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## **Introduction**

In New Zealand and Australia, legislators have discussed the impacts of technology on children at great length. Legislators have proposed legal changes both to support children's access to technology and protect them from the perceived dangers of technology. Though many of the topics debated have the potential to be gendered topics, such as child pornography, luring, and child sexual exploitation, legislators generally opted to use the gender-neutral language of "child", rather than discussing the impacts on girls specifically. Some areas where girls were commonly referred to were in the media sexualization of children, sexual harassment, and sexting. When girls were mentioned they were generally seen as victimized by technology rather than empowered by it.

On the broader scale, legislators viewed technology as an asset to children in several ways: it was regarded as a significant tool for a comprehensive education, especially for rural children, it was promoted as an essential element of children's training in order to become a successful participant in the economy, and it was seen as facilitating communication between family, friends and other valuable relationships. Conversely, technology was seen as a detriment to children in several ways: it was viewed as a tool for sexual predators to access child victims, it was seen as an instrument for cruel and destructive behavior, especially in relation to cyberbullying, and it was condemned for exposing children to inappropriate violent and sexual content.

Within the federal, state and territorial Hansard records of Australia there was a pronounced emphasis on connectivity to technology through broadband and access to computers, along with a concern about children's exposure to pornography and child sexual predators. In New Zealand, legislators were more focused on technology in education. I will refer to Australia and New Zealand separately under the topic sub-headings of this report. Some topics were not mentioned in New Zealand.

Legislators often used the terms 'young people' or 'youth' in their debates on these issues. I will be using the term children, which encompasses young people and youth, throughout this report.

## **A. Child Sexual Exploitation**

### **Australia**

Australian legislators were concerned with four major topics that connected technology to child sexual exploitation: the tracking of sexual offenders' online identities, preventing sexual offenders from using pornography or Internet communication to aid in the sexual exploitation of children, preventing people with Internet related sexual offences from working with children, and using technology to protect victims of child sexual exploitation when required to act as witnesses in trials.

The dialogue surrounding the proposed legislation that would require sexual offenders' to report their online information portrayed children as innocent victims who were vulnerable to adult sexual predators in online chatrooms, or other online communication spaces. In a debate on the 2011 *Child Protection (Offender Reporting) and Other Legislation Amendment Bill Child Protection (More Stringent Offender Reporting) Amendment Bill*, which would require the reporting of online identifiers Queensland Member of Parliament (MP), Christopher Foley, stated: "that children are the true innocents in our society and they deserve our absolute and utter protection."<sup>1</sup>

In Western Australia (WA) the *Community Protection (Offender Reporting) Amendment Bill 2007* was proposed, it required sexual offenders to register their online information in order to protect children from cyber predators.<sup>2</sup>

A similar bill was introduced in New South Wales (NSW), the *Child Protection (Offenders Registration) Amendment (Suspended Sentences)*,<sup>3</sup> in order to allow for police to better track adult offenders who use the Internet to sexually exploit children.

This topic was also discussed in the NSW in November 2007, NSW MP Morris Iemma stated: "That is also why the Government will take the necessary steps to ensure that

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<sup>1</sup> Austl, Qld, Legislative Assembly, *Parliamentary Debates* (23 March 2011) at 792 (Christopher Foley).

<sup>2</sup> Austl, WA, Legislative Assembly, *Parliamentary Debates* (8 April 2008) at 1975.

<sup>3</sup> Austl, NSW, Legislative Council, *Parliamentary Debates* (20 June 2007) at 1352.

child sex offenders cannot hide behind a screen name and cannot use the Information Superhighway as a way to travel into our homes.”<sup>4</sup>

In 2008, the same issue was discussed in Southern Australia (SA) under the *Child Sex Offenders Registration (Registration of Internet Activities) Amendment Bill*.<sup>5</sup>

In 2009, the *Child Protection Legislation (Registrable Persons) Amendment Bill 2009*<sup>6</sup> was proposed in NSW which would require offenders reporting their online identifiers.

In 2011, Queensland MP Elizabeth Cunningham discussed the need for sexual offenders to provide the police with information on their Internet service provider (ISP), email addresses and other electronic identifiers.<sup>7</sup> The *Child Protection (Offender Reporting) and Other Legislation Amendment Bill Child Protection (More Stringent Offender Reporting) Amendment Bill 2011*, was introduced which included similar recommendations.

In 2010, the Northern Territory (NT) introduced the *Child Protection (Offender Reporting and Registration) Legislation Amendment Bill*,<sup>8</sup> which unlike other jurisdictions did not require the reporting on online information.

The *Community Protection (Offender Reporting) Amendment Bill 2011* was proposed in Tasmania, which would require offenders to report their ISP information, email addresses and online identities.<sup>9</sup>

Victoria followed suit in 2012 with amendments made to the *Sex Offenders Registration Act 2004*, which included reporting ISP information and online user names.<sup>10</sup> The *Serious Sex Offenders (Detention and Supervision) Amendment Bill* was also introduced that year to increase the monitoring of sexual offenders online activities. Member of the Legislative Council (MLC) Evelyn Fyffe stated,

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<sup>4</sup> Austl, NSW, Legislative Assembly, *Parliamentary Debates* (15 November 2007) at 4287 (Morris Iemma).

<sup>5</sup> Austl, SA, Legislative Assembly, *Parliamentary Debates* (8 May 2008) at 3441.

<sup>6</sup> Austl, NSW, Legislative Assembly, *Parliamentary Debates* (25 November 2009) at 19881.

<sup>7</sup> Austl, Qld, Legislative Assembly, *Parliamentary Debates* (23 March 2011) (Elizabeth Cunningham).

<sup>8</sup> Austl, NT, Legislative Assembly, *Parliamentary Debates* (27 October 2010).

<sup>9</sup> *Community Protection (Offender Reporting) Amendment Bill 2011*, 47th Parl, Tas, 2011.

<sup>10</sup> *Sex Offenders Registration Act 2004* (Vic).

As I said, the steps are clear. It is not done lightly; an immense amount of work is done before these orders are placed. A lot of people would say we are infringing on people's liberties, but we have to do this; we have to protect the community. This is done in such a closely monitored way that I believe the steps taken prevent anyone from being held under such orders who do not deserve to be. I sincerely believe that. The conditions are deliberately broad and far-reaching and can include enforced electronic positioning bracelets, mandatory curfews, restrictions on where the offender can reside, exclusion zones around schools, parks and any other locations, prohibition from alcohol, exclusion from involvement in relevant community groups, or a ban on any grooming activities.<sup>11</sup>

The Child Protection (Offender Reporting) and Other Legislation Amendment Bill Child Protection (More Stringent Offender Reporting) Amendment Bill 2011 was proposed in Queensland, which required that offenders provide police with all of their electronic identifiers.<sup>12</sup>

The topic of preventing adult offenders from using pornography or Internet communication to aid in the sexual exploitation of children originated in a report from the Northern Territory (NT), *Little Children are Sacred*.<sup>13</sup> The report focused on the high level of sexual assaults and sexualization of children amongst the Aboriginal population of the territory. Exposure to pornography was linked to inappropriate sexual behavior of children as young as three.<sup>14</sup> It was also connected to the “grooming” (encouraging or preparing children for sexual activity) of children<sup>15</sup> by exposing them to pornographic videos accessed through pay television services. Girls were directly referenced in this report when discussing sexual assaults and early sexualization of children, but were not directly mentioned in the pornography section of the report. The report led to legislation that prevented people from accessing pornography on public computers and banned pornography in Aboriginal communities in the Northern Territory.<sup>16</sup>

In 2008 in WA, information collected from the *Little Children are Sacred* report was used to promote stricter regulations around child prostitution. Exposure to pornography was

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<sup>11</sup> Austl, Vic, Legislative Council, *Parliamentary Debates* (9 October 2012) at 4319 (Evelyn Fyffe).

<sup>12</sup> Austl, Qld, Legislative Assembly, *Parliamentary Debates* (23 March 2011).

<sup>13</sup> Austl, NT, Board of Inquiry into the Protection of Aboriginal Children from Sexual Abuse, *Little Children are Sacred Report*, (2007).

<sup>14</sup> *Ibid* at 65.

<sup>15</sup> *Ibid* at 199.

<sup>16</sup> *Northern Territorial National Emergency Response Bill 2007*, 1st Sess, 41st Parl, Cth, 2007.

seen as a part of the “trifecta of drugs, alcohol and pornography” leading young girls and some boys into child prostitution.<sup>17</sup>

There was some controversy with the Little Children are Sacred report. NSW MLC Cate Faehrmann suggested that

[t]he Northern Territory-commissioned ‘Little Children are Sacred’ provided the shallow impetus for a host of new legislative measures that bore little relevance to issues of child sexual abuse in these Indigenous communities. It is important to note that almost none of the report's recommendations were adopted. On the contrary, many recommendations were flagrantly contradicted. Instead, the report formed the political shell justifying indiscriminate income quarantining of social security payments, widespread alcohol and pornography bans, the reversion to a paternalistic permit system and the government acquisition of townships through housing reforms. Reports of child abuse in Indigenous communities served to advance the Howard Government's ‘agenda of control and coercion’ reminiscent of an earlier epoch in Indigenous affairs.<sup>18</sup>

To combat online child sexual exploitation several task forces were established to investigate the issue. In 2008, the federal Minister for Broadband, Communications and the Digital Economy, Senator Stephen Conroy, announced that the federal government had increased the Australian Police Force (APF) funding by 49 million dollars to

allow the AFP Child Protection Operations Team to expand its capacity to detect and investigate online child abuse. It will allow the AFP to establish a victim identification and support capacity, to aid in the recovery of child abuse victims in Australia and internationally.<sup>19</sup>

Funding was also increased in NT to expand the Child Abuse Task Force.<sup>20</sup> The federal government also funds the Virtual Global Taskforce, which collaborates with other international law enforcement agencies to protect children from online child abuse,<sup>21</sup> as well as the AFP High Tech Crime Operations unit which investigates online child sexual exploitation.<sup>22</sup>

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<sup>17</sup> Austl, WA, Legislative Council, *Parliamentary Debates* (13 March 2008) at 824.

<sup>18</sup> Austl, NSW, Legislative Assembly, *Parliamentary Debates* (22 August 2012) at 14206 (Cate Faehrmann).

<sup>19</sup> Austl, Commonwealth, Minister for Broadband, Communications and the Digital Economy, *Media Release: Policing essential for cyber-safety* (11 December 2008) (Stephen Conroy).

<sup>20</sup> Austl, NT, Legislative Assembly, *Parliamentary Debates*, (5 June 2008).

<sup>21</sup> Virtual Global Taskforce, *Combating online child sexual abuse* (2011).

<sup>22</sup> Austl, Commonwealth, House of Representatives, *Parliamentary Debates*, (4 February 2010) at 408.

In 2008, state and territorial legislators began proposing legislation that would criminalize the use of Internet technology to aid in child abuse. Much of this legislation will overlap with the topics of child pornography and luring, but I will discuss a sampling of legislation proposed.

In 2008 in NSW, the *Crimes Amendment (Sexual Offences) Act*<sup>23</sup> was passed which criminalized online child sexual exploitation practices such as grooming and the production of child pornography. During the parliamentary debates, NSW MLC John Ajaka stated,

The increasing reach of technology over the Internet has sadly created a powerful vessel that enables increased sexual behaviour towards children by allowing adults to form inappropriate online relationships with children, to exploit them by enticing them to enter a cyberworld of child abuse, and to lure them into a meeting under false pretences.<sup>24</sup>

In 2010, the *Crimes Legislation Amendment (Sexual Offences Against Children) Bill* was introduced to the Commonwealth Parliament, which would criminalize the use of carriage services, such as the Internet, for sexualized communication or activity with children,<sup>25</sup> including overseas conduct.<sup>26</sup>

Later in 2011, the story of a young girl who was groomed online for sexual purposes, and murdered, was used to endorse the *Cybercrimes Legislation Amendment Bill*.<sup>27</sup> The bill facilitates

Australia's accession to the Council of Europe Convention on Cybercrime by amending the: Telecommunications Act 1997 and Telecommunications (Interception and Access) Act 1979 to require carriers and carriage service providers to preserve stored communications when requested by certain domestic agencies or when requested by the Australian Federal Police on behalf of certain foreign countries.<sup>28</sup>

Reporting practices were encouraged in WA as early as 2007. The *Community Protection (Offender Reporting) Amendment Bill* was proposed to encourage community members to

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<sup>23</sup> *Crimes Amendment (Sexual Offences) Act 2008* (NSW).

<sup>24</sup> Austl, NSW, Legislative Council, *Parliamentary Debates* (2 December 2008) (John Ajaka).

<sup>25</sup> Austl, Commonwealth, House of Representatives, *Parliamentary Debates* (24 February 2010) at 1763.

<sup>26</sup> Austl, Commonwealth, Senate, *Senate Debates* (18 March 2010) at 2220.

<sup>27</sup> Austl, Commonwealth, Senate, *Senate Debates* (22 August 2012) at 6028.

<sup>28</sup> *Cybercrime Legislation Amendment Bill 2011*, 43rd Parl, Cth, 2011.



report online sexual predators.<sup>29</sup> Member of the Legislative Assembly (MLA) AJ Simpson, related the issue to his own experience being a parent of two young daughters. He stated that he monitors their Internet use and “there are things we can do to protect children. I do not want to insulate my daughters from the real world but I want to protect them at the same time.”<sup>30</sup> He suggested that both the government and other community members should be responsible for monitoring and reporting child abuse online.

Several jurisdictions proposed legislation that would prevent people with Internet related sexual offences against children from working with children. In 2007, the NT proposed the *Care and Protection of Children Bill* suggested that childcare workers who communicated with children through electronic means should be screened for sexual offences before being approved for employment.<sup>31</sup>

In the same year in Queensland the *Commission for Children and Young People and Child Guardian Amendment Bill* was proposed, which would revoke child service provider’s blue cards if they had been charged with child pornography offences.<sup>32</sup>

In NSW the *Children and Young Persons (Care and Protection) Amendment Bill 2010* was also proposed to prevent people with child pornography charges from working with children.<sup>33</sup>

In 2010, a similar bill *Working with Children Amendment Bill*<sup>34</sup> was proposed in Victoria.

The use of closed circuit television (CCTV) or other forms of electronic recordings to transmit the statements of child witnesses in sexual exploitation trials was proposed in the NT’s *Evidence of Children Amendment Act 2007*<sup>35</sup>, SA’s *Statutes Amendment (Victims of Crime) Bill 2008*<sup>36</sup>, and Victoria’s *Criminal Procedure Amendment Bill 2012*.<sup>37</sup> Child victims were viewed as needing extra protection and support during the trial process, as

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<sup>29</sup> Austl, WA, Legislative Assembly, *Parliamentary Debates* (8 April 2008) at 1975.

<sup>30</sup> *Ibid* (AJ Simpson).

<sup>31</sup> Austl, NT, Legislative Assembly, *Parliamentary Debates* (28 November 2007).

<sup>32</sup> Austl, Qld, Legislative Assembly, *Parliamentary Debates* (4 September 2007) at 2949.

<sup>33</sup> Austl, NSW, Legislative Assembly, *Parliamentary Debates* (24 November 2010) at 28131.

<sup>34</sup> Austl, Vic, Legislative Council, *Parliamentary Debates* (24 June 2010) at 3147.

<sup>35</sup> Austl, NT, Legislative Assembly, *Parliamentary Debates* (18 April 2007).

<sup>36</sup> Austl, SA, Legislative Assembly, *Parliamentary Debates* (25 October 2007) at 1451.

<sup>37</sup> Austl, Vic, Legislative Council, *Parliamentary Debates* (16 August 2012) at 3551.

well as needing to be spared from being retraumatized during the process.<sup>38</sup> The NT specifically mentioned child grooming through the exposure to sexual content as an offence that should permit a child victim to utilize electronic devices for transmitting her or his testimony.<sup>39</sup>

Later in 2012, SA proposed the *Victims of Crime (Miscellaneous) Amendment* to increase funding for CCTV witness transmission, as data collected on the CCTV program suggested that insufficient funding was being provided to victim support services that support vulnerable groups who needed access to these services.<sup>40</sup>

In 2010, *Crimes Amendment (Child Pornography and Abuse Material) Bill* was introduced in NSW. Legislators proposed that child pornography be referred to as child abuse material. This legislation proposed to allow victims of sex offenders to give evidence via CCTV.<sup>41</sup>

In 2012, the Commonwealth government passed the *Cybercrime Legislation Amendment Act 2012*, which implemented the Council of Europe Convention on Cyber Crime in order to facilitate penalizing child sexual offenders who used the internet to access victims.<sup>42</sup>

In conclusion, most of the discussion pertaining to child sexual exploitation was on tracking and capturing online sexual offenders. Children were described as quite vulnerable to sexual exploitation when using the Internet, as well as being most innocent members of society. Moral panic created from the *Little Children are Sacred* report assisted legislators in legitimizing their need for stricter legislation for online child sexual offenders. A common trend of girl's experiences and vulnerabilities being discussed in reports but not in debates was found in this topic.

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<sup>38</sup> Austl, Vic, Legislative Council, *Parliamentary Debates* (28 August 2012) at 3825.

<sup>39</sup> Austl, NT, Legislative Assembly, *Parliamentary Debates* (18 April 2007).

<sup>40</sup> Austl, SA, Legislative Council, *Parliamentary Debates*, (31 October 2012) at 2536.

<sup>41</sup> Austl, NSW, Legislative Assembly, *Parliamentary Debates* (17 March 2010) at 21572.

<sup>42</sup> *Cybercrime Legislation Amendment Act 2012* (Cth).

## New Zealand

Most of the information gathered from New Zealand (NZ) on the topic of child sexual exploitation will be referred to under the luring and pornography topic headings. One relevant practice that NZ employs is the Online Child Exploitation Across New Zealand taskforce (Oceanz), which then Minister of Police Judith Collins stated was formed in 2009 to “coordinate international operations into online paedophile networks, and to identify and rescue victims of abuse. It also targets those who produce images of abuse for financial gain.”<sup>43</sup>

In 2009, NZ also funded the Digital Child Sexual Exploitation Filtering System to prevent online access to child sexual exploitation material.<sup>44</sup> Minister of Internal Affairs, Nathan Guy, stated the filtering system would be available to all ISPs and would

focus solely on known websites offering clearly objectionable images of child sexual abuse. Under the Films, Videos, and Publications Classification Act 1993 a publication is deemed objectionable if it promotes or supports, or tends to promote or support the exploitation of children, or young persons, or both, for sexual purposes. There is no legal requirement for internet service providers to join the filtering system. Participation will be voluntary.<sup>45</sup>

In 2009, the *Search and Surveillance Bill* was introduced to expand search and seizure regulations to include accessing people’s computers and Internet searches to search for child pornography.<sup>46</sup>

In conclusion, the primary discussion amongst NZ legislators was focused on denying access to child pornography. Child pornography was seen as harmful to society. Preventing access, seizing material, and locating offenders through filtering schemes and other investigatory powers were seen as the best solutions to this problem.

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<sup>43</sup> NZ, *Hansard*, Questions for Oral Answer-Questions to Ministers 18 August 2010 (Judith Collins).

<sup>44</sup> NZ, *Hansard*, Question to the Minister of Internal Affairs (No 10269) 17 July 2009.

<sup>45</sup> *Ibid* (Nathan Guy).

<sup>46</sup> NZ, *Hansard*, Search and Surveillance Bill-First Reading 4 August 2009.

## **B. Cyberbullying**

### **Australia**

The topic of cyberbullying was frequently discussed by Australian legislators and was the focus of several governmental reports. Jurisdictional solutions varied from criminalization of cyberbullying to community prevention strategies. Because legislations varied in their responses to cyberbullying, I will refer to each jurisdiction separately.

#### ***Commonwealth (Federal Government)***

In 2009 the Department of Education, Employment and Workplace Relations promoted a study by the Child Health Promotion Research Centre, *Australian Covert Bullying Prevalence Study*.<sup>47</sup> The study examined the prevalence of covert bullying, such as cyberbullying, and raised concerns about how under-reported the phenomenon was. Girls were reported to experience this type of bullying more than boys. Girls also reported being bullied more often by other girls, yet girls were less likely to report being the perpetrators of covert bullying. The report suggested that training teachers, supervising students and providing more positive school climates could help prevent this type of bullying.<sup>48</sup>

Suggestions made in 2009 by legislators and police included establishing an Australian Council for Bullying Prevention, utilizing current criminal legislation to deal with cyberbullying,<sup>49</sup> developing youth-friendly supportive websites, hosting a national bullying summit to compare policies and practices across Australia, and supporting families and family support workers directly address the issue.<sup>50</sup>

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<sup>47</sup> Austl, Commonwealth, Donna Cross et al, Edith Cowan University, *Australian Covert Bullying Prevalence Study* (May 2009).

