



CHILD BRIDES IN CANADA

Beyond Borders Intervenes to Stop Sexual Exploitation of Children in Polygamous Marriages

By David Matas

“Beyond Borders has intervened in this polygamy reference to put an end to sexual exploitation of children in early marriage to multimarried men in closed communities like Bountiful, BC or in any circumstance across Canada. A loss will mean the face of Canada will change and the abusive practise of taking child brides or bringing them to Canada will become the new norm.” - David Matas

Beyond Borders has been given intervener status in the British Columbia reference on the constitutionality of the polygamy prohibition in the Criminal Code. The order was made by Chief Justice Bauman, February 16, 2010. I acted as counsel on the application for intervener status.

The reference was made by the BC government on October 22, 2009. The reference asked the Court to answer these questions:

“a. Is section 293 of the Criminal Code of Canada consistent with the Canadian Charter of Rights and Freedoms? If not, in what particular or particulars and to what extent?

b. What are the necessary elements of the offence in section 293 of the Criminal Code of Canada? Without limiting this question, does section 293 require that the polygamy or conjugal union in question involved a minor, or occurred in a context of dependence, exploitation, abuse of authority, a gross imbalance of power, or undue influence?”

The history of the reference is this: The BC government in May 2007 appointed special prosecutor Richard Peck to conduct a charge assessment review as a result of allegations of polygamy by individuals associated with Bountiful. Peck concluded that no criminal charges should be laid.

Instead, he recommended a reference to the court to determine the constitutionality of the polygamy prohibition in the Criminal Code. The Attorney General of BC then directed that Leonard Doust be appointed to review Mr. Peck's analysis and conclusion. Mr. Doust confirmed the findings and recommendations of Mr. Peck.

The Attorney General then directed the appointment of Terrence Robertson as special prosecutor with essentially the same mandate as Mr. Peck. Mr. Robertson recommended that charges be approved against Winston Blackmore and James Oler. In 2008, Mr. Blackmore and Mr. Oler were charged with violating the polygamy provision of the Criminal Code.

Blackmore and Oler sought judicial review of the process that had led to the charges against them. Madam Justice Stromberg Stein concluded that the appointment of Mr. Robertson on essentially the same mandate as Mr. Peck was contrary to law, as Mr. Peck's decision, within the scope of his mandate, was final.

The judge quashed the appointment of Mr. Robertson as special prosecutor. She also quashed Mr. Robertson's decision to approve charges against Mr. Blackmore and Mr. Oler. As a consequence,

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the Criminal Justice Branch entered a stay of proceedings with respect to the charges. The BC government then decided on this reference.

In April 2005, Beyond Borders produced a report titled “*Preventing sexual abuse in a polygamous community*”. For more information on child brides in Canada, go to the Publications page at beyondborders.org.

Third Man Convicted in Texas of Sexual Assault in Polygamous Marriage

A Texas jury sentenced in March a polygamous sect member, Merrill Jessop, to 75 years in prison on one count of sexually assaulting a 15-year-old girl whom he spiritually married in 2006. Trials for six other men who face the same charge including Warren Jeffs, the FDLS leader, are scheduled through the rest of the year.

Beyond Borders’ Success in R. v. Legare Makes the Internet Safer for Kids

By Mark Hecht

On December 3, 2009, the Supreme Court of Canada released its decision in the case of Craig Bartholomew Legare. Beyond Borders, which had intervener status in the case, hailed the decision as positive jurisprudence for the nation’s children. The Court dismissed Legare’s appeal and in so doing recognized that Internet luring could occur even where an adult had no intent to actually meet the child he or she is communicating with. The Court interpreted the offence of Internet luring so that it afforded maximum protection for children. This decision places Canada in the forefront of international child law, maintaining the spirit of the Convention on the Rights of the Child that it ratified in 1991.

The Legare case began six years earlier. In April 2003, Legare engaged in two private electronic “chat” conversations with a 12-year-old girl. Legare was 32 years old at the time, although he represented to the girl that he was 17. The conversations were explicitly sexual in nature. In the case before the Supreme Court of Canada, which was heard on October 15, 2009, Legare’s counsel argued that he never intended to sexually exploit the child and therefore did not commit a crime. The Crown argued that the very nature of his actions suggested he would have exploited the child if his online conversations were not discovered and that alone should be enough to convict him of the crime of Internet luring.

