divisions 272 and 273 of the *Criminal Code Act 1995* (Cth) and fall outside the scope of Australia's modern slavery criminal offenses under Divisions 270 and 271 of the *Criminal Code Act 1995* (Cth).

A National Redress Scheme operates in Australia to provide compensation to people who have experienced *institutionalized* child sexual abuse prior to July 1, 2018,⁷⁷

however, child victims of SECTT offenses would rarely, if ever, meet the eligibility criteria. For example, a victim may apply only where the abuse happened before July 1, 2018, where an institution was responsible for bringing them into contact with the abuser, and the applicant was born before June 30, 2010. An applicant must also be an Australian citizen or permanent resident at the time of the application.

ECPAT's research has shown that few sexually exploited children engage with criminal justice proceedings or obtain compensation or monetary relief.⁷⁸ The organization has specifically criticized Australia's restricted compensation schemes and awards.⁷⁹

WHAT IS THE MOST COMMON DEFENSE RAISED BY DEFENDANTS?

While there appear to have been no civil cases filed, common defenses raised by defendants can be gleaned from the criminal cases. Defendants primarily attack the credibility of the victims, since the accusations mainly rest on witness testimony with little corroborative evidence available (given the nature of the offense and the extraterritorial aspect). Victims may be impeached with prior inconsistent statements, whether caused by trauma, fear, memory loss or concern for safety.⁸⁰

In *Cargnello v. DPP*(Cth) [2012] NSWCCA 162,⁸¹ the court rejected the defendant's theory that he was not liable of committing a sex tourism crime because the victim either could not be identified or was not an Australian citizen. The defendant had been arrested returning from Canada at Sydney Airport and convicted of seven counts of importing child pornography, four counts of encouraging sexual intercourse with a child under the age of 16 years and one count of accessing child sex abuse materials.

The prosecution did not establish the identities of the victims but investigations revealed likely locations of Bangkok, Phnom Penh and Costa Rica, with the court determining that the relevant location was Thailand.⁸² The defendant was sentenced to four years of imprisonment.

Some defendants continue to appeal even after they have been sentenced. In *R. v. Van der Zyden* [2012] QCA 89,⁸³ the appellant was a former Australian Navy officer stationed in Kiribati and convicted of seven counts of engaging in sexual intercourse and eight counts of indecency, with boys aged between 11 and 13 years. The defendant was found guilty at a jury trial but appealed his conviction on grounds including issues with the victims' "motives" and statements made to authorities.⁸⁴ The complainants had been cross-examined at trial. Defense counsel argued that the complainants had falsely accused the defendant because of pressure put on them by the Australian Federal Police. The court rejected the defendant's appeal, and the Commonwealth

⁷⁶ Commonwealth of Australia, Joint Standing Committee on Foreign Affairs, Defence and Trade, *Hidden in Plain Sight: An inquiry into establishing a Modern Slavery Act in Australia* (December 2017), specifically Chapter 6 and Recommendation 23, available https://www.aph.gov.au/Parliamentary_Business/Committees/Joint/Foreign_Affairs_Defence_and_Trade/ModernSlavery/Final_report.

⁷⁷ See further Australian Government, National Redress Scheme, *Who can apply?*, available <https://www.nationalredress.gov.au/applying/who-can-apply>.

⁷⁸ ECPAT, *Casting Light on the Care, Recovery and (Re)integration Needs of Commercially Sexually Exploited Children* (2017), available <https://www.ecpat.org/wp-content/uploads/2017/05/Casting-Light-on-the-care-recovery-and-reintegrations-needs-of-commercially-sexually-exploited-children-1.pdf>.

⁷⁹ ECPAT, *Summary paper on Sexual Exploitation of Children in Travel and Tourism* (2020), available <https://www.ecpat.org/wp-content/uploads/2020/12/ECPAT-Summary-paper-on-Sexual-Exploitation-of-Children-in-Travel-and-Tourism-2020.pdf>.

⁸⁰ Stewart, *supra*, note at 26, p. 935.

