CHILD SEX TRAFFICKING
Is Canada Immune to this Global Scourge?

By Rosalind Prober and Nicole Merrick

Q. Nicole, you are new to Beyond Borders and are joining our legal team. After working in Asia on the issue of Child Sex Trafficking, what is the global situation?

Child Sex Trafficking is a global problem and a global disgrace. Around the world, in both developed and developing countries, children and young people are exploited and enslaved for sexual purposes – resulting in years of repeated violation, exploitation and abuse. Children who are trafficked for sexual purposes are used and brutalized for financial gain; globally there appears to be no lack of either demand or supply. Child sex trafficking has become a global business on a massive scale and results in vast profits for traffickers.

The clandestine nature of human trafficking, coupled with the reluctance of victims to report for fear of the authorities or being subject to reprisals and social stigma, makes assembling reliable statistics a challenge. A 2009 report by the United Nations Office on Drugs and Crime noted that an estimated 79% of individuals who were trafficked were subjected to sexual exploitation; this same report indicated that 22% of the individuals trafficked were children.

We do know that many developed countries, such as Canada, are considered to be destination, transit and source countries for human trafficking. I think this statement would come as a shock to many Canadians.

Q. Is there a common definition used worldwide to describe this phenomenon?

The United Nations Trafficking Protocol provides an accepted international definition of what constitutes the trafficking in persons, namely: the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.

The definition of “human trafficking” adopted by relevant countries as part of their domestic laws may not fully reflect the definition set out in the Trafficking Protocol – this presents obvious challenges for coordinating an effective international response to a global phenomenon.

Q. What causes the global problem?

The answer to this question is complicated, involving any number of inter-related factors, and varies from region to region around the world. In practical terms, the causes of trafficking are those factors that would leave individuals vulnerable to exploitation or trafficking. Commonly
identified causes include: poverty, lack of educational opportunities, countries or regions in conflict or transition, economic crises and natural disasters, cultural environments that encourage gender discrimination and disregard the rights of children, legal and regulatory environments that have loopholes for trafficking and/or commercial sexual exploitation, and discrimination and/or marginalization on the basis of gender or ethnicity, which leaves children, including those of minority groups, in positions of vulnerability.

**Q. Who creates the demand?**

This is a question that has plagued legislators and law enforcement around the world for decades. Demand exists, particularly in the case of human trafficking - when individuals, including children, are viewed as a commodity. Our goal, at Beyond Borders, is to engage in activities and to assist our partners around the world in efforts that are aimed at addressing laws and activities that fail to protect children from sexual exploitation. We are focused on initiatives to stop child sexual exploitation - “Not Your Child. Not Mine. Not Anyone’s.”

**Q. What is the difference between human smuggling and human trafficking?**

The terms “human smuggling” and “human trafficking” are often used interchangeably, yet they mean very different things. Human smuggling, at its most basic, is the illegal movement of a person across international borders for which payment is typically exchanged. Smuggling often involves dangerous conditions for the person being transported. While illegal, the relationship is a consensual one, with the smuggler being paid by the smuggled person or his or her family for services rendered.

Human trafficking is by definition not consensual in nature – with the trafficked person being targeted as an object of exploitation. This typically involves an individual being subject to fraud, deceit, force or coercion. Human trafficking occurs both within a country and across national boundaries. While human trafficking can include elements of human smuggling, the key to assessing whether or not human trafficking has occurred is to focus on the exploitation of victims.

**Q. What is the law in Canada?**

Canada is a signatory and has ratified both the United Nations’ Trafficking Protocol as well as the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography.

Under the Criminal Code of Canada, it is a crime to engage in the trafficking in persons, exploitation, benefiting economically from trafficking, and withholding or destroying identity, immigration, or travel documents to facilitate trafficking.

It is also a crime in Canada to commit kidnapping, extortion, forcible confinement, conspiracy, controlling or living off the avails of prostitution, and or to engage in organized crime - all of which can be connected with human trafficking and the exploitation of trafficking victims.

