A Side of Justice Rarely Seen: Professional Perspectives Toward Youth Justice and Sentencing Procedures in the Exploratory Context of Canada and Russia

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A Side of Justice Rarely Seen: Professional Perspectives Toward Youth Justice and Sentencing Procedures in the Exploratory Context of Canada and Russia

by

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Abstract

This thesis contributes to the growing body of literature on comparative youth justice and policy. By analyzing dilemmas faced by youth in justice systems from the perspective of Canada and Russia, the study argues that professional outlooks have a considerable significance for understanding the legal system and its function, and play an important role in shaping judicial administration concerning juveniles. An investigation into professional perspectives on youth justice is used to formulate an understanding of the issues for young people within the legal systems of the respective regions, the sentencing procedures, and the social and procedural contentions facing youth on an international scale. There is a distinct need to address these issues from a global perspective but also internally from within each system. As such, professional views provide an understanding of how the systems have developed and, more importantly, how they need to change and adjust for the consideration of youth. This study identifies similarities and clear distinctions among professionals’ conceptions of youth justice, enabling us to define and take progressive steps toward improving the administration of justice.

Key Words: Canada; Children’s rights; Comparative criminology; Convention on the Rights of the Child; globalization; courts; juvenile justice; young persons; Russia

Serge Lokshin is a graduate student of Criminology. His work focuses on transnational and comparative research of youth justice and legal systems, with a primary focus on Canada and Russia. He is affiliated with Wilfrid Laurier University, Brantford, Canada.
-For my family, who make everything worthwhile-

Mom, this is for you and your remarkable support, always

For my dearest Anya, you make anything possible

With much love
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Lastly, I wish to dedicate this work to students of criminology, everywhere. This is for you, your ongoing passions and commitment to criminal justice around the world. Never let your thoughts and actions go unrecognized, for that would be truly unjust.

Serge Lokshin
Toronto, ON
May 2014

“The arc of the moral universe is long but it bends toward justice.”–Martin Luther King Jr.
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Chapter 1: From Roots to Blossom—Establishing A Framework for International Juvenile Justice

Introduction

Studies on juvenile justice¹ consist of some of the most controversial debates of criminological inquiry during the late twentieth and early twenty-first century. The treatment and sentencing of juveniles by the criminal justice system can be interpreted through complex terms because of the many contentions about what a truly effective system should look like, how it needs to operate, what criminal justice models and frameworks are most efficient for handling young people, the types of sentencing procedures that should be enforced, among many other matters for consideration. Given the importance of examining youth justice systems, it makes sense that legal scholars, criminologists, sociologists, and others would dedicate their careers to the exploration of its many dimensions and nuances (Janeksela, 1992).

The sheer complexity, ambiguity, and contention about “proper justice” and what it really means, has driven societies to re-evaluate the basic tenants of their legal systems; whether through judicial reforms, legislative enactments, or by drawing on international and legal standards (Dammer & Albanese, 2011; Junger-Tas & Decker, 2008). As such, issues associated with juvenile justice are common within all societies; be it impoverished third-world nations or the industrialized countries of the West. The issue, in short, is clearly a global one that transcends national and state boundaries as well as social, cultural, and ethnic characteristics (Bala, Carrington & Roberts, 2009; Doob &

¹ Throughout this paper, the terms juvenile delinquency and youth crime are used interchangeably. Similarly, the terms juveniles, youth, and young people are used correspondingly.
Sprott, 2006). Youth justice has become an increasingly widespread concern that requires proper understanding, formulation, and action.

This thesis is primarily focused on a comparative analysis of the Canadian and Russian contexts, and provides an evocative account of the nature of these countries’ legal systems as pertaining to issues of youth justice. For the purposes of this analysis, it is also necessary to incorporate information from other jurisdictions including Finland, the United States, England & Whales because they offer much in the way of explaining the larger situation, and how juvenile justice is interlinked globally. This is fundamentally significant for understanding the subject matter in its entirety.

**Research Statement/Rationale**

The current study analyzes the perspectives of legal professionals toward issues of youth justice and sentencing procedures within the contexts of Canada and Russia. The focus is upon professionals’ conceptualization of youth justice (i.e., juvenile delinquency as well as sentencing procedures). Professionals within the scope of the analysis are those individuals that are directly involved with the legal system of the host country. This includes individuals such as: lawyers, judges, youth corrections workers, academics and legal scholars, ministry workers, probation officers, and members of the police.

The topic is important because it provides a comprehensive comparative understanding of both the Canadian and Russian legal systems in relation to each other and to the broader international criminological scope. The dialogue of legal

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2 What is meant by this statement is that, beyond a strict examination of youth justice and the various components covered within this study, an examination of comparative justice systems also has the benefit of contributing to the understanding of broader legal standards, the general function and critique of criminal justice systems, and to a theoretical comprehension of legal
professionals permits us to learn from the key experiences of juvenile practices, and understand the pros and cons of the specified justice systems. The aim of the current analysis is to explore the perceptions of legal professionals toward youth crime and youth justice within the corresponding countries, and their justifications for criminal justice system responses. An analysis of professional perspectives allows us to systematize the suggestions and insights on how to improve the existing situation of juvenile justice.

Throughout the paper, an examination of both the Canadian and Russian legal systems is necessary because the systems in place within those countries are starkly different, yet present unique ways of managing juvenile justice. For instance, while Canada has a separate system of justice for dealing with youth, Russia presently lacks a separate system dedicated to juvenile justice (Bala & Roberts, 2006; Pridemore, 2002; Winterdyk, 2002). Likewise, there is no separate juvenile family court, and specialized training in juvenile justice and related issues are virtually nonexistent. Although there are certain agencies within the country that have specialists in juvenile affairs, formal units dedicated to these components are rare. (Finckenauer, 1996; Pridemore, 2002). The various demographic, economic, and social characteristics of the countries are similarly reflected in the differences of criminal justice approaches. These points are analyzed further along in the discussion, within chapters three, four, and five.

To date, research focusing on juvenile delinquency and the criminal justice system in Russia has been limited and inconsistent in many ways (Pridemore, 2002; Solomon & Foglesong, 2000). This is due, in part, to the fact that there has been issues. The impacts on society and, subsequently, law formation are also recognized (Dammer & Albanese, 2011; Reichel, 2005/2008; Winterdyk, 2002).
relatively little work in the scholarly literature that addresses the issues, and even less that examines juvenile delinquency in the country. Since the dissolution of the Soviet Union in December of 1991 and the subsequent creation of the Commonwealth of Independent States, Russia has undergone many reforms (political, economic, and cultural) that have resulted in an unparalleled and non-uniform application of justice (Pridemore, 2002; Solomon & Foglesong, 2000).