⁸¹ *Cargnello v. Director of Public Prosecutions* (Cth) [2012] NSWCCA 162, available http://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/nsw/NSWCCA/2012/162.html?context=1;query=cargnello;mask_path=au/cases/nsw/NSWCCA.

⁸² *Cargnello v. Director of Public Prosecutions* (Cth) [2012] NSWCCA 162 [19].

⁸³ *R. v. Van Der Zyden* [2012] QCA 89 (13 April 2012), available <http://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/qld/QCA/2012/89.html>.

⁸⁴ *R. v. Van Der Zyden* [2012] QCA 89 (13 April 2012) [19]-[22].

⁸⁵ *R. v. ONA* [2009] VSCA 146, available <https://jade.io/article/95251>.

appealed to increase his sentence. The court confirmed the conviction and sentence of a total three and a half years of imprisonment.

In *R. v. ONA* [2009] VSCA 146,⁸⁵ the defendant appealed his sentence for being manifestly excessive. He had pleaded guilty to 1) committing an act of indecency on the five- to seven-year-old daughter of a mother he was in a relationship with in Liberia; and 2) engaging in sexual intercourse with the same child in Thailand. One of the defendant's arguments to reduce his sentence was that he "opportunistically" took part in sexual activity with a child rather than premeditatively traveled overseas with the intention of engaging in sexual activity. The court rejected the reasoning, refused the appeal and affirmed his sentence of six years of imprisonment.

In *R. v. Wicks* [2005] NSWCCA 409,⁸⁶ it was proven that the defendant knew his sexual activity with young boys between the ages of 12 and 15 years in known "boy bars" in Thailand was illegal. But he justified his sexual activity with the victims as a financial transaction, describing it to a psychologist as "they sold it, I bought it."⁸⁷ The defendant was detected after accessing and downloading child pornography and visiting a known internet site connected with promoting child sexual

abuse in tourism. He pleaded guilty, with the court noting the crimes were premeditated and that the paramount sentencing consideration in the matter was deterrence.⁸⁸ His sentence was increased from five years of imprisonment to seven years of imprisonment upon appeal by the Commonwealth.

Similarly, in *Rivo v. The Queen* [2012] VSCA 117,⁸⁹ the defendant "sought to blame the Philippine adults who were involved in the criminal activity"⁹⁰ and attempted to appeal his sentence of seven years of imprisonment. He had been convicted of procuring child pornography and procuring children to engage in sexual activity through live sex shows in the Philippines.

Finally, if the age of the victim is at issue, a defendant may try to rely on the defense that he believed the victim to be over the age of 16, or prove that there was a valid and genuine marriage between them.⁹¹ The reasonableness of the belief in relation to the age of the victim is only one factor in the totality of the circumstances as to whether the defendant is guilty.⁹²

Conclusion

Australian nationals and residents have traveled abroad to locations such as Thailand, Cambodia, Indonesia, and the Philippines to sexually abuse children. Australia has applicable criminal statutes and regulations in place to combat this extraterritorial sexual exploitation of children. Australia, unlike the United States, does not have an accessible mechanism for victimized children to bring civil cases for financial compensation. The lack of compensation available to child

victims of these crimes—in both the criminal and civil contexts—is regrettable and should be remedied.

It is hoped that this guide will lead to additional successful prosecutions. But it is also hoped that advocates will press for increased attention to compensation and restitution for these child victims of sexual abuse.

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⁸⁶ *R. v. Wicks* [2005] NSWCCA 409 (25 November 2005), available <http://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/nsw/NSWCCA/2005/409.html>.

⁸⁷ *R. v. Wicks* [2005] NSWCCA 409 [14].

⁸⁸ *R. v. Wicks* [2005] NSWCCA 409 [28].

⁸⁹ *Rivo v. The Queen* [2012] VSCA 117, available http://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/vic/VSCA/2012/117.html?context=1;query=rivo;mask_path=#fnB7.

⁹⁰ *Rivo v. The Queen* [2012] VSCA 117 [41], available http://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/vic/VSCA/2012/117.html?context=1;query=rivo;mask_path=#fnB7.