<sup>48</sup> *Ibid.*

<sup>49</sup> Austl, Commonwealth, House of Representatives, *Standing Committee on Communications* (9 September 2009).

<sup>50</sup> Austl, Commonwealth, Senate, *Standing Committee on Education and Workplace Relations* (25 February 2009).

Additionally in 2010, the Standing Committee on Education and training suggested librarians could act as gatekeepers for children's use of the Internet in libraries to protect them from cyberbullying and inappropriate content.<sup>51</sup>

In 2010, the House Standing Committee on Family, Community, Housing and Youth produced a report, *Avoid the Harm - Stay Calm*, addressing youth violence. Cyberbullying was mentioned in the report as being as damaging to children as violent assaults.<sup>52</sup> Cyberbullying was seen as being on the rise and created unique challenges for establishing regulation. The report suggested that education on how to use the Internet respectfully, raising awareness for both adults and children, and increased support for school staff would assist in addressing the problem. The Australian Communications and Media Authority (ACMA) Cybersmart initiative was also suggested as tools to combat cyber-bullying.<sup>53</sup>

In 2010, the Joint Select Committee on Cyber-Safety<sup>54</sup> was established to discuss cyber safety issues. Legislators, community interest groups and experts were involved in submitting information at committee meetings. In 2011, the committee produced an in-depth report on children and cyber safety, *High-Wire Act: Cyber Safety and the Young (High-Wire)*.<sup>55</sup> The report was a compilation of studies, parliamentary debates, community input, and youth-generated information. This report contained greater detail of the impacts of technology on girls than many of the parliamentary and legislative debates. Amongst the female respondents, girls reported being severely impacted by cyberbullying. They had their images sexualized online in order to harass them, they faced greater negative effects when sharing sexualized photos of themselves, and were more likely to be targeted by their friends. Additionally, girls had higher rates of

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<sup>51</sup> Austl, Commonwealth, House of Representatives, *Standing Committee on Education and Training* (30 April 2010).

<sup>52</sup> Austl, Commonwealth, House Standing Committee on Family, Community, Housing and Youth, *Avoid the Harm - Stay Calm* (July 2010) at 28.

<sup>53</sup> *Ibid.*

<sup>54</sup> Austl, Commonwealth, *Joint Select Committee on Cyber-Safety*.

<sup>55</sup> Austl, Commonwealth, Joint Committee on Cyber-Safety, *High-Wire Act: Cyber-Safety and the Young* (June 2011).

connectivity with mobile devices and social media sites, as well as higher levels of both witnessing and experiencing cyberbullying.<sup>56</sup>

This report examined several aspects of cyber safety, cyberbullying being a predominant theme. Anonymity was reported as a major factor in children's cyberbullying behavior.

The report stated,

Some young people, however, say that they would do things online that they would not do offline, because anonymity affords them the opportunity to act on any anti-social impulses that might otherwise be tempered in public. Children, in particular, are 'more likely' to bully in the online environment because they are able to hide their identities. Those who are bullied physically and feel powerless go online feeling totally empowered.<sup>57</sup>

Multiple solutions were proposed such as increased law enforcement, community involvement, and educational programming for both children and adults. A Youth Advisory Group on Cybersafety was also developed.<sup>58</sup>

Some additional interesting comments made by members of the Joint Select Committee on Cyber-Safety during meetings were:

The internet offers great opportunities for our young people, through new technologies and greater connection...But this great resource, which can offer so much good, has a darker side, and that is what this report is about. (MP Graham Perrett)<sup>59</sup>

In terms of the link between suicide, self-harm and cyberbullying, in our research we tentatively concluded that there seemed to be a high correlation between cyberbullying and thoughts of suicide. (John Dalgeish-Boys Town)<sup>60</sup>

Any of the ones of concern that pop up in all the fear mongering, such as with paedophilia, which in reality is not the big thing that it seems to be put out to be. It is a hidden activity. It is not an activity that kids are going to stumble on, just as with inadvertent material. Kids are not going to stumble on to that. It gets wiped out quickly when it gets found. What you are looking for are the bad things such as cyberbullying, which is bullying in real life but just in another medium. You need to stop that. (Donna Ashelford-Systems Administrators Guild)<sup>61</sup>

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<sup>56</sup> *Ibid.*

<sup>57</sup> *Ibid at 74.*

<sup>58</sup> *Ibid at xxvi.*

<sup>59</sup> Austl, Commonwealth, Cyber-Safety Committee, *Cyber-Safety Committee Report*, (6 July 2011).

<sup>60</sup> Austl, Commonwealth, *Joint Select Committee on Cyber-Safety* (17 March 2011).

<sup>61</sup> Austl, Commonwealth, *Joint Select Committee on Cyber-Safety* (March 3 2011).

This year, it is important that we communicate directly with young people, as the committee did. We need to learn how they manage their issues and how they see things. That is a key part of why the recommendations out of this report will be useful and valuable, because young people have said, 'This is what we need; this is the world we're in.' (MP Nola Marino)<sup>62</sup>

In response to the concerns of cyberbullying the Australian government developed several websites where children could access information on cyber bullying including *Tagged: What you do online could tag you for life*,<sup>63</sup> the AMCA *Cybersmart* Networking tool,<sup>64</sup> *Back Me Up*,<sup>65</sup> and *Bullying. No Way!*<sup>66</sup> The *Tagged* website follows the story of a group of girls whose lives are negatively impacted by cyberbullying, the main message being that girls lives can be negatively impacted by their cyber interactions.

Additionally, the government promoted the Alannah and Madeline Foundation's *eSmart* programs.<sup>67</sup> Legislators also established a National Day of Action Against Bullying and Violence<sup>68</sup> and recognized Safer Internet Day, which Senator Catryna Bilyk stated: "is an annual international event to promote safer and more responsible use of online technology and mobile phones especially amongst children and young people across the world."<sup>69</sup>

### ***Australian Capital Territory (ACT)***

In 2008, MLA Andrew Barr addressed the issue of cyberbullying in a Select Committee on Estimates meeting. Barr discussed professional development programs available to school staff to help them address cyberbullying and bystander behaviour. He stated that: "I think we would all be alarmed at some of the more recent incidents that have made it

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<sup>62</sup> Austl, Commonwealth, Cyber-Safety Committee, *Cyber-Safety Committee Report*, (6 July 2011).

<sup>63</sup> Australian Government, *Tagged: What you do online could tag you for life*, (2011), online: Cyber Smart <<http://www.cybersmart.gov.au/tagged/>>.

<sup>64</sup> Austl, Commonwealth, Senate, *Senate Debates* (22 November 2011) at 9247.

<sup>65</sup> Back Me up, *Welcome to Back Me Up*, online: Australian Human Rights Commission <<https://backmeup.somethingincommon.gov.au/home>>.

<sup>66</sup> Australian Government, *Bullying. No Way!* (2013), online: Australian Government <<http://bullyingnoway.gov.au/>>.

<sup>67</sup> Alannah and Madeline Foundation, *Alannah and Madeline Foundation*, (2013), online: Alannah and Madeline Foundation <<http://www.amf.org.au/>>.

<sup>68</sup> Austl, Commonwealth, Senate, *Senate Debates* (15 March 2012) at 1974.

<sup>69</sup> Austl, Commonwealth, Senate, *Senate Debates* (7 February 2012) at 210 (Catryna Bilyk).

into the media where people have seemingly set up their mobile phone cameras to film what seem to be premeditated assaults.”<sup>70</sup>

The proper training of school staff and counselors was a concern for ACT legislators. The ratio of school counselors to students was discussed in a debate in relation to cyberbullying and youth suicides. Barr addressed the issue, stating that a broader approach than solely increasing the ratio of school councilors to students was needed to properly tackle the issue.<sup>71</sup>

In 2009, MLA Meredith Hunter discussed a youth conference that would be addressing the topic of cyberbullying, suggesting that student involvement in the issue was an important factor in combating cyberbullying.<sup>72</sup>

Later in 2010, Hunter noted students’ increased use of technology to bully others. She stated, “[i]t is essential that the government and the department pay close attention to this in introducing new technology, which I understand will allow students 24-hour, seven-day-a-week access to the system”.<sup>73</sup> She suggested school programming should be introduced to deal with the issue.

### ***New South Wales (NSW)***

In 2009, the NSW General Purpose Standing Committee No. 2 produced a report, *Bullying of Children and Young People*, which stated that: “Girls were described as being more ‘verbally vicious’ than boys, with boys more likely to film fights and post them on the Internet,”<sup>74</sup> and that girls were creating “gossip-girl” type websites to harass other students.<sup>75</sup> Schools were struggling to adequately deal with the issue because so much of the cyberbullying was occurring online and could not always be connected directly to school time. As a solution to this problem the National Safe Schools Framework was

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<sup>70</sup> Austl, ACT, Legislative Assembly, *Select Committee on Estimates 2007-2008* (20 June 2007) (Andrew Barr).

<sup>71</sup> Austl, ACT, Legislative Assembly, *Parliamentary Debates* (22 June 2011) at 2253 (Andrew Barr).

<sup>72</sup> Austl, ACT, Legislative Assembly, *Parliamentary Debates* (1 April 2009) at 1672 (Meredith Hunter).

<sup>73</sup> Austl, ACT, Legislative Assembly, *Parliamentary Debates* (1 July 2010) at 3155 (Meredith Hunter).

<sup>74</sup> Austl, NSW, General Purpose Standing Committee No. 2, *Bullying of children and young people*, (2009) at 36.

<sup>75</sup> *Ibid* at 60.



implemented in some NSW schools,<sup>76</sup> along with policies that supported training councilors and teachers to deal with the issue.<sup>77</sup> Civil and criminal action were seen as the only available solutions to more serious incidents because there were inadequate policies or remedies available to deal with this novel form of bullying.<sup>78</sup>

NSW focused on cyberbullying again in 2011. The language used by legislators suggests that they see cyber bully as a very serious issue. It was described as “an epidemic”<sup>79</sup>, “disturbing”<sup>80</sup>, “devastating” and “tragic.”<sup>81</sup> MLA Mike Baird stated,

Like many parents I feel I am not equipped to understand the implications, work out a strategy, or play a constructive role in dealing with it. As part of ongoing interaction, students are submitting offensive posts on social media sites and sending offensive text messages. This problem is having a devastating impact on students in our schools. I have read tragic media stories about young lives lost as a consequence of cyberbullying campaigns, and they rip your heart out. The reports state that approximately a third of cyberbullying is unreported.<sup>82</sup>

No legislation was proposed, but it was suggested that educational campaigns focused on young school children,<sup>83</sup> educating adults on social media privacy controls, creating school Internet codes of conduct,<sup>84</sup> and police and teacher led education programing in primary schools<sup>85</sup> could help alleviate the problem.

### ***Northern Territory (NT)***

There were very few references to cyberbullying in NT. MLA Malarndirri McCarthy did discuss the negative effects of cyberbullying and texting:

One example is diva texting, a behaviour developing as mobile networks are extended to our remote and regional townships. Diva texting, for the parliament and members not aware, can be another form of cyber bullying mostly conducted by young people who

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<sup>76</sup> *Ibid* at 43.

<sup>77</sup> *Ibid* at 90-98.

<sup>78</sup> *Ibid* at 59-61.

<sup>79</sup> Austl, NSW, Legislative Assembly, *Parliamentary Debates* (11 August 2011) at 4299.

<sup>80</sup> Austl, NSW, Legislative Assembly, *Parliamentary Debates* (20 June 2011) at 2747.

<sup>81</sup> Austl, NSW, Legislative Assembly, *Parliamentary Debates* (11 August 2011) at 4299.

<sup>82</sup> Austl, NSW, Legislative Assembly, *Parliamentary Debates* (11 August 2011) at 4299 (Mike Barid).

<sup>83</sup> Austl, NSW, Legislative Assembly, *Parliamentary Debates* (20 June 2011) at 2747.

<sup>84</sup> Austl, NSW, Legislative Assembly, *Parliamentary Debates* (11 August 2011) at 4299.

<sup>85</sup> Austl, NSW, Legislative Assembly, *Parliamentary Debates* (20 June 2011) at 2756.

send explicit, repeated, hostile texts to an unsuspecting person who takes the insults and messages seriously. These texts can cause community unrest in some places, and can erupt into family violence.<sup>86</sup>

The solution she proposed was as follows:

Families need to ensure their younger people are using new technology safely and we, as a government, want to ensure parents have the skills and tools to ensure their children are protected against any negative aspects of this trend. We have advice for parents and mobile phone users on our Department of Justice website. It is important parents get involved with their children's use and management of information technology; parents need to communicate with their children to ensure they have tools for safe use of new technologies. Children and young people need to report any bullying, whether it is on the phone or computer. Bullying via mobile phone must not be tolerated, like any other form of bullying.<sup>87</sup>

In an *ABC* news article, "Diva Chat" was described as a social networking site that was accessible for free in Aboriginal communities and was connected to cyberbullying, cyber sex, and sexual access to young girls.<sup>88</sup>

### ***Queensland***

In 2008, the Queensland Parliamentary Library produced the *Fighting the School Bullies-What Needs to be Done?* research brief which discussed the increase in cyberbullying and the implementation of a National Safe Schools framework.<sup>89</sup> Researchers noted that the nature of bullying was shifting from male violence, to subtler social bullying in which girls are equal participants and more likely to be victims.<sup>90</sup> There were concerns about videos being made and posted online displaying violence between girls, cyberbullying being linked to a 17-year-old girl's suicide,<sup>91</sup> and negative social media pages being created to target specific girls.<sup>92</sup> The report noted that girls were "significantly more likely than the boys to be distressed by some incidents and were more concerned about

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<sup>86</sup> Austl, NT, Legislative Assembly, *Parliamentary Debates* (4 May 2010) (Malarndirri McCarthy).

<sup>87</sup> *Ibid* (Malarndirri McCarthy).

<sup>88</sup> Clare Rawlinson, "'Diva Chat' re-shaping remote communities", *ABC*, (5 January 2012).

<sup>89</sup> Austl, Qld, Queensland Parliamentary Library, *Fighting the School Bullies-What Needs to be Done?*, (2008).

<sup>90</sup> *Ibid* at 6.

<sup>91</sup> *Ibid* at 2.

<sup>92</sup> *Ibid* at 7.

having private information revealed to others, people pretending to be someone they were not, being sent obscene messages, and receiving exaggerated messages of affection.”<sup>93</sup>

Some of the solutions proposed were enabling filtering software on school computers, blocking certain websites, developing cyber safety policies, and teaching children about intervention strategies such as blocking cyber bullies from their phones or social media sites.<sup>94</sup> Within the schools it was suggested that teachers would benefit from additional training, and schools ought to follow the policies of the National Safe Schools framework, which included supporting counselling, developing intervention strategies, and installing cameras and panic buttons in the schools.<sup>95</sup>

In 2010, Queensland proposed the *Criminal Code (Filming or Possessing Images of Violence Against Schoolchildren) Amendment Bill 2010*, which would criminalize the online posting of videos with violent content between schoolchildren.<sup>96</sup> MP Jan Stuckey expressed support for the bill by stating,

Cyberspace is a borderless entity, stretching farther and wider than the early days of the internet. This space is completely ubiquitous; it surrounds every aspect of children’s lives. No schoolchildren in Queensland are exempt from the reach of the digital age; this is an all-encompassing sphere that virtually creeps into their impressionable young lives. Not only incumbent in the private realm, cyberspace is also mobile, able to infiltrate the public in an instant. We are seeing the evidence of mobile technology growing increasingly every day, with school-age children at the forefront of its use. There are dangers in the world of cyberspace that cannot be found elsewhere. Gone are the traditional days in which the enemy could be physically seen and heard. Children are now subject to sexual solicitation, sexual violence and pornography—in addition to bullying—and are viewed as easily approachable targets in cyberspace, where parents and teachers cannot always be wholly observant.<sup>97</sup>

MP Tracy Davis also stated,

It is estimated that one in every 10 children has been the target of some form of cyberbullying. In particular, girls are the predominant targets of the technological torture. About three years ago my teenage daughter was the victim of cyberbullying. An unflattering photo with the word ‘bang’ placed at her head was uploaded on a website for her peers to see and make comment. My daughter is a great girl, has good friends and so,

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<sup>93</sup> *Ibid* at 8.

<sup>94</sup> *Ibid* at 10-12.

<sup>95</sup> *Ibid* at 28-35.

<sup>96</sup> Austl, Qld, Legislative Assembly, *Parliamentary Debates* (15 September 2010) at 3345.

<sup>97</sup> Austl, Qld, Legislative Assembly, *Parliamentary Debates* (15 September 2010) at 3348 (Jan Stuckey).

luckily, was able to deal with the matter—most importantly, on her direction and to her satisfaction. Sadly, others are not so lucky.<sup>98</sup>

### ***South Australia (SA)***

In 2011, the *Statutes Amendment (Anti-bullying)* was proposed to combat cyberbullying after the suicide of 19-year-old Brodie Panlock of Victoria. South Australia MLC R.B. Such suggested that there ought to be penalties for the “worst type of bullying.”<sup>99</sup> Later in 2013, the *Summary Offences (Filming Offences) Amendment* was proposed in response to schoolchildren posting violent videos on YouTube.<sup>100</sup> The bill was proposed to penalize people who posted violent videos online, including children. MLC S.G. Wade stated: “Some of the behaviour may already be caught by existing criminal offences, such as the law of conspiracy, but the government proposes that the bill would strengthen the law.”<sup>101</sup>

### ***Tasmania***

Tasmania legislators discussed cyberbullying but did not propose new legislation as some legislation addressing this issue had been introduced in 2004. Legislators were not sure if anyone had been charged under the existing laws. They discussed schools’ implementation of codes of conduct for the use of mobile phones at school.<sup>102</sup>

In 2009, MLA Sue Napier proposed that the House note that incidents of cyberbullying were significantly higher in Tasmania than in other jurisdictions and called on the government to establish strategies to combat cyber bullying.<sup>103</sup>

In 2012, MLA Nick McKim discussed some of the state’s cyber safety strategies, including

[r]esources on the DoE website, the Bullying No Way website, the National Safe School Framework, the Department of Education Discipline Guidelines and the Department of Education Anti-Discrimination and Anti-Harassment Policy. A key objective for the department is to provide ongoing support to schools to ensure students feel safe, secure

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<sup>98</sup> *Ibid* at 351 (Tracy Davis).

<sup>99</sup> Austl, SA, Legislative Council, *Parliamentary Debates* (23 June 2011) at 4363 (RB Such).

<sup>100</sup> Austl, SA, Legislative Council, *Parliamentary Debates* (21 February 2013) at 3236.

<sup>101</sup> Austl, SA, Legislative Council, *Parliamentary Debates* (21 February 2013) at 3236 (SG Wade).

<sup>102</sup> Austl, Tas, Legislative Assembly, *Parliamentary Debates* (24 June 2008).

<sup>103</sup> Austl, Tas, Legislative Assembly, *Parliamentary Debates* (10 June 2009) (Sue Napier).

and happy and where learning is not disrupted through inappropriate behaviour. Through the development of the Building Respectful Schools Package during the remainder of this year and into 2013, and through appropriate and targeted professional learning provided by the Professional Learning Institute, schools and teachers should be better equipped to deal with a range of inappropriate behaviours including cyber bullying.<sup>104</sup>

## **Victoria**

In 2007, MLA Jacinta Allan discussed the problem of cyberbullying. She stressed the value of school codes of conduct and the banning of websites such as YouTube to prevent students from posting videos of themselves during school time.<sup>105</sup> Other MLAs expressed concerns with the misuse of school technology<sup>106</sup> and the need for community programming that extends beyond the schools into the community.<sup>107</sup>

In 2010, the Victorian government worked with a popular cyber safety organization, the Allannah and Madeline foundation, to implement cyberbullying programming by providing them with a \$10.6 million grant.<sup>108</sup> Additionally, the government proposed the *Education and Training Reform Amendment (School Safety) Bill*, which would codify anti-bullying practices already in place in Victoria.<sup>109</sup>

Another anti-bullying bill was proposed in 2011, the *Crimes Amendment (Bullying) Bill*, following the suicide of 19-year-old Brodie Panlock. The bill was known as “Brodie’s Law”. In the debate of this bill, girls were mentioned several times. Cases of young girls attacking other girls, filming the incident and posting it on the Internet were noted, along with comments about legislators not understanding how girls could spend so much time texting and Facebooking, and about incidents of girls being told they should die over the Internet.<sup>110</sup> This type of behavior was listed as rationale for criminalizing people engaged in cyberbullying.

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<sup>104</sup> Austl, Tas, Legislative Assembly, *Parliamentary Debates* (22 November 2012) (Nick McKim).

<sup>105</sup> Austl, Vic, Legislative Assembly, *Parliamentary Debates* (27 February 2007) at 473 (Jacinta Allan).