In addition to the major legal reforms taking place in Russia, there have also been a host of other political, social, and cultural factors that have hindered efforts to adequately address the state of juvenile justice in the region (McAuley & Macdonald, 2007; Pridemore, 2002). The creation of a one-sided and exclusionary system of justice (i.e., the absence of a formal system to deal with youths and juvenile offenders) has certainly been implicated in the way justice is administered in the country as a whole (Aleshinok, Chuprov & Zubok, 1995; Butler, 1992).

The Canadian legal system and juvenile trial procedures have similarly experienced numerous changes in recent years. This has contributed to a re-framing and reconceptualization of how juveniles are treated within the justice system (i.e., custody, trial, sentencing, extrajudicial measures). As such, the ways in which the professional domain views juvenile issues and formulates reactions and policies to deal with such concerns has greatly changed. It is, therefore, imperative to focus on professional perspectives toward youth justice and sentencing procedures more extensively.

By comparing Canada and Russia, not only are we able to appreciate the models in place, but it also permits a specialized analysis into the many differences, similarities, and overall logic of the established systems. A comparative perspective can uncover and
extrapolate new dynamics of justice that focusing on a single country and system can only begin to do (Dammer & Albanese, 2011; Goldson & Muncie, 2006).

This topic—an analysis of youth justice from the perspectives of professionals—is relevant, viable and, most importantly, an original contribution to academia. Given the primary focus on juveniles within our Canadian society through news media, journals, books, conference proceedings and internationally, it is no wonder that youth justice forms such a crucial component of our legal system and responses. It is from this need to better understand the implications of juvenile behaviour, delinquency, and future actions for improvement, that the topic presented itself. The intent is to provide a broader understanding of the intricacies of juvenile delinquency from professionals’ standpoint, the way juveniles are processed through the legal system of the host country and, finally, their place within society.

This study offers new and practical insights that contribute to a wider formulation of juvenile justice, both domestically and internationally. By closely examining professional perspectives, it provides a unique and academically-grounded orientation on the processing of juveniles.
Influences of Globalization

A discussion and subsequent analysis of youth justice would not be complete without setting the foundation for the topic. In order to gain an appreciation for the principles of youth justice, we must, therefore, consider international and transnational perspectives, as well as the process of globalization.

As our global society progressed toward the twenty-first century, we witnessed a rapid shift to international considerations in matters of youth justice (Howard-Hassmann, 2010; Junger-Tas & Decker, 2008). A single independent system of justice no longer sufficed, as the expansion of human rights and globalization so vividly signify (Howard-Hassmann, 2010; Singer, 2004). In our twenty-first century worldview, it has become imperative to develop and uphold relations with other states in order to be deemed ‘successful’ and considered a ‘global player’ in the world economy (Singer, 2004; Stiglitz, 2008). Whereas in the past, the enactment and maintenance of justice was in the exclusive hands of individual countries, it is now more within the jurisdiction of internationally recognized (albeit not always respected) global institutions (Howard-Hassmann, 2010; Stiglitz, 2007). The increased emphases on the United Nations along with the International Criminal Court are the defining examples of this paradigm shift (Howard-Hassmann, 2010; Singer, 2002; 2004).

3 To be clear, this does not imply that all societal power is now delegated to such organizations. Rather, the emphasis is on the gradual shift away from centralized authority and more towards powerful transnational institutions that speak on behalf of the nation. Whether this is for the benefit or detriment of the country/region is another matter of discussion that goes beyond the scope of this study. The point is that many third-world countries are still governed by a state of staunch dictatorship, but the influences of globalization are gradually diluting and eroding this method of control (Howard-Hassmann, 2010; Singer, 2008; Stiglitz, 2007).
In her book on the interconnection of globalization and human rights, Howard-Hassmann (2010) draws on multiple scholars for an understanding of the globalization process. Consider the following perspectives:

In a globalized world, everyone lives in “overlapping communities of fate” in which the very nature of everyday living—of work and money and beliefs, as well as of trade, communications and finance...connects us all in multiple ways with increasing intensity (Held et al., 2005: 1-2).

Another scholar understands globalization this way:

Space and time are compressed in the new globalized world; the present era is, in effect, the “end of geography” (Bauman, 1998: 12).

Howard-Hassmann, herself, provides a broader view of the term globalization:

A process by which local states, economies, cultures, and social actors are increasingly drawn into a global polity, economy, culture, and civil society. This includes the expanding world market, and international trade and capital flows; transnational corporations, institutions of global governance (international law of human rights, IFIs and IOs) established to regulate the market; travel, migration, communication, and global culture; and global civil society, including international NGOs, global social movements, and other private social actors (Howard-Hassmann, 2010: 8).

As these divergent views suggest, the effects of globalization impact everyone, and it is important to understand the role it plays within our society, and for interpreting youth justice. There are many notable characteristics of the globalizing process, some of which take into account the blurring of national and state boundaries and the prevalence of
technologies of expansion that effectively create a smaller worldview. Essentially, everything is becoming increasingly interlinked within our global society, and this permits for refined examinations of legal systems. The increasing politization and globalization of the world certainly warrants an international comparative analysis.

It also enables for a comprehension of the pros and cons of justice systems (between several nations as well as increasingly on a global level). Researchers, policy-makers, legal professionals and others are, therefore, able to scrutinize the complex structures, functions, and policy initiatives of nations’ legal systems more effectively, and in ways previously not possible.

Presently, we face many different problems including: issues of intellectual property rights, global financial markets, growing poverty and income gaps, youth abuse, varying sentencing procedures, and so on (Howard-Hassmann, 2010; Singer, 2004; Stiglitz, 2008). These complications require us to transcend local boundaries and consider international legal standards and obligations. This undoubtedly reflects approaches toward the structure and function of youth justice (Eisler & Schissel, 2008). Justice of all kinds is at stake, and we have no choice but to confront these issues head on.
Literature Review: An Examination of Relevant Scholarly Information

Literature pertaining to youth justice issues has been an area of immense scholarly and critical examination over the past several decades. In Canada and the United States, this scope of analysis has received a wealth of attention, partly due to the changing nature of the legal systems within the countries (Alvi, 2000; Gabor, 1999). For instance, in Canada, there have been several major adjustments to the youth justice models in recent years, culminating in the current Youth Criminal Justice Act (YCJA) brought into effect in 2003 (Bala, Carrington, & Roberts, 2009).

Notwithstanding the many changes in the legal and social dynamics of the Canadian youth system, there have been various criticisms raised against the models in place. This is undoubtedly linked to the proclaimed shift at both the governmental and policy level, as well as public interpretations of the manner in which youth are viewed in society and, subsequently, treated. The gradual shift from a rehabilitative model of juvenile justice to one in favour of a more retributive and punitive framework, has also opened up many new avenues and concerns for youth justice as a whole (Roberts, 2003; Sprott, 1996). This is a fundamental aspect of the entire discussion.