Building on the track record of Beyond Borders’ involvement in many high profile child protection cases, we filed a motion, and were granted leave by the Court to intervene in this case. The emphasis of our submissions was that international child law supported the position that our laws must be interpreted in the manner that is most beneficial to the protection of our children. When determining the language of a Criminal Code provision that is intended to protect Canadian children, our submission was that the Court must heed to obligations beyond our own Charter. This included Canada’s

obligations under the Convention on the Rights of the Child and its Optional Protocols.



Mark Hecht, Nicole Merrick, Jonathan Rosenthal, and Rosalind Prober at the Supreme Court of Canada

In a 7-0 judgment the Court found that the trial judge had adopted too narrow an interpretation of the elements of the offence of child luring. The Court found that it was not necessary for the offender to meet or even intend to ever meet the victim. The word “facilitating” that is found in section 172.1 of the Criminal Code was defined to mean helping to bring about an offence or making it more likely or probable to happen. The Court compared Legare’s actions with that of grooming a child for a sexual purpose. In their judgment, the Court put to rest the notion that an accused has to at least intend to meet the child before being found guilty of luring. Essentially, in cases where the accused and the victim have never met, the Supreme Court of Canada has now done away with the defence that the accused had no intention of actually committing a sexual offence with the child and was merely having a conversation.

Beyond Borders congratulates David Matas on being nominated for the 2010 Nobel Peace Prize

THE CHILDREN FIGHT BACK:

Using Civil Litigation to Combat Child Pornography

By *Harvey Dupras*

You **will** be dealt with by your victim.

That is one of several unique attractions in using civil litigation as a tool against child exploitation. It is not the government, or an agency, but the victim that will be responsible for having the offender dealt with before a jury.

As a consequence, the first thing that changes is the word victim. The child is now the plaintiff, the aggressor, the person in control of the legal proceedings. The child is the person in control of a portion of an integrated solution, that works towards the end of child exploitation.

The concept of an integrated solution is vital - like a cancer treatment that needs surgery, chemotherapy and diet all working in concert. The extinguishing of child exploitation will need to be battled on all fronts, such as law enforcement, education, civil litigation and rehabilitation.

Currently, society in North America is in love with its possessions. Television and movies bombard us with the need for possession and consumption. Many believe that the worth of a person can only be gauged by the quality and quantity of the person's accumulated possessions.

Civil litigation has the capacity to remove the possessions of a perpetrator for the rest of his or her life. Many people view a few months in jail, or house arrest as nothing, compared to losing all that they own.

Once an initial case has been accomplished, and reported in the media, it will be a massive deterrent. Engage in child exploitation, create child pornography or possess child pornography and you will lose your house, your car, your bank accounts, your pension and have your wages garnished forever.

Bankruptcy, the traditional escape route, will not be available under these particular proceedings. For the perpetrators their lifestyle, as they knew it, is over forever.

This remains a tall order and fraught with numerous legal problems. Simple things in traditional lawsuits now become complex and seemingly insurmountable. For example, the identity of the child may not be known and the plaintiff will be a John Doe or a Jane Doe. Quantifying the amount of the damages will not be easy. What is the worth of a child's innocence? Then again, if it was easy someone else would have already done it. But win or lose the term victim will have been banished.

Three New Lawyers Join Beyond Borders Legal Team

From Toronto: *Harvey Dupras* practices entirely in civil litigation, primarily dealing with commercial and contract disputes, especially in construction matters. Prior to becoming a lawyer his undergraduate studies were in engineering and architecture. He spent 15 years working as construction manager including projects with one of the world's largest construction companies. Over the years he has always maintained a portion of his law practice dedicated to pro bono work on behalf of children.

From Calgary: *Laura-Lee Labreque* is a sole practice lawyer with varied legal experience including criminal and family law. Laura-Lee describes herself as an outspoken pilot, avid runner and business owner with a no-nonsense personality. Laura-Lee lives in Alberta with her husband and 2 children. She has lived in different countries around the world including Japan and Libya and comes to Beyond Borders with a keen interest in stopping child sex tourism.