**Q. What statistics are available on trafficking of women and children into or within Canada?**

Estimates have indicated that some 800 people are trafficked into Canada each year, while an additional 1,500 to 2,200 are trafficked through Canada to the United States. (Additional information is available on statistics on the Beyond Borders website.) It is believed that only 1 in 10 victims of trafficking report the crime to police, so the numbers of affected persons are very likely much higher.

**Q. Where can human trafficking be reported?**

Human trafficking should be reported to police or through www.cybertip.ca. -Canada’s national tipline for reporting the online sexual exploitation of children.

Nicole Merrick is a Winnipeg lawyer who recently returned from a volunteer post with the United Nations Office of the High Commissioner for Human Rights Regional Office for South-East Asia in Bangkok, Thailand and is a recent addition to the Beyond Borders team.

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**Canada’s First Child Trafficking Conviction**

At 17, Eve escaped her trafficker after 2.5 years of sexual slavery and went to the police. She led them to where her trafficker kept another 14-year-old girl in a motel room. As a result, the police arrested Imani Nakpangi of Niagara Falls. Eve’s courage led to Canada’s first ever human trafficking conviction in May 2008. However, Nakpangi only received a sentence of five years in prison. Nakpangi earned a total of over $360,000 over the 2.5-year period he sold Eve. Nakpangi brutally controlled Eve by assaulting and threatening her.

**Canadian Serves Brief Sentence for Child Trafficking and Prostitution Charges**

In Montreal, Michael Mark pleaded guilty to trafficking a 17-year-old girl and procuring three others to become prostitutes. Mark got two years each for the trafficking and procuring charges to be served concurrently. Because his year of pre-trial custody counted as double time served, following his sentencing, Mark spent a mere one week in jail for the crimes against his four victims.
By Corey Martell

Wrenshall Case Illuminates Canadian Inadequacies

Prolific Canadian pedophile, John Charles Wrenshall, will finally be put behind bars where he belongs. However, the credit in this case goes to the United States, not Canada. In fact, this case illuminates many of Canada’s shortcomings in dealing with Canadian citizens who sexually exploit children, whether here or abroad.

Wrenshall, a 62-year-old Canadian citizen who has convictions for sexually abusing boys in Calgary, AB in 1970 and 1997. He was given a paltry one year jail sentence plus two years of probation for his 1997 convictions for abusing at least 8 young choir boys at his church in Calgary over almost three decades. Upon completion of his sentence, Wrenshall was free to leave the country and by 2000 he had moved to Thailand where he allegedly began a sex tourism business. He now faces 18 charges related to child pornography and sex tourism laid by a New Jersey grand jury. The charges accuse Wrenshall of running a sex tourism operation where guests paid to stay at his home and have sex with young boys with the option to have the abuse videotaped and photographed. Thanks to the New Jersey charges, Wrenshall faces literally hundreds of years of jail time. If convicted, he will never have the same opportunity to continue to abuse children that the Canadian justice system allowed him over a decade ago.

This case brings to light at least three glaring inadequacies in Canada’s treatment of child exploiters. First, why are convicted pedophiles allowed to freely travel abroad? There is an obvious need to enforce some foreign travel restrictions in cases such as this. Second, why doesn’t Canada aggressively enforce its sex tourism laws like the United States does? Our record of convictions pales in comparison to other countries with similar laws simply because we don’t put resources where they are needed (police presence in known sex tourism hot spots, for example). Third, why are Canada’s penalties for crimes dealing with the exploitation of children so lenient compared to other jurisdictions? The fact that our minimum penalty for producing child pornography is 90 days compared to New Jersey’s minimum of 60 days is prison plus three years of probation. Peterson must also register as a sex offender. The order to register was given despite a request made by Peterson’s lawyer to keep his name off the registry. The lawyer argued that registering would have a negative affect on Peterson’s career as a paramedic.

Beyond Borders was prepared to intervene in the case if Peterson’s name was left off the registry. Two of the most important aspects of sentencing sexual offenders include denouncement of the crime and deterrence to others. Therefore, it is important that Peterson, and all other convicted child exploiters, be named on the registry. The test for exemption from the registry is whether the impact of being on the registry would be “grossly disproportionate” to the public interest in having the offender registered. Peterson failed to prove that his registration would be grossly disproportionate since he is currently employed in his chosen field as an industrial paramedic in northern AB.