In Canada, youth justice has, in many ways, become the forefront of legal and public debate. Some prominent scholars of Canadian youth justice issues include: Nicholas Bala, Anthony Doob, Thomas Fleming, Lauren Eisler, Jennifer Schulenberg, Jane Sprott, Peter Carington, Julian V. Roberts, Stephen W. Baron, Sanjeev Anand, and many more. Cumulatively, these individuals have made substantial contributions to our understanding of the legal system in place within Canada, and have written on many aspects of the issues. Some areas of focus have included: street youths and gangs,
analyses of Canadian case law, public perceptions and attitudes toward youth violence, statutory reforms of the juvenile justice system, comparative criminal justice, criminal procedure and human rights, jury trials, the public construction of youth culture as criminogenic, transitional justice and international human rights, among other areas.

A particularly interesting study dealing with a variety of English-speaking countries is one by Roberts (2004) titled, *Public Opinion and Youth Justice*, in which the author speaks about the evident misperceptions of the public and professionals toward juvenile crime and justice. Roberts argues that the majority of the public in English-speaking countries display a considerable level of ambivalence with respect to juvenile justice, and they perceive the amount of crime and, particularly violent crime, to be increasing and becoming more severe (Roberts, 2004).

This type of perception is in direct contrast to surveys and statistics by governmental agencies that indicate a leveling-off and even a gradual decrease in the rates of violent offenses and problem behaviours during the past several decades (Doob & Sprott, 1998; Pinker, 2011; Roberts, 2004). Possible reasons for these negative sentiments towards youth within Canadian society lie at least partially with the publics’ negative views of youth courts, the impact of media sensationalism that depicts crime and, specifically youth crime as being rampant, out of control, and affecting all segments of society—even to the point of transcending ethnic, cultural, and social boundaries (Baron, 2011; Cohen, 1972; Roberts, 2004).

Other scholars in Canada point more to the socio-economic factors and variables involved in the path towards youth delinquency and crime. One such academic is Stephen W. Baron who considers the situational factors implicated with youth issues (i.e.,
specifically youth unemployment) (Baron, 2008). He asserts, with emphasis on General Strain Theory, that certain experiences—including unemployment, prolonged homelessness, monetary dissatisfaction, negative subjective perceptions, lack of state support, decrease in social control, criminal involvement perpetuated by peers, and lack of fear of punishment—all contribute to eventual delinquency and criminal involvement (Baron, 2008; Merlo & Benekos, 2003). One problem with research such as this, however, is that there is a lack of individual-level research between the relationship of unemployment and involvement in criminal actions (Baron, 2008).

Most studies conducted on such variables tend to examine group influences rather than focusing on the individual in particular, which does not provide much in terms of how people interpret the factors. Likewise, research tends to examine the relationship between socio-economic status and crime from a largely objective perspective, while not accounting sufficiently for the subjective and theoretical implications. This is echoed within Baron’s work, where he states the following:

At a minimum, we should be aware that simplistic notions about the relationship between unemployment and crime have limited utility. In response, researchers have been encouraged to pay greater attention to the variables theoretically thought to link unemployment and crime (Baron, 2008: 401).

In comparison to Canada, there has been a markedly different situation in Russia, where the legal system does not particularly differentiate between juveniles and adults (Dutkiewicz, Keating, Nikoula, & Shevchenko, 2009). Rather, it is more of a mixed and homogenous system, where juveniles (aged 14)⁴ can be sentenced alongside their adult

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⁴ In Russia, the common age of criminal responsibility is 16, but the criminal code allows for sentencing of individuals as young as 14 (McAuley & Macdonald, 2007; Pridemore, 2002;
counterparts (Moscow Centre for Prison Reform, 2006; Pridemore, 2000). Inevitably, this has the potential for creating a number of issues within the legal system of the country, which is both a growing point of interest and concern for scholars. The points of focus here, and which are brought up in the available literature, point to a stigmatization of individuals within the system, the process of labeling, and overly harsh treatment and sentences accorded to juveniles—not to mention the pronounced increase in custodial sentences in both countries of focus (Roberts, 2004; Tufts & Roberts, 2002).

A limited amount of research and interpretation has been conducted on the Russian system, which makes it quite difficult to extrapolate useful information. The Russian system is currently undergoing some prominent legal reforms relating to youth justice, which further warrant a careful examination of the context (Dutkiewicz, et al., 2009; McAuley & Macdonald, 2007). Given the mixed range of literature that has become available from both the Canadian and Russian systems, there are nonetheless some valuable points and trends to be addressed.

The literature on youth justice in Russia is more limited in scope compared to the Canadian and American sources. Nonetheless, there are several prominent thinkers and writers that are working to expose Russia’s controversial, complex, and changing youth justice issues. Some of these individuals include: Mary McAuley and Kenneth MacDonald (2007), William Alex Pridmore (2000), Peter Solomon (2000), and William Winterdyk, 2002). Youth under the age of 14 or older individuals convicted of less serious crimes are referred to the Commissions of Juvenile Affairs. By contrast, in Canada youth falling under the age of criminal responsibility (12 years of age) are generally handled by Youth Justice Committees (YJCs), where the appropriate extrajudicial measures and sanctions are administered. However, the YCJA does not apply to juveniles under the age of 12, and if the crime is serious enough, a social worker may get involved. In some cases, for the child’s safety and the safety of the community, the child may be removed from their home and placed in a court-determined location (John Howard Society, 2007).
Butler (1992). Academics generally argue that Russia had a particularly harsh system for the treatment of offenders during the Soviet period, and this has softened to a degree (Fliamer, 2000; Solomon, 1997). In essence, Russia is a country in transition to newer models of juvenile justice—specifically the welfare-oriented model—but this is not yet fully solidified within the society (McAuley & Macdonald, 2007). The reform agenda is actively prevalent within Russia’s legal system, and the outcome is still to be determined.5

Another scholar, Pridemore (2002), presents a compelling study on the overview of social problems and patterns of juvenile delinquency in transitional Russia. His work is insightful because it provides a close examination of juvenile delinquency patterns within the country’s social and economic context. Specifically, Pridemore reviews various key institutions that are seen to play a vital role in the administration of justice in the country—namely, the economy, education, and the family (Pridemore, 2002). He supplements this with a focus on specific issues including alcohol and drug use, leisure activities, and the absence of a specific juvenile system in Russia. It is this interplay of factors that are believed to correlate with juvenile delinquency and crime within the country.

