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Beyond Borders Newsletter

Ensuring Global Justice for Children

Issue No. 8

Spring 2006

THE AGE OF PROTECTION

Changing Canada's Age of Consent (14) and Getting It Right!

By David Butt

Currently, 14 and 15 year olds in Canada are at an unacceptable risk of victimization by sophisticated adult sexual predators. These devious adult predators prey on the fact that many 14 and 15 year olds, in the throes of adolescence, are eager to enter into the world of adult relationships, yet lack the sophistication and judgment to perceive when they are being manipulated and victimized. As a result, it is necessary to protect them as they take their first, often uncertain steps on the journey toward becoming healthy and confident sexual beings.

The current government has signalled its intention to correct this obvious shortcoming in Canada's criminal laws. This is to be welcomed. However, the proper solution must balance the needs of adolescents for a degree of autonomy, without sacrificing their safety. **Thus the focus of any new law must not be on the issue of consent, but rather on protecting 14 and 15 year olds.** Beyond Borders takes the position that the best possible law to protect young teenagers while according them appropriate liberty to grow into their sexual selves must have the following characteristics.

1. The new law should retain the current provisions that protect children thirteen and under.
2. The new law should, in a preamble, recognize that recent studies have pointed to 14 and 15 year olds as those most likely to be victimized by adult sexual predators in internet luring situations.
3. The new law should recognize that 14 and 15 year olds have a right to pursue their awakening sexual development, but that that development should take place in the safety of a social environment limited to their peers in age.
4. Accordingly, the new law should make it clear that consensual sexual activity with 14 and 15 year olds is lawful only if there is no exploitation, there is no abuse of power trust or authority **and** the 14 or 15 year old's sexual partner is no more than five years older.
5. The new law should not change the current law applicable to 16 and 17 year



**Beyond Borders is a Canadian affiliate of
ECPAT International**

*End Child Prostitution, Child Pornography and the
Trafficking of Children for Sexual Purposes*

Bangkok, Thailand www.ecpat.net

olds. The current law says that 16 and 17 year olds can have consensual sexual relations with persons of any age, as long as those relationships involve no exploitation, or abuse of power, trust or authority.

Beyond Borders believes that these five simple points will create the right balance. They will better

protect 14 and 15 year olds at an important yet vulnerable time in their sexual development, but it will also let teenagers do what teenagers have always done with their peers: awaken sexually.

Beyond Borders is a non political, non religious NGO advancing the rights of all children to be free from abuse and exploitation.

An Anonymous Letter Which Shows Why Age of Protection Must Be 16 to Stop Internet Luring

Dear Beyond Borders,

I am a concerned parent & Canadian citizen who asks myself everyday, **“Why isn’t our provincial and federal governments stepping up to the plate and helping families with the protecting of our children?”**

Our family knows first hand how out dated the present day laws are. We almost lost our daughter to an internet predator on Halloween night. The predator contacted our daughter many times, asking her to chat; at first she ignored his invitations. The constant bullying, a difficult week at school, and she finally accepted his invitation to chat, looking for a friend. Gaining the trust of a girl who’s just turned 15, was no hard task. He talked to her about music, movies and yes, also about her problems about having few friends, and the bullies at school. She was looking for a friendly shoulder to cry on, while he was hunting for a distraught child. For a predator, this is the perfect match. I hate to use the word smart or cunning but his timing was perfect. After only a few days he had purchased her a prepaid cab fare to the Edmonton airport with prepaid tickets to Toronto, along with all the details mapped out.

Halloween night she went to the arena to watch a hockey game and didn’t return at her curfew time of 10:30 pm. Fortunately for all of us she had always been on time. I called the girl she was supposed to be there with and was told the last time she saw her she was walking alone. My husband and I got in separate vehicles and went looking for our daughter whom we thought might be having a difficult time with bullies. We didn’t find her and by 11pm called the police. When the police arrived and talked to her friend, they discovered where she was headed. We knew nothing except she was headed to Toronto. My husband drove to the airport and found out the R.C.M.P. couldn’t access the manifest list to see if she was on flight, without a court order due to the Privacy Act. It was a Friday night and no offices would be open until Monday. Our daughter could be lost, possibly forever. Fortunately my husband had taken a photo of her and showed it to the officers on duty. One recognized her and said he saw her in that boarding area. They immediately called the Toronto airport and had police waiting for her when she got off the plane. It is a miracle we have her back safe.

As citizens of Canada we must stand together and change the laws for the better protection of our children.