Abuse of Trust

A disturbing recent case out of Athabasca, AB involves a severe abuse of trust. Jason Keough was a 34-year-old youth worker when he was accused in November with breaching the trust of the very children he was hired to protect. He allegedly made and distributed sexually explicit videos of teenagers he was working with. Since moving to Alberta in 2004, Keough had worked with youth at a Native Friendship Centre, at the local high school as a native liaison coordinator, and as a child protection worker for Alberta Social Services. Apparently, all the usual background checks for people who work with children were done. Keough faces a total of six charges including possession, making and distributing child pornography.

Alberta Court Gets It Right

Beyond Borders kept a close watch over the case of Robert Kenneth Peterson of Red Deer, AB. The 29-year-old paramedic pled guilty to three charges of possession of child pornography. He was sentenced in August, 2008 to 60 days in prison plus three years of probation. Peterson must also register as a sex offender. The order to register was given despite a request made by Peterson’s lawyer to keep his name off the registry. The lawyer argued that registering would have a negative affect on Peterson’s career as a paramedic.

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Corey Martell is a lawyer in Edmonton, and Media Spokesperson for Beyond Borders.
A Fallen Star

On March 4th, following an investigation that originated in the United States, Montreal police arrested Jean-François Harrison for possession and distribution of child pornography. Police seized pictures, CDs and DVDs depicting acts of sexual assault against young children. At the time of his arrest, the 34-year-old actor and father of two was also in possession of speed and ecstasy.

The arrest of the actor, well-known for his role in a number of children’s programs such as “R-Force”, “Ramdam”, “Watatatow” and “Une grenade avec ça?” sent shock waves throughout the artistic community, the general public and mostly among the young fans who felt betrayed by their idol.

All programs featuring Jean-François Harrison were immediately pulled off the air. The network TVA has also withdrawn his name from the Quebec award show “Gala Artis 2009” where he was a nominee in the “Best Actor in a Child’s Program” category. VRAK, a television station specializing in youth programs set up a forum that was moderated and supervised by specialists to allow young people to express their opinions and feelings on the subject. Hundreds of troubled fans expressed their revolt, indignation, frustration and disbelief.

While some groups on Facebook condemned the fallen idol’s behavior, others chose to defend his actions. Even though the actor, as all other accused persons, is presumed innocent until proven guilty, a great number of Quebecers were horrified by certain comments heard on the air and seen in newspapers making such statements as: “even though the accused had the questionable material in his possession, he did not necessarily have bad intentions - it might have been for artistic or educational purposes”; “it is an error in judgment”; “he did not sexually assault any children”; “it was a very bad mistake”; “his great talent should be considered at a time like this when he really needs it”.

And what of the children, victims of child pornography? Who is defending them? It is beyond comprehension that in 2009, the suffering and immeasurable distress of these real children who were sexually assaulted, raped and tortured in the production of these sordid pornographic images is not first and foremost in our minds. Do the consumers of child pornography not realize that they are accomplices in these sexual assaults when they create a demand and distribute such atrocities? Are they less responsible because they “only” paid to watch these children being sexually assaulted and “only” distributed the pictures so that others could do the same? When distributing this material, are these voyeurs not accomplices, aggressors, pedophiles?

While it is true that Harrison’s life has been disrupted since his arrest and charges were laid, the lives of the young victims were more than troubled, and they continue to be, in a much more dramatic and unjust way. Error in judgment? Bad mistake? Certainly not. Whatever the outcome of this trial, it is imperative that we realize that possession and distribution of child pornography are extremely serious criminal acts committed against the most vulnerable members of our society. It would be dangerous to trivialize these crimes.

Jean-François Harrison was remanded with a $2,000 fine. He is prohibited from using a computer and from being in the presence of minors without the supervision of an adult aware of the charges against him. He is due back in court on April 3rd.

Two of Three Sawab Brothers Cleared of all Accusations

In 2006, following the statement of a young female victim who escaped and took refuge in a subway station in Longueuil, police dismantled a prostitution ring operating on the South Shore. The ring was exploiting troubled female minors residing in youth centers. These young girls, between the ages of 14 and 18, were being forced to work as nude dancers in bars and in hotels on the South Shore and in Montreal. Police suspected that the men were preparing to send the girls outside of Quebec and out of Canada entirely.