<sup>106</sup> Austl, Vic, Legislative Assembly, *Parliamentary Debates* (27 February 2007) at 468.

<sup>107</sup> Austl, Vic, Legislative Assembly, *Parliamentary Debates* (15 April 2008) at 1202.

<sup>108</sup> Austl, Vic, Legislative Council, *Parliamentary Debates* (16 September 2010) at 4841.

<sup>109</sup> Austl, Vic, Legislative Council, *Parliamentary Debates* (3 May 2011) at 1071.

<sup>110</sup> Austl, Vic, Legislative Assembly, *Parliamentary Debates* (31 May 2011).

In 2011, MLA Natalie Hutchins noted that victims of cyberbullying could be impacted by depression, lower academic standing, dropping out of school and suicide. She specifically mentioned the use of Facebook sites in cyberbullying. She stated,

The sites are run anonymously and are used to post gossip, and students and teachers have been publicly named on them. Many of the comments on the sites have included graphic allegations of sexual activity, insults and racist slurs. I rise today to condemn the sites and to congratulate the schools, Facebook and the local Star newspaper on taking action to have these sites shut down.<sup>111</sup>

Another suicide of 14-year-old girl, Sheniz Erkan, was noted in the debates about cyberbullying. MLA Craig Ondarchie noted that “cyberbullying has become prevalent in this country, and in fact recent research suggests that unfortunately Australia leads the world in cyberbullying through sites like Facebook.”<sup>112</sup>

In 2012, Ondarchie supported the *Criminal Procedure and Sentencing Acts Amendment (Victims of Crime) Bill*, which would allow victims of cyberbullying to access compensation.<sup>113</sup>

In 2012, MLA Frank McGuire stated,

Cyberbullying confronts many children daily and represents the fastest growing threat to child safety. The answer is not to withdraw from the digital age or to prevent children from accessing the internet. The challenge is to establish the programs and mechanisms that promote safe and responsible usage and encourage inclusiveness and constructive behavior.<sup>114</sup>

Legislators noted another suicide linked to cyberbullying occurred in Victoria 2012 when 17-year-old Catherine Bernard died by suicide.<sup>115</sup> Later, Attorney General Robert Clark discussed regulations that would assist people to understand the complexity of cyberbullying. He stated,

Thus the project will look at ways in which social media operators may establish or improve protocols around these matters so there are direct channels of communication

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<sup>111</sup> Austl, Vic, Legislative Assembly, *Parliamentary Debates* (30 June 2011) at 2431 (Natalie Hutchins).

<sup>112</sup> Austl, Vic, Legislative Council, *Parliamentary Debates* (8 February 2012) at 51 (Craig Ondarchie).

<sup>113</sup> Austl, Vic, Legislative Council, *Parliamentary Debates* (30 August 2012) at 3953 (Craig Ondarchie).

<sup>114</sup> Austl, Vic, Legislative Assembly, *Public Accounts and Estimates Committee: Budget Estimates 2011-12 (part 2)*, (7 December 2011) (Frank McGuire).

<sup>115</sup> Austl, Vic, Legislative Assembly, *Parliamentary Debates* (1 March 2012) at 662.

and clear and structured grounds on which media operators can be asked to act. This is an issue that applies to not just material that may prejudice trials but obviously to other material that may be in breach of laws such as those relating to cyberbullying or other legal obligations.

The project will also look at the way users of social media are made aware of the law and of their responsibilities and can have those responsibilities drawn to their attention. It will also look at the ways the jury system may be able to be strengthened to protect juries against being prejudiced by such material. There is the potential for model directions and prohibitions on jurors accessing inappropriate material. We will also potentially look at further empirical research about how jurors react to material they become aware of that is extrinsic to a trial.<sup>116</sup>

### ***Western Australia***

In 2011, the *Restraining Orders Amendment Bill* was proposed which could potentially impose restraining orders on children who engaged in cyberbullying.<sup>117</sup>

WA was the only jurisdiction to directly address homophobic cyberbullying. In 2012, MLC Lynn MacLaren proposed that the council call upon the Minister of education to:

- (1) Confirm that both she and the Department of Education have a duty of care to protect all students from bullying and discrimination in schools.
- (2) Acknowledge that homophobic bullying is common in Western Australian schools and the absence of specific anti-homophobia policies is a failure of that duty of care.
- (3) Introduce policies and practices that protect all students against homophobia at school.<sup>118</sup>

Later in 2012, MLC Sally Talbot also noted that cyberbullying was focused on gender and sexual diversity.<sup>119</sup> Additionally, MLC Mia Davies discussed the Northam Youth Forum where she stated,

There was also a strong thread running through the whole forum of building understanding between Aboriginal and non-Aboriginal people. I think it is true to say that so much conflict experienced by young people is about being different—whether someone is Aboriginal or non-Aboriginal, whether they dress differently, whether they look different or whether they speak differently.<sup>120</sup>

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<sup>116</sup> Austl, Vic, Legislative Assembly, *Parliamentary Debates* (9 October 2012) at 4284 (Robert Clark).

<sup>117</sup> Austl, WA, Legislative Council, *Parliamentary Debates* (11 August 2011) at 5756.

<sup>118</sup> Austl, WA, Legislative Council, *Parliamentary Debates* (29 March 2012) at 1533 (Lynn MacLaren).

<sup>119</sup> Austl, WA, Legislative Council, *Parliamentary Debates* (15 November 2012) at 8654 (Sally Talbot).

<sup>120</sup> Austl, WA, Legislative Council, *Parliamentary Debates* (22 May 2012) at 2905 (Mia Davies).

It is interesting to note that legislators in this jurisdiction were addressing the particular disadvantaged groups of people who were targeted by cyber bullies.

In conclusion, reports on cyberbullying highlighted girls' unique experience with technological bullying. Reports suggested that girls were more active participants in cyberbullying and were more adversely affected by the activity. Girls were described as both vicious perpetrators of cyberbullying and tragic victims. It was interesting to note that there were no suggestions for gendered programming or solutions.

Legislators varied on their response to cyberbullying. Resources were devoted to creating online help and information websites for children, training educators and councilors, and criminal or civil remedies were proposed. Legislators often cited the suicides of young girls as a reason for legislation and programming. WA was one of the only jurisdictions to link cyberbullying to issues of discrimination based on gender, sexual orientation, and Aboriginal identity. Many legislators seemed to feel helpless, both as parents and legislators, to adequately deal with this issue but felt that it was a very serious issue in need of a solution. Other than citing specific example of female suicides, gender was rarely discussed.

## **New Zealand**

In 2011, the NZ Law Commission produced a media release about media regulations that stated: "for the first time in history, children are an authority on the most important innovation changing every institution in society."<sup>121</sup>

Later in 2012, the NZ Law Commission produced a paper, *Harmful Digital Communication: The adequacy of the current sanctions and remedies*, which addressed the "growing and strong concern about the use of new communication technologies to cause harm"<sup>122</sup> and the adequacy of the current sanctions and remedies. Young people were the primary focus of this paper. Girls were mentioned several times; incidents of teen suicides linked to cyberbullying, sexualized or cruel photos and videos being posted

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<sup>121</sup> NZ, Law Commission, *The News Media Meets 'New Media': Rights, Responsibilities and Regulation in the Digital Age*, (2011).

<sup>122</sup> NZ, Law Commission, "Harmful Digital Communications: The adequacy of the current sanctions and remedies", August 2012 at 2.



online, and false profiles being used to harass girls were all noted as examples of behavior the Commission hoped to reduce.<sup>123</sup>

The report noted that some existing legislation already covered these issues, including the *Privacy Act 1993* and the *Films, Videos, and Publications Classification Act 1993*, but the Law Commission recommended that further legislation be created to protect victims of cyber crimes. There were several recommendations made including amendments to the *Harassment Act*, *Human Rights Act*, *Privacy Act* and *Crimes Act*. One of amendments of interest was as follows:

A new communications offence should be created in the Summary Offences Act 1981 as follows:

Causing harm by means of communication device

1. A person (person A) commits an offence if person A sends or causes to be sent to another person (person B) by means of any communication device a message or other matter that is –

- (a) Grossly offensive; or
- (b) Of an indecent, obscene, or menacing character; or
- (c) Knowingly false.

2. The prosecution must establish that –

- (a) person A either –
  - (i) intended to cause person B substantial emotional distress; or
  - (ii) knew that the message or other matter would cause person B substantial emotional distress;
- and
- (b) the message or other matter is one that would cause substantial emotional distress to a person in person B's position; and
- (c) person B in fact saw the message or other matter in any electronic media.

3. It is not necessary for the prosecution to establish that the message or other matter was directed specifically at person B.

4. In determining whether a message or other matter is grossly offensive, the court may take into account any factors it considers relevant, including –

- (a) The extremity of the language used;
- (b) The age and characteristics of the victim;
- (c) Whether the message or other matter was anonymous;
- (d) Whether the message or other matter was repeated;
- (e) The extent of the circulation of the message or other matter;
- (f) Whether the message or other matter is true or false;
- (g) The context in which the message or other matter appeared.

5. A person who commits an offence against this section is liable to imprisonment for a term not exceeding 3 months or a fine not exceeding \$2,000.

6. In this section, communication device means a device that enables any message or other matter to be communicated electronically.<sup>124</sup>

In response to the paper, Minister of Justice, Judith Collins, stated,

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<sup>123</sup> *Ibid.*

<sup>124</sup> *Ibid* at 90-91.

The Law Commission has made a range of recommendations. We will consider all the recommendations. In particular, we will consider creating a new offence targeting offensive, indecent, or obscene digital communication that causes harm. We will also consider changing existing laws to make sure provisions apply to digital communications, and we will consider making it an offence to incite a person to commit suicide, whether or not the intended victim attempts suicide.<sup>125</sup>

In conclusion, legislators recognized that children may have a clearer understanding of this issue and should be valued as experts. Girls were cited both as tormentors and victims of cyberbullying. Similarly to Australia, girl's suicides were used as examples of the consequences of cyberbullying and the need for additional legislation. Additionally, educational campaigns were seen as a solution to this issue.

### **C. Exposure to Crime**

#### **Australia**

Children's digital exposure to crime did not seem to be of great concern to Australian legislators. Three issues that were discussed were children's exposure to gambling, social media sites leading to out of control parties, and children's access to substances. Girls were not referred to in the gambling debates, but were portrayed as potentially innocent victims of out of control parties.

The Commonwealth Joint Select Committee on Gambling Reform discussed the issue of children's exposure to gambling. Federal MP Gai Brodtkmann noted,

It is not unusual for children to gamble, particularly using apps on smart phones. It is not unusual for children to do this and not understand that they are not meant to be doing this. It is not unusual for people under 18 to think that they are not taking a risk gambling, which is of great concern to the people around them, and that is something about understanding risk at appropriate age.<sup>126</sup>

Members of the committee suggested that educating children on the concepts of gambling and advertising could be beneficial,<sup>127</sup> along with limiting the times that gambling advertisements could be viewed in order to avoid normalizing gambling for children.<sup>128</sup>

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<sup>125</sup> NZ, *Hansard*, Questions for Oral Answer — Questions to Ministers (15 August 2012) (Judith Collins).

<sup>126</sup> Austl, Commonwealth, *Joint Select Committee on Gambling Reform* (03 May 2012) (Gai Brodtkmann).

<sup>127</sup> *Ibid.*

<sup>128</sup> Austl, Commonwealth, Senate, *Joint Select Committee on Gambling Reform* (11 October 2011).

Western Australia MLC Kate Doust addressed the issue of out of control parties during a debate on the *Criminal Law Amendment (Out-Of-Control Gatherings) Bill 2012*. She expressed concerns that social media sites were causing large numbers of young people to gather at parties. She stated,

I spoke to my father earlier this week. By the bye, he mentioned that one of my younger cousins, who lives in Mandurah with her partner—a lovely young woman—organised a function at her home with a few friends. Unbeknownst to her, a couple of her friends let other people know via Facebook that they were going to this event. All these people turned up at my cousin's house. Her car was trashed. These people invaded the house; her jewellery was stolen and property was damaged inside the house. That was not anything she had organised, but it is the way the party was promoted by other people who were outside her control. A number of people have probably been caught out in that type of situation...Quite often the organiser is not even aware that an alert has gone out. It may be a phone text, it might be a tweet; it could be on Facebook or on any of a range of social media that people use. I am sure there is a range of social media vehicles that I am not up to speed with that are used to get messages out quickly. This is a real dilemma for police.<sup>129</sup>

The *High-Wire* report noted concerns that children could access alcohol and drugs online.<sup>130</sup>

In conclusion, children's access to the Internet, particularly on mobile devices and social media sites were viewed as a danger. Misuse of the Internet could lead to criminal behavior such as gambling or out of control parties. Girls were seen as potential innocent victims of social media sites and the Internet was seen as a vehicle to accessing immoral behavior such as gambling or accessing intoxicating substances.

#### **D. Exposure to Pornography or Sexualized Content**

##### **Australia**

Exposure to pornography or sexualized content is covered briefly above, under the child sexual exploitation topic heading, but there were also concerns about the harms of children being exposed to pornography or sexualized content not linked directly to child sexual exploitation. Exposure to sexualized content will be discussed further under the media sexualization of girls heading.

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<sup>129</sup> Austl, WA, Legislative Council, *Parliamentary Debates* (15 November 2012).

<sup>130</sup> *Supra* note 55 at 182-183.

Exposure to pornography was the impetus behind a controversial filtering scheme proposed by the Labor government. In the 2007 election campaign, the Labor government proposed a cyber safety plan that included providing “mandatory ‘clean feed’ Internet service for all homes, schools and public computers that are used by Australian children. Internet Service Providers (ISPs) will filter out content that is identified as prohibited by the Australian Communications and Media Authority (ACMA). The ACMA ‘blacklist’ will be made more comprehensive to ensure that children are protected from harmful and inappropriate online material.”<sup>131</sup> Many legislators supported the bill in order to prevent the exposure of offensive pornography,<sup>132</sup> where others were concerned that the bill provided the government with excessive discretion when selecting which sites would be blacklisted.<sup>133</sup>

The National Filtering Scheme debates focused on balancing the need for individual privacy with the need to restrict access to child pornography through a filtering system. In 2007, Senator Helen Coonan expressed her support of the scheme stating,

I know that everyone in this chamber supports me and supports our government when I say that child pornography is an unmitigated evil, and I would hope that there would be absolutely no argument about that. This is an issue that I would hope is above politics, and I put on record the support of my colleagues from all sides in working to stop the sexual trade and trafficking of children.

The scheme announced by this government to create the National Filter Scheme at a cost of \$93.3 million over three years to provide free PC-based filters or a subsidised filtered internet service for Australian families and funding to allow every public library in Australia to set up child-safe internet terminals will be operational this year.<sup>134</sup>

During a 2011 Joint Select Committee on Cyber-Safety meeting, a community contributor Mrs. Phillips expressed her concerns about children’s exposure to pornography and the need for a filtering system. She stated,

Only recently, on the ABC Lateline program, a US sociology professor, Gail Dines, was interviewed by Tony Jones. She is very concerned about the impact of online pornography. She pointed out that these days it is not just the old Playboy soft

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<sup>131</sup> Austl, Commonwealth, Election 07: Stephen Conroy, *Labor's Plan for Cyber-safety* (2007).

<sup>132</sup> Austl, Commonwealth, Senate, *Standing Committee on Environment, Communications and the Arts* (23 February 2009).

<sup>133</sup> Austl, Commonwealth, House of Representatives, *Parliamentary Debates* (3 February 2009) at 128.

<sup>134</sup> Austl, Commonwealth, Senate, *Senate Debates* (8 February 2007) at 7 (Helen Coonan).

pornography, it is hardcore. You get it, she said, within 10 seconds of typing the word ‘p-o-r-n’ into Google. It is hardcore porn and children as young as 11 are having this as their first introduction to sexual experience. When I say hardcore porn, it is violent, degrading porn of the worst kind and it is there in full, explicit detail. She said the studies are showing this is having a devastating effect not just on children but also, as they grow older, on teenagers, on their whole idea of relationships, marriage, everything... These are images which are permanently imprinted on the brains of young people and you cannot just wipe them; they are there forever and they are changing their attitudes to women, to sex and to relationships.<sup>135</sup>

In 2012, Senator Suzanne Boyce challenged the filtering scheme stating,

I refer to the decision by Reporters Without Borders to put Australia number one on a list of countries ‘under surveillance’ in its Internet Enemies report because ‘the government wants to set up a filtering system never before seen in a democracy’. Is the minister concerned that his mandatory internet censorship plan has put Australia alongside countries like Russia, the United Arab Emirates, Bahrain, Belarus, Thailand and Turkey on the ‘under surveillance’ list in the eyes of the international community?<sup>136</sup>

The scheme ultimately failed and a voluntary filtering scheme for ISP providers was established instead.<sup>137</sup>

The *High-Wire* report noted that children of this generation are able to bypass filtering systems and other online safety measures. Children were reported to have already incorporated safety practices in their online behaviors.<sup>138</sup>

In 2008, the NT proposed the *Classification of Publications, Films and Computer Games Amendment Bill*, in response to the *Little Children are Sacred* report, which would limit minors’ access to pornographic material. MLA Gerry Wood stated,

I believe if we are going to make a rule that says parents on an Indigenous community can be prosecuted for showing pornographic material to young children then it should apply to all of us. I do not know how you can argue this material should be shown to children. It is not sex education - that is a different matter all together - it is just garbage.

People can put on all the spin they like, but I say to the people here: have a look at one of these movies. If 16- and 17-year-old people, especially boys, see this type of material, why do we wonder that we have this problem in Maningrida? That is the effect. It is not

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<sup>135</sup> Austl, Commonwealth, *Joint Select Committee on Cyber-Safety* (3 February 2011).

<sup>136</sup> Austl, Commonwealth, Senate, *Senate Debates* (15 March 2010) at 1758 (Suzanne Boyce).

<sup>137</sup> Austl, Commonwealth, Minister for Broadband, Communications and the Digital Economy, *Media Release: Child abuse material blocked online, removing need for legislation* (9 November 2012) (Stephen Conroy).

<sup>138</sup> *Supra* note 55 at 11-13.

just on Aboriginal boys that it has this effect; it is good, healthy, young Anglo-Saxon boys as well.<sup>139</sup>

In 2009, South Australia MLC D.G.E. Hood expressed concerns that children were being exposed to pornographic video covers in video rental stores. He spoke to the *Classification (Publications, Films and Computer Games) (R 18+ Films) Amendment Bill* which would

[p]lace these videos quite separately from children's videos, in particular. It will also prohibit showing trailers or other promotional material with a rating of R18+ or greater; although, by law, one cannot show anything greater than that, but I am allowing for future changes that may come. Anything with an R18+ or higher cannot be shown within the store either as a trailer or a DVD running.<sup>140</sup>

In 2011, NT proposed the *Stronger Futures in the Northern Territory (Consequential and Transitional Provisions) Bill 2011*, which would continue the pornography restriction implemented by the *Northern Territory Emergency Response Act 2007* (mentioned under the child sexual exploitation heading).<sup>141</sup>

In conclusion, exposure to pornography was viewed as very damaging to children. It was seen as impacting their views on women and girls and potentially leading them to act sexually prematurely or in inappropriate manners such as with adults. One legislator stated that boys could be especially adversely affected by viewing pornography. Citing the *Little Children are Sacred* report, he suggested that this was not an issue limited to Aboriginal communities. Filtering systems and bans on pornography were seen as the best solutions. It is interesting to note that this is one area where educational campaigns were not suggested.

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<sup>139</sup> Austl, NT, Legislative Assembly, *Parliamentary Debates* (18 September 2008) (Gerry Wood).

<sup>140</sup> Austl, SA, Legislative Council, *Parliamentary Debates* (29 April 2009) at 2108 (DGE Hood).

<sup>141</sup> Austl, Commonwealth, House of Representatives, *Parliamentary Debates* (23 November 2011) at 13545.

## **New Zealand**

In 2009, NZ proposed the *Digital Child Exploitation System*, which would be developed by the NZ government and offered to ISP providers to voluntarily block child pornography. By 2012, six ISPs had adopted the scheme.<sup>142</sup>

In conclusion, NZ legislators were mainly focused blocking child pornography and did not discuss children's exposure to adult pornography.

