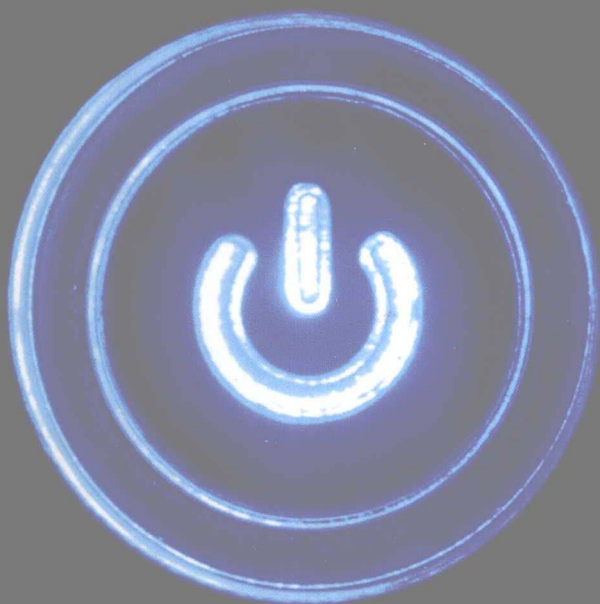


Online Child Safety

Law, Technology and Governance



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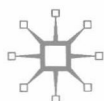
Online Child Safety

Law, Technology and Governance

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To Adaikalam Packiam Pillai – who always believed.

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Abbreviations

AMF	Alannah and Madeline Foundation
APEC	Asia Pacific Economic Cooperation
AFP	Australian Federal Police
APPCG	All Party Parliamentary Communications Group
ACPO	Association of Chief Police Officers
ABS	Australian Bureau of Statistics
ACMA	Australian Communication Media Authority
BBC	British Broadcasting Corporation
CAIP	Canadian Association of Internet Providers
CCCP	Canadian Centre for Child Protection
CPCMEC	Canadian Police Centre for Missing and Exploited Children
CRTC	Canadian Radio-Television and Telecommunications Commission
CSIS	Canadian Security Intelligence Service
CEOP	Child Exploitation and Online Protection Centre
CRC	Committee on the Rights of the Child
CSEC	Commercial Sexual Exploitation of Children
CWG	Consultative Working Group on Cybersafety
COPINE	Combating Paedophile Information Networks in Europe
Convention	Council of Europe's Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse
CPCLA	Children's Participation in Cultural and Leisure Activities
DBCDE	Department of Broadband, Communications and the Digital Economy
DCSF	Department for Children, Schools and Families
DCMS	Department for Culture, Media and Sport and Department for Business, Innovation and Skills
SSNP	EU Safer Social Networking Principles
SIP	EU Safer Internet Programme
ECHR	European Convention on Human Rights
ECDG	European Commission Directorate General
Framework	European Framework for Safer Mobile Use by Younger Teenagers and Children
EFC	European Financial Coalition
EUROPOL	European Police Office
FTC	Federal Trade Commission
FBI	Federal Bureau of Investigation
FCACP	Financial Coalition against Child Pornography
HRC	Human Rights Council

ISFE	Interactive Software Federation of Europe
INTERPOL	International Criminal Police Organisation
ISTTF	Internet Safety Technical Task Force
ITU	International Telecommunication Union
IWF	Internet Watch Foundation
MSIG	Multi-Stakeholder Internet Governance
NCECC	National Child Exploitation Coordination Centre
Ofsted	Office for Standards in Education, Children's Services and Skills
OfCom	Office of Communications
OECD	Organisation for Economic Cooperation and Development
OSTWG	Online Safety Technical Working Group
PROTECT	Act Prosecutorial Remedies and Other Tools to end the Exploitation of Children Today Act
SWGFL	South West Grid for Learning
UN	United Nations
UNCRC	UN Convention on the Rights of the Child
UNESCO	UN Educational, Scientific and Cultural Organization
UNICEF	UN International Children's Emergency Fund
GAO	US General Accounting Office
ICE	US Immigration and Customs Enforcement Agency
VGT	Virtual Global Taskforce
WC III	World Congress III against Sexual Exploitation of Children and Adolescents
WSIS	World Summit on the Information Society

Foreword

At some point in an indeterminate future, historians will argue about how it came to pass that towards the end of the twentieth century and a little way into the twenty-first, otherwise intelligent people claimed that the Internet was entitled to sit, indeed according to them optimally *should* sit, outside the ordinary discourse of public policy making and law making. Governments, Parliaments, Senates were held to be if not exactly completely redundant then certainly as being of limited use when grappling with both the challenges and the opportunities which this singular and exciting technology was starting to present.