Last February the trial of the Sawab brothers came to an abrupt end at the Longueuil courthouse. The brothers were facing 14 charges when two of the three brothers, Youssef and Youness Sawab, were cleared of all charges against them. Their young brother Rabii pleaded guilty to two of the six charges brought against him when he admitted to taking in and transporting a minor with the purpose of exploiting her. He also confessed to convincing a minor to prostitute herself. The 20-year-old was acquitted of all other charges. The fourth accused, Kevin Georges Sorel, also pleaded guilty to two charges, solicitation of an adult female and harbouring a minor in a brothel.

The crown and the defense attorney came to this agreement on the third day of the trial. The defense succeeded several times in contradicting Rabii Sawab’s first victim. The young woman had great difficulty giving her testimony through her tears and memory lapses. While the Crown had identified four victims, one has since been missing for two years and another was deemed too unstable. Due to these circumstances, the Attorney-General’s prosecutor was said to be satisfied with this conclusion. She will enter a plea for incarceration at the sentencing hearing on May 13th.
By Mark Hecht

The term “sexting” is a combination of the words “sexy” and “texting”. It refers to the sending of erotic or pornographic pictures via cell phone; the photos may be self-images or images of someone else. The most common form of sexting today is between two teenagers, most often a boyfriend and his girlfriend. A recent American study found that in a group of 2,100 child victims of pornography, 24% had initially sent the images themselves. Although there is no legislation in Canada that is specific to sexting certain sections of the Criminal Code are still relevant, in particular the child pornography provisions.

Section 163.1 of the Code defines child pornography “a photographic, film, video or other visual representation, whether or not it was made by electronic or mechanical means, that shows a person who is or is depicted as being under the age of 18 years and is engaged in or is depicted as engaged in explicit sexual activity, or the dominant characteristic of which is the depiction, for a sexual purpose, of a sexual organ or the anal region of a person under the age of 18 years...”

It is illegal to produce, possess and/or distribute child pornography. As a result, if a person holds an image of someone below the age of 18 that fits this definition s/he is in possession of child pornography and can be charged by law enforcement agents. That said, sexting is so new no cases have been reported in Canada.

In the US, where similar legislation exists in many states, the actions of public prosecutors and judges have been mixed. In one case, a 15-year-old girl had to appear in an Ohio court and plead to a felony charge of contributing to the delinquency of a minor this month after sending a nude picture of herself to a boy at her high school. A teacher discovered the picture after confiscating the phone and turned it in to police. The girl was initially jailed and is now under house arrest. The boy is also set to appear in court. In another instance, an 18-year-old Florida teen had to register as a sex offender after he forwarded a nude photo of his 16-year-old ex-girlfriend she had sent him, sharing the picture digitally after they split in 2007. He was even required to attend rehabilitative classes with sex offenders. Recognizing the controversial nature of such arrests -- essentially charging children with the possession of self-produced child pornography -- some US states have amended their legislation so as not to capture such scenarios. For example, the Utah legislature recently passed a bill lowering the charge for sending explicit messages from the seriousness of a 3rd-degree felony to a relatively light misdemeanour offence.

Back in Canada, this situation was debated by the Supreme Court in 2003 during the hearings of John Robin Sharpe. Sharpe was challenging the constitutionality of Canada’s child pornography provisions and in doing so attracted the interest of several public interest groups. One such group, the Canadian Civil Liberties Association, argued that the legislation was too broad as it is worded and pointed to the fact that it captures a circumstance where those who can consent to sexual activity (at the time children who were 14 years of age or older, today children who are 16 years of age or older) cannot take pictures of themselves engaged in this sexual activity. The Supreme Court accepted this reasoning and declared that Canada’s child pornography provisions, although constitutional, should not include the possession of erotic or pornographic images of consensual sexual activity. That said, sharing those pictures with the public -- including posting them on the Internet -- still constitutes a distribution of child pornography offence.