## **E. Exposure to Suicide Instructions**

### **Australia**

The National Policy Officer of FamilyVoice, Richard Egan, was invited to speak to the Commonwealth Joint Select Committee on Cyber-Safety and discussed his concerns about children being exposed to suicide instructions. In a 2010 meeting Egan stated,

I think the most useful way to move on from there is to address one particular kind of harm, which is the promotion or encouragement of suicide. It is a particularly grievous form of harm because the end result can be a very untimely and tragic death. Sadly, here in Victoria in April 2007 two 16-year-old girls, Jodie Gater and Stephanie Gestier, committed suicide. Every suicide is a tragedy. In this particular case the two girls had, step by step, followed instructions they accessed on a website that was hosted in the Netherlands that instructed them about the ropes, the knots, the weights and so forth. The point to make about that is that if we are going to protect young people from that kind of harm we have to take seriously that the cyberworld now internationalises things like encouragement or promotion of suicide. Our laws are lagging behind in that regard.<sup>143</sup>

Egan supported the mandatory filtering scheme mentioned above, under the exposure to pornography and sexualized topic heading. He suggested that websites that instructed or promoted suicide should be included on the blacklist.<sup>144</sup>

In 2011, Northern Territory MLA Gerry Wood discussed the link between suicides and Internet use. He stated,

Young people are bombarded through the Internet, mobile phones, iPods, movies, satellite television, and all kinds of music. Unfortunately, some of that medium can be a celebration of death rather than life...I also note that male suicides are far higher than

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<sup>142</sup> NZ, "Report of the Government Administration Committee", 2012.

<sup>143</sup> Austl, Commonwealth, *Joint Select Committee on Cyber-Safety* (9 December 2010) (Richard Egan).

<sup>144</sup> Austl, Commonwealth, *Joint Select Committee on Cyber-Safety* (9 December 2010).

female suicides. Between 2000 and 2005, there were approximately 100 male deaths to 10 female deaths. Again, when I was talking to Ms Hanssens today, she said whilst previously there had been quite a few attempts by young girls to commit suicide, they were not successful. Unfortunately, what is happening now is they are becoming successful, so that number is rising. That is alarming.<sup>145</sup>

In conclusion, the Internet was portrayed as a factor in children's suicides. Children were seen at higher-risk of successfully committing suicide because of content they could access online. Girls were noted as especially at risk of success because of information found on the Internet.

## **F. Gaming**

### **Australia**

Between 2007 and 2013 multiple jurisdictions proposed legislation that re-classified videos and video games containing sexualized or violent content, to prevent children from accessing them. The general discussion on the topic was centered around the damage done to children who were exposed to this type of material, but some jurisdictions directly mentioned the harm caused to children who were exposed to sexualized images of girls and women. Stricter age ratings of video games were seen as a positive protective measure for children and also a helpful tool for parents who may not be able to differentiate between games.

In 2007, the Commonwealth government passed the *Classification (Markings for Films and Computer Games) Determination Act*,<sup>146</sup> which created stricter age classifications for video games. In 2008, it proposed the *Classification (Publications, Films and Computer Games) Amendment (Assessments and Advertising) Bill*,<sup>147</sup> which would require stricter ratings on films and games in order to protect children from viewing inappropriate content. Senator Barnaby Joyce supported the bill stating,

The growth of the computer games industry is driven by technological advances. However, the proposed scheme can be reviewed only in three years time. This is not in line with the speed of technology and leaves a question as to the speed at which schemes will date. The American Psychological Association has concluded that scientific evidence

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<sup>145</sup> Austl, NT, Legislative Assembly, *Parliamentary Debates* (17 August 2011) (Gerry Wood).

<sup>146</sup> *Classification (Markings for Films and Computer Games) Determination 2007* (Cth).

<sup>147</sup> Austl, Commonwealth, House of Representatives, *Parliamentary Debates* (20 March 2008) at 2504.



shows a cause-and-effect relationship between television and computer game violence and aggression in children. Children are more likely to affiliate with and imitate the actions of the character with whom they identify: in computer games this is often the shooter, the wielder of weapons or the driver of out-of-control vehicles.<sup>148</sup>

State and territorial governments quickly followed suit, proposing similar legislation. In 2008, the *Classification (Publications, Films and Computer Games) Enforcement Amendment (Advertising) Bill 2008*<sup>149</sup> was proposed in NSW which would limit the advertising of adult themed video games. MLC Anthony Roberts supported the bill because he believed that children “cannot distinguish between reality and fiction and are adversely affected.”<sup>150</sup>

In 2008, the *Justice Legislation Amendment Bill* was proposed in Queensland, which would amend the *Classification of Computer Games and Images Act 1995* to limit children’s exposure to videos and games with violence, drugs and sexually explicit material.<sup>151</sup>

A similar bill was proposed in Tasmania that year, the *Classification (Publications, Films and Computer Games) Enforcement Amendment Bill*.<sup>152</sup>

In 2008, the *Classification (Publications, Films and Computer Games) (Classification Process) Amendment Bill* was proposed in SA. MLC D.G.E. Hood discussed the need for stricter classification to protect children. He stated,

These days, more children are contracting sexually transmitted diseases each year than all the victims of polio in its 11-year epidemic from 1942 to 1953. These figures are completely unacceptable, and they have come about because we are sending the wrong messages to our children via the media and in other ways. Indeed, the over-sexualisation of children, and a complete disregard for what material we present to them, plays a major part in explaining these numbers.<sup>153</sup>

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<sup>148</sup> Austl, Commonwealth, Senate, *Senate Debate* (14 March 2008) at 3135 (Barnaby Joyce).

<sup>149</sup> Austl, NSW, Legislative Council, *Parliamentary Debates* (22 October 2008) at 10421.

<sup>150</sup> *Ibid* at 10421 (Anthony Roberts).

<sup>151</sup> Austl, Qld, Legislative Assembly, *Parliamentary Debates* (7 October 2008) at 2849.

<sup>152</sup> *Classification (Publications, Films and Computer Games) Enforcement Amendment Bill 2008*, 46th Parl, Tas, 2008.

<sup>153</sup> Austl, SA, Legislative Council, *Parliamentary Debates* (29 July 2008) at 3739 (DGE Hood).

In 2010, the *Classification (Publications, Films, and Computer Games) (Parental Guidance) Amendment Bill* was proposed in SA. MLC Ann Bressington supported the bill to reduce children's exposure to the sexualization of girls. She stated,

However, concerns about the sexualisation of children, particularly young girls, have rightly in my opinion long been held by parents, educators and professionals. Despite not having developed the cognitive, emotional or social tools to deal with exposure to adult and sexualised material, our children are literally bombarded with sexualised images and references and encouraged by media and advertisers to mimic adult behaviour and embrace adult ideals.<sup>154</sup>

In 2009, the *Classification (Publications, Films and Computer Games) (Enforcement) Amendment Bill* was proposed in Victoria to protect children from inappropriate content.<sup>155</sup>

In 2010, SA proposed legislation that was had a unique classification régime that classified videos and video games independently of the Commonwealth classification system under the *Classification (Publications, Films and Computer Games) (Exemptions and Approvals) Amendment Bill*.<sup>156</sup>

In 2012, the *Classification (Publications, Films and Computer Games) Amendment (R 18+ Computer Games) Bill* was proposed federally, which would increase the age of game classifications to include an 18+ category that would help parents make informed decision when purchasing games for their children. Supporter, MP Steven Ciobo stated,

There are many in the community who would ask, 'Why is there a need for an R18+ classification for computer games?' Computer games are played by children and surely there would not seem to be a need for an R18+ classification. Furthermore, I know that many parents have concerns that children are exposed to overly violent computer games and, increasingly, it would appear that there is a blend of both violence and sexual activity in computer games. It is understandable that a number of parents have concerns about this issue. As a parent of a three-year-old boy I can draw linkages as to why those concerns are there.<sup>157</sup>

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<sup>154</sup> Auslt, SA, Legislative Assembly, *Parliamentary Debates* (21 July 2010) at 676 (Ann Bressington).

<sup>155</sup> Austl, Vic, Legislative Council, *Parliamentary Debates* (11 June 2009) at 3114.

<sup>156</sup> Auslt, SA, Legislative Assembly, *Parliamentary Debates* (15 September 2010) at 1155.

<sup>157</sup> Austl, Commonwealth, House of Representatives, *Parliamentary Debates* (14 March 2012) at 3010 (Steven Ciobo).

Similar bills were introduced in other jurisdictions. Later that year, the *Classification (Publications, Films and Computer Games) (Enforcement) Amendment Bill* was proposed in ACT to increase the age of game classifications to include an 18+ category.

In 2012 in NSW, a similar bill the *Classification (Publications, Films and Computer Games) Enforcement Amendment (R 18+ Computer Games) Bill*<sup>158</sup> was introduced.

In 2012 in SA, the *Classification (Publications, Films and Computer Games) (R 18+ Computer Games) Amendment Bill* was proposed.<sup>159</sup>

In 2012 in Tasmania, the *Classification (Publications, Films and Computer Games) Enforcement Amendment Bill* was proposed.<sup>160</sup>

In 2013 in Queensland, the *Classification of Computer Games and Images and Other Legislation Amendment Bill* was proposed.<sup>161</sup>

In NSW, the concern of the sexual content in video games was expressed by MLC Cate Faehrman. She stated,

Our children are growing up playing these games and the games are normalising the objectification of women, sexual violence and obscene relationships between the genders. This issue goes further than just being an issue of R 18+ video games...[f]eminists are divided on this issue and it is an interesting discussion within the feminist movement. I am confident with my feminism in saying that the gamers and the sexism in games need to be challenged.<sup>162</sup>

MLC John Ajaka followed by stating,

Content that includes actual sexual violence, implied sexual violence that is visually depicted, interactive, not justified by context or is related to incentives or rewards, explicit depictions of actual or simulated sexual activity, or interactive illicit drug use, will not be permitted in R 18+ computer games and will continue to be refused classification. Computer games that are classified R 18+ must be clearly marked and public demonstrations are prohibited in the presence of minors. Games with a rating of R

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<sup>158</sup> Austl, NSW, Legislative Council, *Parliamentary Debates* (19 September 2012) at 15412.

<sup>159</sup> Austl, SA, Legislative Council, *Parliamentary Debates* (13 November 2012).

<sup>160</sup> *Classification (Publications, Films and Computer Games) Enforcement Amendment 2012*, 47th Parl, Tas, 2012.

<sup>161</sup> Austl, Qld, Legislative Assembly, *Parliamentary Debates* (14 February 2013) at 209.

<sup>162</sup> Austl, NSW, Legislative Council, *Parliamentary Debates* (19 September 2012) at 15412 (Cate Faehrman).

18+ cannot be sold, delivered or privately demonstrated to a child under 18 years of age, except by the child's parent or guardian. These provisions provide effective protection for children from being exposed to adult-only content in the outside world. Parents must take responsibility for ensuring that children are protected from inappropriate material at home.<sup>163</sup>

In 2012, NT proposed a bill that would include an 18+ game rating, *Classification of Publications, Films and Computer Games Amendment Bill*. Supporter MLC Greg Smith stated,

The actual provisions in this bill mirror those that govern the sale and exhibition of R 18+ films. Computer games that are classified R 18+ must be clearly marked and public demonstrations are prohibited in the presence of minors. Games with a rating of R 18+ cannot be sold, delivered or privately demonstrated to a child under 18 years of age, except by the child's parent or guardian. These provisions provide effective protection for children from being exposed to adult-only content in the outside world. Parents must take responsibility for ensuring that children are protected from inappropriate material at home. The addition of an R 18+ classification and the provisions in the bill represent a sensible extension to the National Classification Scheme that properly balances the interests of adult gamers with the protection of children.<sup>164</sup>

Victoria followed with the *Classification (Publications, Films and Computer Games) (Enforcement) Amendment Bill*.<sup>165</sup> MLC Sue Pennicuick stated concerns about the “rise of the sexualisation of children in the media and the issue of the objectification of women in all sorts of media.”<sup>166</sup> She supported the bill as a solution to children’s exposure to sexualized content.

Additionally, on the topic of gaming, the Commonwealth Consumer Affairs Advisory Council has been collecting consumer data about mobile apps. One of the purposes of the proposed paper is to analyze “consumer experiences when downloading and using such content, including when used by children,”<sup>167</sup> including hidden fees in games made for children. The report is due to be released in 2013.

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<sup>163</sup> *Ibid* (John Ajaka).

<sup>164</sup> Austl, NSW, Legislative Council, *Parliamentary Debates* (5 September 2012) at 14632 (Greg Smith).

<sup>165</sup> Austl, Vic, Legislative Assembly, *Parliamentary Debates* (13 November 2012) at 4845.

<sup>166</sup> Austl, Vic, Legislative Assembly, *Parliamentary Debates* (27 November 2012) at 5129 (Sue Pennicuick).

<sup>167</sup> Austl, Commonwealth, The Treasury: CCAAC, *Issues Paper: App Purchases by Australian consumers on mobile and handheld devices*, (2012).

The *High-Wire* report noted that parents were concerned with online addiction in relation to games. It stated,

While there are examples of young people who become ‘addicted’ to online activities such as Facebook or online games, it is necessary to be more aware of what they did online rather than blocking or only allowing access to specific sites.<sup>168</sup>

In conclusion, jurisdictions seemed to follow a trend of passing similar legislation in relation to gaming. As video games became more adult themed the fear of children being negatively impacted by viewing violent and sexual imagery was heightened. Children were described as being unable to differentiate between fiction and reality, and games were seen as creating a significant impact on children because of the high level of interaction. Some legislators suggested that playing violent and sexual video games led to real life consequences such as violence and lack of respect for girls and women. The sexualization of girls and women and the sexual violence in video games were seen as particularly harmful for children. Age based classifications and labeling were proposed as a solution, where parents could choose which games were age appropriate for their children.

## **G. Inactivity/Obesity**

### **Australia**

The two issues that arose on this topic were excessive Internet use leading to inactivity, and limiting junk food advertising to children.

In 2007, the Australian Institute of Health and Welfare produced the publication, *Young Australians: their health and wellbeing 2007*, which expressed concerns about the amount of time children spend on sedentary screen-based activities, including the Internet. The report recommended that children should not spend more than two hours a day participating in this type of activity, “[h]owever, according to the 2004 NSW SPANS findings, 61% of boys and 45% of girls in Year 6, 76% of boys and 66% of girls in Year

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<sup>168</sup> *Supra* note 55 at 179.

8 and 78% of boys and 67% of girls in Year 10 engaged in more than 2 hours of small-screen recreation activities.”<sup>169</sup>

In 2007 in Victoria, MLC Adem Somyeurek stated,

Young children in particular are less likely these days to go outside and kick the football around or do some of the more traditional things that children used to do. Instead, they sit around the TV and play computer games all day. This is a bit of a problem that is hard to address. We are, after all, living in a democracy and our civil liberties are pretty important to us. It is hard for the state to regulate this type of behaviour, but what we can do as a society is put this issue on the agenda. To be fair, governments throughout Australia are increasingly promoting a healthier lifestyle.<sup>170</sup>

He suggested that more funding be allocated to health promotion in order prevent chronic health conditions such as diabetes amongst children.

In 2008, the *Protecting Children From Junk Food Advertising (Broadcasting Amendment) Bill*, was introduced federally to address the issue of childhood obesity by reducing junk food advertising on TV, Internet, mobile phones and other broadcast media directed at children.<sup>171</sup>

In 2012, the Child Family Community branch of the Australian Institute of Family Studies produced a research brief, *Excessive internet use among Australian children*, which draws on the *EU Kids Online Excessive Internet Use*. The brief noted "Australian children use the Internet more excessively than their European counterparts, but the behaviour tails off as they grow older, says a new report from the ARC Centre for Excellence for Creative Industries and Innovation at Edith Cowan University (CCI)."<sup>172</sup>

In conclusion, excessive Internet use was viewed as damaging to children’s health. One study stated that girls overall use the Internet for less time each day than boys.

Legislation was also proposed to protect children from junk food advertising directed at children.

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<sup>169</sup> Austl, Commonwealth, Australian Institute of Health and Welfare, *Young Australians: their health and wellbeing 2007 at 175*.

<sup>170</sup> Austl, Vic, Legislative Council, *Parliamentary Debates* (21 June 2007) at 1916 (Adem Somyeurek).

<sup>171</sup> Austl, Commonwealth, House of Representatives, *Parliamentary Debates* (12 March 2009) at 1463.

<sup>172</sup> Australian Institute of Family Studies: CFCA, *Excessive internet use among Australian children* (20 November 2012).

## H. Information Superhighway

### Australia

Two major themes arising in the debates about the Information Superhighway were increasing broadband connectivity and providing students with improved access to technology. The Commonwealth government proposed the National Broadband Network (NBN) to expand broadband across the nation, and the Digital Education Revolution (DER), which would provide a laptop computer to each 9 to 12 year student while they were in school through the \$900 million National Secondary School Computer fund. State and territorial legislators varied on their support for the programs. Many saw the benefits of increased access to technology for children's education and future contributions to the economy, while others criticized the projects for being overly expensive, ineffective and poorly planned. The divide was generally made between party lines. Those who were members of the Labor party supported the proposals, where those opposing the Labor party criticized it. Gender was never mentioned in the debates.

Supporters of the NBN viewed the plan as beneficial to children by improving their access to education, especially rural children. Additionally, it was seen as benefiting the economic interests of Australia, increasing the competitiveness of their citizens and assisting in keeping families connected to one another.<sup>173</sup>

In 2007, MP Kim Wilkie stated,

The inability of Australians to access high-speed broadband will have dire economic consequences now and into the future. This is particularly the case in education, as around the world broadband is revolutionising the way students learn. It is only Labor that has a plan for a national fibre-to-the-node broadband network, a plan that will drive an education revolution in Australia. By providing access to the world's finest museums, libraries and institutions, high-speed broadband brings the very best of educational resources into universities, schools and homes...In remote areas of regional Australia, improved broadband services will enable students and teachers to participate in virtual classrooms while being physically separated by hundreds or thousands of kilometres.<sup>174</sup>

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<sup>173</sup> Austl, Vic, Legislative Council, *Parliamentary Debates* (24 June 2010) at 3083.

<sup>174</sup> Austl, Commonwealth, House of Representatives, *Parliamentary Debates* (12 June 2007) at 34 (Kim Wilkie).

The NBN initiative was relatively successful in connecting students to high speed broadband in certain areas,<sup>175</sup> though there were critiques that suggested the added cost to families who had to upgrade their computers to be compatible with the network was detrimental.<sup>176</sup>

State and territorial legislators also proposed their own additional plans to improve broadband in their region to in order to improve education for children. This was discussed in Victoria in 2007 during a parliamentary debate.<sup>177</sup>

In NSW, the Standing Committee on Broadband and Rural and Regional Communities produced the *Discussions Paper 2008*, which stated that a lack of broadband connectivity limited the quality of education available to regional children.<sup>178</sup>

In WA in 2008, MLC Norman Moore moved that the federal government support the use of funding to invest in broadband connectivity.<sup>179</sup>

Supporters of the DER viewed access to technology as advancing education and improving the chances of children being successful in the future economy. It was also seen as closing the digital divide between students of different economic groups.<sup>180</sup> It was suggested that the combination of school computers and the NBN would allow for students to access to media rich educational tools and decrease the costs of textbooks by providing ebooks rather than textbooks.<sup>181</sup>

Supporter, federal MP Christopher Hayes stated,

This is not about teaching kids to be able to use computers; this is a move to actually incorporate computers into the general educational environment of children as they are progressing through the senior years of school. It is good

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<sup>175</sup> Austl, NSW, Legislative Assembly, *Standing Committee on Broadband and Rural and Regional Communities* (10 September 2010) at 25654.

<sup>176</sup> Austl, Vic, Legislative Assembly, *Parliamentary Debates* (6 October 2010) at 3974.

<sup>177</sup> Austl, Vic, Legislative Assembly, *Parliamentary Debates* (23 August 2007) at 2971.

<sup>178</sup> Austl, NSW, Standing Committee on Broadband and Rural and Regional Communities, *Discussions Paper 2008* (Report No 1) at 11.

<sup>179</sup> Austl, WA, Legislative Council, *Parliamentary Debates* (20 February 2008) at 144 (Norman Moore).

<sup>180</sup> Austl, Commonwealth, House of Representatives, *Parliamentary Debates* (17 June 2010) at 5801.

<sup>181</sup> Austl, Commonwealth, House of Representatives, *Standing Committee on Infrastructure and Communications* (11 March 2011).



news for all our local schools and for the students in those schools. To get an education in today's world—I think the facts speak for themselves—you need to be learning with today's technology. We need to be able to keep up to date and up to speed with technology in order to achieve the best results—producing not only kids who will be our leaders in research and other things through tertiary education but those who will take up and avail themselves of the opportunities to be involved in industry throughout their lives.<sup>182</sup>

In 2008, federal MP Sharon Grierson stated:

To be able to compete globally, Australia needs a world-class education system. This includes investing in our school infrastructure, including computers in schools and trade-training centres, investing in our teachers and establishing a national curriculum. The first \$100 million of the National Secondary School Computer Fund, which is provided for in this bill, will be directed to the schools most in need, by June 2008...They are children of the digital age, and they deserve to have that as part of their everyday studies, not just as something that is available after school for them. The young people of today are always connected.<sup>183</sup>

In 2009, federal MP Julia Gillard stated,

Of course, the Digital Education Revolution, working with the National Broadband Network, will open up a new era of learning for students in Australian schools. It will mean that they are able to source the best of curriculum, content and research material from around the world. It means those students who are in small schools and who perhaps do not have a specialist teacher, perhaps a specialist science teacher or language teacher, will be able to access content and contact with those specialists through the power of the National Broadband Network and our Computers in Schools program. It means, of course, that Australian students will be able to develop the skills that they will need for life and for work in the 21st century.<sup>184</sup>

Critics of the plan felt that the DER was poorly organized and did not provide adequate funding or training for the program to be successful. Victorian MLC Inga Peulich stated,

I refer the Treasurer to the Rudd federal government's education revolution, where inadequate funding has been provided for the ongoing maintenance and eventual upgrading of computers, the provision of adequate and safer power points, the security and associated infrastructure in traditional classrooms that were not designed to house this extra equipment, the provision of software and site licences, and the professional development for teachers and curriculum

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<sup>182</sup> Austl, Commonwealth, House of Representatives, *Parliamentary Debates* (16 October 2008) at 9353 (Christopher Hayes).

