

Canadian Foundation for Children Youth and the Law

Legal Assistance for Young People: Justice, Empowerment, Voice

This newsletter features information on JFCY and updates on Children's Rights. For more information, please visit our website at www.jfcy.org

Message from the Chair — Stephen Lamont

As President of the Canadian Foundation for Children Youth and the Law I would like to take this opportunity to thank all those who sit on committees at Justice for Children and Youth and to invite all of you to join one of our volunteer committees. These

committees give a chance for our members to play an active role in the work of Justice for Children and Youth, as well as providing a valuable service to the operation of the Clinic. At this time, the Policy Committee is busy and productive, and the

Community Development Committee is redefining its role and function. However, at this crucial time, I would like to encourage all members to consider joining the **Fundraising Committee**.

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Raising Canada's Legal Age of Consent/ Age of Protection

Bill C-22: Overview

Currently, the *Criminal Code* does not criminalize consensual non-exploitative sexual activity with or between persons 14 or over¹. The defence of consent may even be raised where an accused engages in non-exploitative sexual activity with a 12 or 13 year old, provided the accused is at least 12 but less than 16, is less than two years older than the complainant and is not in a position of trust or authority towards the complainant². The

exception, of course, is anal intercourse, to which unmarried persons under 18 cannot legally consent under the *Criminal Code*. If the sexual activity takes place in a relationship of trust or dependency, it is deemed exploitative and the older person is guilty of an offence where the complainant is at least 14 but under 18, notwithstanding the complainant's consent³. The legal indicia of exploitation were refined and expanded recently⁴ to allow courts to

consider more individual circumstances, including, but not limited to: the age of the young person, the age difference between the older and younger person, the evolution of their relationship, and the degree of control or influence of the older person over the younger person. In our submission, the 2005 amendments to s. 253 of the *Criminal Code* were praiseworthy amendments that did much to protect young people...

... continued on pages 4-8



Canadian-China Legal Aid and Community Legal Services Program Conference

Last summer I was invited to speak at a conference in Wuhan, China. The conference brought representatives of the Legal Aid system from each of China's Provinces to Wuhan, a provincial capital, known as one of China's four "furnaces. The conference centre was part of a lovely imperial style hotel set on a lake. Wuhan is the home to more than a dozen universities, including an institute for physical education for many elite athletes. As a result, as we gazed out the windows of our conference room, we saw boats and rowers and paddlers skimming across the lake. In the summer heat, the water seemed ideal. It was a stark contrast to the questions and conversations inside our room. What do we in Canada do about all the deaf, mute criminal gangs who steal because they cannot ask for what they need? How can we print educational materials when our clients burn them for fuel and cannot read? How do you communicate in many languages when the government funds only one language? What is the most common communication system in China? – cell phone and internet. What works equally well in both countries? - legal clinic participation in community events that suggests that the rule of law is part of everyday life.

“ China has ratified the United Nation Convention on the Rights of the Child, as has every country in the world except for the United States, making the Convention the most universally accepted expression of human rights norms for children.”

China has ratified the United Nation *Convention on the Rights of the Child*, as has every country in the world except the United States, making the *Convention* the most universally accepted expression of human rights norms for children. When I explained some of the ways in which Canada lives up to its international commitment to the *Convention* (incorporation of the *Convention* in our *Youth Criminal Justice Act*) and some of the ways it doesn't (continued legal justification for corporal punishment), there were empathetic nods and smiles as China struggles to provide free secondary education in an economy that is growing incredibly fast, but the gap between rich and poor is widening. The economy is growing, but the one-child policy has left many older farmers and peasants unable to stay on the land which has long-term consequences for agricultural independence.

In May of this year, I have been asked to go to Ottawa to speak to people involved in access to justice issues in Ghana, Peru and Vanuatu. This project, like the China partnership, is funded by CIDA. CIDA had asked CUSO to hold several meetings in Ghana, but the Canadians attending were asked for more information about access to justice for youth. The same experience was repeated in Vanuatu. As a result in Ottawa, I will talk about how Justice for Children's work might be useful to these three countries. In particular, they are very interested to see our educational materials and want to talk about how to make legal information both accurate and youth-friendly.



What I learned in China is that the people who want to work with the young, the poor and the marginalized are very similar the world over and that the values of the U.N. *Convention* really do speak to values that are nearly universal. I look forward to meeting the justice workers from Peru, Ghana and Vanuatu. I am pleased and proud that our work is considered to be a model, helpful to others who wish to improve the lives of young people. Their interest in our methods and strategies strengthens our passion as we try to help a child with Asperger's Syndrome return to school, or a mother and child keep their housing after an older brother is alleged to be involved in criminal activity, or a teenager get financial support from her mother her when mother throws her out to please mother's new boyfriend.