What does this all mean for Canadians? If a Canadian teenager below the age of 18 takes sexual pictures of himself/herself and keeps them on his/her cell phone s/he likely would not be charged with the production or possession of child pornography. Further, if two teenagers take pictures of themselves engaged in sexual activity and keep them on their cell phones, or share them between themselves, this too would likely not constitute the production, distribution or possession of child pornography. Once this information is shared beyond the sphere of those depicted in the images, a charge may follow. It is important to remember, however that these exceptions only apply to consensual sexual activity and only children above the age of 16 can consent to sexual activity (with some exceptions).

Norma Hotaling, founder and Executive Director of the SAGE Project in San Francisco died on December 16, 2008 following a short illness. Norma Hotaling transformed her own experiences in prostitution into a mission of social justice for her sisters and brothers who had also been trafficked and exploited in prostitution. Ms. Hotaling founded The First Offender Program, a prostitution diversion program run jointly by SAGE and the San Francisco District Attorney’s office. The program continues to offer educational programs to men arrested for soliciting prostitution, teaching them about prostitution’s harms to women, the community, and to their own health. Hotaling’s model of the “johns’ school” is now used throughout the United States and in Canada, South Korea, and England.

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By Deborah Zanke

The Beyond Borders Media Awards showcased two events in November, one in Winnipeg and one in Quebec City. The addition of a Francophone awards ceremony, hosted by travel agency Incursions Voyages, marked the continued expansion of this Canadian media recognition program.

The awards honour Canadian journalists who provide exemplary coverage of issues related to child sexual exploitation and abuse.

The 2008 winners included:

Michael Friscolanti (English print) for his article, “A national embarrassment” (Maclean’s). The article exposes the gaps and shortcomings of Canada’s National Sex Offender Registry.

Julian Sher (English electronic) for his documentary, “Hunting the Predators” (CBC Newsworld). The film delved into the dark world of Internet child sexual exploitation and how this medium demands new techniques and infrastructure for protecting children.

Stéphane Alarie, Gabrielle Duchaine and Brigitte McCann (French print) for a series of articles on child sexual exploitation online (Le Journal de Montréal).

Raymonde Provencher (French electronic) for her documentary, “Le déshonneur des Casques bleus” (Radio Canada/RDI and CBC). The documentary uncovers the issue of the sexual abuse of children overseas by UN soldiers sent to aid and protect them.

The 2009 awards will feature the addition of a student journalism category. The planning committee is also exploring ways to increase the appeal and accessibility of the awards. This could include an expanded event that features panel discussions, keynote speakers and/or presentations by winning journalists.

The planning committee is seeking volunteers in the areas of promotion, event registration and sponsorship management. Interested members of the Beyond Borders community can contact Deborah Zanke (880-4509) for more information.

Beyond Borders thanks its main awards sponsors, which included the Canadian Centre for Child Protection, Ricki’s Canada, CNW Group and Booth Dennehy Law Offices. The Winnipeg Foundation also provided grant support.

The nomination deadline for this year’s awards is September 15. Visit the Beyond Borders website for details.

MARK YOUR CALENDARS - NOVEMBER 20TH 2009

The Beyond Borders 2009 Media Awards

New for 2009 - Student Journalism Category

For updated information visit www.beyondborders.org
Beyond Borders Congratulates:

**Manitoba:** David Matas, Board Member of Beyond Borders, for his appointment to the Order of Canada in December 2008, honouring his contributions to human rights legislation and immigrant and refugee law.

**British Columbia:** British Columbia Prosecutions in the case of Canadian Kenneth Klassen who now faces 35 child sex tourism allegations of abusing children in three countries, Cambodia, Colombia and the Philippines between July 1997 and March 2002. Klassen launched an unsuccessful constitutional challenge of Canada’s child sex tourism law saying the incidents happened in other countries where Canadian courts have no jurisdiction. The landmark victory for B.C. prosecutors means the case against Klassen can now proceed in B.C. Supreme Court.

**Manitoba:** House of Commons Member Joy Smith for her Private Members Bill (C-268) mandating a 5 year minimum sentence for anyone convicted of child sex trafficking.