<sup>183</sup> Austl, Commonwealth, House of Representatives, *Parliamentary Debates* (19 February 2008) at 749 (Sharon Grierson).

<sup>184</sup> Austl, Commonwealth, House of Representatives, *Parliamentary Debates* (21 October 2009) at 10563 (Julia Gillard).

support needed for minimal information and communications technology skill standards that have yet to be articulated.<sup>185</sup>

The DER was slow to be implemented and it did not seem to fully achieve its goal of providing a computer for every student in years 9 to 12, and as of 2013 it seems as though the program will be scrapped.<sup>186</sup>

In 2008, the Commonwealth government also proposed the *Tax Laws Amendment (Education Refund) Bill* which would provide tax benefits to families who invested in or rented computers for the home.<sup>187</sup>

Other digital education issues were raised in various jurisdictions. In 2007, SA legislators raised concerns about the Internet leading to higher levels of plagiarism amongst students.<sup>188</sup>

In the same year, SA proposed the *Education (Compulsory Education Age) Amendment Bill*, which would make education compulsory for students up to the age of 16. Students could satisfy the educational requirement through online education.<sup>189</sup>

A similar regulation supported by online educational opportunities was proposed in Tasmania under the *Education Amendment (Youth Participation) Bill 2009*.<sup>190</sup>

Online school programming and digital access to grades was proposed in a few jurisdictions in order to provide ease of access to schoolwork and grading. This was seen as a convenience for students and a benefit to parents who could then monitor their child's homework and progress. This type of programming was proposed in Victoria in 2007,<sup>191</sup> in NSW in 2009,<sup>192</sup> and in ACT in 2010.<sup>193</sup> There were some concerns that the digital posting of grades may negatively affect student's feelings of self-worth.

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<sup>185</sup> Austl, Vic, Legislative Council, *Parliamentary Debates* (17 April 2008) at 1363 (Inga Peulich).

<sup>186</sup> Rebecca Barrett, "Government set to end school laptop scheme", *ABC* (1 March 2013).

<sup>187</sup> Austl, Commonwealth, Senate, *Senate Debates*, (27 November 2008) at 7630.

<sup>188</sup> Austl, SA, Legislative Council, *Parliamentary Debates* (14 November 2007) at 1339.

<sup>189</sup> Austl, SA, Legislative Assembly, *Parliamentary Debates* (14 November 2007) at 1615.

<sup>190</sup> Austl, NT, Legislative Assembly, *Parliamentary Debates* (15 October 2009).

<sup>191</sup> Austl, Vic, Legislative Assembly, *Parliamentary Debates* (3 May 2007) at 1397.

<sup>192</sup> Austl, NSW, Legislative Council, *Parliamentary Debates* (24 June 2009) at 16674.

<sup>193</sup> Austl, ACT, Legislative Assembly, *Parliamentary Debates* (22 September 2010) at 4340.

The Standing Committee on Education and Training discussed the values of librarians as leaders in children's digital education. It was suggested that librarians could teach children about digital citizenship,<sup>194</sup> digital literacy, and act as supervisors or gatekeepers when children are accessing the Internet.<sup>195</sup> Libraries were seen as a valuable place for children to access the Internet safely and for free.<sup>196</sup>

One interesting use of technology was the government's creation of the *Before the Storm* app, which was "educational game for middle year students designed to get them thinking about storm preparation and disaster resilience."<sup>197</sup>

The *High-Wire* report stated that the Internet was an essential tool for children and being able to use the Internet effectively allowed children to gain new skills and share useful information. It also warned that the Internet created dangers for children and that children have a limited capacity when making decisions online.<sup>198</sup>

In conclusion, most legislators supported increased connectivity to technology for children in schools. Children who had access to computers and broadband were viewed as receiving a higher quality education, improving their relationships with people online, and were more likely to positively contribute both to the national and international economy. Rural students were cited as being especially in need of connectivity in order to decrease the digital divide. Gender was not mentioned in these debates. The NBN and DER programs were introduced to provide children with the infrastructure needed to be successful.

## **New Zealand**

NZ legislators obviously valued the benefits of Internet connectivity. In 2008, Culture and Heritage Minister Judith Tizard went as far as suggesting that accessing the Internet

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<sup>194</sup> Austl, Commonwealth, House of Representatives, *Standing Committee on Education and Training* (29 April 2010).

<sup>195</sup> Austl, Commonwealth, House of Representatives, *Standing Committee on Education and Training* (29 April 2010).

<sup>196</sup> Austl, WA, Legislative Assembly, *Parliamentary Debates* (21 April 2010) at 1970.

<sup>197</sup> Australian Government: Attorney-General's Department, *Before the Storm* (2012).

<sup>198</sup> *Supra* note 55 at 3-6.

should been considered a human right.<sup>199</sup> When referring to children, the main topics on the Information Superhighway were copyright and broadband access. Similarly to Australia, NZ was interested in expanding their broadband connectivity to improve the lives of children and to allow for the digitization their classrooms to provide a higher quality education. Additionally, legislators had concerns about children's understanding and breaches of copyright both at school and at home.

In 2011, MP Peseta Sam Lotu-liga discussed the value of broadband connectivity for youth in a debate of the *Telecommunications (TSO, Broadband, and Other Matters) Amendment Bill*, stating,

When I went to one of the schools in my electorate and I saw the communication that went on between 10-year-olds in Tāmaki and young kids in America and the United Kingdom, I saw the ability of these children to learn not just from their teachers and their peers but also from kids across this globe and across this nation. This bill is about positive things for our schools.<sup>200</sup>

Connecting schools to ultra-fast broadband networks was viewed as improving student's educational outcomes. In 2012, MP Craig Foss stated,

These upgrades will allow our schools throughout New Zealand to realise the benefits of ultra-fast broadband. Having better access to ultra-fast broadband will contribute to our students achieving better educational outcomes. Making New Zealand's schools some of the most connected in the world is a crucial part of building a more competitive and productive economy, which is one of this National Government's key priorities.<sup>201</sup>

To facilitate the growth of NZ's broadband the Ultra-Fast Broadband Initiative, the Rural Broadband Initiative,<sup>202</sup> and the Network for Learning were introduced.<sup>203</sup>

In 2012, NZ's Education and Science Committee produced the *Inquiry into 21<sup>st</sup> Century Learning Environments and Digital Literacy*, which made recommendations that every

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<sup>199</sup> Stephen Bell, "Internet access a human right, minister says", *Computer World*, (3 September 2008).

<sup>200</sup> NZ, *Hansard*, Telecommunications (TSO, Broadband, and Other Matters) Amendment Bill — Second Reading 14 June 2011 at 19293 (Peseta Sam Lotu-liga).

<sup>201</sup> NZ, *Hansard*, Questions for oral answer: Schools-Ultra-fast Broadband, 5 April 2012 (Craig Foss).

<sup>202</sup> NZ, *Hansard*, Questions for oral answer: Broadband, Ultra-fast and Rural-Progress, 2 August 2012.

<sup>203</sup> NZ, *Hansard*, Debate on Prime Minister's Statement, 30 January 2013.

child in NZ be connected to a digital education and schools upgrade their learning facilities to keep with the rapidly changing digital environment.<sup>204</sup>

In 2010, the Copyright (Infringing File Sharing) Amendment Bill was introduced in NZ. The bill would amend the Copyright Act 1994 to

provide new enforcement measures against the unauthorised sharing of copyright material via the Internet (infringing file sharing). It repeals section 92A of the Act (enacted by section 53 of the Copyright (New Technologies) Amendment Act 2008, but not brought into force), which would have required ISPs to adopt a policy providing for the termination of a repeat infringer's Internet account.<sup>205</sup>

Some legislators were concerned that the “three strikes” approach of the bill would adversely affect families with children who do not understand the legalities of file sharing. MP Rahui Katene stated: “In the Māori Party all of us have children or mokopuna in our lives who would think nothing of sharing music, video, and game files over computer networks such as the Internet.”<sup>206</sup> MP Steve Chadwick also discussed children’s understanding of file sharing by stating,

Most people on the Internet, when they become Internet-savvy, do not use it to infringe. They do not infringe intentionally. But I know the younger generation, and I have certainly seen evidence of infringement amongst my children’s generation when they download. I do not think they see that as being illegal, at all.<sup>207</sup>

The Ministry of Education developed a website to inform teachers, parents and students about file sharing and provided them with information on how to avoid illegal file sharing.<sup>208</sup>

Earlier in 2008, the *Copyright (New Technologies) Amendment Bill* was introduced to provide exemptions to copyright rules for educational institutions.<sup>209</sup>

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<sup>204</sup> NZ, "Education and Science Committee, Inquiry into 21st century learning environments and digital literacy", (December 2012).

<sup>205</sup> *Copyright (Infringing File Sharing) Amendment Bill*, NZ, 2010 (first reading 22 April 2010).

<sup>206</sup> NZ, *Hansard*, Copyright (Infringing File Sharing) Amendment Bill-First Reading 22 April 2010 at 10422 (Rahui Katene).

<sup>207</sup> NZ, *Hansard*, Copyright (Infringing File Sharing) Amendment Bill-Second Reading, In Committee, Third Reading 12 April 2011 (Steve Chadwick).

<sup>208</sup> Ministry of Education, *For parents and whanau*, online: Ministry of Education <<http://www.tki.org.nz/Copyright-in-Schools/Guidelines-for-schools/For-parents-and-whanau>>.

Two other bills that were introduced and are worth noting were the *Electronic Identity Verification Bill*,<sup>210</sup> and the *Local Government (Public Libraries) Amendment Bill*,<sup>211</sup> both of which were introduced in 2012. The first bill proposed to create online government identities for New Zealanders accessing government services. The duration of children's government approved identities were to be shorter because their appearances changed so quickly. The second bill proposed was introduced to keep library access free. This was seen as valuable to children who need a place to access free Internet services.

In conclusion, connecting children to technology was viewed as an essential element of a successful economy. Legislators supported funding technological connectivity in schools in order to provide students with a better education and connect them with global educational opportunities. Additionally, copyright was seen as an issue for children. Legislators described children as not understanding copyright infringement laws or not viewing illegal filesharing as illegal. Information campaigns were promoted as a solution to this problem.

## **I. Luring (Grooming / Procuring)**

### **Australia**

The term luring was not generally used in Australia, grooming or procuring were the preferred terms for the same type of behavior. Each jurisdiction in Australia proposed some form of legislation to address the grooming of children. Girls were rarely mentioned in the debates around grooming, unless using an example of a particular story. It was interesting that legislators chose to use the gender neutral term "child" and avoided discussions of gender on an issue that is generally seen to impact girls more than boys. Though there is a lack of statistical data on grooming,<sup>212</sup> the Joint Select Committee on Cyber Safety's *High-Wire* report noted that more girls feel unsafe online because of the number of male strangers attempting to connect them or view their social media profiles

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<sup>209</sup> NZ, *Hansard*, Copyright (New Technologies) Amendment Bill — In Committee, 1 April 2008.

<sup>210</sup> NZ, *Hansard*, Electronic Identity Verification Bill-Second Reading 29 August 2012.

<sup>211</sup> NZ, *Hansard*, Local Government (Public Libraries) Amendment Bill-First Reading 7 November 2012.

<sup>212</sup> Austl, Commonwealth, Joint Committee on Cyber-Safety, *High-Wire Act: Cyber-Safety and the Young* (20 June 2011) at 135.

online<sup>213</sup> and “girls are significantly more likely than boys to be contacted by someone they do not know.”<sup>214</sup>

In 2007, the *Crimes Legislation Amendment (Child Sex Tourism Offences and Related Measures) Bill*, was introduced in the Commonwealth Government in order to criminalize grooming activities,<sup>215</sup> and include such crimes under the definition of serious and organized crimes. Grooming of children overseas would be included in this bill.<sup>216</sup>

The *Crimes Amendment (Sexual Procurement or Grooming of Children) Bill 2007*, was proposed in NSW which would criminalize the grooming of children under 16 through electronic means. This bill also added that offenders could be charged as long as they believed the person they were luring was a child, even if the person was actually an adult posing as a child for the purposes of detecting child luring offenders.<sup>217</sup> In order to investigate this issue, the NSW Police Force employed a Child Exploitation Internet Unit.<sup>218</sup> The purpose of the bill was to target adult offenders, MLC Ian Cohen stated: “it is not the intention to criminalize 15-year-olds who send suggestive or indecent messages to other 15-year-olds.”<sup>219</sup>

In SA, the *Summary Procedure (Paedophile Restraining Orders) Amendment Bill* was introduced to limit and regulate convicted paedophiles’ access to the Internet in order to reduce child grooming.<sup>220</sup>

Legislators in WA discussed the *Criminal Code Amendment (Cyber Predators) Act 2006*. In one example of girls being mentioned in grooming debates, MLA JA McGinty stated,

It is great to see legislation that we have passed come to fruition and be used to such great effect to catch filthy paedophiles who use the Internet to sexually attack young girls in

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<sup>213</sup> *Ibid* at 124.

<sup>214</sup> *Ibid* a 22.

<sup>215</sup> Austl, Commonwealth, House of Representatives, *Parliamentary Debates*, (19 September 2007) at 163.

<sup>216</sup> Austl, Commonwealth, House of Representatives, *Parliamentary Debates* (19 September 2007) at 16.

<sup>217</sup> Austl, NSW, Legislative Assembly, *Parliamentary Debates* (28 November 2007) at 4564.

<sup>218</sup> Austl, NSW, Legislative Council, *Parliamentary Debate* (26 September 2007).

<sup>219</sup> Austl, NSW, Legislative Council, *Parliamentary Debates* (14 November 2007) at 4011 (Ian Cohen).

<sup>220</sup> Austl, SA, Legislative Council, *Parliamentary Debates* (29 March 2007) at 1879.

particular. It has been remarkably successful. A number of other changes were made about that time to bring that to bear.<sup>221</sup>

In 2008, the Australian Institute of Criminology released a brief, *Online Child Grooming Laws*, which listed the current laws implemented to combat child luring. It stated,

Information and communications technologies (ICT) have created a new space of opportunity where children can learn, play and develop, but may also risk becoming the victims of crime or engage in illegal behaviour themselves. The types of offences relevant to online child exploitation include producing, possessing and disseminating child pornography, grooming children for the purposes of sexual contact, and displaying live images of child sexual abuse.<sup>222</sup>

In 2008, the Crimes Legislation Amendment (Enhanced Child Protection from Predatory Tourism Offences) Bill was introduced in the Commonwealth which

[a]mends the Australian Crime Commission Act 2002, Crimes Act 1914 and Criminal Code Act 1995 in relation to child sex tourism offences by: relocating existing offences (currently in the Crimes Act) to the Criminal Code; creating new grooming, procuring and preparatory offences; making penalties consistent with like offences in the Criminal Code; introducing new offences relating to Australians overseas accessing child pornography or child abuse material; and providing for forfeiture of such material. Also makes consequential amendments to the Surveillance Devices Act 2004 and Telecommunications (Interception and Access) Act 1979.<sup>223</sup>

The bill was aimed at capturing offenders before children under 16 were actually physically harmed.

In 2008, the *Crimes Amendment (Sexual Offences) Bill* was introduced in NSW. MLC John Ajaka stated,

The increasing reach of technology over the Internet has sadly created a powerful vessel that enables increased sexual behaviour towards children by allowing adults to form inappropriate online relationships with children, to exploit them by enticing them to enter a cyberworld of child abuse, and to lure them into a meeting under false pretences. The bill increases the maximum penalty for the aggravated offence of causing a person to enter into or remain in sexual servitude to 20 years imprisonment. Circumstances of

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<sup>221</sup> Austl, WA, Legislative Assembly, *Parliamentary Debates* (14 November 2007) at 7128 (Jan McGinty).

<sup>222</sup> Australian Institute of Criminology, *Online child grooming laws* (April 2008).

<sup>223</sup> Austl, Commonwealth, Senate, *Senate Debates* (17 June 2008) at 2465.



aggravation include that the victim is under the age of 18 years or has a cognitive impairment.<sup>224</sup>

The theme of the Internet being a great tool for children but also a danger was a common theme in legislative debates.

In 2009, the *Crimes (Assumed Identities) Bill*, was introduced in ACT (Australian Capital Territory) to allow for undercover law enforcement agents to assume fictitious identities to combat crimes such as online child grooming.<sup>225</sup>

In 2009, the Department of Broadband, Communications and Digital Economy released a research paper produced by the Edith Cowan University, *Review of Existing Australian and International Cyber-Safety Research*, which reviewed existing literature on grooming and other cyber safety issues.<sup>226</sup> When discussing child grooming, it seemed that the report mostly relied on data from other countries and did not find much Australian based literature. The report noted that internationally many child victims are aware that they are communicating with an adult, and that many children profess to be in love with the offender.<sup>227</sup> Girls between the ages of 14-17 were considered the highest risk category.<sup>228</sup>

In 2010, the *Crimes (Child Sex Offenders) Amendment Bill 2010* was introduced in ACT to criminalize grooming and the dissemination of child abuse material online. Supporter of the bill, MLA Vicki Dunne stated,

Our children are our future. We must do everything we can to protect them. People who prey on children are the worst kind of offenders. We must keep up with and indeed be ahead of the ability of child sex offenders to invent ways of satisfying their salacious appetites.<sup>229</sup>

In order to protect children from child groomers, the Commonwealth Government created the Cyber-Safety Help Button, which children or parents could install on their computer

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<sup>224</sup> Austl, NSW, Legislative Council, *Parliamentary Debates* (2 December 2008) at 12153 (John Ajaka).

<sup>225</sup> Austl, ACT, Legislative Assembly, *Parliamentary Debate* (17 September 2009) at 4236.

<sup>226</sup> Austl, Commonwealth, Julian J Dooley et al, *Review of Existing Australian and International Cyber-Safety Research* (May 2009).

<sup>227</sup> *Ibid* at 48.

<sup>228</sup> *Ibid* at 53.

<sup>229</sup> Austl, ACT, Legislative Assembly, *Parliamentary Debate*, (16 November 2010) at 5398 (Vicki Dunne).

as a sort of panic button for children to report online groomers and other offensive material.<sup>230</sup>

The 2009 grooming and murder of 15-year-old Carly Ryan was often cited as a need for stronger legislation around child grooming. A 50-year-old man posing as a 20-year-old man named Brandon, groomed Ryan on the Internet. When Ryan met him in person she refused his sexual advances and was murdered by him.<sup>231</sup>

The *Criminal Code Amendment (Misrepresentation of Age to a Minor) Bill* was introduced in the Commonwealth in 2010, which would make it a crime for an adult to misrepresent their age to a minor. Senator Nicholas Xenophon cited the Ryan story and stated: “[t]here is no lawful reason why any adult would need to misrepresent their age to a minor while online.”<sup>232</sup>

The Ryan story was also cited during debates over the 2011 *Cybercrime Legislation Amendment Bill*,<sup>233</sup> mentioned earlier under the child sexual exploitation topic heading.

In 2010, the *Criminal Law (Sentencing) (Mandatory Imprisonment of Child Sex Offenders) Amendment Bill* was introduced in SA. It proposed mandatory imprisonment for child sex offenders, including child groomers.<sup>234</sup>

In 2011, the *Criminal and Other Legislation Amendment Bill* was introduced in Queensland to increase the maximum penalty for child grooming offences.<sup>235</sup>

In 2012, the *Crimes Act 1900 (Amendment) Bill* was introduced to criminalize the grooming of children under the age of 16 by electronic means.

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<sup>230</sup> Department of Broadband, Communications and the Digital Economy, *Cybersafety Help Button download page* (2010), online: Department of Broadband, Communications and the Digital Economy <[http://www.dbcde.gov.au/online\\_safety\\_and\\_security/cybersafetyhelpbutton\\_download](http://www.dbcde.gov.au/online_safety_and_security/cybersafetyhelpbutton_download)>.