From Montreal: *Nalini Vaddapalli* comes to Beyond Borders after working with the International Bureau of Children's Rights on the issues of child sex tourism and child sex trafficking. Nalini is presently the executive director of the Association of Caregivers of Quebec. Although Nalini started her career with a degree in biology heading towards medicine, her travels to India to meet her extended family led her to see the need for human rights work to better the lives of disadvantaged children and protect them from exploitation in cross border crimes.

New Promo Video Sets Stage for 2010 Media Awards

Beyond Borders recently launched a promotional video for its annual media awards. English and French versions are now up on the media awards page of beyondborders.org and audeladesfrontieres.ca.

“The video is a great way to demonstrate to potential sponsors and attendees the caliber and excitement of the event,” says Deborah Zanke, co-chair of the awards. “It captures some quite poignant and dramatic moments from the 2009 event.”

This year’s media awards will take place on **Friday, November 19** and will again feature a prominent keynote speaker followed by the awards presentation. “We’re keeping the format much the same as we had lots of positive feedback last year and a near sell-out crowd,” states Zanke.

Nominations for the awards close **September 15**. Anyone can submit a nomination. The awards recognize Canadian journalists and documentary makers who do an exemplary job covering the issue of child sexual exploitation. Those with questions about the nomination process should visit the Beyond Borders website or can contact Deborah Zanke at (204) 880-4509 or via e-mail at deborah@messagecommunications.ca.

The event planning committee is now turning its attention to securing 2010 sponsors. Those interested in sponsorship opportunities can contact Kevin Hunter at (204) 995-3900 or via e-mail at khunter@gravitygroup.ca.

2009 Media Award Winners



Lindsay Lafreniere (Concordia University), Sue Montgomery (Montreal Gazette), Victor Malarek (CTV-W5), Myriam Fimbry (Radio-Canada), Patti-Ann Finlay (CTV-W5). Missing- Brett Mitchell (CTV-W5)

Seeking Two New Judges for Awards

After several years of service adjudicating the media awards, *Leah Janzen, Mary-Lynn Young and Jocelyn Laberge* stepped down from judging responsibilities this year. We can’t thank them enough for their contribution.

We have one new judge on board for this year. *Michelle Sullivan*, a public relations professional in Montreal, has agreed to participate. We need two other individuals, preferably from other provinces, to join her.

We’re looking for individuals who fit the following criteria:

- Fluent in both English and French
- Background in journalism, public relations or film making an asset
- Not presently employed by a media outlet or school of journalism
- Knowledge of the issue of child human rights an asset
- Ability to adjudicate 12-15 nomination submissions during the month of October

For more information, contact Deborah Zanke at (204) 8804509 or via e-mail at deborah@messagecommunications.ca.

List of Male Celebrities Joining Man-to-Man Campaign Continues to Grow

Beyond Borders' first web-based public awareness campaign is continuing to attract high-profile men speaking out about child sexual exploitation (CSE).

"Since our initial launch in October 2009, we've had two more men come on board," states Rosalind Prober. ET Canada's, **Rick Campanelli** and Canada's Next Top Model host/producer, **Jay Manuel** are now supporting the campaign. They join **Jason Priestley, Lorne Cardinal, Manoj Sood, Jacques Villeneuve, Isreal Idonije and Victor Malarek.**

"I had the chance to meet Rick on the set of ET Canada shortly after he came on board and he was totally charming and very supportive of Beyond Borders," says



Rosalind Prober, along with volunteer, Jina Lee, got the star treatment from Rick Campanelli on the set of ET-Canada.

Prober, "He's a real asset to the campaign."

Jay Manuel will also bring an increased profile to the campaign. Not only is he the host/producer of Canada's Next Top Model, he is also a judge on America's Next Top Model. An icon among fashionistas everywhere, he is sure to bring a new audience to the campaign.



There are now eight celebrity males involved. They have all contributed headshots and statements supporting the *Jay Manuel adds voice to Man-to-Man* campaign that appear on the Beyond Borders website.