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... As Legal Aid Ontario continues to struggle with lack of adequate government funding, clinics are required to look outside for money to maintain the services they provide. At Justice for Children and Youth this is a particularly problematic issue. We have never received permanent, stable funding for **Street Youth Legal Services (SYLS)**.

For those of you who may not be familiar with this program, it provides legal information, advice, and referrals to street-involved youth through workshops and individual consultations. Street-involved young people often have multiple and interconnected legal problems. Complex barriers, including a lack of financial resources,

social isolation and mistrust often prevent our clients from getting the help they need. The **SYLS** project delivers legal information and services directly to young street-involved people in drop-in centres and shelters - the places where they congregate to access other services, such as health care, food, employment assistance and counseling.

We initially received funding for **SYLS** from the Laidlaw Foundation, then the Law Foundation of Ontario, and Legal Aid Ontario Innovation Fund. Legal Aid Innovation funding ended in December 2007, and cannot be renewed. None of these sources are intended to provide funding on a permanent basis. At present, we do

not have the funds to continue providing this service beyond this winter, and are in desperate need of alternative funding to ensure the survival of this vital program.

We are looking to the talents and drive of our membership, and hope that you, like our staff and board members, share a passionate hope that such an important service to the most vulnerable members of our community, will somehow find the resources needed to continue. If you take time to join the Fundraising Committee, I am sure together we can find a way to save **Street Youth Legal Services**. Please call our offices at 416-920-1633 to volunteer your time to help street involved youth.



" SYLS provides legal information, advice, and referrals to street-involved youth through workshops and individual consultation."

Policy Committee Update by Lee Ann Chapman



This year the policy committee at JFCY has grown to include over 12 active members. We are pleased to have the participation of people well versed in what we do at JFCY such as current and former Board Members as well as current and former placement students. We are also amazed by the diversity of backgrounds and talents of members. The membership includes, but is not limited to: lawyers, academics, social workers, and graduate students. We greatly appreciate the amount, and quality of work the policy committee has produced. Here is a highlight of the work completed and undertaken:

- Updated position paper on the Safe Schools amendments to the *Education Act*
- Letter to the Minister of Education with respect to fees charged to students

- Reply to an article in the Ontario Bar Association Journal on criminalizing children under 12 years of age
 - Position paper on criminalizing children under 12 years of age
 - Position paper on the treatment and standing of children in immigration and refugee proceedings
 - Position paper on raising the age of consent
- Response to the Bill creating an independent Child & Youth Advocate

As you can see this is an impressive amount of work for a volunteer committee, but we believe they are up to the task. Please contact JFCY if you are interested in joining this dynamic group.

... from exploitative relationships. They showed an understanding of the circumstantial nature of exploitation. It is a question of fact that goes beyond our formal, category understandings that teachers should always be guilty of exploitation if they enter into sexual relationships with their students and includes more nuanced situations such as the “gratitude” a 16-year-old is expected to show an older friend with an apartment who agrees to take in the younger person when his or her parents throw him out of home.

What Bill C-22⁵ does is amend the *Criminal Code* so as to raise, from 14 to 16, the age at which a person can legally consent to non-exploitative sexual activity⁶. There is no change to the criminal law rules about exploitative sexual activity. Activity that is exploitative is already criminalized by the 2005 amendments. Bill C-22 provides that the consent of the complainant, who is less than 16 years old, is no defence to the sexual assault offences and never a defence to other age-specific sexual offences like sexual interference, invitation to sexual touching and indecent exposure. These latter offences are all proposed to have the same “age of protection”.



“As one of the publicized motivations behind Bill C-52, the premise of protecting children from these predators cannot be questioned and should be enforced”

The Bill does, however, expand the scope of the protection against the predatory conduct of luring⁷: Bill C-22 expands the offence so that it would be criminal conduct to “lure” a young person under the age of 16, rather than the current protection for youth under 14. Justice for Children and Youth agrees with this proposed amendment that would expand the age category of potential complainants⁸.

Bill C-22 does, however, create exceptions – the first, and absolutely critical exception, is a close-in-age exception, in respect of an accused who engages in consensual sexual activity with a 14 or 15 year old youth and who is less than five years older than the younger person. The intent is to avoid criminalizing the normal sexual development of adolescents whose sexual maturation will not proceed in lock-step with all identically aged peers.

The second is a transitional exception with regard to the nature of the relationship, excusing an accused who, on the day the Act comes into effect, is five or more years older than and married to the youth in question. The legislation also extends this transitional exception to a common-law partner or to a co-habitator with whom the accused has had or is expecting to have children.