<sup>231</sup> *Carly's Story*, Carly Ryan Foundation, online: <[http://www.carlyryanfoundation.com/carlys\\_story](http://www.carlyryanfoundation.com/carlys_story)>.

<sup>232</sup> Austl, Commonwealth, House of Representatives, *Parliamentary Debates* (3 February 2010) at 301 (Nicholas Xenophon).

<sup>233</sup> Austl, Commonwealth, Senate, *Senate Debates*, (22 August 2011) at 6025.

<sup>234</sup> Austl, SA, Legislative Council, *Parliamentary Debates* (30 June 2010) at 533.

<sup>235</sup> Austl, Qld, Legislative Assembly, *Parliamentary Debates* (13 October 2011) at 3183.

The Australian Federal Police developed a website, *Think U Know*, to provide information on Internet safety, including information on child grooming.<sup>236</sup> It suggested that training children, parents, and caregivers to report abuse to government agencies would assist in the reduction of child grooming. Though it recognized that there are dangers online for children, there are also benefits, the site stated,

The Internet and other communication technologies offer many benefits to children and young people. Social networking, gaming and chatting present many opportunities. They can communicate with friends and family from all over the world, access all types of information for school projects, and express themselves creatively, all with the click of a button or touch of the screen.

Young people are quick to take up the latest developments in technology and are often the first to know when something new comes along. They are growing up in an ever-changing technological environment and can have a lot of fun doing so.<sup>237</sup>

In 2013, the *Criminal Code Amendment (Misrepresentation of Age to a Minor) Bill* was introduced in the Commonwealth Government, again citing the Ryan story. The purpose of the bill was to make it an offence for an adult to misrepresent their age to a child for the purpose of facilitating a physical meeting or committing another offence.<sup>238</sup>

In conclusion, reports on child grooming noted that girls were at a higher risk of being groomed online and were the most targeted group, but that gendered understanding was rarely translated in parliamentary debates. Legislators opted for gender-neutral language unless referring to a particular case of grooming, where most examples were of girls. Multiple bills were introduced to combat child grooming and protect innocent children. The Internet was viewed as creating opportunities for child groomers.

## **New Zealand**

In NZ, legislators also introduced a bill to criminalize luring. Gender was not mentioned in the debates.

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<sup>236</sup> Australian Federal Police (AFP) and Microsoft Australia, *Think U Know* (2013), online: Think U Know <<http://www.thinkuknow.org.au/site/index.asp>>.

<sup>237</sup> *Ibid.*

<sup>238</sup> Austl, Commonwealth, House of Representatives, *Parliamentary Debates* (26 February 2013).

In 2011, the *Crime Amendment Bill (No 2)* was introduced that would criminalize adults grooming children, or undercover police officers posing as children, online.<sup>239</sup>

In conclusion, investigatory legislation and support was viewed as a solution to child grooming online.

## **J. Media Sexualization of Girls**

### **Australia**

Australian legislators were concerned with the sexualization of girls in the media. They were worried that the hyper-sexualization of girls in the media had negative impacts on girls self image, mental health and healthy relationships. It was proposed that media regulations be amended to decrease the sexualization of girls and women in the media, and educational programs be developed. Note that sexualization was spelled “sexualsation” in Australia.

In 2007, Senator Stott Despoja proposed that the Senate:

- (a) notes the reports of the harmful effect of sexualisation in the media of children, especially young girls, including the:
  - (i) negative impact on development, self-image and emotional development including shame, anxiety and even self disgust,
  - (ii) increased incidence of eating disorders, depression and low self-esteem,
  - (iii) negative consequences on sexuality, and
  - (iv) the promotion of negative stereotypes of women as sex objects;
- (b) agrees that the Government will call for the forthcoming reviews of each of the Commercial Television Industry Codes of Practice and the Commercial Radio Codes of Practice to specifically address:
  - (i) sources and beneficiaries of sexualisation of children, and
  - (ii) short- and long-term effects of viewing or buying sexualising and objectifying images, and their influence on cognitive functioning, physical and mental health, sexuality, attitudes and beliefs; and
- (c) agrees that the Australian Media and Communications Authority will provide a report to Government by 31 March 2008 and make recommendations on:
  - (i) strategies to prevent and/or reduce the sexualisation of children in the media, and
  - (ii) the effectiveness of different approaches to reducing the amount of sexualisation that occurs and to ameliorating its effects.<sup>240</sup>

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<sup>239</sup> NZ, *Hansard*, Crimes Amendment Bill (No 2)-Second Reading 13 September 2011.

<sup>240</sup> Austl, Commonwealth, Senate, *Senate Debates* (15 August 2007) at 85 (Stott Despoja).

In 2008, the Senate Standing Committee on Environment, Communications and the Arts produced a report, *Sexualisation in the Contemporary Media*.<sup>241</sup> The report recommended that members of the media industry and other community members be aware of the concerns around sexualization of girls, that the Health and Medical Research Council commission a major study on the long term effects of sexualization of girls, that music videos with sexualized imagery be classified, that advertising standards be reviewed and revised, and that state and territory governments introduce comprehensive sexual health and relationship education programs aimed at both parents and children, among other recommendations.<sup>242</sup>

The report noted that the children were more visibly sexualized on the Internet and they had easier access to sexualized material. The ACMA is responsible for regulating Internet content and the committee noted that “this is an area where effective regulation is extremely difficult.”<sup>243</sup>

In 2007, NSW MP Greg Donnelly proposed that the government

[a]cknowledge the over-representation of young women with eating disorders and body image related mental health issues. Labor will develop strategies to prevent and reduce the damage being caused by the increased sexualisation of young women in all media.<sup>244</sup>

In 2007, Western Australia MLC Helen Morton discussed the sexualization of girls stating,

We start pretty young in normalising these sorts of things to young children. The response to the poll shows me just how far we still have to go. I am grounded in my belief that sexual exploitation is anathema in a democratic society in which full gender equality is an accepted principle. Equality between men and women cannot exist if men feel free to exploit women for their sexuality. We are still teaching men and boys and young girls that women are sex objects for men’s pleasure, and we start pretty young.<sup>245</sup>

In 2008, Queensland MP Rob Messenger suggested that young girls were so heavily influenced by media that it could lead them to suicide. He stated:

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<sup>241</sup> Austl, Commonwealth, Standing Committee on Environment, Communications and the Arts, *Sexualisation of Children in the Contemporary Media* (June 2008).

<sup>242</sup> *Ibid* at v-vii.

<sup>243</sup> *Ibid* at 33.

<sup>244</sup> Austl, NSW, Legislative Assembly, *Parliamentary Debates* (26 June 2007) at 1740 (Greg Donnelly).

<sup>245</sup> Austl, WA, Legislative Council, *Parliamentary Debates* (29 August 2007) at 4453 (Helen Morton).

I can think of two examples of movies affecting the behaviour of young people. The first one I remember was 10 years ago, when Baz Luhrmann's *Romeo and Juliet* came out. I remember a teenage **girl** I had met who became fixated on the movie and then attempted suicide. Recently I spent an evening at the movies watching *WALL-E*, the latest Pixar animated film. I think it was G-rated. It is essentially a love story between two robots and it was absolutely brilliant. At the end of the film I saw a young lady about 10 years old crying her eyes out because the film did not have a happy ending for *WALL-E* and his robot girlfriend. That experience reminded me just how emotionally fragile children really are.

There is a lot of concern in our society that children are often exposed to sex and sexuality prematurely due to sexually explicit films and other media and entertainment outlets...In short, children face developmental, physical and sexual risks as a result of premature sexualisation and, in anything like a normal family life, even the best intentioned parents can no longer protect their children against such premature sexualisation.<sup>246</sup>

In a debate about the 2008 *Abortion Law Reform Bill*, Victorian MLC Jenny Mikakos suggested that reducing the sexualization of girls, along with proper sexual education could lessen the number of abortions accessed. She stated,

International experience shows that legal abortion does not necessarily lead to high abortion rates. The defeat of this bill is not the solution its opponents are holding out. The defeat of this bill will not prevent a single -- not even one -- abortion from occurring in Victoria tomorrow. In my view the solution lies in providing better contraceptive advice and better sex education, especially in schools, to prevent unplanned pregnancies in the first place. It lies in providing more financial support to women and families having children. The solution also lies in ending the sexualisation of our society, especially of children in the media and in advertising that promotes sex without responsibility. It involves strengthening society's values so that people take responsibility for their actions.<sup>247</sup>

In an ACT debate in 2010, MLA Meredith Hunter proposed:

That this Assembly:

(1) notes that:

- (a) there is a significant level of community concern about the sexualisation of children and young people in advertising and the media; and
- (b) evidence suggests that the sexualisation of children and young people is having a significant detrimental impact on children's and young people's health; and

(2) calls upon the government to:

- (a) explore options for the development of a voluntary code of conduct for retailers in the ACT to promote awareness and active decision making about the types of materials sold

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<sup>246</sup> Austl, Qld, Legislative Assembly, *Parliamentary Debates* (7 October 2008) at 2859 (Rob Messenger).

<sup>247</sup> Austl, Vic, Legislative Council, *Parliamentary Debates* (7 October 2008) at 3906 (Jenny Mikakos).

to children and young people and the advertising that depicts them;  
(b) ensure that education programs provided in ACT schools give students the opportunity to talk about their media consumption and how it informs their ideas about relationships and their perceptions and expectations of themselves; and  
(c) report to the Assembly on the progress by the end of 2010.<sup>248</sup>

In 2010, MP Amanda Rishworth proposed:

That the House:

- (1) notes with concern the increasing sexualisation and objectification of girls in mainstream media;
- (2) recognises that both media and peer influences contribute to the sexualisation of girls including: (a) television, music videos, magazines, music lyrics, movies, cartoons, clothing, toys, computer games and the internet; and  
(b) attitudes of peers and family;
- (3) notes with concern the potential negative consequences of the sexualisation of girls on children and young adults, including negative body image, eating disorders, low self esteem, mental illness, poor physical health and gender role stereotyping;
- (4) believes further research is necessary to understand the full effects that early sexualisation and objectification of girls in the mainstream media has on children and young adults;
- (5) urges governments, publishers, broadcasters, advertisers, retailers and manufacturers to:
  - (a) work together to review and develop appropriate standards and industry guidelines to address the sexualisation of children and limit its negative impact; and
  - (b) assist parents and children to understand and manage the influence of sexualisation of girls in the mainstream media and associated negative consequences.<sup>249</sup>

In a 2010 SA debate, MLA Rachel Sanderson suggested that even short exposure to sexualized images of girls and women can impact children's self esteem. She stated,

I challenge the members of this house to watch an hour of video clips on a Saturday morning and report to this house if they are not shocked and disturbed by the overt sexuality and the portrayal of women in particular in a degrading light. Evidence suggests that the continual projection and exposure to children of highly sexualised images has a detrimental effect on the child's psychological and physical wellbeing. Research indicates that even 10 minutes of exposure to video clips affects a child's self-esteem.<sup>250</sup>

Later in 2011, South Australia MLC T.A. Franks discussed the problem of young girls being sold sexualized products and viewing sexualized images of girls and women. He stated,

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<sup>248</sup> Austl, ACT, Legislative Assembly, *Parliamentary Debates* (25 August 2010) at 3972 (Meredith Hunter).

<sup>249</sup> Austl, Commonwealth, House of Representatives, *Parliamentary Debates* (8 February 2010) at 716 (Amanda Rishworth).

<sup>250</sup> Austl, SA, Legislative Assembly, *Parliamentary Debates* (27 May 2010) at 431 (Rachel Sanderson).

Herein lies the real fly in the ointment when it comes to solving the complex problem of how we go back to a society that allows children to be children. Until we make significant efforts to stop excusing the sexual objectification of women, we will never prevent the early sexualisation of children. Children observe society around them and they imitate it. What are we teaching them when we present to them a world that perpetuates not just the sexualisation of women but the false economy of so-called empowerment that goes along with that?<sup>251</sup>

In a 2010 Tasmanian debate, MLA David Bartlett discussed concerns about young girls being sexualized and working in the sex trade. He stated,

It will come as no surprise to my colleagues that Tasmania is not alone in grappling with this issue. In 2008 a Senate committee report on the sexualisation of children in the contemporary media noted that preventing the premature sexualisation of children is a significant cultural challenge. Our appointment of the first ever Tasmanian Minister for Children recognises the renewed and highest priority that we as a government will give to children's issues in this State, and I look forward to working with the Commissioner for Children and many other stakeholders to respond to these sorts of issues to build a better future for every child in Tasmania.<sup>252</sup>

Later in 2011, the Minister for Community Development moved that the House:

- (1) Notes that the first meeting of the Select Council on Women's Issues was held on 18 November 2011.
- (2) Acknowledges the work of the Select Council in three areas of nationally significant reform:—
  - (a) implementing the National Plan to Reduce Violence against Women and Their Children, with the first three year Action Plan due to be published in early 2012;
  - (b) developing a national framework for gender equality; and
  - (c) developing a national approach to promote the leadership of Aboriginal and Torres Strait Island women in governance and decision-making for communities and organisations.
- (3) Further notes the discussion of Women's Ministers on the impact of sexualisation of women and girls on gender equality, in particular the potentially negative impact of child beauty pageants, and the agreement by the members of the Select Council to work on this issue in their individual jurisdictions.<sup>253</sup>

In 2012, the impact of viewing sexualized images on boys was discussed in the Commonwealth Parliament. MP Luke Simpkins stated,

Girls are certainly facing those sorts of problems and expectations upon them to be more sexual than they really should be before ages such as 16. It is a disturbing thing. But, at the same time, we should not neglect talking about boys and the impact that the

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<sup>251</sup> Austl, SA, Legislative Council, *Parliamentary Debates* (27 July 2011) at 3511 (TA Franks).

<sup>252</sup> Austl, Tas, Legislative Assembly, *Parliamentary Debates* (5 May 2010) at 49 (David Bartlett).

<sup>253</sup> Austl, Tas, Legislative Assembly, *Parliamentary Debates*, (22 November 2011).



increasing marketing of sexual imagery has on boys as well. Internet pornography is a major problem, and I will talk about the internet soon. We know that children's minds are often fairly well hardwired at the outset. When they see imagery of pornography and hardcore pornography when they are young those images, unfortunately, are written hard onto their brains.<sup>254</sup>

In the same debate, MP Natasha Griggs highlighted the fact that this generation of children is the first to grow up with regular access to social media and the Internet. She noted that it is an integral part of the way children learn and communicate. She suggested that parents and guardians should assist children in avoiding sexualized content on the Internet.<sup>255</sup>

In a 2012 debate in Tasmania, MLA Ruth Forrest suggested that Australia follow Israel's lead in requiring that all digitally altered images have a statement attached to them informing consumers that the image has been altered.<sup>256</sup>

In 2012, Western Australia MLC Nick Goiran proposed that:

That the Legislative Council —

- (a) recognises that the sexualisation of children has been an important issue of ongoing concern in the community, which has now become urgent;
- (b) would welcome the establishment of an inquiry into the sexualisation of children in Western Australia;
- (c) recommends that any inquiry into this issue take note of and consider the findings of the “Letting Children be Children” review into the commercialisation and sexualisation of childhood commissioned by the government of the United Kingdom; and
- (d) recognises that it would be within the jurisdiction of the Commissioner for Children and Young People to hold such an inquiry.<sup>257</sup>

In 2012, the Commissioner for Children and Young People co-hosted two seminars on the sexualization of children, and commissioned a literature review and produced a guide for parents and the wider community on how they can reduce the harms caused by the

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<sup>254</sup> Austl, Commonwealth, House of Representatives, *Parliamentary Debates* (13 February 2012) (Luke Simpkins).

<sup>255</sup> Austl, Commonwealth, House of Representatives, *Parliamentary Debates* (13 February 2012) at 1046 (Natasha Griggs).

<sup>256</sup> Austl, Tas, Legislative Assembly, *Parliamentary Debates* (30 August 2012) (Ruth Forrest).

<sup>257</sup> Austl, WA, Legislative Council, *Parliamentary Debates* (8 March 2012) at 736 (Nick Goiran).

sexualization of children.<sup>258</sup> The *School Educaiton Amendment Bill 2012* was also introduced which proposed to include critical media skills in children's education.<sup>259</sup>

In conclusion, there was a great deal of discussion about the sexualization of girls in the media. Legislators were concerned that the sexualization of girls would lead to negative long term consequences for girls self image, mental health, likelihood of developing an eating disorder, and personal sexual responsibility. There were concerns that normalizing the sexualization of girls led to unequal relationships between men and women, and that boys and men would believe that women and girls are sexual objects available for their pleasure. In order for girls to experience what legislators described as a normal childhood, they would need to avoid viewing sexualized media images of girls.

The majority of the discussions revolved on calling on the government to acknowledge and address the issue of girls' sexualization, but very few bills were proposed. There was little evidence in the debates that the government was implementing extensive programming or legislation on this topic.

## **K. Pornography**

### **Australia**

As mentioned above, Australian legislators were primarily concerned with the prevention of child pornography, along with some concerns about children's exposure to pornography. Legislation introduced was generally aimed at adults producing or accessing pornography with children in it. Most legislation related to pornography is discussed above.

Under this topic heading, and in the subsequent topic heading, sexting, I will highlight discussion about children being captured by pornography legislation when taking and sending sexualized photos or videos of themselves, as well as about parents possessing innocent nude photos of their children.

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<sup>258</sup> Commissioner for Children and Young People, *Sexualisation of Children*, (2013), online: CCYP <<http://www.ccyp.wa.gov.au/content/Sexualisation-of-children-.aspx>>.

<sup>259</sup> Austl, WA, Legislative Assembly, *Parliamentary Debates* (13 November 2012) at 8452.

The *Child Pornography and Exploitation Material and Classification Legislation Amendment Bill* was introduced in WA in 2009 to criminalize the possession and transmission of child pornography and other material that could lead to the exploitation of children. MLA Peter Abetz stated,

Pornography is no longer just a problem; it has become an epidemic of gigantic proportions. As more and more people use the internet, children are often inadvertently exposed to pornography at an age which really is totally inappropriate and often the content is extreme pornography. A recent United States study found that 72 per cent of participants had seen online pornography before the age of 18 years. Most exposure began between the ages of 14 and 17 years—an interesting fact bearing in mind that this bill defines a child as a person aged younger than 16 years. It is interesting that the same study also noted that a considerable number of boys and girls had seen criminal sexual activity, child pornography and sexual violence on the internet at least once before they reached the age of 18 years.

Why is pornography so much on the rise? Can we just blame the internet for it? I do not think so. The reality is that pornography is a vicious circle. Pornography gives rise to still more pornography.<sup>260</sup>

In 2009, South Australia MLC R.B. Such expressed concerns that innocent family members could be captured under the proposed *Criminal Law Consolidation (Child Pornography) Amendment Bill*:

Reading the statement of this police officer, it suggested that basically any photograph of a naked child, or even a child in underwear, would constitute an offence and be subject to criminal proceedings. I know that when we debated this at the time there was some assurance that we would not be seeking to apprehend parents or grandparents who might have a photo of their child or grandchild, for example, in the bath or at the beach, those people having no sinister motive whatsoever in taking a photograph.

I am sure that all of us would have in our family collection some photograph of a baby or a child wearing little or nothing. So, I do have a concern with that, and I am going to revisit this to double check to make sure that we have not set a trap for people who have no evil intent. We need to deal with those who exploit children. The argument given by some in their defence is that they did not do anything. Well, that is a nonsense because, if there is some sexual activity involving a child and their photograph is taken, then they are a party to that exploitation and should not be exempt from prosecution.<sup>261</sup>

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<sup>260</sup> Austl, WA, Legislative Assembly, *Parliamentary Debates* (24 June 2010) at 4691 (Peter Abetz).

<sup>261</sup> Austl, SA, Legislative Council, *Parliamentary Debates* (14 May 2009) at 2770 (RB Such).

In WA, the *Child Exploitation Material and Classification Legislation Amendment Bill* was introduced to adjust the current child pornography laws to include pornography offences committed on the Internet.<sup>262</sup>

In conclusion, most of the debates around pornography were covered under the exposure to child sexual exploitation, pornography/sexualized content, and sexting topic headings. Legislators viewed pornography as something that children should not be exposed to. Legislation introduced around child pornography laws were often supported to reduce the creation of child pornography. Some legislators expressed concerns that innocent nude photographs of children could be captured under this legislation.

### **New Zealand**

This topic was covered under the child sexual exploitation, and exposure to pornography/sexualized content topic headings.

### **L. Privacy**

#### **Australia**

Australian legislators were particularly concerned with children's privacy in relation to photographs posted online. Legislators were troubled by the trend of pictures being taken of children in public without consent and posted online, as well as children posting inappropriate photos of themselves online. Another privacy issues that was discussed included the recording of information gathered by government agencies. Legislation and educational information were the proposed solutions to these problems.