The campaign focuses on men in an effort to increase male participation in combating CSE. It also recognizes that although women sexually abuse children, more than 90% of those convicted of the crime are male. The campaign speaks "man-to-man" about why this needs to stop as well as actions that can make a difference.

Plans are now in the works to include online advertising and a public service announcement to further advance Man-to-Man's message.

Ways for Men to Take Action

- Visit the campaign webpage to learn more about the issue and then pass that info onto other men
- Volunteer with Beyond Borders
- Make a donation to support the work of Beyond Borders
- Host a fundraising and/or awareness event
- Report suspected child abuse
- Initiate a corporate social responsibility effort in the workplace

Learn more at beyondborders.org

JOIN THE CONVERSATION

Visit Beyond Borders on *Facebook, Twitter* and *YouTube* and contribute your voice on issues related to child sexual exploitation.



Link to our pages from beyondborders.org or audeladesfrontieres.ca

The Body Shop Campaign Update

PUTTING THE DOLLARS TO WORK Fund Created to Ensure Greatest Impact

By Kevin Hunter

With the incredible success of The Body Shop's *Stop Sex Trafficking of Children and Young People Campaign*, Beyond Borders has dedicated considerable resources into the development of a fund dedicated to the distribution of the funds raised to organizations and programs designed specifically to help victims of child sex trafficking.

Annette Frost, a Beyond Borders board member with an extensive background in charitable fund guidelines and application procedures, has been designated as Chair of the fund committee. Joining her in the development of this incredibly important initiative are fellow board members Bev Wiebe, Christine Krahn-Matias and Jade Harper.

In addition, Beyond Borders Co-Founder, Mark Hecht, has been given the crucial role of researching work being done across Canada to protect victims of child sex trafficking in order to help identify potential grant recipients. Mark and the committee are working hard

to put the necessary supports and processes in place to make the fund a success and we expect to award our first grants later this year.

Both the funds and awareness generated by The Body Shop campaign will no doubt make a significant difference in the lives of the children Beyond Borders fights so hard to protect. The campaign continues to provide invaluable revenue and exposure for our organization, with interest in Beyond Borders and the work we do at an all time high.

None of this would have been possible without the vision of The Body Shop's founder, the late *Dame Anita Roddick*, who showed great confidence in our organization by designating Beyond Borders as one of the campaign recipients through the ECPAT network. For her belief in Beyond Borders and for all the incredible effort being put into the campaign by The Body Shop staff, we are sincerely grateful.

Playground - The Body Shop Brings a Much Awarded Documentary to Toronto

On March 15, to mark the launch of the *Stop Sex Trafficking of Children & Young People* 2010 initiative, The Body Shop held a screening of *Playground* – an investigative documentary by Director Libby Spears that looks at the commercial child sex industry and traces the epidemic to its contrasting, and decidedly domestic, roots. To view film clips go to: www.playgroundproject.com.

Produced by influential Hollywood a-listers including George Clooney and Steven Soderbergh, *Playground* has received critical success at film festivals in Europe and North and South America. The Body Shop screening of *Playground* marks the first time the film has been shown in Toronto and only the second time in Canada.

The screening was followed by a Q&A panel session with Director Libby Spears, Human Rights Activist Somaly Mam, Beyond Borders Co-Founder Rosalind Prober and The Body Shop Director, Brand Communications



& Values, Shelley Simmons. Moderating the discussion was Toronto based criminal defence lawyer Jonathan Rosenthal, LL.B.



Around the world, someone helps ECPAT fight child sex trafficking every 30 seconds by buying the Soft Hands Kind Heart hand cream.

Beyond Borders thanks all of The Body Shop employees across Canada and their customers!

New Study Highlights Need for Education and Collaboration to Address Child Sexual Abuse Websites

The Canadian Centre for Child Protection has released a new research report titled *Child Sexual Abuse Images: An analysis of websites by Cybertip.ca*. The report reinforces concerns regarding the scope and severity of child sexual abuse imagery and underscores the need for additional solutions.