Pridemore provides a useful examination of government sources and engages readers in a detailed and explanatory section on the judicial system in Russia. This is particularly helpful since not too many sources provide such a coherent interpretation of

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5 Russia is a nation that is actively seeking alternative modes of operation and justice. The country’s present system is classified as the “Justice Model”, but it is attempting to embrace welfare principles. In recent years, they have attempted to model some aspects of the Canadian system, as well as several European nations. The assessment and impact of this “transition” is still to be seen. For a more detailed discussion of transitional Russia, see McAuley & Maconald (2007), Pridemore (2000, 2002), and Zeldes (1980).
the legal system of Russia. There are several key elements that characterize the Russian justice system as pertaining to the liability and prosecution of juveniles. Perhaps this is best conveyed by Pridemore’s own words:

Although different agencies have specialists in juvenile affairs, and there is a separate system of detention colonies for young offenders, formal units dedicated to juvenile affairs are rare, there is no separate juvenile or family court, and specialized training in juvenile justice and related issues is nearly nonexistent. Further, there are few programs designed to treat the large percentage of youthful offenders with mental and emotional problems, and those agencies or sub-units designed to handle delinquents are taxed by a severe lack of resources... The justice system is unprepared and ill equipped to handle social problems driven by massive structural changes in Russia. (Pridemore, 2002: 196).

The above passage summarizes significant points dealing with youth justice in the Russian context. Of course, there is much more to be said on the topic of Russia, along with a select number of additional scholars that can provide useful interpretations. This will be examined thoroughly within chapters four and five. Nonetheless, a brief theoretical orientation will be presented to conclude this section.
Theoretical Perspectives

From a theoretical standpoint, there are numerous theories and schools of thought that can be applied to the topic of youth justice and, specifically, delinquency and professional perceptions toward juvenile issues. For instance, considering Baron’s study of street youth and crime, Agnew’s General Strain Theory (GST) comes to mind. Agnew emphasized how primarily negative experiences can lead to criminal behaviour—negative affective states (Agnew, 2001; Lilly, Cullen & Ball, 2011). Additionally, Strain Theory outlines several categories of strain like that of objective and subjective strains, whereby individuals can differ in their interpretations of each (Lilly et al., 2011).

It is also pointed out that only the central and most profound types of strain provoke a criminal response (Baron, 2008; Lilly et al., 2011; McLaughlin & Muncie, 2006). While this is interesting, it may suggest that other forms of strain and their impact (i.e., individual types of strain) are neglected and pushed to the periphery. This inevitably leaves other factors and consequences unaccounted for, which could very well play a substantial supporting role in delinquency (however directly or indirectly).

A problematic component of the application of Strain Theory to juvenile delinquency is the fact that the theoretical orientation tends to ignore either social control measures or perceptual measures of poverty, and does not offer a full test of the theory and confirmation of its validity (Baron, 2008, 2011; Lilly et al., 2011). To date, only a few studies have explored General Strain Theory in light of the interactional and situational factors of problem youth behaviours. That being the case, more research and testing is required before the theory can be adequately applied to socio-economic and situational factors of youth and crime (Baron, 2008; McLaughlin & Muncie, 2006).
Consistent with Social Disorganization Theory, the pivotal work of Shaw and McKay (1972) on juvenile delinquency in urban areas sheds some useful context on the theoretical and conceptual framework of youth justice. Their theory of delinquency builds on Burgess’s concentric-zone model of crime, whereby the most criminal activity was believed to flourish in what is known as the “zone in transition”—Zone II (Lilly, Cullen, & Ball, 2011, Shaw & McKay, 1972). It was concluded by Shaw and McKay’s observations that the nature of the neighbourhood rather than the nature of individuals within that neighbourhood predict and regulate involvement in crime. Essentially then, it is the social context in which youth live that best predicts juvenile delinquency (Lilly, Cullen, & Ball, 2011). Shaw and McKay’s work on youth crime and social control indicate that environmental factors and community norms are fundamentally imperative for understanding criminality.

Shaw and McKay’s work on weakening social controls and the context of crime can rightfully be credited with paving the way for several other theories of juvenile delinquency, particularly the Social Bond and Control Theory advocated by Travis Hirschi in 1969. Evidently, with relation to the subject matter on youth justice, delinquency, attitudes and perceptions on the issues, there are several interlinked theoretical models and approaches. In addition to the ones that have been outlined in this section, other influential theoretical frameworks must take into account Akers’s Social Learning Theory as well as Hirschis’ Social Bond/Control Theory. Such models provide a wealth of important information dealing with the paths toward delinquency, and the situational factors associated with them.
The main aim of comparative criminology is to examine crime as a social behaviour. When doing so, criminologists must develop and test theories about the etiology of crime—specifically, its causes, origins, and distributions (Reichel, 2008). By traditional understandings, those theories have been used to comprehend delinquency in a specific country, but when theories about crime are developed and tested to incorporate several countries, this is referred to as comparative criminological analysis (Dammer & Albanese, 2011; Muncie & Goldson, 2006).

Generally, there are three key frameworks that are commonly used by comparative criminologists attempting to explain variations of crime rates among nations. These are: grand theories, structural theories, and theories relying on demographic characteristics (Reichel, 2008). The particular theoretical framework that has played a significant role in cross-national research is Grand Theory. Under this broad theoretical construct, we find several examples of specific theories; namely, Modernization Theories, Civilization Theory, World Systems Theory, and Opportunity Theories (Lilly, Cullen & Ball, 2011; Reichel, 2008).

Of these theoretical subsets of Grand Theory, Modernization theories are most applicable for the present study on comparative analysis and professional perspectives toward youth justice. The reason for this is that modernization theories generally attempt to identify and explain the process of modernization within societies. Specifically, the theory examines the internal processes and social variables that contribute simultaneously to social progress and the evolution of delinquency (Reichel, 2008; Shelley, 1981). This is precisely what Shelley’s (1981) work, *Crime and Modernization*, considers as its main logic. Specifically, it formulates that social processes accompanying urbanization (i.e.,
social development) have fostered conditions that are conducive for increased criminality, stemming from social underpinnings. This includes the loosened roles of the family and lack of supervision for juvenile offenders (Shelley, 1981). The analysis on youth justice is also influenced by social constructionism, which examines the development of constructed understandings of the world. It assumes that understanding, significance, and meaning are developed not separately within the individual, but in coordination with other human beings and cultural groups (Warren & Karner, 2010).

These theoretical characteristics make modernization and social constructionism theories applicable to the current study because they examine the social transformations in modern society. In addition, the focus is on the intricacies of the justice system and the ways to address the necessary changes of youth justice. The study maintains that social factors are indeed very significant for matters relating to juveniles, and directly, how young people are processed by the criminal justice system. A comparative analysis of professional perspectives on the various social underpinnings of youth justice— informs by modernization theory—are increasingly important for consideration because they shed light on the complex processes of international systems of justice. Above all else, such an analysis addresses the ways legal systems can more effectively focus on the rights and welfare of youth within each country.