In 2008, the Australian Law Reform Commission (ALRC) released a publication, *For Your Information: Australian Privacy Law and Practice*, which discussed the legal and practical remedies for children who have had their photos taken and used without their permission. The publication cited two examples of children's photos being used

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<sup>262</sup> Austl, WA, Legislative Council, *Parliamentary Debates* (6 May 2009) at 3396.

inappropriately were photos of young male athletes were taken and posted on a gay website, and ‘upskirting’ photos being taken up young girls skirts for sexual purposes.<sup>263</sup>

The ALRC suggested that stricter regulations were needed to protect children from exploitation, though a blanket ban on taking photos of children without consent was seen as too severe. Some recommendations were to introduce new criminal offences or civil remedies regarding unauthorized use of children’s photographs, ‘take down’ provisions for photographs posted online, educational campaigns, and utilizing existing laws such as surveillance or pornography laws.<sup>264</sup>

In 2010, the Australian Institute of Family Studies provided *Images of Children and Young People Online* resource sheets for families:

Information about safety and good practice when images of children and young people are displayed online. The display of images of children and young people on the Internet requires careful considerations. Firstly, there are legal obligations for Internet users who post images of children and young people on the Internet. Secondly, good Internet practices aim to enhance the safety of children and young people, irrespective of legal responsibilities.<sup>265</sup>

The fact sheet discussed the worry that children are posting more personal information about themselves online that could put them at risk, and suggested that sexual photos of children could be classified as child pornography. Good practices related to the publishing of children’s photos were included for people who take photos of children, along with information on where to report inappropriate publications of children.

In a 2012 Commonwealth debate about the *Privacy Amendment (Enhancing Privacy Protection) Bill*, MP Greg Hung discussed the balance between protecting individual privacy rights and shielding children from exploitation. He stated,

That generation will evolve at a faster rate than we could ever imagine. There is a trade-off between privacy and security. Where there is any risk of younger people being exposed to risk to their personal security, that is where we must breach the veil of privacy

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<sup>263</sup> Austl, Commonwealth, Australian Law Reform Commission, *For Your Information: Australian Privacy Law and Practice* (ALRC Report 108).

<sup>264</sup> *Ibid.*

<sup>265</sup> Briony Horsfall, Australian Institute of Family Studies, *Images of children and young people online* (April 2010).

and allow agencies to have access to material—to peek behind the veil of privacy—so there can be no risk at any time of an impact on any children that puts them in harm's way, whether in an online and digital sense or in a real-world and physical sense. I come down on the side of a slight erosion of privacy in relation to national security and personal security, but I do not see any basis for breaching privacy in relation to commercial security unless there is clear and manifest evidence of criminal activity.<sup>266</sup>

In 2013, Victorian Minister for Youth Affairs announced a new initiative, *It's There for Life*, which is an educational campaign that promotes online safety and education for children.

In 2009, the *Children's Protection (Right to Record Certain Conversations) Amendment Bill* was introduced in SA to allow people to record meetings with Families SA employees to protect them from false allegations.<sup>267</sup>

The *High-Wire* report noted that

[y]oung people may have a limited capacity to assess the implications of divulging their own information, and therefore rely on others to ensure that their interests and safety are protected. The online environment is an area where they can be at risk, so that a breach of their privacy can be substantial, including trauma and identity theft.<sup>268</sup>

The report also noted that children's primary concerns around privacy were not the same concerns that adults had. Children were more concerned with keeping their information private from their parents or teachers, rather than Internet predators.<sup>269</sup>

In conclusion, discussions on children's privacy revolved around preventing children's photos from being used inappropriately. There were concerns that individuals were inconspicuously taking photos of children in public for sexual purposes. Reports suggested that legislation was needed to keep up with the evolving privacy concerns that come along with technological advances such as mobile phone cameras. There were also concerns that children did not understand the consequences of posting personal information and photographs online. Educational campaigns were often the proposed

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<sup>266</sup> Austl, Commonwealth, House of Representatives, *Parliamentary Debates*, (23 August 2012) at 976 (Greg Hunt).

<sup>267</sup> Austl, SA, Legislative Council, *Parliamentary Debates* (4 May 2011) at 2685.

<sup>268</sup> *Supra* note 55 at 40.

<sup>269</sup> *Ibid* at 151.

solution to this problem. Though this issue is likely a gendered issue given the language used in the ‘upskirting’ bill, gender was not discussed.

## **New Zealand**

NZ legislators proposed two bills that allowed for private information of children and people working with children to be shared amongst government agencies. In 2011, the *Privacy (Information Sharing) Bill*, proposed to allow child service providers, especially those that work with vulnerable children, to share information about their child clients in order to protect children who were accessing government services.<sup>270</sup> Additionally in 2012, the *Identity Information Confirmation Bill* was introduced, which would enable government agencies to confirm the identities of the individuals they are working with. MP Trevor Mallard suggested this bill was needed because

[t]here has been a very recent case of the employment of a known child sex offender in six schools around New Zealand. The Ombudsman’s review of that case found systemic failures by Government agencies primarily around the sharing of information by those agencies, which allowed Te Rito Henry Miki to carry on teaching. That is a scandal. It is something that this bill will not totally solve but will make some progress towards solving.<sup>271</sup>

In conclusion, utilizing technology to share information about children was seen as a benefit for governments. Protecting children was used as a reason for proposing to change existing privacy regulations and allow government agencies to share private information of individuals.

## **M. Sexting**

### **Australia**

Legislators in Australia struggled to find a balance in child sexting legislation. Children who consensually shared sexual photos of each other, or ‘sexts’, were often captured under child pornography laws and sometimes listed as sexual offenders. Legislators viewed sexting as a major problem amongst children that needed to be curtailed, but some were concerned that the pornography charges laid against consensual child sexters

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<sup>270</sup> NZ, *Hansard*, Privacy (Information Sharing) Bill — First Reading 12 April 2011.

<sup>271</sup> NZ, *Hansard*, Identity Information Confirmation Bill-Second Reading 29 August 2012 (Trevor Mallard).

were too harsh. In addition to legislation, many educational campaigns and tools were created to try and dissuade children from sexting. Though the term “child” is employed in this report, when referring to children and sexting legislators are generally referring to teenaged children.

Girls were portrayed as innocent victims who did not understand the complexity and dangers of sexting, as victims of male coercion, as foolish girls trying to get attention, and as overly sexualized girls attempting to portray themselves like the sexualized women they see in the media. Researcher Nina Funnell noted that in Australia’s media representation of this issue, teenage girls engaged in sexting were seen at risk of bullying, sexual assault, prostitution, suicide, and self harm, where the risk for boys was prosecution and pornography addiction.<sup>272</sup>

In 2009 in WA, the *Child Exploitation Material and Classification Legislation Amendment Bill* was introduced. In a 2010 debate on the bill MLC Kate Doust described some of the challenges connected with including sexting in child sexual exploitation material matters. She stated,

This bill is very useful. My initial worry when I first started thinking about this bill is how we deal with the constant change in technology. We are looking at issues with Facebook. I will give the parliamentary secretary a couple of examples. I went to a school function for one of my teenage daughters a year or two ago, and at the time the girls were using MySpace, which predated Facebook. A couple of hundred parents were sitting in a hall and it was announced that a range of photos would be flashed onto a screen. The result was that several images of teenage girls in various forms of dress or undress were flashed onto a large screen. It had been fixed so that we could not identify the faces, but the teachers had actually found these images of their students by going through MySpace. They were students at that school who were all aged 13, 14 and 15 years. They had taken photos of themselves and posted them. I give the parliamentary secretary that example because one of my worries is that in our changing world, sometimes our young people do not really understand what they are doing with these types of images. They think it is cute and funny—I am not too sure what else—to do this, and they post these photos on MySpace or Facebook. Sometimes their Facebook might be private. I always insist with my girls that theirs is private. However, if it is public, these images are out there for everyone to see.<sup>273</sup>

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<sup>272</sup> Nina Funnell, "The Teen Sexting Panic", *Australian Policy Online*, (2012).

<sup>273</sup> Austl, WA, Legislative Council, *Parliamentary Debates* (3 March 2010) at 391 (Kate Doust).



She followed this with concerns about children like those in her example being captured under the proposed legislation. She stated,

In that situation a young person may have taken a photo of himself or herself, or maybe of a friend, and put it on his or her Facebook or MySpace page, or he or she may have Twittered it or sexted it. There is a whole range of things that this young person can do with that photo. Under this legislation, can he or she be charged as a person who produces and distributes child pornography, or is there some discretion for the police? Say this image is made in all innocence, or stupidity in some cases or naivety, it may be spread broadly. Once those images are out there, these young people have no control over them. I do not think they understand that. No matter how often their teachers tell them and no matter what policies are put in place, I do not think these kids really appreciate that once something is on the net, it is out there for everyone to see, and they cannot always take it back.<sup>274</sup>

In a 2010 debate in WA about a similar bill, the *Child Exploitation Material and Classification Legislation Amendment Bill*, MLC Adele Farina suggested a senior officer from the sex crimes division of the WA Police should have to approve charges against a child in order to protect innocent children from being prosecuted under the proposed legislation.<sup>275</sup> In the same debate MLC Michael Mischin stated,

It seems that that practice is prevalent among children rather than adults at this stage. It would be difficult to educate young people if we told them that doing that sort of thing was stupid, irresponsible, very bad, very harmful, very wrong and was not condoned by society and ought not to be done, if at the same time we told them that because they are children, they should not worry about it too much because there will not be any consequences if they are caught doing it. That cannot be done. It is a matter of policing and of exercising the appropriate prosecutorial discretion.<sup>276</sup>

Commonwealth MP Brendan O'Connor also felt that children should not be excluded from child pornography laws. In a 2010 debate on the *Crimes Legislation Amendment (Sexual Offences Against Children) Bill* he stated,

Excluding the sending of child pornography or child abuse material by young people from the proposed offences would be inappropriate, as it might reduce protections for young people. For example, instances of young people sending sexually explicit images of themselves or other young people may in some cases be malicious or exploitative. Although the child pornography offences could potentially apply to young people, there is scope for law enforcement and

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<sup>274</sup> *Ibid* (Kate Doust).

<sup>275</sup> Austl, WA, Legislative Council, *Parliamentary Debates* (4 March 2010) at 428.

<sup>276</sup> *Ibid* at 447 (Michael Mischin).

prosecution agencies to take the circumstances of a particular case into account before proceeding to investigate or proceeding to prosecute.<sup>277</sup>

In a 2010 debate on *Dangerous Prisoners (Sexual Offenders) and Other Legislation Amendment Bill*, MLA Chris Foley blamed the Internet and male coercion of girls for the sexting problem. He stated,

I believe the internet is somewhat to blame, because if as parents we allow unfettered use of the internet in our homes we are courting disaster. After talking to my own teenagers, some of the things that are looked at and said and done by some of our young people are very alarming. I had a very involved discussion with my teenagers last weekend about the concept of sexting—that is, where young boys might coerce girls to take a photo of themselves naked or seminaked and send it to them. More often than not, that then gets passed around to all of the other blokes and the girl has to live with the embarrassment of that for the rest of her life. It then finds its way to the internet and goes viral and causes all of those sorts of problems.<sup>278</sup>

In 2011, SA legislators expressed concerned about children being captured under child pornography legislation. MLA RB Such stated that legislators must be careful to make sure “we are not trapping young people—in particular under the age of 18—who do a silly thing like sending a photo of themselves or their girlfriend through the internet.”<sup>279</sup>

In 2011 in Victoria, Attorney General Robert Clark moved that the Law Reform Committee commission a report on the prevalence and nature of sexting, along with the adequacy of the existing laws.<sup>280</sup> The Committee has been collecting submission reports from interested community groups and according to their website a version of the report will be available online once it has been tabled in Parliament in 2013.<sup>281</sup>

In 2011, WA Minister for Police, RF Johnson discussed the issue of sexting, suggesting that children do not understand the consequences of their actions or realize that their sexual photos could end up in the hands of sex offenders. He stated,

The state government and the WA Police are concerned that young people are not getting the message about not sending sexually explicit images of themselves over the internet or

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<sup>277</sup> Austl, Commonwealth, House of Representatives, *Parliamentary Debates* (9 March 2010) at 2050 (Brendan O'Connor).

<sup>278</sup> Austl, Qld, Legislative Assembly, *Parliamentary Debates* (2 September 2010) at 3126 (Chris Foley).

<sup>279</sup> Austl, SA, Legislative Assembly, *Parliamentary Debates* (24 November 2011) at 6143 (RB Such).

<sup>280</sup> Austl, Vic, Legislative Assembly, *Parliamentary Debates* (1 September 2011) at 3007.

<sup>281</sup> Victoria Law Reform Committee, *Report and Response* online: Vic Parliament <<http://www.parliament.vic.gov.au/lawreform/article/944>>.

via mobile phones. In the past week, six teenagers ranging in age from 13 to 16 years have been investigated and spoken to by police about their behaviour with digital technologies. In one case, a 14-year-old boy from the southern suburbs was cautioned after being found with child exploitation material on his mobile phone. Concerns were raised that he was sending images and videos of himself over the internet, and was pressuring girls for sex...There is no denying that sexting is a disturbing practice. Children do not see it as a crime and fail to grasp the consequences of their actions. They may think they are only sending an image to their boyfriend or girlfriend, but they could be sending that image to the world, which could have devastating long-term psychological effects.

Young people also need to be making the link between the images they are creating and the supply to a market amongst sex offenders who are trawling the internet for sexualised images of children for their sexual gratification. Parents who entrust their children with mobile phones and computers should take a stronger interest in how their children are using this technology and educate them on the dangers of sending explicit material.<sup>282</sup>

The 2012 Law Reform Commission of Western Australia's *Community Protection (Offender Reporting) Act 2004 (Final Report)* called for level discretion when charging children with sexual offences or registering children on sex offenders list. Discretion was seen as useful for sexting offences if the sext was consensual or for non-sexual purposes, such as a joke.<sup>283</sup>

In 2012 in Tasmania, the police department employed female officers talk to students about the risks of sexting.<sup>284</sup>

The 2013 Australian Institute of Family Studies report, *The Role of Emerging communication techs in experiences of sexual violence: A new legal frontier?*<sup>285</sup> discussed the connection between sexting and sexual violence. It stated,

Commentators have noted that in conflating sexting with risks of harm and sexual violence, young women are positioned as being both "'at risk' from sexting, and being responsible for resisting/preventing the practice."<sup>286</sup>

Dissemination of sexual photos was seen as a form of sexual harm and girls were seen to face harsher social consequences for engaging in sexting, including blackmail.

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<sup>282</sup> Austl, WA, *Legislative Assembly, Parliamentary Debates* (24 March 2011) (RF Johnson).

<sup>283</sup> Austl, WA, *The Law Reform Commission of Western Australia, Community Protection (Offender Reporting) Act 2004 (Final Report)*, (2012) at 28-30.

<sup>284</sup> Austl, Tas, *Legislative Assembly, Estimates Committee A* (2012).

<sup>285</sup> Austl, Vic, *Australian Institute of Family Studies, The Role of Emerging communication techs in experiences of sexual violence: A new legal frontier?* (2013).

<sup>286</sup> *Ibid.*

Additionally, girls were seen as “facing significant pressure to engage in sexualized activity online or via mobile phone technology, and potentially faced negative consequences for both refusing to take part or taking part in such behavior.”<sup>287</sup>

The report also suggested,

It seems that some young people are active consumers of pornography and this has some influence on the way in which they navigate their sexual development and interpersonal relationships. It also seems that for some young people, engaging in sexting is the mechanism through which the "pornified" culture is most evident. However, there is not a sufficient body of research to enable us to draw any comprehensive conclusions.<sup>288</sup>

The report found that the lack of flexibility in legislation, lack of resources, and lack of clarity and consistency led to challenges in addressing the issue. Areas where the issue could be dealt with more efficiently were ongoing education campaigns with a consistent message and multiple sources.<sup>289</sup>

In conclusion, when discussing sexual images of children posted or shared online, images of girls’ bodies were primarily highlighted as inappropriate. Girls were seen as purposely producing sexualized images of themselves and not understanding the consequences, or as being coerced into producing sexualized images by boys. There was no discussion on sexual images of boys being inappropriate. There were debates in the legislature whether children’s sexual images should be included in child pornography laws. Some legislators felt children ought to be excluded from the laws, where others felt that not including children would send a message that there is not consequence of sexting. Children’s sexts were also viewed as supplying child pornography material to sexual offenders.

Educational campaigns and child pornography laws were proposed as solutions to child sexting.

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<sup>287</sup> *Ibid.*

<sup>288</sup> *Ibid.*

<sup>289</sup> *Ibid.*

## N. Sexual Harassment

### Australia

Sexual harassment was also addressed under the topic headings of child sexual exploitation and sexting. There were three bills introduced that dealt with the issue of sexual harassment directly. Girls and women were viewed as the main victims of sexual harassment.

In 2007, the *Summary Offences Amendment (Upskirting) Bill* was introduced in Victoria in response to a growing trend of people taking photos up women and girl's skirts for sexual gratification.<sup>290</sup> MLA Bill Tilley described the purpose of the bill as containing "prohibitions on the use of a device to observe another person's genital or anal region where it would be reasonable for them to expect that that region could not be observed."<sup>291</sup> A child was not seen as capable of giving consent.

In reference to the bill, MLA Jan Kronberg described young girls as foolish young people who did not understand the consequences of posting sexual images of themselves. She stated,

Improved technology, such as digital cameras, mobile phone cameras and pen cameras, can be used so discreetly to capture images in low light that anybody can become a filmmaker. To our shame as a society there has been a veritable explosion of lewd images of unsuspecting individuals distributed worldwide on the internet. Unfortunately misguided, silly young girls hoping to get some attention are posting pornographic images of themselves on the internet. These mindless youngsters are in turn preyed upon by website hosts, who are exploiting this trend and encouraging their victims to become 'famous'. Some young persons are even posting images of themselves doing perilous stunts as well. This means we have a potentially dangerous culture swirling all around us.<sup>292</sup>

In 2008 in SA, the *Summary Offences (Indecent Filming) Amendment Bill* was introduced to combat upskirting and the creation of other non-consensual indecent photos or videos. MLC Kris Hanna read from a media release during a debate on the issue stating:

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<sup>290</sup> Austl, Vic, Legislative Assembly, *Parliamentary Debates* (8 August 2007) at 2583.

<sup>291</sup> Austl, Vic, Legislative Assembly, *Parliamentary Debates* (8 August 2007) at 2583 (Bill Tilley).

<sup>292</sup> Austl, Vic, Legislative Council, *Parliamentary Debates* (18 September 2007) at 2702 (Jan Kronberg).

The law had failed to keep pace with the technology now available that allows techno-perverts to invade our privacy. Mobile phones with cameras are now everywhere, yet we have no laws in South Australia to protect our privacy against strangers taking photos of us or, more disturbingly, our children. We must remember that these images can be emailed instantly to anywhere in the world for the gratification of men with sick minds.<sup>293</sup>

In 2010, the *Sex Discrimination Amendment Bill* was introduced to the Commonwealth Government. It amended existing sexual harassment laws to include students. MP Robert McClelland recognized that more females than males faced sexual harassment and stated,

An important amendment is that students of any age will now be protected from sexual harassment. Sexual harassment can have a devastating impact on a student's ability to realise their full potential. Students will also be protected from sexual harassment by students and staff members from other institutions that they come into contact with through things such as interschool events.

These changes will provide younger victims of sexual harassment with another option for redress against the growing problem of cyberbullying and harassment by electronic means, alongside the existing procedures that many schools have in place.<sup>294</sup>

In conclusion, girls were described as the primary victims of sexual harassment. They were portrayed both as the innocent victim of malicious or perverted men, or as foolish girls who used sexualized photos to get attention who were exploited by a sexualized Internet culture. Legislators proposed criminalizing non-consensual sexual photographs, and including children in sexual harassment legislation.

### **Additional research notes**

One area that I didn't explore fully was obesity/inactivity. Stalking is another area with potential for further research. With more time, I would have liked to more thoroughly compare the bills mentioned in this paper to a complete list of bills from each state and territory between 2007 and 2013. I found that in Australia there was a lot of similar legislation in different states and territories, and it would be worth seeking out bills that might have been missed by the Hansard search engines. I would have liked to compare the proposed bills with the assented acts, but also did not find time to do this. I found Tasmania's government website particularly difficult to navigate and the hyperlinks did not always lead me back to the right debates. I also did not find I had enough time to read

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<sup>293</sup> *Ibid* (Kris Hanna).

<sup>294</sup> Austl, Commonwealth, House of Representatives, *Parliamentary Debate* (24 June 2010) at 6524 (Robert McClelland).

all of the committee reports in their entirety. Committees such as the Joint Committee on Cyber-Safety had many meetings, and I only managed to read a sampling of them.