Justice For Children and Youth’s Response

Sexual Exploitation and Internet Luring Clause

The issue of child sexual exploitation by adults, and the increasing use of the internet to facilitate this, is of great concern and needed to be addressed, as it was by Bill C-2 in 2005. Bill C-2, included a broader definition of child pornography, increased penalties, and an emphasis on the internet as a means for exploitation⁹. These amendments were heralded by child and youth serving agencies across Canada, including the Child Welfare League of Canada, which deemed it: “a positive step in addressing several key aspects of sexual victimization of children”¹⁰. Justice for and Youth supports these 2005 amendments, in particular the more case-specific, individual approach to identifying exploitation...



... Bill C-22 expands the offence of “luring” so that it would be criminal conduct to “lure” a young person under the age of 16, rather than the current protection for youth under 14. Justice for Children and Youth agrees with this proposed amendment that would expand the age category of potential complainants¹¹ and supports the desire to reduce predatory conduct directed at young people. This amendment also helps make our laws governing sexual conduct more consistent and, therefore, more likely to be understood by the general public.

Underlying Policies: Child Protection versus Children’s Rights

Justice for Children and Youth is very grateful for the opportunity to comment on Bill C-22 and, in accordance with the U.N. *Convention on the Rights of the Child*, hopes that legislators are also listening to young people themselves in this law-making process that will affect them. The naming of Bill C-22 as concerning the “Age of Protection” is highly symbolic. But it should not be empty symbolism. Those we are trying to protect should be encouraged to say what it is that they need protection from,¹² especially since they may know of forms of exploitation that have not yet been identified by those who seek to protect. Those who seek to protect must be clear about what protection means. Then Justice Minister Toews said that the Bill is intended to protect young people from exploitation and adult predators, but not to take away rights from young people or to criminalize them. Justice for Children and Youth agrees that children need protection from exploitation and predatory conduct, but recognizes that young people are individuals and that age difference in itself does not always indicate exploitation or power imbalance. Age difference is a proxy for exploitation, but is not exact. A

children’s rights approach would allow for the differences between individual young people and the circumstances of a particular case.

A legal approach that would reflect the general validity of age difference as an accurate proxy while recognizing the importance of individual circumstances is the use of legal presumptions. If a difference in age of 5 years or more were legally presumed to correspond to exploitation, but the presumption could be rebutted where appropriate, the “Age of Protection” would truly protect while allowing for unique circumstances in which age difference is not in fact exploitative.

Equality Issues: Discrimination Against LGBT Youth

The Supreme Court of Canada has repeatedly ruled that the equality provisions of the *Canadian Charter of Rights and Freedoms* have the effect of striking down any legislation that discriminates against same-sex relationships. The *Criminal Code* continues to create a different and older age of consent for anal intercourse. While Bill C-22 attempts to be consistent in enforcing a uniform age of consent, it does not address section 159 (2) of the *Criminal Code*, the criminalizing of anal intercourse except between husband and wife, or between two adults over the age of 18. This penal provision clearly discriminates against homosexual, bi-sexual and transgendered youth and would not likely withstand a constitutional challenge. Indeed, several provincial courts of appeal and the Federal Court have already struck down the discriminatory provisions as unconstitutional: Ontario Court of Appeal,¹³ Quebec Court of Appeal,¹⁴ B.C. Court of Appeal,¹⁵ Alberta Court of Queen's Bench¹⁶ and the Federal Court of

Canada.¹⁷ Furthermore, the government’s Background Paper describes 18 as the age of consent for “exploitative activity”,¹⁸ a characterization which, if applied to anal intercourse, has a discriminatory effect.

Even if section 159 were to be removed from the *Criminal Code*, the “close in age” exemption in Bill C-22 may have a discriminatory impact on the LGBT youth community. Many of our clients report experiencing homophobia, homophobic language, slurs, and bullying by adolescents, particularly in school. This may restrict their choice of sexual partners to partners who are not in the same schools, athletic clubs or ordinary social groups.¹⁹ To criminalize non-exploitative sexual relationships in the LGBT youth community may perpetuate the disproportionate policing of the LGBT youth community.²⁰

It is always dangerous to drive sexual behaviour underground. Reduction or avoidance of health risks and health education about safe sex must be encouraged, not discouraged by fear of penal consequences.

“Close In Age” Exception

The age of consent in Canada has not changed in over a century.²¹

It is laudable that the Government contends that Bill C-22 criminalizes only adult sexual predators and not teenage sexuality. As then Minister of Justice Toews said on introducing Second Reading of Bill C-22, the Government proposes “to better protect youth against sexual exploitation by adult predators”, to condemn “those adults who prey on and sexually exploit our youth”...