**Nova Scotia:** Nova Scotia Prosecutions Branch for their victory in the sexual abuse case of Ernest Fenwick MacIntosh who attempted to prohibit a Provincial Court judge in Nova Scotia from proceeding with his preliminary inquiry, submitting that the prosecution offended the principle of speciality and that Canada’s extradition request offened his rights under s. 7 of the Canadian Charter of Rights and Freedoms. For a chronology of this case go to http://thestar.com/News/article/220940.

**Ontario:** Steve Sullivan, Federal Ombudsman for Victims of Crime, for lobbying the Government of Canada for $5 million dollars to set up a national network of child advocacy centres. Sullivan’s vision is a network of one-stop centres where abused children can speak with law enforcement as well as receive counseling and other services.

**Québec:** Incursion Voyages, Canada’s first signatory to the Code of Conduct for the Protection of Children in Travel and Tourism, www.thecode.org, for their exemplary work in promoting the Code in Canada and outstanding efforts to protect children globally from child sex tourism.

**Manitoba:** M.L.A. Kelvin Goertzen for his Justice for Victims of Child Pornography Act. This Bill allows an application to be made to court for an award of damages from a person convicted of a child pornography offence on behalf of his or her unidentified victim.

**Ontario:** Ontario Police for their province wide child pornography bust of 31 individuals involved in child abuse imagery.

**British Columbia:** Attorney General Wally Oppal for the arrest of two Bountiful residents, James Oler and Winston Blackmore, on charges of polygamy pursuant to the Criminal Code section 293 by entering into a conjugal relationship with more than one individual at a time including underage girls.

**Québec:** Social worker Michel Dorais and Criminologist Patrice Corriveau for their new book on prostitution and trafficking, The Johns: Sex for Sale and the Men Who Buy It. (Victor Malarek will be the guest speaker at the 2009 Beyond Borders Media Awards on November 20, 2009 in Winnipeg.

**Québec:** Christine St-Pierre, Minister of Culture, Communications and the Status of Women, and Kathleen Weil, Minister of Justice and Attorney General of Québec for launching the 2009 awareness campaign on sexual assault. This campaign runs from the end of March until mid-May. The primary objective is to provide an accurate picture of the scope of this problem in Québec and to educate the public.

**Ontario:** Victor Malarek for his new book on prostitution and trafficking, The Johns: Sex for Sale and the Men Who Buy It. (Victor Malarek will be the guest speaker at the 2009 Beyond Borders Media Awards on November 20, 2009 in Winnipeg.

**Québec:** Momodou Sanu Jallow, Youth Representative to the Board

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**ECPAT International Elects New Board Members 2008-2011**

**Congratulations new ECPAT board members:**

Maureen Crombie, Chair
Maria Eugenia Villarreal, Secretary
David Ould, Treasurer

**Board Regional Representatives:**

Pamela Chisanga – Africa
Kateryna Levchenko – Central and Eastern Europe

Ingrid Liao – East Asia
Milena Grillo – Latin America
**Rosalind Prober** – North America
Alan Bell – Pacific
Tufail Muhammad – South Asia
Theo Noten – Western Europe

Momodou Sanu Jallow, Youth Representative to the Board
Beyond Borders congratulates the authors of the *Theme Papers* written for the *World Congress III Against Sexual Exploitation of Children and Adolescents* held last November 2008 in Rio, Brazil, including Beyond Borders co-founder, *Mark Eric Hecht*. These papers represent the latest information on all the issues involving children.

The Theme Papers are listed below. To read them go to the World Congress III website at: http://www.ecpat.net/WorldCongressIII/index.php.

**Child Trafficking For Sexual Purposes** by *Mike Dottridge*

**Child Pornography and Sexual Exploitation of Children Online** by *Dr. Ethel Quayle, Lars Loof and Tink Palmer*

**Online Child Sexual Abuse: The Law Enforcement Response** by *Dr Victoria Baines*, CEOP Principal Analyst, on behalf of the Virtual Global Taskforce

**Sexual Exploitation of Children and Adolescents in Tourism** by *Muireann O’Briain, Milena Grillo and Helia Barbosa*

**Private Sector Accountability in Combating the Commercial Sexual Exploitation of Children** by *Mark E. Hecht*

**Exploitation of Children in Prostitution** by *Judith Ennew*

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**Beyond Borders now accepts donations through Canada Helps**

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