The age of consent must be changed to at least 16 years of age. I believe that a child at the age of 14 years old is not old enough to make life changing decisions and should be under the direction of parents or guardians. **With our case our daughter had only turned 15 years old the month before. The predator wasn’t charged due to her age, and is now free to lure other children. Our world has changed with the new age of computer technology. It has created a playground for pedophiles who now have no boundaries.**

Who Is Not Going to Be Happy With New Age of Protection of 16? An Excerpt From an Article by Mindelle Jacobs [February 11, 2006, Edmonton Sun]

Children's rights activist Rosalind Prober gleefully rhymes off everyone who'll be upset with the federal Conservatives' plan to raise the age of sexual consent. **"Multi-married men who take child brides** aren't going to be happy. **Child pornographers** aren't going to be happy. **Child-sex tourists** aren't going to be happy. **Your generic, everyday child molester** isn't going to be happy," she beams. **Pimps**, too, will be furious because it'll be harder for them to befriend young girls, sweet talk them into bed and then force them into prostitution, says Prober, president of the child advocacy group Beyond Borders.

You Be the Judge!

By Nancy Embry

It's 2004 and before you is a repeat child sex offender, Shaun Deacon. In the 80's he was sentenced to seven years for assaulting a five year old girl and three young boys aged six, eight and thirteen. While awaiting sentencing on these charges he abducted and assaulted one of the victims. After his release from jail, Mr. Deacon was arrested again for assaulting an eight year old. While on parole for that offence, he was caught with a ten year old boy in his halfway house room. You be the judge...what is an appropriate sentence?

Every sentence must address deterrence, rehabilitation, and protection of society. Well you say, all the years in custody did not deter him and he is clearly not rehabilitated; how do we protect society, and in this case those members who are most vulnerable, namely children, from Mr. Deacon re-offending? Lock him up and throw away the key, you say? That is not an option in Canada. An automatic twenty-five years without parole?...only available in the state of Iowa. What then are the options available to judges in Canada?

We do have a **dangerous offender designation** that can put high risk criminals behind bars indefinitely; however, we don't "throw away the keys". The dangerous offender will be eligible for parole in seven years and, if he is unsuccessful at that point, can still receive reviews every two years.

Great, you say, let's use it! Well it is not quite that simple. In 1997, Parliament added the option of "long-term supervision" to the dangerous offender order. This designation permits up to ten years of supervision after the completion of a jail term. Then, two years ago, the Supreme Court of Canada, in a 9-0 decision, ruled that

even when an offender meets the requirements of the dangerous offender status, the Crown and the judge must first consider whether he could be treated, cured or controlled in the community through the use of a long-term supervision order. This complicates the situation for the Crown and judges when they are dealing with repeat child sex offenders. Most psychiatrists called by the defence to assess sexual offenders would suggest that with a combination of therapy, drugs and supervision they could be controlled in the community.

What happened in this case? The judge sentenced Mr. Deacon to three years in custody followed by a ten year supervision order. He also ruled that he stay away from children, live in a halfway house, take libido reducing drugs and have handlers accompany him whenever he goes out in public. The halfway house that agreed to take him (several turned him down) has two handlers working twelve hour shifts strictly to supervise Mr. Deacon. How dangerous is he? According to the executive director of the halfway house, "If you were to put him in the community for half an hour, he would re-offend." (Globe and Mail, Nov. 21, 2005.) This begs the question what recourse will we have in ten years, when he has fully served his debt to society, is most probably not rehabilitated and yet free to go? How can we guarantee the protection of our children if judges don't have complete freedom to use the dangerous offender designation in cases such as Deacon's? As the Globe and Mail editorial of November 23, 2005, aptly points out, "When serial pedophiles are being shadowed with the express approval of a judge, it's time Parliament clarified what level of risk is manageable in the community, and what merits indefinite jail time."

Beyond Borders Applauds These Recent Rulings Using the Dangerous Offender Designation

R vs Ross Martin- (Nov. 22, 2005 Ontario) In giving Martin, a repeat child sex offender, a dangerous offender designation Justice Anne Molloy agreed with Crown attorney Jon Ball that there's "a substantial likelihood that Martin would commit similar harmful crimes in the future."

R vs Cory Newton- (Feb.1, 2006 Ontario) Justice Joseph Henderson did not accept the recommendations of a forensic psychiatrist that Mr. Newton, a serial child sex offender, be given a long-term supervision order in conjunction with daily meetings with parole officers. The judge observed that "the kind of monitoring envisioned by Dr. Klassen is not reasonable in our society...if this type of intensive monitoring were required for high risk offenders then he should not be at large in the community."