## Appendix – Summary of Findings

### I) Which children are paired with each discourse (if applicable)

1. Child sexual exploitation
  - a. Australia
    - Innocent children<sup>295</sup>
    - Sexualized girls<sup>296</sup>
    - Sexually abused girls<sup>297</sup>
    - Girls in the sex trade<sup>298</sup>
    - Daughters<sup>299</sup>
    - Witnesses in trials<sup>300</sup>
  - b. New Zealand
    - Gender neutral
2. Cyberbullying
  - a. Australia
    - Girls as bullies<sup>301</sup>
    - Girls as victims of bullies<sup>302</sup>
    - Vicious/violent girls<sup>303</sup>
    - Gossipy girls<sup>304</sup>
    - Suicidal girls<sup>305</sup>
    - Daughters<sup>306</sup>
    - Internet obsessed girls<sup>307</sup>
    - Homosexuals<sup>308</sup>
    - Aboriginal<sup>309</sup>
  - b. New Zealand
    - Suicidal girls<sup>310</sup>
    - Girls as victims<sup>311</sup>
3. Exposure to crime
  - a. Australia
    - Innocent victims<sup>312</sup>

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<sup>295</sup> *Supra* note 1.

<sup>296</sup> *Supra* note 16.

<sup>297</sup> *Ibid.*

<sup>298</sup> *Supra* note 17.

<sup>299</sup> *Supra* note 29.

<sup>300</sup> *Supra* note 35.

<sup>301</sup> *Supra* note 47.

<sup>302</sup> *Ibid.*

<sup>303</sup> *Supra* note 74.

<sup>304</sup> *Ibid.*

<sup>305</sup> *Supra* note 89.

<sup>306</sup> *Supra* note 98.

<sup>307</sup> *Supra* note 109.

<sup>308</sup> *Supra* note 118.

<sup>309</sup> *Supra* note 120.

<sup>310</sup> *Supra* note 122.

<sup>311</sup> *Ibid.*



- Partiers<sup>313</sup>
- Clueless children<sup>314</sup>
- 4. Exposure to pornography or sexualized content
  - a. Australia
    - Child sexual victims<sup>315</sup>
    - Aboriginal boys<sup>316</sup>
    - Anglo-Saxon boys<sup>317</sup>
  - b. New Zealand
    - Gender neutral<sup>318</sup>
- 5. Exposure to suicide instructions
  - a. Australia
    - Suicidal girls<sup>319</sup>
    - Suicidal boys<sup>320</sup>
- 6. Gaming
  - a. Australia
    - Violent children<sup>321</sup>
    - Clueless children<sup>322</sup>
    - Sexually irresponsible children<sup>323</sup>
    - Children embracing adult ideals<sup>324</sup>
    - Sons<sup>325</sup>
- 7. Inactivity/Obesity
  - a. Australia
    - Inactive children<sup>326</sup>
- 8. Information Superhighway
  - a. Australia
    - Rural children<sup>327</sup>
    - Students<sup>328</sup>
    - Children as future leaders<sup>329</sup>
    - Cheaters<sup>330</sup>

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<sup>312</sup> *Supra* note 129.

<sup>313</sup> *Ibid.*

<sup>314</sup> *Supra* note 126.

<sup>315</sup> *Supra* note 136.

<sup>316</sup> *Supra* note 139.

<sup>317</sup> *Ibid.*

<sup>318</sup> *Supra* note 142.

<sup>319</sup> *Supra* note 143.

<sup>320</sup> *Supra* note 145.

<sup>321</sup> *Supra* note 148.

<sup>322</sup> *Supra* note 150.

<sup>323</sup> *Supra* note 153.

<sup>324</sup> *Supra* note 154.

<sup>325</sup> *Supra* note 157.

<sup>326</sup> *Supra* note 169.

<sup>327</sup> *Supra* note 173.

<sup>328</sup> *Supra* note 174.

<sup>329</sup> *Supra* note 182.

<sup>330</sup> *Supra* note 188.

- b. New Zealand
  - International children<sup>331</sup>
  - Clueless children<sup>332</sup>
- 9. Luring
  - a. Australia
    - Girls as victims<sup>333</sup>
    - Children as victims<sup>334</sup>
    - Children as the future<sup>335</sup>
    - Carly Ryan<sup>336</sup>
    - Technologically savvy children<sup>337</sup>
  - b. New Zealand
    - Children as victims<sup>338</sup>
- 10. Media sexualization of girls
  - a. Australia
    - Girls with low self-esteem<sup>339</sup>
    - Girls with eating disorders<sup>340</sup>
    - Girls with depression<sup>341</sup>
    - Sexualized girls<sup>342</sup>
    - Girls as sexual objects<sup>343</sup>
    - Girls as easily influenced<sup>344</sup>
    - Suicidal girls<sup>345</sup>
    - Sexually irresponsible girls<sup>346</sup>
    - Girls with negative body image<sup>347</sup>
    - Children acting like children<sup>348</sup>
    - Girls in the sex trade<sup>349</sup>
    - Boys<sup>350</sup>
- 11. Pornography
  - a. Australia

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<sup>331</sup> *Supra* note 200.

<sup>332</sup> *Supra* note 206.

<sup>333</sup> *Supra* note 221.

<sup>334</sup> *Supra* note 224.

<sup>335</sup> *Supra* note 229.

<sup>336</sup> *Supra* note 231.

<sup>337</sup> *Supra* note 236.

<sup>338</sup> *Supra* note 239.

<sup>339</sup> *Supra* note 240.

<sup>340</sup> *Ibid.*

<sup>341</sup> *Ibid.*

<sup>342</sup> *Supra* note 241.

<sup>343</sup> *Supra* note 245.

<sup>344</sup> *Supra* note 246.

<sup>345</sup> *Ibid.*

<sup>346</sup> *Supra* note 247.

<sup>347</sup> *Supra* note 249.

<sup>348</sup> *Supra* note 250.

<sup>349</sup> *Supra* note 252.

<sup>350</sup> *Supra* note 254.

- Children as interested in pornography<sup>351</sup>
  - Innocent children<sup>352</sup>
12. Privacy
- a. Australia
    - Innocent children<sup>353</sup>
    - Innocent girls<sup>354</sup>
    - Reckless children<sup>355</sup>
  - b. New Zealand
    - Vulnerable children<sup>356</sup>
13. Sexting
- a. Australia
    - Reckless girls<sup>357</sup>
    - Sexualized girls<sup>358</sup>
    - Naïve children<sup>359</sup>
    - Daughters/sons<sup>360</sup>
    - Coercive boys<sup>361</sup>
    - Silly children<sup>362</sup>
    - Clueless children<sup>363</sup>
    - Children as active consumers of pornography<sup>364</sup>
14. Sexual harassment
- a. Australia
    - Girls as victims<sup>365</sup>
    - Sexualized girls<sup>366</sup>
    - Foolish girls<sup>367</sup>

## II) Which risks/opportunities relate to children’s use of technology in the discussions

- 1. Child sexual exploitation
  - a. Australia

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<sup>351</sup> *Supra* note 260.

<sup>352</sup> *Supra* note 261.

<sup>353</sup> *Supra* note 263.

<sup>354</sup> *Ibid.*

<sup>355</sup> *Supra* note 266.

<sup>356</sup> *Supra* note 270.

<sup>357</sup> *Supra* note 273.

<sup>358</sup> *Ibid.*

<sup>359</sup> *Ibid.*

<sup>360</sup> *Supra* note 278.

<sup>361</sup> *Ibid.*

<sup>362</sup> *Supra* note 281.

<sup>363</sup> *Supra* note 282.

<sup>364</sup> *Supra* note 285.

<sup>365</sup> *Supra* note 290.

<sup>366</sup> *Supra* note 292.

<sup>367</sup> *Ibid.*

- Risks: children being accessed sexual by child sexual offenders,<sup>368</sup> premature sexualization of children,<sup>369</sup> children being led into prostitution,<sup>370</sup> risk of murder<sup>371</sup>
  - Opportunities: protection of children, avoiding re-traumatization during trials<sup>372</sup>
- b. New Zealand
- Risks: children being exploited by pedophiles<sup>373</sup>
2. Cyberbullying
- a. Australia
- Risks: sexual harassment, individual images sexualized, harsh consequences for posting sexualized images,<sup>374</sup> suicide/self harm,<sup>375</sup> assaults, promotion of violence,<sup>376</sup> humiliating social media sites,<sup>377</sup> negative impact on school environment,<sup>378</sup> community unrest/family violence,<sup>379</sup> emotional distress,<sup>380</sup> sexual solicitation,<sup>381</sup> threats, embarrassment,<sup>382</sup> criminal consequences,<sup>383</sup> lowered academic standing, dropping out of school, exposure to threats,<sup>384</sup> racism, homophobia, and sexism<sup>385</sup>
- b. New Zealand
- Risks: suicide, false websites being used, harassment,<sup>386</sup> emotional distress<sup>387</sup>
3. Exposure to crime
- a. Australia
- Risks: access to gambling,<sup>388</sup> losing control of parties,<sup>389</sup> access to harmful substances<sup>390</sup>
4. Exposure to pornography or sexualized content

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<sup>368</sup> *Supra* note 24.

<sup>369</sup> *Supra* note 13.

<sup>370</sup> *Supra* note 17.

<sup>371</sup> *Supra* note 27.

<sup>372</sup> *Supra* note 35.

<sup>373</sup> *Supra* note 43.

<sup>374</sup> *Supra* note 55.

<sup>375</sup> *Supra* note 60.

<sup>376</sup> *Supra* note 70.

<sup>377</sup> *Supra* note 74.

<sup>378</sup> *Supra* note 82.

<sup>379</sup> *Supra* note 86.

<sup>380</sup> *Supra* note 89.

<sup>381</sup> *Supra* note 97.

<sup>382</sup> *Supra* note 99.

<sup>383</sup> *Supra* note 100.

<sup>384</sup> *Supra* note 111.

<sup>385</sup> *Supra* note 120.

<sup>386</sup> *Supra* note 122.

<sup>387</sup> *Ibid.*

<sup>388</sup> *Supra* note 126.

<sup>389</sup> *Supra* note 129.

<sup>390</sup> *Supra* note 55.

- a. Australia
  - Risks: children being exposed to harmful and inappropriate material,<sup>391</sup> sexual trafficking of children,<sup>392</sup> negatively impacting boys perceptions of sex<sup>393</sup>
- b. New Zealand
  - Risks: exposure to child pornography<sup>394</sup>
- 5. Exposure to suicide instructions
  - a. Australia
    - Risks: increase rates of successful suicides<sup>395</sup>
- 6. Gaming
  - a. Australia
    - Risks: exposure to sexualized or violent content,<sup>396</sup> causing violence/aggression,<sup>397</sup> increased sexually transmitted infections from sexualization caused from exposure to sexualized material,<sup>398</sup> mimicking of adult behavior,<sup>399</sup> normalization of objectification of women,<sup>400</sup> hidden financial costs,<sup>401</sup> addiction<sup>402</sup>
- 7. Inactivity/Obesity
  - a. Australia
    - Risks: diabetes, unhealthy lifestyle<sup>403</sup>
- 8. Information Superhighway
  - a. Australia
    - Opportunities: improved access to education, especially for rural children,<sup>404</sup> access to educational resources,<sup>405</sup> success in the economy,<sup>406</sup> access to specialist educators,<sup>407</sup> additional parental involvement,<sup>408</sup> digital citizenship, digital literacy,<sup>409</sup> disaster preparation<sup>410</sup>
  - b. New Zealand

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<sup>391</sup> *Supra* note 131.

<sup>392</sup> *Supra* note 134.

<sup>393</sup> *Supra* note 139.

<sup>394</sup> *Supra* note 142.

<sup>395</sup> *Supra* note 143.

<sup>396</sup> *Supra* note 157.

<sup>397</sup> *Supra* note 148.

<sup>398</sup> *Supra* note 153.

<sup>399</sup> *Supra* note 154.

<sup>400</sup> *Supra* note 162.

<sup>401</sup> *Supra* note 164.

<sup>402</sup> *Supra* note 55.

<sup>403</sup> *Supra* note 170.

<sup>404</sup> *Supra* note 173.

<sup>405</sup> *Supra* note 174.

<sup>406</sup> *Supra* note 182.

<sup>407</sup> *Supra* note 184.

<sup>408</sup> *Supra* note 191.

<sup>409</sup> *Supra* note 194.

<sup>410</sup> *Supra* note 197.

- Opportunities: connectivity to students internationally,<sup>411</sup> better educational outcomes, improved economy<sup>412</sup>
  - Risks: illegal filesharing<sup>413</sup>
9. Luring
- a. Australia
    - Risks: sexual exploitation/attacks,<sup>414</sup> murder<sup>415</sup>
  - b. New Zealand
    - Risks: sexual exploitation<sup>416</sup>
10. Media sexualization of girls
- a. Australia
    - Risks: eating disorders, unhealthy body image,<sup>417</sup> normalization of child sexualization, girls being viewed as sex objects,<sup>418</sup> suicide, premature exposure to sexual images/ideas,<sup>419</sup> increased abortions, sexual irresponsibility,<sup>420</sup> detrimental health impacts,<sup>421</sup> gender stereotyping,<sup>422</sup> low self esteem,<sup>423</sup> premature sexualization of children,<sup>424</sup> children in the sex trade,<sup>425</sup> unhealthy ideas about sex,<sup>426</sup> loss of childhood<sup>427</sup>
11. Pornography
- a. Australia
    - Risks: premature exposure to pornography,<sup>428</sup> criminal sanctions for innocent nude pictures of children<sup>429</sup>
12. Privacy
- a. Australia
    - Risks: children's photos being used inappropriately, sexualization of girls<sup>430</sup>
    - Opportunities: collecting evidence with government agencies<sup>431</sup>
  - b. New Zealand

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<sup>411</sup> *Supra* note 199.

<sup>412</sup> *Supra* note 201.

<sup>413</sup> *Supra* note 207.

<sup>414</sup> *Supra* note 221.

<sup>415</sup> *Supra* note 231.

<sup>416</sup> *Supra* note 239.

<sup>417</sup> *Supra* note 244.

<sup>418</sup> *Supra* note 245.

<sup>419</sup> *Supra* note 246.

<sup>420</sup> *Supra* note 247.

<sup>421</sup> *Supra* note 248.

<sup>422</sup> *Supra* note 249.

<sup>423</sup> *Supra* note 250.

<sup>424</sup> *Supra* note 251.

<sup>425</sup> *Supra* note 252.

<sup>426</sup> *Supra* note 254.

<sup>427</sup> *Supra* note 257.

<sup>428</sup> *Supra* note 260.

<sup>429</sup> *Supra* note 261.

<sup>430</sup> *Supra* note 263.

<sup>431</sup> *Supra* note 267.

- Opportunities: protection of vulnerable children accessing government services<sup>432</sup>
13. Sexting
    - a. Australia
      - Risks: sexualization of girls, access to images of sexualized girls, criminal sanctions,<sup>433</sup> sexual coercion,<sup>434</sup> sexual violence, blackmail, pornification of children<sup>435</sup>
  14. Sexual harassment
    - a. Australia
      - Risks: photos of girls being taken without consent for sexual purposes,<sup>436</sup> sexualization of girls,<sup>437</sup> criminalization,<sup>438</sup> sexual harassment<sup>439</sup>

III) Which discourses are discussed either implicitly or explicitly in association with girls and which representations of girls are made

1. Child sexual exploitation
  - a. Australia
    - Girls were not mentioned in debates, they were mentioned of victims of child sexualization in one report<sup>440</sup>
  - b. New Zealand
    - No mention of girls
2. Cyberbullying
  - a. Australia
    - Girls were described as both victims and perpetrators of cyberbullying<sup>441</sup>
  - b. New Zealand
    - Girls were linked to suicide, having sexualized photos used maliciously against them, and having false profiles created of them in order to harass them<sup>442</sup>
3. Exposure to crime
  - a. Australia
    - Anecdotal evidence of girls losing control of parties<sup>443</sup>
4. Exposure to pornography or sexualized content

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<sup>432</sup> *Supra* note 270.

<sup>433</sup> *Supra* note 273.

<sup>434</sup> *Supra* note 278.

<sup>435</sup> *Supra* note 285.

<sup>436</sup> *Supra* note 290.

<sup>437</sup> *Supra* note 292.

<sup>438</sup> *Supra* note 292.

<sup>439</sup> *Supra* note 294.

<sup>440</sup> *Supra* note 16.

<sup>441</sup> *Supra* note 47.

<sup>442</sup> *Supra* note 122.

<sup>443</sup> *Supra* note 129.

- a. Australia
  - Implicit concern about boys ideas of sex with girls<sup>444</sup>
- b. New Zealand
  - No mention of girls
5. Exposure to suicide instructions
  - a. Australia
    - Examples of girls finding suicide instructions online which assisted in their suicides,<sup>445</sup> increased success for suicidal girls<sup>446</sup>
6. Gaming
  - a. Australia
    - Exposure to the sexualization of girls,<sup>447</sup> objectification of girls<sup>448</sup>
7. Inactivity/Obesity
  - a. Australia
    - No mention of girls
8. Information Superhighway
  - a. Australia
    - No mention of girls
  - b. New Zealand
    - No mention of girls
9. Luring
  - a. Australia
    - Girls were mentioned as being at higher risk of luring<sup>449</sup>
  - b. New Zealand
    - No mention of girls
10. Media sexualization of girls
  - a. Australia
    - Girls were the main focus of conversation, see risk factors
11. Pornography
  - a. Australia
    - No mention of girls
12. Privacy
  - a. Australia
    - Girls were mentioned as victims of non-consensual sexual photographs<sup>450</sup>
  - b. New Zealand
    - No mention of girls
13. Sexting
  - a. Australia

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<sup>444</sup> *Supra* note 139.

<sup>445</sup> *Supra* note 143.

<sup>446</sup> *Supra* note 145.

<sup>447</sup> *Supra* note 154.

<sup>448</sup> *Supra* note 162.

<sup>449</sup> *Supra* note 226.

<sup>450</sup> *Supra* note 263.



- Girls were mentioned as victims and producers of inappropriate sexual images<sup>451</sup>
14. Sexual harassment
- a. Australia
    - Girls were mentioned as victims of sexual harassment,<sup>452</sup> and producers of child pornography<sup>453</sup>

IV) Which discourses seem to be informed by data/research involving discussions with children

1. Child sexual exploitation
  - a. Australia
    - No evidence of discussions with children
  - b. New Zealand
    - No evidence of discussions with children
2. Cyberbullying
  - a. Australia
    - Some discourse was influenced by research involving discussions with children (*High-Wire*)<sup>454</sup>
  - b. New Zealand
    - No evidence of discussions with children
3. Exposure to crime
  - a. Australia
    - Anecdotal evidence of discussions with girl family members<sup>455</sup>
4. Exposure to pornography or sexualized content
  - a. Australia
    - No evidence of discussions with children
  - b. New Zealand
    - No evidence of discussions with children
5. Exposure to suicide instructions
  - a. Australia
    - Some discourse was influenced by research involving discussions with children (*High-Wire*)<sup>456</sup>
6. Gaming
  - a. Australia
    - Some discourse was influenced by research involving discussions with children (*High-Wire*)<sup>457</sup>
7. Inactivity/Obesity
  - a. Australia

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<sup>451</sup> *Supra* note 273.

<sup>452</sup> *Supra* note 294.

<sup>453</sup> *Supra* note 292.

<sup>454</sup> *Supra* note 55.

<sup>455</sup> *Supra* note 129.

<sup>456</sup> *Supra* note 55.

<sup>457</sup> *Ibid.*

- No evidence of discussions with children
8. Information Superhighway
    - a. Australia
      - Some discourse was influenced by research involving discussions with children (*High-Wire*)<sup>458</sup>
    - b. New Zealand
      - No evidence of discussions with children
  9. Luring
    - a. Australia
      - Some discourse was influenced by research involving discussions with children (*High-Wire*)<sup>459</sup>
    - b. New Zealand
      - No evidence of discussions with children
  10. Media sexualization of girls
    - a. Australia
      - Anecdotal evidence of discussions with children<sup>460</sup>
  11. Pornography
    - a. Australia
      - No evidence of discussions with children
  12. Privacy
    - a. Australia
      - Some discourse was influenced by research involving discussions with children (*High-Wire*)<sup>461</sup>
    - b. New Zealand
      - No evidence of discussions with children
  13. Sexting
    - a. Australia
      - Some discourse was influenced by research involving discussions with children (*High-Wire*)<sup>462</sup>
  14. Sexual harassment
    - a. Australia
      - No evidence of discussions with children

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<sup>458</sup> *Ibid.*

<sup>459</sup> *Ibid.*

<sup>460</sup> *Supra* note 246.

<sup>461</sup> *Supra* note 55.

<sup>462</sup> *Ibid.*