... The purpose of a “close in age exception is “to prevent the criminalization of sexual activity between two young consenting persons” and “not to criminalize consensual activity between teenagers”, he said. He acknowledged the reality that “many 14 and 15 year olds are sexually active, **mostly** with peers or cohorts.” [Emphasis added.] This allows anyone less than five years older than a 14 or 15 year old sexual partner to raise the defence of consent. While this exemption goes some way in limiting the effect of criminalizing the sexual activity of youth, it uses age difference as a proxy for exploitation or power imbalance, rather than ensuring that all actual exploitation in the circumstances of a particular relationship is prohibited. Teenagers are not protected from sexual activity; they are prevented from exercising consensual choices.

The complexity arises in defining “consent”. For consent to be legally binding, it must be informed and voluntary. The determination of each of these criteria is challenging in the realm of sexual conduct. At its heart, exploitation takes away the possibility of genuine consent. As indicated above, in 2005, Parliament made a praiseworthy attempt to set out factors that should be considered in determining whether exploitation exists. It may be that more refinements are possible, but the list of criteria to be considered in the 2005 amendments is not exhaustive and a judge can determine whether, on the facts of a particular case, exploitation exists. Also as suggested above, a rebuttable presumption that an age difference of 5 or more years is exploitative would help refine section 153 of the *Criminal Code* without criminalizing the genuinely non-exploitative relationship between a grade nine student aged 14 on November 30th and a grade twelve student aged 19 on November 29th. If Minister Toews acknowledges that sexually active 14- and 15-year-olds are “mostly” partnering within the “close in age exception”, it is nonetheless important not to criminalize the relationships of the few who are not, unless there is exploitation.

Creation of Barriers in Accessing Sexual Health Services for Youth

The ultimate concern and goal of those seeking to protect young people while encouraging the development of autonomous decision-making should be the promotion of sexual responsibility in youth - the solution is better access to education and services. There is a concern that the effect of the legislation may be to have a significant chilling effect on youth seeking

sexual health education and services. Criminal law often has the effect of driving behaviour underground, making the provision of accessible education and support services much more difficult.

There is a general concern that increasing the Age of Consent/Protection to 16 will result in barriers for youth in accessing sexual health resources. These resources include sexual health education and information, Sexually Transmitted Infection (STI) and HIV/AIDS testing, contraception, as well as potentially life-saving treatments. According to a British study conducted by Southampton²² University, a majority of youth who engage in sexual activity before the age of 16 refrain from accessing sexual health resources for fear of being considered “too young”, issues of judgment, confidentiality, and criminalization.

From a Canadian perspective, sexual health agencies such as the Canadian AIDS Society²³, EGALE Canada²⁴, and the Canadian Federation for Sexual Health²⁵ (formerly Planned Parenthood), have further asserted their concerns that youth will “go underground” with sex practices, rather than seeking out the information and resources they need to be safe. Currently, youth aged 15 to 19 have the highest rates of Sexually Transmitted Infections,²⁶ and females in that age group have the highest rates of HIV infection. Currently, to the extent that the “age of consent” is 14, it parallels the average age of first (14.1 and 14.5 years old for boys and girls respectively).²⁷ There is a concern that 14 and 15-year-olds will not access sexual health resources out of concern that they will be asked questions about their sexual partner, or simply out of a misunderstanding of Bill C-22. In a recent paper by the Canadian Children’s Rights Council²⁸ addressing Bill C-22, the author asserted that “age-appropriate comprehensive sexual health education would do much to empower young people to protect themselves”. Will the results of Bill C-22 be an increase in youth pregnancy, STI and HIV/AIDS infection, as well as Canadian 16 year olds being left in the dark about sexual health? It is critical that the government launch an effective, targeted public education campaign to eliminate such presumably unintended consequences.

As the Federal Government once stated in its argument against raising the age of consent to 16 for non-exploitative sexual activity. “(e)ducating youth to make informed choices that are right for them is better addressed through parental guidance and sexual health...”

... education than by using the *Criminal Code* to criminalize youth for engaging in such activity.”²⁹ Education about the complex criminal rules about sexual conduct must be an important part of the implementation of any *Criminal Code* amendments, both to protect and empower young people and to deter exploitative and predatory conduct. A public education campaign demonstrating examples of exploitation and luring would also empower young people to say, “Hey, you can’t do that to me!”³⁰

Examples from our clinic

One of JFCY’s clients, a 17 year old gay youth, had been engaging in a sexual relationship (including anal sex) with his 20 year old boyfriend. The 17-year- old’s mother discovered her son’s sexual activity by reading his journal. The mother called the police, which resulted in the 20 year old being charged with sexual assault despite the 17 year old’s assertion that their acts were truly consensual. In Provinces where s. 159 of the *Criminal Code* is in force, the younger person would have been charged as well.