David Butt and Rosalind Prober Of Beyond Borders Elected To The ECPAT International Board.

Congratulations and good luck to:

Ms. Amihan Abueva, Philippines - Chair
Mr. David Butt, Canada - Secretary
Ms Mama Fatima Singhateh, The Gambia - Treasurer
Ms. Cathleen Moss, Czech Republic
Ms. Lotta Segerström, Sweden
Mr. Cleophas Kwadjo Mally, Togo

Dra. Maria Eugenia Villareal, Guatemala
Ms. Rosalind Prober, Canada
Ms. Ingrid Liao, Taiwan
Ms. Maureen Crombie, New Zealand
Dr. Tufail Muhammad, Pakistan
Mr. Theo Noten, Netherlands



ECPAT International, based in Bangkok, is the world's largest nongovernmental organization, or NGO, dedicated to fighting the commercial sexual exploitation of children. It has member NGO's in 70 countries around the world. Website: www.ecpat.net

Beyond Borders youth member *Jill Woloshyn* joins the new EICYAC (ECPAT International Child and Youth Advisory Committee)

<http://www.ecpat.net/eng/eicyac/>

Congratulations and good luck to:

Ms. Lotta Segerström, Sweden
Ms. Victoria Odhiambo, Kenya
Mr. Jhader Moreno, Colombia
Ms. Jill Woloshyn, Canada

Ms. Cheng Che Wu, Taiwan
Ms. Anila Pushan, Bangladesh
Ms. Milica Petrovic, Serbia and Montenegro
Ms. Louise Frisk, Sweden

ECPAT Child and Youth Partnership Policy

Developing the participation of young people in combating the commercial sexual exploitation of children is an integral part of ECPAT's work at national, regional and international levels. It strengthens our programming and advocacy and makes us more accountable to the children whom we serve. The UN Convention on the Rights of the Child values the child as a citizen, entitled to fundamental rights and freedoms, capable of expressing opinions, participating in life and assuming responsibilities in the family and society.

A Well Deserved Award

The 2006 Brotherhood Inter-Faith Society Person of the Year Award – This award was presented on February 26, 2006 to Beyond Borders legal counsel, **David Matas** for his humanitarian work serving many organizations including Amnesty International, B'nai Brith Canada as well as Beyond Borders.

Congratulations David. You are a true friend of children in difficult circumstances.

How So Little Can Mean So Much *A Treasurer's Report*

By Jeanette McCoshen

The only sources of funding for Beyond Borders are through donations, or fundraising. Every donation, no matter how large or small motivates us. One donation in particular stands out. It was accompanied by a letter from a daughter who had asked her mother what she wanted for Christmas. The reply from the mother was to give a donation to Beyond Borders. This donation was for \$10. It was all she could afford. When the board learned of this touching gesture, some members had to fight back tears.

As a board we receive no monetary compensation. We are all volunteers working toward protecting children from sexual exploitation. Many of us are members of other

organizations which compliment our work with Beyond Borders. Some of us attend trials which allow us to experience first hand, the brutal harm done to the innocent victims, while at the same time exposing us to the perpetrators. Although we may never understand the mind of those who sexually abuse children, it instils in us the importance of informing the public as to the danger lurking all around us.

Being a board member and the Treasurer of Beyond Borders, I am constantly encouraged to continue the effort by the donations that keep coming in, often unsolicited.

To make a donation please forward a cheque payable to Beyond Borders Inc. to:

**Beyond Borders Inc.
387 Broadway Ave.
Winnipeg, MB
R3C 0V5**

Do Child Sex Offenders Re-offend? *Yes They Do!*

Man guilty of porn charge (February, 2006, Swift Current, AB) - A 41-year old man is off to a federal penitentiary after he was caught for the second time in less than a year in possession of child pornography. Kevin Fraser was originally given a 2-year conditional sentence for the same charge in April 2005 following an investigation by Swift Current RCMP. He is now also charged with breach of his conditional sentence. Fraser has been sentenced to 10 months, and his conditional sentence is revoked, meaning he will serve just over 2 years in a federal penitentiary.

Sex offender re-arrested in court following hearing (February, 2006, Victoria, BC) - Sex offender William James thought he was leaving Victoria Provincial Court to serve the rest of his conditional sentence for possession of child pornography at home, when he was re-arrested on 3 new counts - possession child pornography, accessing child pornography, and breach of conditional sentence. Under new legislation, the new charges carry a minimum jail sentence. It was a dramatic end to his breach of conditions hearing.

