

September 1, 2011

Volume 15, Issue 24

## Protecting Children from Cyber Crime: The Twentieth Session of the UN Commission on Crime Prevention and Criminal Justice

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### Introduction

In May 2011, the United Nations Commission on Crime Prevention and Criminal Justice (“CCPCJ”) published a report from its twentieth meeting in Vienna, focusing on the growing problem of cyber crime against children. The CCPCJ, a subsidiary body of the Economic and Social Council

(“ECOSOC”) and the governing body of the U.N. Office on Drugs and Crime (“UNODC”), undertakes international action to combat national and transnational crime, promoting the role of criminal law to prevent illegal trafficking in natural resources, crime prevention in urban areas, and improving the efficiency and fairness of criminal justice systems.[1] This *Insight* focuses on the thematic discussion of the CCPCJ’s twentieth meeting: “Protecting children in a digital age: the misuse of technology in the abuse and exploitation of children.”

### Virtual Crime, Real Victims

The Executive Director of UNODC, Yury Fedotov, opened the twentieth meeting of the CCPCJ by framing the scope of cyber crime against children. He emphasized that with nearly two billion internet users worldwide,[2] there are “greater opportunities [for criminals] to entrap new victims, including children.”[3] Specifically, new information technologies are being misused to commit crimes such as: (a) child exploitation; (b) production, distribution, and possession of child pornography; (c) exposure to harmful content; (d) grooming,[4] harassment, and sexual abuse; and (e) cyber bullying.

The latest technologies make it easier for criminals to contact children in ways that were not previously possible. Children are particularly vulnerable to the exploitation of online predators because they rely heavily on networking websites for social interaction. Offenders use false identities in chat rooms to lure victims into physical meetings, thus connecting the worlds of cyber and physical crime. When this happens, virtual crime often leads to traditional forms of child abuse and exploitation such as trafficking and sex

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### DOCUMENTS OF NOTE

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tourism.

The victims of online exploitation must live with their abuse for the rest of their lives. It is widely believed that exposure to certain content and easy contact with criminals online “may affect the integral development of children.”<sup>[5]</sup> And once information and images are online, they remain online forever and are available to an increasing number of persons. Experts at the CCPCJ’s twentieth meeting reminded delegates that online images of abuse are the result of actual, physical crimes.

### **Crime Without Borders**

Criminal enterprises benefit from the relative anonymity the internet provides. Law enforcement authorities struggle to locate offenders because of the ability to conceal online identities and shield unlawful activities with security programs. This anonymity is compounded by a strategic use of internet service providers (“ISPs”) in multiple jurisdictions. When a perpetrator suspects that law enforcement in one jurisdiction is tracking his/her activity, he/she need only relocate the criminal enterprise to an ISP beyond the reach of those authorities. As a result, swift action is required to attribute cyber exploitation of children to users before they can transfer to the relative safety of a different ISP.

Criminals also frustrate law enforcement by developing new means to further their misconduct. Commercial websites once served as the major source of online exploitative images of children, where individuals paid a fee to access site content. These groups are now moving toward smaller social networks, image-sharing sites, free hosting platforms, and hacked websites.<sup>[6]</sup> The less formal, peer-to-peer networks do not leave a money trail, making it more difficult for law enforcement to identify online perpetrators.

### **CCPCJ Draft Resolution**

CCPCJ Member States reached consensus on strategic approaches to address cyber crime against children, which are reflected in a draft resolution for adoption by the Economic and Social Council.<sup>[7]</sup> The draft resolution is significant for establishing priorities that can be categorized into four areas: research, prevention, punishment, and cooperation.

#### *a. Research*

The CCPCJ emphasized the need for more research in the field of cyber crime, the particular dangers to children, and the effects of online exploitation and abuse. Member States were encouraged by an open-ended intergovernmental expert group that met for the first time in January 2011 “to conduct a comprehensive study of the problem of cyber crime and responses to it by Member States, the international community and the private sector.”<sup>[8]</sup> Recognizing that the tactics of cyber criminals will evolve as preventative and punitive measures develop, the expert group’s goal is to better understand the scope of cyber crime and the nature of the criminal enterprise.

#### *b. Prevention*

The CCPCJ draft resolution suggests several measures to prevent cyber crime against children.<sup>[9]</sup> These include domestic awareness campaigns that would provide children, parents, and educators the information necessary to protect against online predators. Parents and children are encouraged to take an active role by reporting suspicious behavior, websites hosting exploitative images, and efforts to recruit or “groom” children for

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sexual abuse. The CCPCJ draft resolution also urges Member States to implement domestic policies that defend the security and privacy rights of children and develop mechanisms to identify abused and/or exploited children.

Awareness and preventative measures are currently implemented and taught by organizations such as the Children's Charities' Coalition on Internet Safety and the Child Online Protection Initiative of the International Telecommunications Union. The U.K. watchdog group, Internet Watch Foundation, has already successfully implemented a "notice and take-down" scheme that removes child sexual abuse content on U.K. networks when it is reported. This effort serves as a model of international partnerships with the aim of sharing data, intelligence, and best practices between States and NGOs.

### *c. Punishment*

The existing legal framework to combat transnational organized crime was not created with the internet in mind. Some suggest that legislation and other preventive measures designed to protect children from abuse must be amended to adapt to new threats posed by online perpetrators.<sup>[10]</sup> The majority of Member States in Vienna, however, suggested that no new treaties are required. Instead, the existing legal framework—if fully implemented and enforced—is sufficient to punish online child abuse and exploitation.