A group of five boys who were 12 years old and in grade 6 had all been charged with sexual assault for pinching 12 year old girls’ bums at school. JFCY managed to persuade the Crown Attorney to withdraw the charges, since the actions were part of a chase game, and although in the end the pinches may have been unwelcome by the girls, there might have been a defence of consent, if it was part of a game. While Bill C-22 would not rescind the defence of consent in this situation, this case does exemplify the relatively minor forms of sexual activity caught up by the current age of consent law and the Bill.

A 15-year-old female client of JFCY told us she had been lying to her 21-year-old boyfriend about her age. Her parents found out and threatened to have him charged, however, their acts were not illegal under the “Age of Consent” legislation. Although she was clear that the relationship was consensual, and that she had been deceiving her boyfriend about her age, under the new “Age of Protection”, her boyfriend would be charged with sexual assault. Such age gaps are increasingly common in secondary schools, since newly arrived immigrants to Canada may avail themselves of all possible secondary school education before seeking post-secondary training.

JFCY represented a 14-year-old female student whose immigration papers identified her as being 23 years old. Her secondary school wished to force her out of day school to attend an adult education centre where the school board could charge her fees. The school board advised us that, although she looked very young and was achieving credits at a grade 8 or 9 level, the board would not accept any documentation proving her age, other than an amendment to her immigration papers. Immigration refused to make any changes, because age was not a vital or even relevant piece of information to them. Our client’s boyfriend was 14. No charges were laid, but could be if the same situation recurred after passage of Bill C-22.

Recommendations:

1. Justice for Children and Youth supports the portion of Bill C-22 that raises the “age of protection” from “luring” to 16.
2. Instead of unequivocal “close in age exceptions, s.153 of the *Criminal Code* should be amended to create...

... a rebuttable presumption that an age difference of 5 years or more constitutes a relationship that is exploitative of the young person.

3. Section 159 of the Criminal Code should be repealed and anal intercourse should be included with other sexual intercourse.

4. The government should launch a significant, targeted public education campaign:

- to inform young people of the laws governing sexual conduct affecting them, to deepen their understanding of what exploitation and luring are, and to empower them to seek access to health and other needed services to inform the general public, both for deterrent effect and to deepen adult understanding of what constitutes luring and exploitation

¹Section 150.1(1).

²Section 150.1(2).

³Section 153(1).

⁴Bill C-2, 2005, c.32, s.4

⁵Bill C-22, titled as "an Act to amend the *Criminal Code* (age of protection) and to make consequential amendments to the *Criminal Records Act*," was tabled by the federal government on June 22, 2006. It received second reading on October 30, 2006 and has been referred to the House of Commons Standing Committee on Justice and Human Rights.

⁶It is important to note that the prohibited activity affected by these changes includes a wide range of sexual offences. Thus, the non-exploitative sexual activity referred to in the Bill includes not only sexual intercourse, but also such minor sexual activities as kissing.

⁷Section 172.1 (1) creates the offence of using a computer system to lure children for the purpose of committing certain sexual offences. The offence is committed if the person was under the particular age specified. Subsection (b) currently states that every person commits an offence who, by means of a computer system within the meaning of subsection 342.1(2), communicates with a person who is, or who the accused believes is, under the age of **sixteen years**, for the purpose of facilitating the commission of an offence under section 280 (abduction) with respect to that person. Under Bill C-22, sections 151 (sexual interference), 152 (invitation to sexual touching), 160(3) (bestiality in the presence of) or 173(2) (indecent exposure) are added to the list as additional sexual offences for the "under 16" category of complainant.

⁸The issues of sexual exploitation and Internet luring were addressed with the passage of amendments in 2002, c.13, s.8. It seems, however, that those amendments to the *Criminal Code* did not extend the offence of luring to include adults who, by means of a computer system, communicate with a fourteen or fifteen year old, for the purpose of facilitating the commission of non-exploitative sexual activity. Bill C-22 would. For example, under Bill C-22 a 30 year old could now be charged with luring a 14 year old to facilitate the commission of sexual interference, regardless of consent, whereas, under the current law, the same scenario would not constitute that specific offence.

⁹Department of Justice. (July 2005). *Highlights of Bill C-2 Amendments to Protect Children and Other Vulnerable Persons*. Retrieved from: http://www.justice.gc.ca/en/news/nr/2005/doc_31584.html

¹⁰Child Welfare League of Canada. (2005). Presentation to the Standing Committee on Justice, Human Rights, Public Safety and Emergency Preparedness.

