

# **BEYOND BORDERS INC. AU-DELÀ DES FRONTIÈRES INC.**

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## **ENSURING GLOBAL JUSTICE FOR CHILDREN**

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## **Talking Tough Internationally And Remaining Silent At Home – Canada’s Hollow Global Commitments To Protect Children Over 14 From CSEC**

By Rosalind Prober, President and Co-founder,  
Beyond Borders Inc

Canada’s Mid -Term Review of the  
Yokohama 2<sup>nd</sup> World Congress Against CSEC

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Beyond Borders has affiliate status with  
ECPAT International  
End Child Prostitution, Child Pornography and Trafficking in Children for Sexual Purposes  
Bangkok, Thailand  
[www.ECPAT.net](http://www.ECPAT.net)

I invite you all to look to your left and look to your right. You will not see here today those in government who have fought so hard, from Stockholm to Yokohama and still today, to keep Canada's age of consent/protection at 14. They ignore police, prosecutors, and child's rights activists (those not awash in government funding, that is, who parrot any position government puts forward). They ignore global legal reforms and prosecutions in all the like-minded developed countries of sexual menaces including sex tourists who target children over 14. They have left no stone unturned to ensure that our Criminal Code violates the very commitments to protect children under 18 they travel far and wide to commit Canada to uphold. They have put on blinkers to the impunity given sex offenders and ignored the many many cases of gross injustice in Canada involving sexually abused kids over 14. They misinform government officials who then repeat time after time as our Minister of Justice recently did in press reports across the country that if you bring Canada's age of consent up to 16, police are going to arrest consenting teens. Does he really believe the jails in countries with an age of consent/protection of 16, Australia, the UK, New Zealand and the US, for example, are full of sexually active teenagers. Please! Putting in a buffer zone in the law of 4 or 5 years whereby sexual activity between consenting peers is legal is a simple and effective way to protect teens from predators at the same time as allowing them to develop their sexuality.

Is it something about Windsor that is keeping government away? No, Mark said this is a lovely place and he is right. I am one of the few people in the room who has listened and learned of progress against CSEC with the many Canadian government delegates in Stockholm, Philadelphia and Yokohama. But they are not today here because they have sabotaged every attempt to end the impunity given sexual predators when the children are 14 or sometimes less, embarrassed Canada over and over on the world stage and led the Canadian public's lack of respect for the Justice System to a new low. That is not a mean accomplishment as Canada at the same time has signed and ratified, at huge taxpayer expense, every global document on CSEC drafted. Canada's national action plan, *A WORLD FIT FOR CHILDREN* 2004 on CSEC is totally incompatible with an age of consent of 14! The disconnect between words and deeds while sexually exploited children, some as young as 12, are trashed as willing participants, sexual aggressors and worse in the courts is nothing new to Beyond Borders. Even Bono just got reality check about how Canada talks tough, government official fly around the world making commitments and then totally renege once its time for more than publicity events and gushy speeches on children. **Canada's age of consent is an issue of inaction and negligence.**

So what is legal in Canada and what can Canadians do with children over 14 for sexual gratification? The answer is found by looking at convicted sex offenders like Karla Homolka, psychopath and queen of the tag-teamers, and John Robin Sharpe, convicted child pornographer who incidentally is now appealing his recent conviction for child molestation based on, guess what, Canada's age of consent. It is legal for these and all

adults in Canada to:

1. Lure children over 14 over the Internet for sexual activity;
2. “Celestially” marry girls over 14 to get them pregnant even if you are years older and multi-married already;
3. Possess and make child pornography with consenting teens over 14 for a private collection;
4. Con children over 14 into a sexual relationship in order to then turn them into child prostitution;
5. Come to Canada as a child sex tourist and take advantage of legislation that allows adults in Canada to have sex with 14 year olds;

All of these non crimes in Canada are totally illegal in nearly every developed country in the world where the international norm of protecting children is 16. Why are we the “laggards” as Bono calls Canada?

Recently, the Minister of Justice introduced Bill C-2 on the age of consent. Sadly those looking for progress on commitments to eradicate CSEC made in Stockholm and Yokohama were once again disappointed. Bill C-2 has a flaw which sends a message of “carry on business as usual” to those with a sexual interest in teenagers by leaving the age of protection at 14. Statistics from CYBERTIP and elsewhere now show clearly that age 13-15 is where children are at the highest risk. Who is surprised? It is only the Canadian government that does not understand child development. 14 year olds are quasi-adults in a transitional phase of life, taking their first steps of independence, often taking risks with a sense of invincibility at the same time as they are looking for relationships. This bill makes impossible prevention strategies committed to in Stockholm and Yokohama. It forces police and then judges and juries on a case by case basis to infer what is “exploitive” sexual activity with kids over 14 and what is not. John Robin Sharpe loves this proposed law and on his website even gives it a pedophile thumbs up for the very same reason Beyond Borders opposes it - it is abuser friendly; does not criminalize all adult sex with teens; and will permit aggressive punishing cross examination of young victims on the issue of consent in our “win at all costs” adversarial system.

Hardest hit by this legislation will be those children from difficult backgrounds, runaways and street kids, slow developers, the physically and emotionally challenged, the marginalized and maltreated who make very poor witnesses and are “sitting ducks” for defence counsel. It is unacceptable and unjust to draft legislation so very heavily weighted in favor of those who are abusing children. Raise your hand if you at 14 or at anytime in your life would want to discuss intimate details of your sex life in a public courtroom at the same time as trying to convince a judge that you were “exploited”. How one judge’s view of “exploitation” is going to mirror another’s is impossible to foresee as this law is totally subjective and unclear. Also, as Beyond Borders’ legal counsel David Butt and Norman Boudreau recently demonstrated to Justice Committee studying this bill

even a weak defence lawyer will be able to create a reasonable doubt on consent when the test is “exploitation”.