⁹¹ Divisions 272.16 and 272.17, *Criminal Code Act 1995* (Cth), available <https://www.legislation.gov.au/Details/C2021C00183>.

⁹² See James McNicol and Andreas Schloenhardt, "Australia's Child Sex Tourism Offenses", *Current Issues in Criminal Justice* (March 2012) 23(3) 369, available <http://138.25.65.17/au/journals/CICrimJust/2012/5.pdf>, p 377.

Appendix A:

AUSTRALIA - CRIMINAL SEXUAL EXPLOITATION OF CHILDREN IN TRAVEL OR TOURISM CASES

#	CASE CITATION	FACTS	COUNTRY OF ABUSE	STATUS (AS OF AUGUST 2021)
1.	<i>R. v. ONA</i> , (2009) 24 VR 197	Defendant abused victims aged between five and seven years-old in Liberia, and then Thailand, capturing both offenses on video. Victim and mother both brought to Australia to give evidence at committal. Defendant pleaded guilty.	Thailand, Liberia	Sentenced to six years of imprisonment.
2.	<i>R. v. Wicks</i> [2005] NSWCCA 409	Defendant charged with four counts of sexual intercourse, 1 count of inducing an act of indecency and one count of inducing sexual intercourse with another person, committed against four male child victims between 12 and 15 years old while on holiday in Thailand. Defendant pleaded guilty. Sentence increased on appeal.	Thailand	Sentenced to seven years of imprisonment.
3.	<i>Kaye v. R.</i> [2004] WASCA 227	Defendant was convicted of assisting a person to engage in committing an act of indecency on male child victims overseas through the operation of a travel service in Thailand.	Thailand	Sentenced to six years of imprisonment.
4.	<i>R. v. David Anthony Hudson</i> (Unreported, Supreme Court of NSW, 1999) ⁹³	Defendant was part of a ring of four men organizing child sex tours in Thailand, uncovered by the AFP's "Operation Hercules." Defendants charged with acts of indecency and offense relating to child exploitation materials.	Thailand	Sentenced to five years, seven months of imprisonment. Unnamed Australian male sentenced to eight years of imprisonment.
5.	<i>Cargnello v. Director of Public Prosecutions</i> [2012] NSWCCA 162	Defendant was charged with seven counts of importing child pornography, four counts of encouraging sexual intercourse with a child under 16 years old outside of Australia and 1 count of accessing child sexual abuse materials with the internet. The prosecutor did not establish the identity of the victims so they did not testify at trial.	Thailand	Sentenced to four years of imprisonment.
6.	<i>XYZ v. The Commonwealth</i> (2006) 227 CLR 532	Defendant was prosecuted for sexual offenses against a minor committed in Thailand in violation of SECCT offenses in 2001. The defendant unsuccessfully challenged Australia's extraterritorial jurisdiction in his situation, setting the stage for Australia's view on extraterritorial jurisdiction.	Thailand	Unreported
7.	<i>The Queen v. Jesse Spencer Pearce</i> [1997] QCA 303	Police search revealed photographs of defendant engaging in indecent act with Asian female aged between 11 and 14 years, and sexually explicit photographs of Asian boys, all taken in Thailand.	Thailand	Sentenced to eight years of imprisonment.

⁹³ Case reviewed in see James McNicol and Andreas Schloenhardt, "Australia's Child Sex Tourism Offenses", *Current Issues in Criminal Justice* (March 2012) 23(3) 369, available <http://138.25.65.17/au/journals/CICrimJust/2012/5.pdf>, p 378.

