

BRIEF PRESENTED TO:

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# CHRIS WARKENTIN CHAIR, STANDING COMMITTEE ON ACCESS TO INFORMATION, PRIVACY, AND ETHICS

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[Wired Human](#) is a registered 501 3(c) non-profit, with the mission to combat digital exploitation. Wired Human is dedicated to supporting families in digital crisis. It provides the tools, awareness and education to mentor young people in the digital age.



WIRED HUMAN

As a father, founder of Wired Human, and human rights scholar, I write to you on behalf of a global community of mothers and fathers who have been given the overwhelming task of attempting to raise up this young generation in the digital age free from sexploitation, addiction, and identity crushing exposure to deviant pornography.

Consider a young boy who is exposed to mainstream pornography, often involving aggression, violence, humiliation and degradation towards women. While his logical mind recognizes that what he is being exposed to is deeply wrong, the primitive wiring of his brain's reward circuitry is activated by the inherent sexual nature of the content, pumping his body with a neuro chemical bath of feel-good hormones. What child, let alone adult, is able to sort through the confusion of experiencing sexual reward for witnessing the dehumanization and abuse of another human being? The conclusion that countless teens are subsequently reaching about their identity and self-worth is catastrophic. What's worse is that these sexually conditioned mindsets are becoming normalized within society itself, as the vast majority of their peers are conditioning their brains to become dependent consumers of sexploitation online.

While countless families have suffered through the pandemic with tragic loss and crushing financial strain, there is one community that has flourished and grown in this crisis, online porn tube sites. Many of the most profitable tube sites and porn production companies are owned by MindGeek.

MindGeek has profited greatly from the normalization of injustice through the ease of access that children have to their products, which has remained widely accepted through legalization, reckless policy making, lack of corporate responsibility and legislative actions that have failed to take into consideration the situation of the family and the best interest of the child. Porn has wandered into nearly every family home in our global community and our youth are paying the price with their childhood.

*When the sanctity of childhood, the role of parents and the integrity of the family is completely undermined by the business model of companies like MindGeek, governments must step in to protect the rights of children in the digital age and the rights of parents to raise their children free from sexploitation.*

MindGeek's role in profiting from child sex abuse material (CSAM) and making hardcore pornography widely available to an entire generation of sexually curious and vulnerable minors is a violation of children's rights under the UN Convention on the Rights of the Child (UNCRC), which Canada has ratified and remains party to.

In this brief, I will outline the internationally recognized rights and duties of parents (Article 5, 18), the rights of the child (Article 13, 28, 3(2)) to expose how children's and parental rights are being severely undermined by MindGeek's business practices.

## **The Role of Parents from a Children’s Rights Perspective**

Parents and caregivers are the first line of defense for protecting children from harm. Because of a child’s dependence on the institution of the family, many of their rights are experienced through the guidance of their parents with the best interest of the child being the central focus. Thus, the rights and roles of parents must be protected from being usurped by outside powers to allow children to receive the full enjoyment of their human rights laid out in the UNCRC.

*Article 5 demands that, “States Parties shall respect the responsibilities, rights and duties of parents [...] to provide appropriate direction and guidance in the exercise by the child of the rights recognized in the present Convention.”<sup>1</sup> Under Article 18(1), parents are primarily responsible for raising and ensuring the development of the child with the best interests of the child being their fundamental concern.<sup>2</sup>*

Article 18 (2), also places obligations on the state to support parents “[...] in the performance of their child-rearing responsibilities [...] for the purpose of guaranteeing and promoting the rights set forth in the present Convention.”<sup>3</sup>

Actions taken by MindGeek have severely undermined the ability of parents to guide their children in the exercise of their human rights online, such as the freedom of expression, Article 13, and right to education, Article 28, UNCRC. Furthermore, MindGeek’s business practices have harmed the rights of parents to secure their children’s healthy development and well-being, Article 3(2) and to protect their children from “[...] all forms of [...] exploitation [...]”, Article 19(1).

## **The Violation of Children’s Rights**

Children have a legitimate interest in using internet communication networks for a variety of useful purposes, for example, furthering education, participation in public affairs, etc.<sup>4</sup> Especially during the pandemic, the internet has become the central medium for accessing their education and maintaining relationships with peers. It could be argued that in today’s societies such interaction is instrumental for the development and transition of a child into adulthood. However, the risks posed to children from exposure to hardcore internet pornography and complicit behavior of companies like MindGeek in monetizing CSAM online, create a highly exploitive and volatile environment for minors.

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<sup>1</sup> UNCRC, Article 5.

<sup>2</sup> UNCRC, Article 18.

<sup>3</sup> *ibid.*

<sup>4</sup> According to UNICEF, “[t]he Internet and modern information and communications technology, including mobile phones, provide children with new opportunities to seek and impart information regardless of frontiers or adults’ restrictions.” Hodgkin; Newell, 2007, p. 179.