The U.N. Convention against Transnational Organized Crime ("TOC"), for example, covers the most common forms of computer related crime because such offenses are (a) transnational, (b) involve organized criminal groups, and (c) are committed with the intent to achieve a material or financial benefit.<sup>[11]</sup> The term "benefit" in the TOC is interpreted broadly to include "sexual gratification, such as the receipt or trade of materials by members of child grooming rings, the trading of children by pedophile rings or cost-sharing among ring members."<sup>[12]</sup> Additionally, the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the TOC, is relevant to the misuse of information technology to abuse and exploit children.<sup>[13]</sup> Because organized crime and corruption often go hand in hand, the U.N. Convention against Corruption could also be useful in breaking up online child exploitation rings.<sup>[14]</sup>

While the Convention on the Rights of the Child ("CRC")<sup>[15]</sup> does not explicitly prohibit online child abuse, the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography is directly on point and supplements the CRC's goal of generating State policies that are in the best interests of children.<sup>[16]</sup> Also relevant to this area is the International Labour Organization's Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour.<sup>[17]</sup>

The European Union is a leader in regional efforts to harmonize State laws aimed at combating sexual exploitation of children and child pornography. The Council of the European Union's framework decision 2004/68/JHA seeks greater police and judicial cooperation by establishing a regime of common criminal provisions, sanctions, aggravating circumstances, assistance to victims, and jurisdiction.<sup>[18]</sup> Additionally, the 2001 Council of Europe Convention on Cybercrime, along with its Explanatory Report, is aimed at pursuing common criminal policies in order to protect society from cybercrime, including offenses related to child pornography.<sup>[19]</sup> The Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse goes a step further and criminalizes any use of information technologies to sexually harm or abuse children.<sup>[20]</sup>

The consensus at the CCPCJ session was that with greater ratification and implementation, the domestic and international legal framework to combat cyber crime against children will be more consistent and effective.[21] In addition to adopting relevant conventions, the CCPCJ urges Member States to legislate reporting requirements of ISPs and telecomm companies when child sexual abuse images are discovered, require cooperation with law enforcement, and block certain offending websites. Other recommended domestic measures include legislation to criminalize production, distribution, dissemination, voluntary receipt, and possession of child sexual abuse and exploitation images, along with deliberate and repeated access to websites containing such images.[22]

#### *d. Cooperation*

Enforcing the legal regime requires engagement between States, inter-agency cooperation in domestic systems, public and private sector collaboration, and the inclusion of civil society. The nature of cyber crime against children also creates unusual alliances between psychologists, police, and financial investigators. Working together, these groups encourage care for victims, protection of evidence, and rapid access to electronic data during criminal investigations. According to Peter Robbins, Chief Executive of the U.K.'s Internet Watch Foundation, online child sexual abuse and exploitation images have been kept in check due to increased international co-operation.[23]

UNODC is working to assess the technical and training requirements for States to effectively conduct investigations into cyber crime against children.[24] Some States already have specialized training for law enforcement authorities, judges, and prosecutors to address challenges of internet related crimes. The draft resolution invites these States to share technical assistance and training on investigative tools with developing countries. This will enhance mutual legal assistance regimes and ensure the timely exchange of evidence in criminal cases.

#### **Ongoing Efforts**

The CCPCJ's draft resolution is only the starting point for combating cyber crime against children. The resolution will be forwarded to ECOSOC for adoption, which will then likely recommend adoption by the U.N. General Assembly. Although non-binding, these resolutions provide the foundation for negotiations should efforts be made to draft a new treaty focusing specifically on cyber crime against children. Actual progress, however, will only be realized in the area of cyber crime—as well as the CCPCJ's other priority areas—if Members States dedicate appropriate resources to the research, prevention, punishment, and cooperation necessary to overcome cyber criminal enterprises.

#### **About the Author:**

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#### **Endnotes:**

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[3] Yury Fedotov, Exec. Dir., U.N. Office on Drugs and Crime [UNODC], Opening Remarks at the Commission on Crime Prevention and Criminal Justice, Twentieth Meeting: Integrating Crime Prevention and Criminal Justice into the Global Security and Development Agenda (Apr. 11, 2011), available at <http://www.unodc.org/unodc/en/about-unodc/speeches/2011/April/2011-04-11-crime-commission-opening.html> [hereinafter Director's Remarks].

[4] "Grooming" is any action taken by online predators to build a relationship of trust and remove the inhibitions of their potential victims in order to lure them into meetings.

[5] ECOSOC, Report on the Twentieth Session of the Commission on Crime Prevention and Criminal Justice (Dec. 2, 2010 & Apr. 11-15, 2011), U.N. Doc. E/2011/30, E/CN.15/2011/21, at 16 [hereinafter CCPCJ Report].

[6] *Child Abuse 'Big Business Online'*, BBC News, May 13, 2010, available at <http://www.bbc.co.uk/news/10108720> [hereinafter *Online Abuse*].

[7] CCPCJ Report, *supra* note 5, at 14.

[8] *Id.* at 15.

[9] *Id.* at 17-18.

[10] Discussion Guide, *supra* note 2, ¶ 33.

[11] United Nations Convention against Transnational Organized Crime, Jan. 8, 2001, A/RES/55/25, available at <http://www.unodc.org/unodc/en/treaties/CTOC/index.html>.

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[17] International Labour Organization [ILO], Worst Forms of Child Labour Convention, June 17, 1989, available at <http://www.ilo.org/ilolex/cgi-lex/convde.pl?C182>.

[18] Discussion Guide, *supra* note 2, ¶ 26.

[19] *Id.* ¶ 27.

[20] *Id.* ¶ 28.

[21] CCPCJ Report, *supra* note 5, at 16.

[22] *Id.* at 17.

[23] *Online Abuse*, *supra* note 6.

[24] Discussion Guide, *supra* note 2, ¶ 22.