The intent of this section was to highlight some of the significant theoretical considerations for an analysis of comparative youth justice.
Chapter 2: Methodology

Research Design

Several approaches were utilized for this study. Firstly, the predominant research method used centered on the qualitative approach. Adopting a qualititative orientation for the project is the most viable alternative given the exploratory and research-focused nature of the work (i.e., justifying a transnational and comparative methodology). It has allowed the study to make use of informative and descriptive analyses. For instance, survey questionnaires were administered and in-depth interviews were conducted with individuals that are directly associated with the legal system on a professional level. Examples of such individuals are: lawyers, youth corrections workers, judges, high-level officials/ministry workers, academics, etc.

Secondly, elements of the quantitative approach have been used for purposes of analyzing the youth justice survey results. Therefore, the research design makes use of an embedded-mixed methods approach. The quantitative survey data supplements the qualitative information and plays a secondary role within the qualitative data collection process.

The underlying logic of both quantitative and qualitative social research displays both similarities and differences—a logic usually referred to as *epistemology* (Warner & Karner, 2010). Both methods do, however, require distinct approaches, and it is important to understand the foundations of research before putting the methods into actual practice. This understanding evidently shapes the coherency and scope of the study in its entirety. Professors of Sociology, Warren and Karner, provide a useful framework for distinguishing between research methods with the following passage:
Qualitative and quantitative social research display similarities and differences. Both kinds of research involve commitment to understanding others, and some dedication to learning or being trained in the specific methods. But quantitative methods are more programmatic, beginning with existing social theory and proceeding to the generation of hypotheses from that theory. Analysis is accomplished by means of statistics...By contrast, in qualitative research, you—or you and your team—are responsible for all stages of the research enterprise. Additionally, qualitative research is “experience near”—close to other people and social settings—while quantitative research generates “experience distant” numerical summaries of social life. (Warren & Karner, 2010: 3-5)

Broadly speaking, the logic of qualitative inquiry is referred to as social constructionism. In their book, Discovering Qualitative Methods (2010), Warren & Karner provide a clear working definition of this concept:

Social constructionism takes the position that sociologists’ knowledge about social life (or any other knowledge about anything, for that matter) involves both understanding the meaning that interaction has for the participants and realizing that any analysis of society is made from some standpoint or perspective that informs the analysis. (Warren & Karner, 2010: 6)

Therefore, to properly understand both the macro and micro levels of social interaction (i.e., the meanings that people bring to the social worlds they inhabit and construct), it is necessary to select the most suitable method of analysis. The cumulative understanding of research methods is known as Grounded theory strategies, which was originally

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6 For a comprehensive understanding of the various social research methods (their formulations, similarities, differences, and applicability), see Charmaz, (2006) and Warren & Karner, (2010).
developed by Glaser & Strauss in their book, *The Discovery of Grounded Theory* (1967). In the ground-breaking text, they postulate effective ways of advancing qualitative research, and offer systematic strategies for qualitative research practice (Charmaz, 2006; Glaser & Strauss, 1967). Essentially, the scholars did the following for refining our understanding of important research processes:

In particular, Glaser and Strauss intended to construct abstract theoretical explanations of social processes. They aimed to move qualitative inquiry beyond descriptive studies into the realm of explanatory theoretical frameworks, thereby providing abstract, conceptual understandings of the studied phenomena. *The Discovery of Grounded Theory* (1967) provided a powerful argument that legitimized qualitative research as a credible methodological approach in its own right rather than simply as a precursor for developing quantitative instruments. (Charmaz, 2006: 5-6; Glaser & Strauss, 1967).

As this passage indicates, qualitative researchers have some substantial advantages over quantitative methods. This is attributable to the greater flexibility that qualitative research permits—in that it allows us to constantly add new pieces of information and research at all stages of the work (i.e., later in the analysis). If a new theme or line of research emerges, it is completely reasonable to follow this emerging idea. This simultaneously increases the flexibility of the work and provides additional focus (Charmaz, 2006; Warren & Karner, 2010). This has proven particularly beneficial for the current comparative study.
To complete the discussion of the value and applicability of Grounded Theory and the qualitative approach, consider these words from Sociologist Kathy Charmaz’s lucid text, *Constructing Grounded Theory*:

With grounded theory methods, you shape and reshape your data collection and, therefore, refine your collected data. Nonetheless, methods wield no magic. A method provides a tool to enhance seeing but does not provide automatic insight...How researchers use methods matter...A keen eye, open mind, discerning ear, and a steady hand can bring you close to what you study and are more important than developing methodological tools. (Charmaz, 2006: 14-15)

Provided that the designated study is highly descriptive and focuses on understanding the social meanings attributed to various aspects of society, the consolidation of several methods and approaches is required. Nevertheless, the central research method used is of a qualitative orientation.

**Respondents**

The study comprised a range of respondents who provided valuable information pertaining to the subject of focus—that is, broadly speaking, youth justice and professional perceptions (i.e., members of the police, correction workers, academics, lawyers and legal-aid workers). Making use of a distinct group of legal professionals for the purposes of the study has allowed for differentiating effectively between individuals’ conceptions of youth justice, as it applies to two distinct regions—primarily the Canadian

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7 The total number of respondents within the study consisted of twenty-four individuals: twelve from Canada and twelve from Russia. Refer to Appendix H for a comprehensive list of respondents.
and Russian contexts. Twenty-four respondents were selected for interviews. This provided a representative number of individuals, and adheres relatively closely to the acceptable range in the social sciences of n=30.

At the outset of the study, a greater number of individuals were contacted to participate. However, given certain time constraints and administrative difficulties, a number of potential respondents were not able to take part in the research. The process of establishing contact with individuals from Russia was particularly difficult due to time differences and some elements of mistrust toward foreigners. Additionally, scheduling time to accommodate the availability of respondents was a considerable challenge, as it required arranging their busy schedules around the timelines of the field trip.

Therefore, by examining a diverse set of respondents holding differing values, formulations and experiences with youth justice, the study yields data that is unique and notable from a comparative and transnational perspective. Comparing and comprehending the crucial differences in the structure, function, and interpretations of youth issues by legal professionals is the primary objective of this ambitious work.

**Demographic Characteristics**

For the purposes of the comparative analysis, the countries of Canada and Russia were selected. An examination of the Canadian and Russian contexts is particularly insightful due to their many similarities and differences. Some similarities of the nations include the fact they are both influential economies with complex legal systems (i.e., they
are/were members of the G8 and G20 forums); consist of large and diverse populations; possess a wealth of natural resources, and the sheer size of the territories is worth mentioning.