#	CASE CITATION	FACTS	COUNTRY OF ABUSE	STATUS (AS OF AUGUST 2021)
8.	<i>R. v. Tokputza</i> , unreported, District Court of South Australia, 17 May 2019 ⁹⁴	Defendant pleaded guilty to 50 charges of abusing at least 13 children in Thailand and Australia between 2011 and 2018. Interpol alerted South Australia's Joint Anti Child Exploitation Team (JACET) who worked with the Australian Federal Police and CDPP to convict the defendant. Digital evidence of the crimes was relied on by the court.	Thailand, Australia	Sentenced to 40 years and three months of imprisonment.
9.	<i>John S. Holloway v. Commonwealth</i> ⁹⁵	Defendant was an Australian diplomat charged with sexually abusing young boys in Cambodia. The prosecution located the Cambodian children and brought them to Australia as in-person trial witnesses. The children were cross-examined about their sexual reputation and prior sexual experiences.	Cambodia	Dismissed on the basis of lack of evidence.
10.	<i>R. v. Lee</i> (2000) 112 A Crim R 168	Defendant was charged with sexual intercourse, acts of indecency and possessing and displaying child pornography involving at least 14 young girls between the ages of 11 and 15 years. The children could not be located, but the photographs played a major role in securing a conviction.	Cambodia	Sentenced to 11 years of imprisonment.
11.	<i>DPP v. Hickey</i> [2013] VCC 1319	Defendant pleaded guilty to paying people in the Philippines to procure children who would then be sexually abused, while he watched live on a WebCam..	Philippines	Sentenced to 7.5 years of imprisonment and reporting obligations for life.
12.	<i>DPP (Cth) v. Beattie</i> [2017] NSWCCA 301	Defendant was convicted of 21 offenses of causing approximately 17 boys aged between 10 and 14 years to engage in sexual intercourse through instructions given by the defendant in Sydney via a real-time video link. Defendant came to the attention of authorities after accessing a child abuse website. None of the victims gave a victim impact statement nor testified.	Philippines	Sentenced to 14 years of imprisonment.
13.	<i>Rivo v. The Queen</i> [2013] VSCA 117 (29 May 2012)	Defendant procured live sex shows involving children as young as six or eight years in the Philippines. Evidence was gathered through money transfers and adopting the defendant's online identity to further investigate.	Philippines	Sentenced to seven years of imprisonment.

⁹⁴ While unreported, the case was detailed in Commonwealth Director of Public Prosecutions (CDPP), *CDPP Annual Report 2018-2019* (21 October 2019), p 34, available https://www.cdpp.gov.au/sites/default/files/19292%20CDPPAnnual%20Report%202018-19_web.pdf.

⁹⁵ Coverage of the boy's testimony at hearing in the Canberra Magistrates Court before Magistrate Michael Somes, and the dismissal of the case, can be found in media reports of the time including Lindsay Murdoch, "Khmer boys testify against Holloway" *The Phnom Penh Post* (15 November 1996), available <https://www.phnompenhpost.com/national/khmer-boys-testify-against-holloway>; Matthew Grainger, "Holloway faces pedophile charges in Aust", *The Phnom Penh Post*, (19 April 1996), available <https://www.phnompenhpost.com/national/holloway-faces-pedophile-charges-aust>; Julian Linden, "Aust. Ambassador cleared of sex charges", *UPI Archives* (13 November 1996), available <https://www.upi.com/Archives/1996/11/13/Aust-ambassador-cleared-of-sex-charges/8325847861200/>; Alan Thornhill, "Judge Dismisses Child Sex Charges Against Diplomat", *AP News* (13 November 1996), available <https://apnews.com/article/6bd257073abcc3339a78c3ff1f212a2a>.