¹¹The issues of sexual exploitation and Internet luring were addressed with the passage of amendments in 2002, c.13, s.8. It seems, however, that those amendments to the *Criminal Code* did not extend the offence of luring to include adults who, by means of a computer system, communicate with a fourteen or fifteen year old, for the purpose of facilitating the commission of non-exploitative sexual activity. Bill C-22 would. For example, under Bill C-22 a 30 year old could now be charged with luring a 14 year old to facilitate the commission of sexual interference, regardless of consent, whereas, under the current law, the same scenario would not constitute that specific offence.

¹²Federle, K. H. (2000). Children's rights and the need for protection. *Family Law Quarterly*, 34(3), 421-440.

¹³*R v Carmen M* (1992), 75 CCC (3d) 556; 15 CR (4th) 368 (Ont Ct Gen Div), Ont Ct App (25 May 1995)

(unreported).

¹⁴*R. v. Roy* (1998), 161 D.L.R. (4th) 148 (Que. C.A.). While the government claims that the increase will protect youth, the opposite is much more likely. Studies show that youth are significantly less likely to seek sexual health information or advice if they fall below the age of consent

¹⁵Marchildon, G. (nd). Age of consent: Inequality remains. *Times 10*. Retrieved from: <http://www.times10.org/jm0708110.htm>

¹⁶ibid

¹⁷*Halm v Canada (Minister of Employment and Immigration)* [1995] FCJ no 303 (24 February 1995)

¹⁸See, "Age of Protection Legislation" Background, Department of Justice Canada, http://canada.justice.gc.ca/en/news/nr/2006/doc_31832.html.

¹⁹In response to significantly higher dropout rates of LGBT students as a result of bullying and harassment, the Toronto District School Board created a new program, the Triangle School, for students who could not find acceptance of their sexual orientation in their home schools. The program was highly successful, but such options are not available generally across Canada. The stigmatizing of LGBT adolescents by their chronological peers has been sadly reported in the media in stories describing ostracism, significant mental health issues and even suicide.

²⁰McCann, M. (November 3, 2006). Age of Consent Bill Sent to Committee. *Xtra*. http://www.xtra.ca/public/viewstory.aspx?SESSIO-NID=edgImf554trt1k55Iuhyov45&STORY_ID=2279&PUB_TEMPLAT E_ID=2

²¹Over a century ago in Canada, only girls under 12 were absolutely unable to consent to sexual intercourse until 1890, when the age limit was raised to 14.

²²BBC News (February 15, 2000). *Sex not risky, say teenagers*.

Retrieved from: <http://news.bbc.co.uk/1/hi/health/642799.stm>

²³Canadian AIDS Society. (2006). *Age of Consent Position Paper*

²⁴EGALE Canada. (2006). *Talking Points re: Bill C-22*

²⁵Canadian Federation for Sexual Health. (2006). *Age of Consent Position Paper*

²⁶Canadian AIDS Society. (2006). *Age of Consent Position Paper*

²⁷*Canadian Youth, Sexual Health and HIV/AIDS Study*. (2003).

Retrieved from <http://www.cmec.ca/publications/aids/>

²⁸Kovell, C. (2006). Child sexual exploitation and the age of consent.

Canadian Children's Rights Council. Retrieved from: <http://www.canadiancrc.com/>

Child_sexual_exploitation_age_consent_K_Covell_07SEP06.htm

²⁹"Frequently Asked Questions: Age of Consent to Sexual Activity",

Department of Justice Canada, October 26, 2005, see <http://www.justice.gc.ca/en/dept/clp/faq.html>.

³⁰Previous campaigns have given a broader and deeper understanding of what constitutes domestic violence and abuse, and what constitutes harassment.



Youth Action Committee Update

by Gloria Dang

After taking somewhat of a break for the summer, YAC is back on track! During the course of the past few months, the Youth Action Committee has been busy working on a number of projects. The members of YAC felt that students in high school should be aware of their rights if they have been suspended or expelled from school. In doing so, the members sent out their suspension and expulsion pamphlets to almost every high school in the Toronto District School Board. As a result, we have received requests for more of the pamphlets for distribution.



The Youth Action Committee attended the Ruckus! Conference for youth and presented a workshop on hate crimes. They have also attended the Pump Up the Volume Conference which was held to raise the awareness of children and youth rights. At this conference, the YAC provided a workshop that was in the format of a game to inform people who work with youth and the young people themselves of youth rights with respect to employment, criminal law, education, youth records, and other various laws that apply to youth.