The contexts also present an opportunity for the examination of their many differences. For instance, both nations function on the basis of different legal models. Canada operates on the framework of a *Modified Justice Model* whereas Russia utilizes a *Justice Model with welfare principles* (Benekos & Merlo, 2009; Finckenauer, 1996). Another important distinction is the absence of a formal and dedicated juvenile system in Russia. The country has no established system of juvenile justice, and while numerous attempts have been made (i.e., legal reforms) throughout the past several decades, the country is still lacking formal units dedicated specifically to juvenile justice (Dutkiewicz et al., 2009; Gilinsky, 2005). By contrast to the Russian situation, Canada has a long-standing system for addressing the various needs of juveniles. This is demonstrated through a specialized juvenile justice system that is based on many previous statutes, which are actively operating today (for instance, the Youth Criminal Justice Act, 2003).

There are also a host of demographic, economic, and social characteristics that reflect the variety of criminal justice approaches within both nations. All of these similarities and differences permit an insightful examination of the Canadian and Russian contexts (Goldson, 2004; Klein, 2001).

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8 Russia was excluded from the G8 forum by the other members on March 24, 2014, as a result of its involvement in the 2014 Crimea crisis in Ukraine. Thus, the group now comprises seven nations and will continue to meet as the G7 group of nations (G8 Information Centre, 2014; RIA Novosti, 2014).
To expand upon the regional characteristics of the study, two major cities were selected as the basis for analysis. Within Canada, the city of Toronto has been chosen as a point of analysis. In Russia, the city of Moscow has been selected. The main reason for selecting these two locations is the relative size of the cities themselves. Both Toronto and Moscow are prominent urban hubs in their respective countries, characterized by large and diverse populations as well as concentrations of political and economic power. Similarly, both cities have established historical legal traditions and highly developed systems of justice and legal services, making them ideal points for analysis. An examination of those two cities has allowed for the gathering of useful information and scholarly opinion, as well as access to legal institutions and services.

Of course, gaining access to the institutions themselves was quite challenging. The difficulty lay predominantly in arranging contacts, especially individuals that would be knowledgeable on the subject matter, and willing to share their insights. Many government and legal workers within Russia are skeptical, and in some cases entirely unwilling to communicate with foreign individuals about sensitive issues—such as youth justice and the characteristics of the legal system.

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9 As of March 2013, Toronto’s overall population became approximately 2,791,140, which made it the fourth largest city in North America. This represents a booming trend in the city’s demographic and economic developments. Moscow, by comparison, has experienced an influx of migrants (both legal and illegal), which has made it quite difficult to keep track of accurate population statistics in the Russian capital. The official figure for Moscow currently stands at about 11.5 million, but uncharted migration could push the real number to as high as between 13 and 17 million, according to population experts. The main point is that both cities are quite large and contain a variety of resources, making them ideal for examination (Moloney, 2013: A06; World Bank, 1999).

10 The legal systems in Canada and Russia, however, should not, by any means, be considered synonymously to each other in a basic sense. The reason being that, while the systems of process and justice are developed in both contexts, they have emerged differently and are influenced by vastly different factors and modes of function. The inherent models in place are starkly different, and the structure of the systems also possesses many differences, one of which is the processing and treatment of juvenile offenders. This point will be explored in greater detail within the forthcoming chapters and analysis. (Moloney, 2013; Moscow Centre for Prison Reform; 2006).
Similarly, certain individuals expressed concern regarding the use of the gathered information (i.e., how the information would be collected, the manner and capacity in which the data would be presented and formalized, and how it would represent the individuals themselves as well as the institutions for which they are employed). Despite the strict ethical guidelines and guarantees of confidentiality of the present study, there were nonetheless certain individuals that refused participation. This has not, however, had an impact on the selected sample of respondents used for the study, or the gathered information (more details on this shortly).

Due to a degree of caution on behalf of some of the contacted individuals, it was quite difficult to gain access into certain institutions. Another issue that contributed to the complications with respondents was the fact that they were dealing with someone from outside of the country (i.e., primary researcher). As such, the respondents could not guarantee the true nature of how their responses were to be used, and in what specific context. To deal with setbacks such as this required direct contact with the primary researcher’s supervisor and department coordinator. These individuals provided an official form outlining and justifying the objectives of the proposed study, along with details about how to get into contact with the faculty members affiliated with the study and the primary researcher. This form (university template) was provided as a hard-copy to each respondent in Russia prior to the formal interviews, as well as through email.\(^{11}\)

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\(^{11}\) Refer to Appendix F for a copy of the formal template letter. Please note that the form was only required for the Russian participants of the study. As such, it is compiled in the Russian language. English-speaking participants in Canada were provided with formal study documents and ethical guidelines.
Institutional access was not directly restricted but proved difficult if the respondents did not have firm justification or interest for participating in the study to the degree that was required by the primary researcher. There was one instance of a member of FSIN (Federal Penitentiary and Corrections Service in Russia) that agreed to participate in the study, and requested various documents as proof of study legitimacy and authenticity. After several weeks of correspondence and providing all of the necessary formal information pertaining to the project (including an application for a security pass and organization of a round-table discussion), the individual abruptly refused further participation because of an issue with head management. The reasons for withdrawal were not entirely clear, but had to do with concerns regarding the use of information, especially outside of Russia’s jurisdiction. Notwithstanding these obstacles and a few isolated cases, gaining access to the remainder of the institutions went smoothly and without problems.\(^\text{12}\)

In terms of materials available for the study, the primary researcher possessed everything that was required to ensure the successful completion of such an extensive research project. To guarantee the best possible research-gathering methods, it was necessary to immerse oneself within each country’s environment. Months were spent planning and researching potential respondents, and deliberating with the thesis committee (main supervisor and readers) about the ideal structure of the interviews. Additionally, contacting individuals ahead of time to inquire about their willingness to participate and contribute to the research was mandatory.

\(^{12}\) Specifically, this refers to the Ministry of the Interior of the Russian Federation, Russian Academy of Advocacy, Institute of State and Law, The Centre for Legal and Judicial reforms, and The Centre for Work and Rehabilitation of Juveniles, etc.
After all of the details had been laid out, the primary researcher proceeded to schedule a one-week field trip to Moscow, Russia, where an extensive amount of research was conducted on the legal system of the country (as relating to youth justice issues), in addition to interaction with a group of scholars and legal professionals. The Canadian portion of the research was considerably easier to conduct and gather information because of the primary researcher’s personal familiarity with the location (i.e., the city of Toronto), as well as his strong professional command of the English language. It, therefore, proved more familiar in many respects—especially the language component and accessibility to the selected organizations.¹³

Language

The issue of language evidently comes up with respect to the work. The study is largely comparative and transnational in focus, and it is imperative to balance the various cultural barriers to ensure productivity. The primary researcher is fully proficient in both the English and Russian languages. Therefore, this has not posed a significant barrier to the overall research methods. Nonetheless, the Russian language is slightly more difficult for the primary researcher to grasp, but this was a minimal concern as the author of the study was able to fully and competently interact with the respondents.