Beyond Borders Mission Statement

Beyond Borders advances the rights of children to be free from abuse and exploitation without regard to race, religion, gender or sexual orientation. Also, Beyond Borders does not have any religious or political affiliation. Our group is made up solely of volunteers who absorb all their own expenses with the exception of the expenses of our lawyers when they are intervening in court cases, which they often do pro bono.

Editorial Musings

By Carole Rogers

I am not a lawyer although for the last several years I did co-manage a legal library for a major Winnipeg law firm. Nor am I a politician, celebrity, or an Olympic speed skater. I am not even a parent, unless 2 self-centered but loving cats now passed on, count. **What I am is a concerned citizen who believes in the rights of children to be just that – children. A child should have the right to learn, to play, to grow up healthy, happy and secure.**

Until I got talking to Roz Prober at a Dance Aerobics class, a few years ago, I did not know that the current age of consent for sex with an adult was 14 years. Later I found out that most of my friends and relatives including my husband were just as unaware as I was. I also hadn't grasped the enormity of the dark side of the Internet which has been escalating and compounding into the 21st century. As a business librarian for a large grain company in the early 90's, I had already embraced the Internet as a major research tool and saw its potential to play a pivotal role in the future of information retrieval long before the world wide web was even born. Who would have thought

then, of the Internet as a vehicle for sexual predators to lure children, or for pedophiles to share, distribute, and sell child abuse images.

I thank Roz for opening my eyes to this reality. I also must mention if it had not been for Jeanette McCoshen's (also Beyond Borders' Treasurer) invigorating dance classes, which keep me sane and in reasonable shape for a woman of my vintage, I might not have become involved in this remarkable group that exists to fight for the rights and global justice of children. While I cannot directly impact on improving laws and eradicating the existence of those who exploit children, and I don't have huge corporate dollars to donate, I can perhaps make a small difference by editing the Beyond Borders newsletter, and website.

I say this to any of you who may feel as I do. Get involved if you can, or make a donation of whatever you can afford, to this worthy cause. **I can honestly say "satisfaction guaranteed"**.

Cell Phone Pornography – The Impact on Children

First it was mobile phones, then camera phones, and now cell phones with wireless internet access and video capability – has cell phone technology come into its own? **Or is it setting the stage for a huge new platform of mobile pornography, accessible by children?**

A major US cell phone service provider has launched filtering devices and password-enabled blockers to discourage underage consumers from buying adult material. That is the good news. Up to now carriers have

not provided easy access to the pornography market, for fear of backlash, according to USA Today (Dec. 13, 2005). What is the bad news? Could it be that not all parents will worry about what their kids are downloading? Could it be that porn marketers are already lining up to tap into the US wireless market? Will carriers in their pursuit of new business opportunities, be able to guarantee protection of children with these filters? We can only hope so.

Thank you Air Canada

As part of ECPAT's efforts to help curb international child sexual tourism, Beyond Borders appealed to Air Canada to participate by screening in-flight video announcements, alerting travelers to Canadian laws

against such conduct. Although produced by another organization, Air Canada has begun airing an anti-child sex tourism video on targeted flights. **Beyond Borders says thank you, Air Canada.**

Beyond Borders Announces 2005 National Media Award Winner

Kim Bradley, Toronto Sun police reporter, has won 2005 Beyond Borders National Media Award for her internet luring series entitled **"The Dark Side of the Net"**. Thanks to the Winnipeg law firm, **Booth Dennehy** for sponsoring this award.

Letter to the Canadian Judicial Council

February 7, 2006

Re: Your File 03-063 –The November 18, 2003 complaint of Beyond Borders concerning Justice Kovach’s charge to the jury on June 25, 2003 in R. v. Kindrat and Brown

Dear Judicial Council:

Months have gone by since the Court of Appeal of Saskatchewan gave its decision on April 20, 2005 on the appeals of Edmondson, Kindrat and Brown. The Court upheld Justice Kovach’s conditional sentence for Edmonson for a violent sexual assault on a totally inebriated 12 year old aboriginal runaway. Due to gross errors by Justice Kovach a new trial for the latter two men was also ordered. I traveled to Regina to the Court of Appeal on January 19, 2005 to monitor these appeals. I would like you to know that referring to Justice Kovach and the way he judged these cases, the Court said openly that they hoped the new judge hearing the case against Kindrat and Brown would ignore everything that went on in the courtroom of Justice Kovach!