*Due to MindGeeks gross negligence in failing to take into consideration the natural vulnerabilities associated with childhood, which require “special safeguards and care”<sup>5</sup>, children and teens of all ages are paying a heavy price to effectively enjoy their human rights online.*

States have largely contributed to this problem<sup>6</sup> by primarily focusing on adults’ rights to the freedom of expression, without creating any policies or regulation standards that reconcile the safety of a child’s internet browsing experience and ensuring the protection of the well-being of the child. It is a human rights principle that one person’s human right, such as the freedom of expression, cannot be used to harm or cancel the human rights of another person.<sup>7</sup> The porn industry has relied on the freedom of speech as the silver bullet to justifying atrocious business practices with absolute disregard of the rights of parents and children. Article 19 (3)(a) of the International Convention on Civil and Political Rights (ICCPR) limits the right to freedom of expression on grounds, “[f]or respect of the rights or reputations of others.” This would include the rights of the child.

*The UNCRC, Article 3(2), places a positive obligation on states to guarantee the child, “[...] such protection and care as is necessary for his or her well-being [...].” Article 3(2) also stipulates that the rights and reasonability’s of parents and guardians is to be taken into consideration, “[...] and to this end, [states] shall take all appropriate legislative and administrative measures” to ensure the well-being of the child.<sup>8</sup>*

However, this is not to be interpreted that states are solely responsible for the well-being of children. Article 3(2) clearly references the “[...] rights and duties [...].”<sup>9</sup> of parents or guardians in this matter. Philip Alston argues that the state is only responsible for securing the well-being of children so far that the parents or guardians are unable to accomplish such objectives by their own means.<sup>10</sup> The terms “protection and care” should be interpreted broadly because “[...] their objective, [ensuring the well-being of children], is not stated in limited or negative terms (such as ‘to protect the child from harm’) [...].”<sup>11</sup> The role of the state in guaranteeing the well-being of a child has been described by UNICEF as being a “safety net” in all situations where parents are unable or unwilling to provide such care and protection themselves.<sup>12</sup>

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<sup>5</sup> UN General Assembly, Convention on the Rights of the Child, Preamble.

<sup>6</sup> Section 230 of the Communication Decency Act provides an exemplary case where U.S legislators failed to take into consideration the situation of the child when drafting and passing this legislation. Section 230 provides unprecedented legal immunity to companies like MindGeek who have frequently profited from illegal third-party content posted to their site.

<sup>7</sup> United Nations Populations Fund (2017). Human Rights Principles [Online]. (Available at: <http://www.unfpa.org/resources/human-rights-principles> [20 February 2020]). See also: Inter-Parliamentary Union (2016). United Human Rights Handbook for Parliamentarians N° 26, <https://www.ohchr.org/documents/publications/handbookparliamentarians.pdf>, p.22

<sup>8</sup> UNCRC, Article 3 (2).

<sup>9</sup> UNCRC, Article 3(2).

<sup>10</sup> Alston, 1992, p.9.

<sup>11</sup> *ibid.*

<sup>12</sup> Hodgkin; Newell, 2007, pp. 40-41.

Thus, states have an obligation to confront the porn industries atrocious business practices and model of distribution with the goal of making parenting and protecting the well-being of children possible. "(...) a minor's access to digital expression and participation in the online world should be protected; meaning, the integrity of the web should not be reduced to a trash pile of filthy adult sexual expression, ready to make a *quick buck* on our kids and teens."<sup>13</sup>

### **The Role of the State to Protect Children Online**

Given the fact that the vast majority of children and teens have been exposed to pornography and the wealth of cutting edge research proving a causal link between exposure and the devastating harm to a minor's development, it can be reasonably argued that parents have been completely overwhelmed in their role in protecting the well-being of their children online and require immediate support from the state to reform legislation and introduce effective policies and regulations that protect minors' human rights online. The internet is completely overrun with porn and it is obliterating the identities and mental health of an entire generation of children, youth and young people on a global scale. Companies like MindGeek must be held responsible for their direct involvement in exposing countless minors to sexploitation online.

The inclusion of Article 17(e) of the UNCRC, which encourages, "[...] the development of appropriate guidelines for the protection of the child from information and material injurious to his or her well-being [...]"<sup>14</sup> support a call for new legislation, such as Bill S-203, an Act to restrict young persons' online access to sexually explicit material, which would significantly shield our children from the corrupted minds and deviant ambitions of those who seek to monetize sexploitation online. I urge Canada to become a world leader in supporting children and parental rights in the digital age by taking into consideration the situation of the child and supporting legislation that places the child's well-being and best interests of the child as a central focus to how future policies and legislation passes.

So I end with this:

*"We don't have to accept what we are given when it comes to our children. We envision a world where parents are back in the driver seat, where innocence is enjoyed and protected, where the excitement of the first kiss, the rush of a first date, and symphony of friendships aren't stolen or corrupted by the danger lurking in the wild plains of the digital frontier. Let's take our stand, both parents and all advocates for youth, to demand new digital legal boundaries that make pornification a choice, not an inevitability."*<sup>15</sup>

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<sup>13</sup> Lisa and Jason Frost, *The Glass Between Us*, p. 140.

<sup>14</sup> UNCRC, Article 17.

<sup>15</sup> Lisa and Jason Frost, *The Glass Between Us*, p. 181.

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