#	CASE CITATION	FACTS	COUNTRY OF ABUSE	STATUS (AS OF AUGUST 2021)
14.	<i>R. v. Anthony Richard Carr</i> , unreported, District Court of NSW, Saunders J, 26 April 1996 ⁹⁶	A police search revealed that Carr had a home video taken in the Philippines, depicting a young girl around five years old posing naked. Carr admitted to paying her uncle \$50 to film the child. Carr was the first person charged under Australia's original SECTT offenses under the (now superseded) <i>Crimes Act 1914</i> (Cth).	Philippines	Sentenced to seven years of imprisonment.
15.	<i>R. v. Goggins</i> [2014] VCC 1086	Defendant pleaded guilty to child pornography offenses, persistent sexual abuse of children overseas and engaging in sexual activity. He had sent money to the girls and instructed them to perform sexual acts live online. Evidence was submitted in the form of web camera videos and chat log text relating to each victim.	Philippines	Sentenced to 11.5 years of imprisonment and reporting obligations for life.
16.	<i>DPP v. Le Gassick</i> [2014] VCC 1288	Defendant pleaded guilty to 23 charges of sexual offenses, including engaging in sexual activity online with underage girls in the Philippines and flying to the Philippines with intent to engage in sexual activity with plans to travel on to Thailand.	Philippines, Thailand	Sentenced to 11 years of imprisonment.
17.	<i>DPP v. Chih Chen</i> [2020] VCC 385	Defendant pleaded guilty and was convicted of 34 sexual offenses against girls aged between 13 and 17 years in the Philippines over a seven year period. Most offenses were captured by the defendant on film and camera. At least one victim provided a victim impact statement.	Philippines	Sentenced to 18.5 years of imprisonment
18.	<i>R. v. Kunsevitsky</i> [2020] VSC 41 (29 January 2020)	Defendant pleaded guilty to 59 child sex offenses against 44 child victims over a 16-year period, while based in Singapore. German authorities initially alerted the Australian Federal Police. Offenses captured on film and no trial so no victims testified in court, one victim impact statement tendered.	Philippines, Singapore and Indonesia	35 years of imprisonment and reporting obligations for life.
19.	<i>R. v. Van Der Zyden</i> [2012] QCA 89	Defendant was charged with 15 counts of sexual indecency with four young boys while stationed at an Australian naval office in Kiribati. Some of the victims had been brought to Australia to give evidence to the Australian Federal Police and later testified at trial.	Kiribati	Sentenced to 3.5 years of imprisonment.

⁹⁶ While unreported, this first prosecution under Australia's original SECTT laws was reviewed in David, Fiona "Child Sex Tourism Legislation is no 'Paper Tiger'" [2000] AUFPPlatypus 30; (2000) 69 Platypus: *Journal of the Australian Federal Police*, Article 8, available at <http://classic.austlii.edu.au/au/journals/AUFPPlatypus/2000/30.html>.

#	CASE CITATION	FACTS	COUNTRY OF ABUSE	STATUS (AS OF AUGUST 2021)
20.	<i>Assheton v. R.</i> (2002) 132 A Crim R 237	Defendant possessed video footage of himself engaged in sexual acts with two boys aged nine and 11 in Bali. The boys were Australian victims who had traveled to Bali with their family and the defendant. Defendant pleaded guilty.	Indonesia	Sentenced to seven years of imprisonment.
21.	<i>Elliott Merrill (a pseudonym) v. The Queen</i> [2018] VSCA 62	Defendant charged with sexually abusing a minor female victim overseas and of producing child abuse material. The court dismissed a victim impact statement from the victim stating she had not been harmed and took responsibility, finding a child's consent can never be a mitigating factor.	Vietnam	Sentenced to five years, three months of imprisonment.
22.	<i>The Queen v. Andrew Justin Harman</i> , unreported, Melbourne County Court, 8 December 1997 ⁹⁷	Defendant prosecuted for sexual offenses committed in the United States against his niece and nephew while staying with the family in the USA.	USA	Sentenced to two years, six months of imprisonment.
23.	<i>R. v. Leask</i> [2013] WASCA 243	Defendant pleaded guilty to using a carriage service (internet provider) to engage in sexual activity with girls between 13 and 15 years (three girls in the USA, two girls in Australia). The court took into account victim impact statements written by or on behalf of the victims.	USA	Sentenced to 3.5 years of imprisonment, to be served as an 18-month intensive supervision order and 100 hours of unpaid community work.
24.	<i>The Queen v. Chesna-Zervos</i> [2018] VCC 2058 (20 November 2018)	Defendant pleaded guilty to various charges including grooming, encouraging another to engage in sexual activity, accessing and transmitting child pornography relating to infants and young children in the USA. No victim impact statements relied upon but court inferred significant harm and damage from the abuse and exploitation.	USA	Sentenced to nine years of imprisonment and reporting obligations for life.
25.	<i>Harry Ernst Ruppert</i> (unreported judgment, County Court in Victoria, 19 August 1998) ⁹⁸	Charged over a series of sexually explicit letters the defendant wrote to adults in Ghana, encouraging them to train female children between the ages of four and 10 years to engage in sex with adults.	Ghana	Sentenced to six months of imprisonment, with a \$500 good behavior bond.