The primary researcher’s listening abilities in the Russian language are more attune than the ability to communicate, so everything that was conveyed through the interviews was comprehended. In addition to the verbal dialogue between the author of

¹³ These organizations include: The Youth Justice Committee of Ontario, Toronto Youth Courts, Ontario Ministry of Community Safety and Correctional Services, Toronto Police, Toronto Community Foundation, etc.
the study and respondents, the primary researcher had a voice recorder to capture the entire conversation. Asking the respondents numerous questions, and to clarify certain points throughout the conversations contributed to strengthening the substance of the interviews. Similarly, it provided more pertinent information that has been directly incorporated into the analysis.

While the field trip to Moscow had a relatively high financial toll, it is believed to have been worthwhile because it provided practical insights into the country of examination. In addition, the field trip enabled a comprehension of the Russian justice system and legal institutions in greater depth. Likewise, it presented the opportunity to directly view the functioning of the system by attending court hearings, legal institutions, police headquarters, and academic establishments, among other points of interest. Such a trip was a pivotal aspect of the research, and provided a unique and in-depth perspective of legal administration in Russia. This cannot be understated in its importance, and the experience has been utilized within the understanding of the topic and surrounding issues.

**Survey/Questionnaire**

A survey was created with the assistance and close guidance of the primary researcher’s main supervisor, Dr. Nikolai Kovalev. His input and expertise on judicial administration and international and comparative systems have undoubtedly provided much support, organization and perspective to the survey. The final survey was distributed to a total of twenty-four respondents (twelve from Canada and twelve from Russia). An accurate understanding of the questions can be obtained by viewing
Appendix E: Youth Justice Survey. Likewise, you can view the comprehensive list of interview questions in Appendix C: Interview Guide.

The final survey was distributed to individuals in each of the countries to elicit their responses on youth justice issues. The survey is constructed in the form of a five-point Likert scale, which is a well-known and standard survey structure in the social sciences. Participants’ final responses (perspectives) were tabulated and incorporated into the main body of the paper by means of descriptive accounts. A comprehensive discussion of the perspectives and their significance are found in chapter five.

Respondents were initially contacted by phone and email, or through referral by the primary supervisor. After contact was established with the respondents, the surveys were distributed, along with descriptions of the study, purpose and intention, procedures of confidentiality, and ethical guidelines.\(^\text{14}\)

The reason the surveys were conducted in addition to the interviews was to support the quantitative component of the analysis. More specifically, each respondent of the study indicated their views toward the effectiveness of the legal system in place, sentencing procedures, attitudes on punitivity, and the outcomes of community reintegrative practices. The results of the survey were incorporated into the descriptive analysis throughout the thesis, as well as by means of statistical relevance within chapter five.

\(^{14}\) More specifically, each respondent of the study was provided with the following: recruitment letter, email request template, information/consent form, comprehensive list of interview questions, and a copy of the custom-made youth justice survey. In the case that the respondent(s) were more inclined to speak over the phone about the purposes and details/implications of the study, they were verbally provided with an introduction outlining the reasons for their participation and contributions to the research. They were also permitted to ask any questions they might have pertaining to the study and its scope, as well as how to contact the supervising faculty members of the criminology department. Ethical guidelines were reviewed at length with each respondent prior to initiating interviews and dialogue.
Interviews

The personal opinions and responses of respondents were gathered in the form of semi-structured interviews. The interviews ranged in length from 1-1.5 hours with each individual. The interviews were conducted in the respective languages, and in the case of Russia, each of the interviews were first transcribed into the Russian language and then translated into English for incorporation into the final document.

The primary researcher consistently made use of a voice-recording device (with the verbal and written permission of each respondent). The recording device captured the substance of the interviews to allow for further elaboration of significant information on the topic. All data gathered in the form of survey distribution and semi-structured interviews was supplemented with information from scholarly sources such as books, peer-reviewed journal articles, government websites, databases, and legal case-law.

This process enabled the gathering of the most relevant and up-to-date information, as well as providing the study with a unique perspective grounded in the comparative and international dynamics of the subject matter. With the use of the study methodology, it was possible to extensively address the outlined research questions. While many safeguards have been taken to avoid unnecessary complications and issues arising from the complex nature of the study, it is not possible to ensure that all aspects are absolutely free from concern.

One of the obvious and primary challenges of the study is the issue of obtaining reliable respondents and interviews. The Russian portion of the study was a considerable challenge in numerous ways. However, the researcher does have a familiar background with the Russian language and context, in addition to family and acquaintances living in
the country. In this sense, there was a measure of assistance and guidance during the field trip to the country.

Perhaps the greatest challenge of the study was the assimilation into the culture and society, in addition to the retrieval of information from respondents. As with any research concerning international and comparative analyses, a challenge is adopting the necessary cultural and linguistic skills to complete the research. Similarly, it requires the ability to work closely with colleagues and experts of the regions being studied (McAuley & Macdonald, 2007; Pridemore, 2002). When it comes to examining the intricacies of juvenile justice and delinquency within Russia, this is particularly true.

During the author’s fieldwork in Russia, the main difficulties were to accurately translate the information conveyed by legal professionals and inquire about the necessary points of interest. Other issues that precluded the gathering of information were the limited access to crime-related data on the part of the government and state-funded institutions. Similarly, the scrutiny of the types of research undertaken by various institutions across the country, and concerns about external funding and cooperation with international researchers also made research difficult. This has been ameliorated by arranging contact with the necessary organizations ahead of time, and explaining the nature and purpose of the research study.

By introducing the primary researcher to the participants, explaining the fundamental details and purpose of the study, and establishing credibility with the assistance of the committee (i.e., referrals, letterhead form, confirmation of study, and so on), access was gained into the required institutions without much difficulty. Some institutions that have been particularly useful for the purposes of the study included:
jurisdictional courts, police headquarters, detention centers, ministry and lawyer’s offices, and the legal departments of academic institutions.

Nonetheless, the experience in Moscow was a valuable opportunity to learn much about the system of justice and how it is structured and formulated (specifically pertaining to juvenile sentencing procedures and professional attitudes). The limitation of the trip was the restricted time frame (i.e., one week) in which to complete the Russian portion of the research. This was due to school schedules and the financial burden of such an international trip. A combination of these and other factors make progressive research work in Russia quite challenging. However, these concerns did not significantly impact the reliability and validity of the study conclusions.