The Youth Action Committee has also looked into the issue of illegal school fees. They have taken action by writing to the editor of the Globe and Mail to raise awareness that the fees are not only illegal, but that they are unfair to students, especially those that do not have the financial ability to pay for materials that the schools call 'essential' to a student's success.

The Youth Action Committee is currently working on a project in the form of a zine to write and raise awareness of the issues that affect youth today. YAC is hoping to have this project finished and circulated to the community just in time for the summer break. In the near future, the Youth Action Committee will be looking to recruit members that would be interested in working on new projects with them.

"I believe that it is important for everyone to know their rights..."

A word from our newest members of the Youth Action Committee!

My name is Yelena. I am still in High School and attend Marc Garneau Collegiate Institute. I joined the Youth Action Committee, because I am interested in learning about the legal rights of youth in Canada. I would like to influence positive changes in my society in terms of spreading awareness on issues that are important for youth, and at the same time encouraging youth to know their rights.

Hello, my name is Inesa Buchyn. I am a student at Jarvis Collegiate Institute. I decided to join this student organization in order to increase the awareness of youth rights. I believe that it is important for everyone to know their rights, and at the same time be aware of their limits. I would also like to increase the awareness of the issues that the youth in Canada is going through, and what can be done to initiate changes towards improvement.



Maribeth Christensen

My name is Maribeth Christensen and I am currently in my fourth year of the Bachelor of Social Work (BSW) program at Ryerson University. It was with great excitement that I started my student placement at Justice for Children and Youth in September. I had taken *Social Work and the Law* with Cheryl Milne as an elective the previous year, which greatly peaked my interest regarding the intersections and areas for collaboration between the two disciplines. I was also interested in law (specifically, constitutional) as a career path, and was certain this experience would enhance my chosen professional direction. What ultimately drew me to JFCY, however, was the agency's commitment to social justice and equality of access for children and youth.

These two principles have consistently been at the core of my personal and professional values, as well as my eclectic social work and volunteer experience. In the past, I have worked with various disability rights organizations, including the Ontario March of Dimes, the Geneva Centre, and RyeAccess. I was able to engage in different advocacy and community projects, as well as challenge the many barriers facing this diverse population. My experience working with children and youth have been in the roles of an employment counsellor in the Malvern area of Toronto, as well as a research assistant on a Fetal Alcohol Spectrum Disorder project. My third year placement was at the North York Women's Centre (NYWC), where I participated in advocacy and individual support work with women of all ages. I am currently a program worker for the NYWC, as well as a Teaching Assistant at Ryerson. I also engage in social justice work through my volunteering with the Toronto Women's Call to Action and the Women's Legal Education and Action Fund (LEAF). It is my hope that the skills and knowledge I have gained in these experiences have and will continue to enrich my placement and contribution at JFCY.



Shawna Teper

My name is Shawna Teper and I am a fourth year bachelor of social work student from Ryerson University. It is with much enthusiasm that I have been given the opportunity to fulfill my practicum requirement at Justice for Children and Youth.

To date, I have been involved in a variety of outreach and community development workshops, client intakes and revising the current intake resource binder. I am also focusing on two ongoing projects concurrently. The first is surrounding the exploration of children's rights as they intersect with women's rights and ways to bring advocates for these two groups together. Second, I have been examining the way the social work and legal professions can work together in support of the best interests of mutual clients. While there has been much recent development of this type of professional collaboration, there are always opportunities for further growth and development.

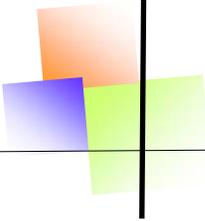
Though I am passionate about several social justice issues, my area of focus has predominantly been around violence against women and children. I am currently working as a children's service worker at a shelter for abused women and their children. In this role I am responsible for counselling children who reside at the shelter, liaising with women around parenting support and being knowledgeable in community resources, family law, child welfare and social benefits. I have also been involved in psycho-educational group facilitation for women and children who have left abusive homes.

My third year practicum was completed at a community health centre where I worked with adults experiencing marginalization due to poverty and/or mental health issues. While I valued that experience tremendously, I realized that my heart lies with the children and youth I have spent so many years working with. Thus, I was overjoyed to be given the opportunity to work with this population in a new way at Justice for Children and Youth. I look forward to all of the challenges and opportunities I will face during the course of my work here over the next several months.



Shashu Clacken

I am an articling student on secondment from Blake, Cassels and Graydon LLP. I obtained my LL.B. from Osgoode Hall Law School and my B.A. from York University, where I specialized in Political Science and Economics. I aspire to be a litigator and maintain a keen interest in Constitutional Law, with special emphasis on the rights and liberties entrenched in the Charter. I am delighted to join JFCY temporarily and to assist in the clinic's varied efforts to protect the rights of children and youth.