“What is particularly concerning is the very young age of the children in the images. These children are most likely being accessed and sexually abused by someone they know. Not only is it devastating for a child to be abused, but to have the abuse recorded and distributed on the Internet adds another layer of trauma,” said Lianna McDonald, Executive Director of the Canadian Centre for Child Protection. “This is a call to action to all Canadians to learn to recognize the signs of abuse, and to report their suspicions of abuse. We need to disrupt and hopefully stop child sexual abuse and prevent it from being memorialized and traded on the Internet.”

The research report emphasizes the critical need for child sexual abuse education, such as that offered by the Canadian Centre’s *Kids in the Know* program. It was found that special attention should be given to educating children 12 years and under on this subject to help build their skills and confidence to possibly disrupt and disclose abuse. Building public awareness on the issue of child sexual abuse and encouraging adults to report is another highlighted outcome.

The study provides information on the global movement of child sexual abuse websites, identifies the challenges with the borderless nature of the Internet, and recommends additional solutions for tackling this problem. To read the entire report or a summary report; or to download PDFs of the report’s 12 recommendations, key statistics and priorities for education – please visit our website at: www.cybertip.ca/app/en/research.

Facebook And Crimes Against Children

By John Carr

The rape and murder in the UK of 17-year-old Ashleigh Hall by convicted sex offender, 33-year-old Peter Chapman, is a timely reminder of the perils of the Internet. **The two met on Facebook.** The social networking site cannot be blamed for that. However, Facebook’s response to the public outcry and to the demands of the police for new and better safety signings on the web site has been lamentable. Facebook is not a disinterested party when it comes to making judgements about how well its online child safety provisions are working. As the world’s new No. 1 in the social networking space they have a responsibility to show leadership. All this means is there

will be a war of attrition between, on the one hand, the cops, backed by the mass media and parents, and on the other Facebook in splendid isolation digging themselves ever deeper into a hole. In the end the advertisers will decide it as they start pulling their dollars from the site. They won’t want to be associated with a company that only gets in the newspapers when something bad happens, and then makes matters worse by refusing to be either humble or emollient.

John Carr is the Secretary of the UK Children’s Charities’ Coalition on Internet Safety.

Blocking Child Sexual Abuse Imagery Uk Government Imposes New Requirements for Government Contracts

By John Carr

The UK Government has announced that, in future, ISPs and others bidding to supply electronic services to large parts of the UK public sector should use the list of illegal child abuse web sites supplied by the **Internet Watch Foundation** to block access to those sites. If they don’t use the IWF list they risk losing the business to another company that does. It was already the case that 98.6% of the domestic consumer market in the UK was covered by ISPs that ran the list. This latest initiative is aimed at some of the larger companies that operated outside the consumer market, in the business to business space. We never accepted the legitimacy of this distinction, now it has been made almost irrelevant. Every big company wants a slice of the Government pie.

No one should deduce from these facts that UK civil servants currently have access to illegal web sites when they are at the office. Departments make their own arrangements for filtering products to be deployed and we believe they will all be using something to block child abuse images. But we have no way of knowing for sure and anyway that’s not the point. Dealing with child abuse images on the Internet should not be an optional extra for ISPs. It should be a fundamental part of how they do business. This decision by the Government gives them a business reason to do the right thing. We very much hope other Governments and other bodies that engage in large scale procurement will follow this lead. It’s all about narrowing the spaces, reducing the scope, stopping the abuse.

Youth News

Beyond Borders legal intern **Jina Lee**, after first year at Osgoode Hall Law School, traveled to the Philippines as an intern with Osgoode's International Legal Partnership program in 2009 and volunteered with ECPAT Philippines. Part of her work throughout the summer was participating in community awareness events, signature campaigns, and a community parade to lobby for the passage of the child pornography legislation.



Back home in August, Jina received notice that after years of advocacy, the ACP Act had received Presidential signature. Because of the efforts of ECPAT Philippines and other child-rights groups, she is proud to say that the Philippines now has a national law criminalizing child pornography - **Republic Act 9775**. Well done Jina and ECPAT Philippines!

Beyond Borders Youth Chair, **Jade Harper** promoted the **Man-to-Man Campaign** at *Miyo Machihowin: A National Aboriginal Youth Health Careers Conference and Tradeshow* in Edmonton, March, 2010.



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