This is a law where one will not have any clue that he or she is breaking it until they are arrested, possibly years and years after the crime was to have occurred. It breaches article 7 of the Charter and all the fundamental legal principles of full answer and defence guaranteed in the Criminal Code. C2, in our view, is anti progress as it also sadly allows loopholes for cultural and religious excuses for sex with children.

Thank-you to the University of Windsor Faculty of Law for hosting this important event. Thank-you to the student volunteers.

Please now allow me a bit of nepotism in praising and thanking my global extended family, ECPAT, for growing into an international network speaking out for the most ignored and hyper-vulnerable in society. Thank-you for funding this event and for bringing Canadian activists together. Getting commitments from world governments, pushing for action in yearly reports, and then holding government accountable at meetings as ECPAT does worldwide, gives a powerful new voice to CSEC. The profit motive is manifesting itself in an ever growing majority of sexual crimes against children. Happily as a result of this meeting, now gone are the days when Canadian NGOs dealing with CSEC are out of the international loop and fragmented.

In closing, Canada stands out amongst nations for naiveté and worse in ignoring the international norm of protecting children to 16. Impunity for those adults who are sexually damaging children over 14 must and will end. If not, Canada will continue to make a mockery of its global commitments to protect children from predatory adults.

**CANADA'S GLOBAL COMMITMENTS TO CHILDREN UNDER 18**  
**THE CONVENTION ON THE RIGHTS OF THE CHILD ratified Dec11,1991**

States Parties undertake to protect the child from all forms of sexual exploitation and sexual abuse. For these purposes, States Parties shall in particular take all appropriate national, bilateral and multilateral measures to prevent:

- (a) The inducement or coercion of a child to engage in any unlawful sexual activity;
- (b) The exploitative use of children in prostitution or other unlawful sexual practices;
- (c) The exploitative use of children in pornographic performances and materials.

**THE STOCKHOLM DECLARATION 1996**

The Commitment (bullet 4)

Review and revise, where appropriate, **laws**, policies, programmes and practices to eliminate the commercial sexual exploitation of children

**THE STOCKHOLM AGENDA FOR ACTION 1996**

Prevention ( section i)

Review **laws**, policies, programmes and practices which lead to or facilitate the commercial sexual exploitation of children and adopt effective reforms

**THE YOKOHAMA GLOBAL COMMITMENT 2001**

Our Follow –Up (bullet 5)

The promotion of more effective implementation/enforcement of policies, **laws..... and prosecution** of those who exploit children

Our Global Commitment (paragraph 4)

Recommit to the Declaration and Agenda for Action of the First World Congress (“The Stockholm Declaration and Agenda for Action”), and in particular to developing.....effective implementation of measures, including **child-rights based laws and law enforcement;**

## CANADA'S NATIONAL PLAN OF ACTION FOR CHILDREN UNDER 18

### *A CANADA FIT FOR CHILDREN*

APRIL 2004

(g) Sexual exploitation and trafficking

143. **We in Canada recognize that all forms of sexual exploitation of children, including within the family, for commercial purposes or for consideration, must be effectively criminalized and penalized both within Canada and abroad.** The Canadian *Criminal Code* identifies as criminal activities various forms of child sexual exploitation. These include child pornography, child sexual exploitation on the Internet, child prostitution, and child sex tourism. Canada has introduced a human trafficking offence with very significant penalties in its *Immigration and Refugee Protection Act* to deter international trafficking in children. Canada has signed the *Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography*, ratified the *International Labour Organization Convention 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour Convention* (ILO C182 Worst Forms of Child Labour Convention) (including the use, procuring or offering of a child for prostitution, for the production of pornography, for pornographic performance, for illicit activities, work which is likely to harm the health, safety or morals of children), and ratified the *United Nations Convention against Transnational Organized Crime* and its accompanying protocols, one of which is the *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children*. Canada was active in the negotiation of these instruments and we will encourage other countries to ratify them so that the international benefits arising from their implementation may be realized.

144. **We are committed to working in Canada and with the international community to protect children from all forms of sexual exploitation, including sexual abuse, trafficking and abduction for sexual purposes.** We will continue to support research on the issue in Canada, its consequences domestically and abroad, and its underlying risk factors, such as poverty, social exclusion and gender inequality. Partners will identify and promote improved prevention strategies that address the vulnerability of children, client demand and the predatory nature of the exploiters, as well as strategies to facilitate the recovery and social integration of child victims. **The sexual exploitation of children is child abuse. We will raise awareness in Canada about the abusive nature, the illegality and the harmful consequences of child sexual exploitation and the trafficking of children, and support similar efforts internationally, including in developing countries and countries in transition.** Internationally, we will focus on the sexual exploitation of children in areas of armed conflict and address the responsibility of both combatants and peacekeepers.

145. In addition, we will strive to enhance information-sharing mechanisms, both internationally and domestically. We will continue to work with our international partners to develop and implement strategies to prevent the criminal use of information technologies for the purposes of child pornography, the luring of children for sexual purposes, child prostitution, child sex tourism and the sale of children. Canada will continue to implement all international agreements to which it is a party, as well as review and propose legislative amendments as necessary to further protect and facilitate the testimony of children and other vulnerable persons, and witnesses, and increase penalties for offences against children.

146. Canada will work to strengthen the capacity of law enforcement and border officials to identify and prevent trafficking into Canada. We will provide gender and age-sensitive process and training support to officials so that they are better able to protect trafficking victims and effectively prosecute their traffickers. We will develop integrated policing models for law enforcement to assist with investigations of child pornography. We will also continue to work with international partners to develop and implement an international database of child pornography images to assist with victim identification and suspect location.