

BEYOND BORDERS INC.
AU-DELÀ DES FRONTIÈRES INC.

ENSURING GLOBAL JUSTICE FOR CHILDREN

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A presentation to
Standing Committee on Justice and Human Rights

By Rosalind Prober
President, Beyond Borders

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Bill C 9 An Act to Amend the Criminal Code
(Conditional Sentence of Imprisonment)

Good afternoon. My name is Rosalind Prober. I am President of Beyond Borders which is a volunteer non profit organization dealing with global child sexual exploitation. Beyond Borders is part of a multinational NGO (non governmental organization) called ECPAT (End Child Prostitution, Child Pornography and Trafficking of Children for Sexual Purposes). ECPAT is based in Bangkok, Thailand and I am on the board of directors.

To be transparent, a criminal lawyer with the same last name as mine has been ultra vocal in the media, ranting against a fellow Manitoban, Vic Toews, and this legislation. That would be my husband. We disagree when it comes to “home sweet home” jail sentences. Incidentally, I am not a lawyer but I’m not apologizing for that.

I am here today to speak on behalf of children who are sexually victimized by adults. Holding perpetrators accountable is certainly not easy for children. Many abused children do not live in Canada. Many are victims of Canadian child sex tourists. Many are totally incapable of withstanding

punishing cross examination on the intimate details of their sexual victimization in our “win at all costs” adversarial system. Many are found to be not credible. As we all know sex crimes can be life altering and have a heavy impact especially on the most vulnerable in society who are the easiest to abuse in many cases. The disconnect between victimization statistics and criminal justice statistics shows all too clearly that most sex crimes are not reported.

On behalf of these children and children who do manage to successfully prosecute abusers, Beyond Borders supports Bill C 9. We support the removal of conditional sentencing for sexual assaults or other sexual offences against anyone under 18 when the state has prosecuted by indictment for a crime which carries a maximum sentence of 10 years or more. Tough laws on paper are nothing more than lip service when they are constantly ignored. This is an egregious violation of children’s rights to justice.

Should Canadians be reluctant or hesitant to use the Justice System to denounce sex crimes against children?

In Beyond Borders view the answer is a clear “No”. Society has a right and a duty to children as documented in all the international conventions and protocols we sign to condemn conduct that it finds intolerable. Surely sexual activity with children is such conduct. Surely the message from the Justice System to the public should be that these crimes are abhorrent and very serious.

Has the judicial branch failed in its duty to protect the most vulnerable in society by giving “slap on the wrist” sentences for serious sex crimes against children?

Yes, it has. Conditional sentencing has been abused and overused. The fundamental principle that a sentence must be proportionate to the gravity of the offence has gone out the window. Aside from leaving the age of consent at 14, Beyond Borders supported Bill C 2 which was brought in by the previous government. That bill imposed on the judiciary mandatory minimums for those convicted of sex crimes specifically against children. Bill C 9 will ensure that those who sexually assault children, commit incest etc will also not escape incarceration.

It should be pointed out, however, that unlike Bill C 2 which imposed

specific minimum sentences, this Bill still leaves the door open to judges to impose suspended sentences and probation for sex crimes against children.

Is “jail in the community” or “house arrest” equivalent to incarceration in prison?

Clearly not. Crime victims have the right, especially children, to be treated respectfully in the court and told the truth about sentencing perpetrators. A person’s home should never be equated to jail. That is preposterous. Sex offenders against children who get “house arrest” are going home to their own bed. Because there are so many sex offenders against children from the upper income bracket, many return to luxury. It is not credible to refer to homes as jails. It is disrespectful of everyone to pretend that going home after being sentenced is the equivalent of real jail. House arrest is an undeserved soft touch. If it weren’t, it would not be so sought after by criminals.

In 2001, a young 12 year old First Nations child in Saskatchewan had the enormous misfortune of being spotted by three adult men. When any 12 year child ends up hysterical, dead drunk and has to be hospitalized due to clear evidence that she was sexually assaulted one would think that a sentence of house arrest for a perpetrator of this crime would be impossible. However, not only did Dean Edmondson get house arrest, he also became the victim in this case as the 12 year old was portrayed not just as a consenting willing participant but as a sexual aggressor as well. As precedents go, this is one Canadians should not look to with pride.

Sex crimes against children are often premeditated, some involving elaborate planning and manipulation not just of the kids but of their parents as well. Sex crimes can leave long term scars and as we all well know can lead to destructive life choices and suicide.

There are strong societal sanctions against sex with children. Millions of tax dollars are sadly going into teaching kids how to protect themselves. So when an adult chooses to cross that barrier into behavior that harms society’s most vulnerable and cherished members, he or she should have no possibility of what is in reality just an inconvenient curfew. House arrest should not be an option in sentencing child sexual exploiters. Bill C 9 closes that option, is in the best interest of children and should be supported by this Committee..