In your letter to Beyond Borders dated December 9, 2003 you stated that several complaints were sent to the Judicial Council. You stated that the Chief Justice of Nova Scotia, Constance Glube, would wait until the Court of Appeal of Saskatchewan had ruled to consider the many complaints against Justice Kovach. As so much time has passed, I am writing to ask exactly when Chief Justice Glube will consider all these complaints.

As Chief Justice Glube is aware Beyond Borders found it incomprehensible that Justice Kovach in his charge to the jury would refer over and over to the adult male accused as “the boys” while referring to the 12 year old aboriginal child as “Ms”, a feminist term generally describing adult women who are aware of their rights and ready to assert them.

I am writing again to ask the Judicial Council if Justice Kovach is fit to preside over cases involving children?

Sincerely,
Rosalind Prober,
President Beyond Borders, Canada

The **Canadian Judicial Council** was created in 1971 to promote efficiency and uniformity, and to improve the quality of judicial service in superior courts and in the Tax Courts of Canada. It is composed of the chief justices and associate chief justices of Canada’s superior courts. For more information visit their website at: <http://www.cjc-ccm.gc.ca/>

First Case of Internet Luring Using an Online Game

A Washington woman, who met a 14-year old Ohio boy through an online role playing game, has been accused of having sex with him after traveling across the country to meet him. The boy’s mother, who gathered information

from her son’s computer, provided police and the FBI with information used to arrest the woman. The woman has been charged with importuning and unlawful sex with a minor. She has two children of her own, ages 13 and 15.

U.S. Child Sex Tourism Law Upheld by Court as Constitutional

(San Francisco, CA, January 26, 2006) The United States Court of Appeals for the Ninth Circuit has ruled that the extraterritorial exercise of jurisdiction over American child sex tourists was constitutional. In a 2-1 published decision, the court held that **Congress had the authority under the U.S. Constitution to prosecute U.S. citizens who travel in foreign commerce and engage in the commercial exploitation of children outside the United States.**

The decision was the result of a constitutional challenge to the U.S. law by convicted sex tourist **Michael Clark**. According to court records, Clark, a 71 year old U.S. citizen and military veteran, resided primarily in Cambodia from 1998 until his extradition to the United States in 2003. After Clark was apprehended by the Cambodian authorities, with the assistance of Action Pour Les Enfants in Phnom Penh, Clark confessed to the crimes and was extradited to the United States. According to the decision, Clark admitted that he had been a pedophile since at least 1996 and had been involved with approximately 40 to 50 children after he began traveling in 1996.

Although Clark admitted his sexual abuse of the Cambodian children, Clark maintained that the U.S. government had exceeded its authority in criminalizing conduct that occurred outside the United States. The court disagreed. The court held that Congress had the authority under the Constitution to enact those provisions of the **PROTECT Act**.

The court held that where, **"as in this appeal, the defendant travels in foreign commerce to a foreign country and offers to pay a child to engage in sex acts, his conduct falls under the broad umbrella of foreign commerce and consequently within congressional authority under the Foreign Commerce Clause"** of the Constitution.

For further information on the Michael Clark decision, please contact the Campaign Against Child Exploitation, a California non-profit organization dedicated to seeking justice for the victims of child sex tourism at info@CACEUSA.org

Beyond Borders Applauds ECPAT Taiwan

ECPAT Taiwan has cooperated with the Taiwan CIB (Criminal Investigation Unit) for the past few months to ferret out a criminal group selling pornography video CDs including child abuse images. On January 5, 2006, five suspects were arrested. The police confiscated 9 computers, 130 CD burners and about 10,000

pornography video CDs. Since last October, ECPAT Taiwan had received several spam mails advertising child pornography CDs. They immediately began reporting this to the CIB, and worked with the unit to uncover the criminal group.

Being a Moral Busybody: How to do the Right Thing

Thursday April 27th, at 7:00 p.m., Toronto's Columbus Centre

In our ever-changing, diverse and fearful society, how do we find the confidence to step forward and safely do the right thing? An expert panel will explore the ways we can stand up and get involved in the issues affecting our families today. **Roz Prober, President**, Beyond Borders joins a panel of professionals including **Andrew Gibson**, Sexual Assault and Child Abuse Investigator, City of Toronto; **Howard Hurwitz**, Director of Children's Services at Jewish Family and Child Service and **Bev Kupfert**, Toronto paediatrician specializing in family practice and eating disorders.

Presented by **UJA Federation, Women's Campaign & Advocacy**

Tickets \$15, Refreshments served.

Call 416-631-5826 E-mail: LSUYDAM@UJAFED.ORG

Or register online at www.ujaevents.com/registration/2006_moralbusybody