Having fought in some cases for centuries to curb the previously unaccountable powers of Princes by establishing democratic institutions which could bring them to book or force them to act in ways which were more acceptable to the majority, somehow the idea got around that *we the people* should now repose greater trust in the benign operation of large corporations. Even in those countries where politicians are not universally loved and admired, to many this seemed like a much less appealing alternative.

Governments and legislators have a unique obligation to be forever watchful of the wider public interest. This is not an obligation they can resign from or have removed simply because something comes along that is new or difficult. Yet the arrival of the Internet in our midst undoubtedly did create novel demands on the machinery of government. It did make it necessary to look for better designs for the policy and law-making processes which impact upon it. Joseph Savirimuthu's landmark book maps out the early efforts to do that. Moreover, Savirimuthu writes with an elegance and lucidity which should broaden the book's appeal well beyond the community of lawyers, child care professionals and law enforcement officers who are likely to be among the first to buy it.

As I have suggested, some did and still do argue that governments should absent themselves completely from the stage. If there was ever the merest sliver of a possibility such a techno-libertarian vision might become a reality, which I doubt, it quickly foundered. The cases which Savirimuthu discusses in this book are all the proof anyone needs to show that the creators of the Internet had not fully thought through key aspects of their project. The unborn historians referred to earlier will owe Savirimuthu a great debt for bringing together the evidence in the way he has.

The men and women who put together the Internet had no notion it would end up in the bedrooms of 11-year-olds in Birmingham and Benin. It would have filled them with horror and given pause for more than a little thought if they ever imagined their invention would completely transform

and hugely expand "the market" for child pornography. The possibility that by building Transmission Control Protocol/Internet Protocol (TCP/IP), they would be paving the way for even one man to locate, kidnap, rape and murder a single child would have propelled some to abandon computer science altogether and take up flower arranging. Yet all this has happened and much besides. The facts are assembled and documented with great care and precision by Savirimuthu, not as a ghoulish catalogue or an indictment but as a scholarly call for us all to do better.

The Internet grew up in and burst out of the small and trusting world of the Academy. It had tootled along for years as an aid to research and communication within communities which, originally, typically were small enough and intimate enough, if not exactly for everyone to know everyone, at least to have a shared ethos that allowed a sense of a self-governing collective responsibility to emerge. Even as private companies started to discover the value of e-mail and FTP servers in the 1980s, we were still a long way from the sort of Internet we have today.

The development of the web in the early 1990s changed everything. It heralded the arrival of a new, heterogeneous, gigantic clientele, including in its midst enormous numbers of children and young people. But the same notions of independence from officialdom and authority persisted, particularly among old hands. "We didn't need government to get us here and we definitely don't need them now." In fact, a large part of the funds which paid for the early research, which paved the way for the Internet, was provided courtesy of different though mainly American taxpayers, but let that pass.

Could the Internet have been constructed in a different way which would have avoided or reduced its potential to do the kind of evil I have outlined and which Savirimuthu analyses? Absolutely. Does it matter that it wasn't? Probably, but we are where we are. We all have to deal with it now. The Internet is an egregious example of the doctrine of unforeseen and unintended consequences.

The Industrial Revolution of the eighteenth and nineteenth centuries has interesting parallels. The benefits of that revolution were and remain overwhelming. Few would renounce them. It was not deliberately designed to pollute rivers and poison the air or generate greenhouse gases in a way which would eventually threaten to extinguish all life on Earth. Eventually we caught on to the downside and began to take steps to address it.

The benefits of the Internet to society in general and in this case to children and young people in particular likewise are immeasurable. It is hard to find anyone who wants to turn the clock back completely even though daily we read how the technology has led not only to the assaults on children which Savirimuthu describes, but also to a host of other antisocial behaviours such as identity theft, breaches of national security, fraud, invasions of privacy and so on. Few if any of these crimes are in and of themselves

wholly new but the Internet has recast and promoted them on a completely new scale. Why are things allowed to continue in this way? Can't someone tell someone else to put it right?