⁹⁷ While unreported, this case was reviewed in David, Fiona "Child Sex Tourism Legislation is no 'Paper Tiger'" [2000] AUFPPlatypus 30; (2000) 69 Platypus: *Journal of the Australian Federal Police*, Article 8, available at <http://classic.austlii.edu.au/au/journals/AUFPPlatypus/2000/30.html>.

⁹⁸ Harry Ernst Rupert (unreported judgment of the County Court in Victoria, 19 August 1998). See also, Law Council of Australia, Submission to Senate Legal and Constitutional Affairs Committee Inquiry into Crimes Legislation Amendment (Child Sex Tourism Offenses and Related Measures) Bill 2007 (October 2007), 8, available https://www.aph.gov.au/parliamentary_business/committees/senate/legal_and_constitutional_affairs/completed_inquiries/2004-07/child/submissions/sublist.

#	CASE CITATION	FACTS	COUNTRY OF ABUSE	STATUS (AS OF AUGUST 2021)
26.	<i>In re Bruce Clyde Steel</i> (unreported, December 1998) ⁹⁹	Defendant pleaded guilty to 15 counts of child abuse from 1976 to 1997 in New South Wales and India.	India	Sentenced to six years, six months of imprisonment.
27.	<i>DPP v. Pendleton</i> [2012] WASC 22 (20 January 2012)	Defendant was a convicted pedophile who renounced his Australian citizenship to revert to British citizenship while serving his prison sentence. This would have allowed him to execute his documented plans to travel to South East Asia upon release from prison to continue his sex offending. He was found to be a dangerous sex offender and detained in custody indefinitely.	South East Asia	Detained in custody indefinitely.
28.	<i>Re Daniel Mark Knowles</i> (unreported, District Court of NSW, 18 August 2020) ¹⁰⁰	Defendant pleaded guilty of transmitting and requesting unlawful and illicit child sex material from two girls under 16 years in the UK, both of whom were his previous students while working as a teacher in the UK. As the matter involved Snapchat, " <i>much of the prosecution's case primarily relied on the testimony of the two victims.</i> "	UK	Sentenced to imprisonment for three years.

⁹⁹ While unreported, this case was reviewed in David, Fiona "Child Sex Tourism Legislation is no 'Paper Tiger'" [2000] AUFPP Platypus 30; (2000) 69 Platypus: *Journal of the Australian Federal Police*, Article 8, available at <http://classic.austlii.edu.au/au/journals/AUFPPlatypus/2000/30.html>.

¹⁰⁰ Case reviewed by Commonwealth Director of Public Prosecutions (CDPP), "Australian teacher used position of trust to exploit UK children", *Case Reports* (2020-2021), available <https://www.cdpp.gov.au/case-reports/australian-teacher-used-position-trust-exploit-uk-children>.

* At the time of writing, the following relevant cases are currently before Australian courts and to be determined:

#	REPORT	SOURCE
1.	<p>Phillip John Cooper Appeared in Melbourne Magistrates Court in November 2019. Charged with procuring female Filipino children in sexual activity outside of Australia. Australian Federal Police (AFP) report that nine (9) children were rescued in the Philippines as a result.</p>	<p>11 February 2021: https://www.abc.net.au/news/2021-02-11/nine-children-rescued-in-philippines-after-australian-arrest/13145612</p>
2.	<p>Kevin Raymond Doyle Facing a total of 75 charges over the alleged abuse of up to 50 children in the Philippines. Arrested as part of a joint operation between the Australian Federal Police, Philippines police and the International Justice Mission.</p>	<p>7 June 2020: https://www.dailymail.co.uk/news/article-8395819/Philippines-child-sex-den-sees-three-Australian-men-arrested.html</p>
3.	<p>Brendan Curt Shulz Appeared in Mount Isa Magistrates Court, Queensland on July 30, 2020, charged with allegedly live-streaming the sexual abuse of children in the Philippines. Arrested as part of a joint operation between the Australian Federal Police, Philippines police and the International Justice Mission.</p>	<p>7 June 2020: https://www.dailymail.co.uk/news/article-8395819/Philippines-child-sex-den-sees-three-Australian-men-arrested.html</p>
4.	<p>William Allen Corley Appeared in Burwood Local Court in Sydney on multiple charges of child sexual abuse of children in the Philippines. Arrested as part of a joint operation between the Australian Federal Police, Philippines police and the International Justice Mission.</p>	<p>7 June 2020: https://www.dailymail.co.uk/news/article-8395819/Philippines-child-sex-den-sees-three-Australian-men-arrested.html</p>
5.	<p>Charles Batham Defendant extradited to Australia on November 10, 2020 to face at least 31 child sex offenses from late 2010 and 2011. Appeared in Perth Magistrates Court on November 11, 2020.</p>	<p>11 November 2020: https://www.abc.net.au/news/2020-11-11/alleged-kimberley-paedophile-charles-batham-back-in-australia/12857022</p>
6.	<p>Geoffrey William Moyle Defendant awaiting sentence in the South Australian District Court after pleading guilty to 11 offenses, including the sexual abuse of children in Cambodia between 2002 and 2005. Victim has requested that the defendant is physically present in court when her victim impact statement is read out (the request is permitted under South Australian law). Case of particular interest as it is the first Australian case to consider the issue of ordering compensation.</p>	<p>27 January 2021: https://www.abc.net.au/news/2021-01-27/victims-of-paedophile-geoffrey-moyle-could-be-compensated/13094642</p> <p>23 February 2021: https://www.theguardian.com/law/2021/feb/23/cambodian-child-sexual-abuse-victim-seeks-compensation-in-australian-courts</p> <p>28 June 2021: https://www.abc.net.au/news/2021-06-28/adelaide-paedophile-compensates-cambodian-child-victim/100248944</p>

Appendix B:

Sample of Criminal Arrests or Cases of Australian Citizens Being Prosecuted for SECTT in Other Countries, as Reported in the Media

#	REPORTS	SOURCE
1.	<p>Australian citizen Gholamreza Farhani allegedly traveled in the Philippines from 2015–2016 to commit child sexual abuse and exploitation. Farhani had traveled 65 times to Asian nations in 18 months.</p> <p>He was charged with violating the Philippines regulations of R.A. No. 9775 or the Anti-Child Pornography Act of 2009.</p>	<p>https://www.smh.com.au/world/australian-accused-of-child-sex-tourism-arrested-in-the-philippines-20160901-gr6x8x.html</p>
2.	<p>Australian national Mark Lawrence Mutch was given a seven year jail sentence after being found guilty on November 16, 1999 of pedophilia in a Fiji court.</p> <p>This was the first ever conviction for pedophilia in the Fiji Islands.</p> <p>Mutch was found guilty on two counts of rape and four counts of indecent assault.</p> <p>He was served with two seven-year sentences for rape and four years each for indecent assault, however the sentences will be served concurrently, which means Mutch will only serve a total of seven years.</p>	<p>https://www.scoop.co.nz/stories/GE9911/S00059.htm</p>
3.	<p>Australian citizen Peter Scully sentenced to life imprisonment in June 2018 by Philippines court after being charged with five counts of rape and one count of human trafficking.</p> <p>Scully allegedly ran a child pornography ring, and had sexually abused a number of young children and even an 18-month old infant. It was also alleged that Scully had killed one of his female child victims while filming her abuse.</p>	<p>https://www.afp.gov.au/sites/default/files/PDF/LawlerReview.pdf, p 69.</p> <p>https://www.abc.net.au/news/2018-06-14/australian-peter-scully-convicted-in-philippines/9868958</p>