JFCY's on-going community development work

by Emily Chan

Public Legal Education: these activities are geared towards providing people with awareness, knowledge and understanding of rights and legal issues, together with the confidence and skills they need to deal with disputes and gain access to justice. Public legal education is not only about helping people to help themselves, it also about helping people understand when they really do need help and support with a legal problem, what sorts of advice and support there are, and how to go about getting it. We facilitate workshops both to youth directly and to front-staff in various settings. For youth, we provide workshops during school classes, community centre drop-in and programming, leadership programs, and conferences. For front-line staff, we provide workshops to lawyers, other legal aid clinics, youth service agencies and at conferences.

Publications: to support our public legal education activities, we also produce a variety of documents to provide valuable legal information and resources for youth and front-line staff. These are distributed at our public legal education activities, at information tables at various school and community events and fairs and through our website.

Beyond the Street - Youth Homelessness Conference: this nation-wide conference brought together homeless youth, front-line agencies, and their partners. Conference activities highlighted existing challenges and emerging trends in youth homelessness and showcased successful Canadian efforts to address them. By harnessing the creative energy and ideas of youth, homelessness organizations, and their partners, this conference brought together key stakeholders to help build the foundation for ongoing national, regional, and local action to respond to homelessness in Canada. For more information, please visit www.youthhomelessness.ca.

“The Homeless Youth Action Agenda” was produced by youth at this conference:

1. Fully Recognize Homeless Persons: Canadians and governments must fully recognize homeless persons, including homeless youth, and respect their rights as citizens
2. Make action on youth homelessness a top priority: All groups and individuals, including our governments, must immediately make comprehensive and supportive action on youth homelessness a top priority in Canada
3. Action for Governments: Governments must maintain and enhance all homelessness programs, including the National Homeless Initiative, affordable housing and youth support programs
4. Reverse Federal cuts to youth programs: We urge the Federal government to reverse the \$55.4 million in cuts to youth employment and support programs
5. Follow-up National Youth Conference and Advocacy: A National Steering Committee has been formed to plan a follow-up National Youth Conference, to organize future advocacy and information sharing and to promote access to youth resources
6. Action for Conference Participants: Conference participants are asked to take back and share what they have learned and experienced in St. John's with their local communities and to support the “Homeless Youth Action Agenda”

Youth Court Watch project: in collaboration with CLASP (Community Legal Aid Services Programme at Osgoode Hall), we are currently developing and piloting a youth criminal court watch project.

Toronto Community Development Work Group: I am an active member of this group, which is made up of community legal workers and lawyers from legal aid clinics in Toronto. We recently presented a workshop at the Toronto Clinics Regional Conference entitled “Community Development: Necessary and Relevant.” I am also the current regional representative to the provincial group: **Ontario Provincial Inter-Clinic Community**

Organizing – for more information, please visit www.opicco.org.

By Mary Birdsell

On behalf of a group of street involved clients who were given Safe Streets Act tickets in 2000 we have just made an Application for Leave to Appeal to the Supreme Court of Canada.

On January 16, 2007 the Court of Appeal for Ontario found that the parts of the Safe Streets Act that prohibit solicitation of a stopped vehicle - squeegeeing - violate the defendants right to free expression under s. 2(b) of the Charter of Rights and Freedoms, but that the violation is saved by s. 1 of the Charter. The Court of Appeal also said that they did not find that the squeegee law violates the rights to equality or security of the person, or that it is really a criminal law.

If the Supreme Court of Canada agrees to hear our appeal, we will argue that the Court of Appeal was wrong, and that the squeegeeing and panhandling law is really a criminal law that violates our rights to free expression, to equality under the law, and to security of the person, and that those violations are not justified in a free in democratic society.

The SCC usually says no when people ask permission to have their appeals heard, but we are hopeful that they will see this case as being important enough that they will consider hearing our arguments.



Membership Application Form

YES, I am interested in becoming involved with Justice for Children and Youth.

I would like to become a member of Justice for Children and Youth.

I would like to renew my membership.

Please enrol me as:

An individual member, \$20.00

An organization, \$50.00

A sustaining member, \$100.00 (Lifetime)

A youth member, under 18, free

YAC members, free

Students, free

NAME/ORGANIZATION:

ADDRESS:

Email Address: _____

Business Telephone #: _____

(include area code)

Home Telephone #: _____

(include area code)

I am interested in serving on the following committee(s):

Policy Committee

Youth Action Committee

Fundraising Committee

Community Development Committee

Please find enclosed membership fee of \$ _____ and a donation of \$ _____

(charitable donations receipts will be issued)

Thank You for Your Contribution