Here is where the special circumstances surrounding the Internet forcefully rear their head. Governance. A key theme in Savirimuthu's book.

Famously the Internet is borderless and can collapse time and space. Yet it expresses itself in tangible ways, inside national jurisdictions within particular time zones. This can raise fiendishly difficult questions both about whose law applies and how and by whom it might be enforced. The role the Internet plays in much of modern social, economic and political life and, in this context, the fact that children are in the middle of the mix adds greatly to the sensitivities and tensions.

Henry Kissinger was once supposed to have said "Who do you call to speak to Europe?" Even if the words never actually passed his lips this remains a powerful metaphor. "Who do you call if you want to speak to the Internet industry?"

In the beginning when one spoke about "the Internet industry" it generally meant only Internet Service Providers (ISPs), the companies providing basic connectivity to cyberspace. Pretty obviously ISPs are still massively important players. Without them there would be no gateway. They hold basic information about users' activities, information which is often essential to law enforcement investigations or other legal processes.

Today other kinds of online service providers have come to dominate the value chain and public perceptions of what the Internet now is. Some of the largest, best known, most successful and important online businesses have only a marginal or no involvement at all in providing direct connections to the Internet. They range from giants such as Facebook and Google through to hundreds of thousands of small businesses perhaps being run by individuals in their spare time from their garage, kitchen table or university dorm.

Hardware manufacturers produce ever more inventive and interesting ways of going online. Some of these have a particular appeal to children and young people. Sony, Nintendo, Xbox, Nokia, Samsung and Apple constitute a major part of the modern ecology of the Internet.

Out of this latticework grew an expectation that private-sector actors needed to embrace a larger set of responsibilities. Around the globe a range of self-regulatory and co-regulatory models emerged, sometimes supported or led by legislation and sometimes not, but all specifically designed to address the interests of children and young people as Internet users. How well they are working is discussed with great perceptiveness by Savirimuthu. He provides us with a roadmap and an incisive commentary.

As we survey the terrain of governance we see that one of the key global institutions responsible for the ongoing overall management of the Internet, the Internet Corporation for Assigned Names and Numbers (ICANN), has no direct representation from any governments or any inter-governmental

agencies on any of its decision-making bodies although it does have a Government Advisory Committee that provides both with an opportunity to air their views on matters within ICANN's remit.¹ Standards bodies such as the Internet Engineering Task Force and the World Wide Web Consortium have persons associated with them who work for governments or governmental agencies but the narrow, essentially technical nature of the remits of those bodies limits any scope for influencing a broader policy agenda.

This lack of a single point of accountability or reference creates disturbances and eddies which at times have spilled over into evident frustration at the lack of responsiveness to what many national governments feel are their legitimate concerns. The final communiqué of the 2011 G8 meeting made express references to the position of children and young people as Internet users and as potential victims of trafficking or abuse mediated through the Internet. For all that was said at the time about President Sarkozy's alleged grandstanding by bringing such issues to the G8 meeting and making so much of them, the very fact that many of his points were accepted and reflected in the final communiqué was very telling.

The abuse of anonymity is at the root of many of the Internet's enduring problems. A paedophile or someone wishing to exchange child abuse images would be more constricted or limited in what they could do if reliable strong authentication was required before they could sign on or swap files. But any attempt to deal with an issue like anonymity which is seen to have been inspired by a political institution such as a government not unnaturally raises concerns.

Similarly if a government advocates the use of technical tools, for example, filters to block access to age-inappropriate material, might they in truth be preparing the way for a bigger deployment of filtering which had an ideological or other kind of illiberal edge to it? To put it another way, do governments invoke the language of child protection as a cover for an unstated political agenda which might threaten human rights?

Against that it has to be asked if Internet companies on occasion play on and perhaps even play up these fears? Again, to state the proposition slightly differently, do otherwise hard-headed capitalist enterprises sometimes adopt the altruistic language of human rights as a convenient foil to help them ward off demands by governments to put more resources into things which, as they see it, make it harder to make a profit?

Often consumers are asked to put their faith not in governments but in the operation of the market. That might have something going for it as an argument if there was any sign that the markets in question worked at all efficiently. However, it is self-evident that while several Internet companies have been spectacularly successful in getting people to sign up for their services and spend money with them, they have failed, not completely but still on a monumental scale to ensure their customers understand how their products works or what they should do to use them safely. Can't the same