Ethical review and approval is a necessary and required component of this type of research. The ethic forms pertaining to the study have been completed and submitted to the supervisory committee for review and approval prior to conducting interviews.\footnote{The supervisory committee consists of three faculty members from Wilfrid Laurier University; namely Dr. Nikolai Kovalev, Dr. Lauren Eisler, and Dr. Thomas Fleming. The thesis proposal has been successfully presented and approved in May 2012. An extensive review of the ethics documents pertaining to human subjects was completed and reviewed by each member of the committee, in addition to gaining approval from the Research and Ethics Board at the academic institution.} For the study, there were no significant ethical or safety concerns, nor were any issues experienced other than the ones discussed previously. In the study design, it has been made explicitly clear that respondents had the freedom of choice to continue or end the study at any time and at their discretion. Likewise, total confidentiality of responses was maintained, and any other personal information that may have been obtained was kept secure.
For the purpose of maintaining a high level of confidentiality and anonymity, study participants are referred in the final report by code names and, therefore, have not had their identities directly exposed in any way. In the instance that something might have gone wrong with the study or interactions with respondents, a professional attitude was maintained to explain to respondents that they were not in any way obligated or forced to maintain participation in the study.

For the duration of the project, the primary researcher remained in close and constant consultation with the thesis supervisor as well as the committee members to discuss any issues that may have arisen, formulate solutions, and deal with other important considerations. Ethically speaking, the study has not posed much in the way of risk, danger, or any type of unnecessary complications for the respondents or any of those affiliated with the work.

As with any study, the current analysis has encountered limitations such as: issues of bias, selective sampling, and so on. Formulating the correct questions, approach, and methodology are, therefore, of primary significance to any study implementation, especially in one where there is a limited amount of time to complete the interviews (Dantzker & Hunter, 2012).

The process of reflexivity also impacts the research data collection. There are numerous methods that aim at eliminating researchers’ impact on the research process. Through the continuous interaction with those being researched (i.e., participants), the researcher inevitably influences the processes, structure, and outcomes of the study—by

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16 In the present study, code names for respondents incorporate the country corresponding to the individual, as well as a numerical value that indicates which specific respondent is being referred to (e.g., CAN1 or RUS3).

17 For a comprehensive explanation of all measures taken to maintain professional ethical standards and safeguards within the study, refer to Appendix B, Informed Consent Statement.
means of personal or professional characteristics, and utilizing certain theories and methods available at a given time and place (Ellis & Bochner, 2000). This is particularly the case for qualitative research because, generally, qualitative methods are less structured than those of a quantitative nature. Within qualitative studies, for the most part, researchers interact closely with participants and, therefore, bring a certain degree of subjectivity to the research processes (Warren & Karner, 2010). This poses a dilemma of arriving at valid and reliable information, while also ensuring the collected data is not simplistic, trivial, or reflective of cultural prejudices (Dantzker & Hunter, 2012).

The process of reflexivity is specifically encountered within the current study when collecting the Russian data because the researcher immersed himself in a new culture and environment that has its own built-in assumptions and ideologies (Ellis & Bochner, 2000). Therefore, by closely interacting with people from outside a cultural perspective, the researcher inevitably impacts the validity and reliability of the data intended to address the aims of the study (Ellis & Bochner, 2000). It is believed this impact was not significant to skew the present study results and conclusions.

Apart from the potential limitations that have presented themselves within the study, the strengths have considerably outweighed the concerns. The study has conveyed both new and pertinent information on international youth justice and sentencing procedures, and provided a unique comparative perspective for justice formulations (i.e., from the vantage point of legal professionals). This information is discussed at length within the forthcoming chapters.
There is a vast and constantly expanding literature and rhetoric on youth justice issues within Canada, Russia, the United States, England, and many other regions of the world. This signifies the profound global interest with *youth*\(^{18}\) in the legal systems, as well as their place within the fabric of society. These are certainly important considerations in-and-of themselves, but the growing preoccupation with youth justice can also be interpreted as a warning beacon that our Canadian system of justice (as well as other systems of regulation) are experiencing loopholes and inconsistencies that are in need of being addressed and properly articulated.

The following questions and concerns have become mainstream in discussing youth justice systems globally: How can we work to ensure an efficient system of justice at the local, regional, and national levels? How can youth problem behaviour and delinquency be effectively regulated or reduced (i.e., reduction strategies)? What is the role of the general public and members of the professional sphere in addressing youth justice and procedural issues confronting the system? In what ways can we work to standardize and apply uniform definitions to youth offending and assessment of their personal needs? There are obviously many more questions that can and should be formulated on the topic of youth justice in Canada, Russia, and internationally. However, these are the principal points of discussion explored within the thesis.

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\(^{18}\) It should be noted that throughout this paper, the terms “Youth”, “Juveniles”, “Children”, “Young People”, and “Minors” are used interchangeably. Similarly the terms “juvenile delinquency” and “youth crime” are also used to express the same meaning.
Opportunities for Comparative Research

Learning from the unique cultural and social aspects of specific regions provides a valuable source of comparative information, helping piece together significant knowledge on the topic of youth justice. In comparison to the Canadian context, which possesses a wealth of data on youth justice, Russia has relatively limited available information, which presents obvious concerns for an exploration of the issues within the country.

Nonetheless, as Pridemore (2002) brings to our attention, present conditions in Russia do create a “unique laboratory for the study of the effects of social change on delinquency and its institutional antecedents, and the relative openness within the country also provides the chance to test the generalizability of Western theories of delinquency in an industrialized nation with a distinctly non-Western history and culture” (p. 208-209). The validity of this statement is reinforced by the fact that many of the issues arising out of the Russian context are indeed practical areas of research for an understanding of juvenile justice in other nations.

Many researchers and legal professionals studying juvenile justice (particularly within the international arena) believe that an ongoing dialogue between various countries is absolutely necessary. This would allow policy developments and programs to be expanded and subsequently improved to meet both present and future needs of children (Haines & O’Mahony, 2006; Winterdyk, 2002). This requires additional international transparency amongst nations to promote a unified understanding and strengthening of criminal justice systems. Such dialogue would provide the necessary focus on the place and role of juveniles within the administration of justice. Some countries are ahead of others in meeting these goals but there needs to be an “even
playing ground” for an exploration of these concerns, particularly with respect to legal efforts focusing on juvenile justice. This is a considerable challenge faced by legal systems of countries around the globe.

The task, then, is to progress beyond description of social problems and patterns of juvenile delinquency to create research projects that actively test the causes and correlations of these trends (Junger-Tas & Decker, 2008; Pridemore, 2002). Fostering dialogue among legal professionals would similarly prove beneficial for an exploration of criminal justice issues. It would also strengthen the development of policy initiatives specifically targeted at juvenile justice, which are inconsistent and fragmented in many places.

Let us begin with an exploration of the Canadian context, in which the evolution of youth justice will be formulated, along with an overview of the function of youth courts and processes within the system. This information will build a foundation for the consideration of professional perspectives toward youth justice that will be analyzed and reinforced with interview data within chapter five. The aim of chapter three is to provide a comprehensive outlook of youth justice within Canada.
Chapter 3: The Evolution of Canadian Youth Justice

Introduction: The Youth Justice Context in Canada

There have been profound changes in Canadian juvenile justice during the past century, most recently when the Youth Criminal Justice Act (YCJA) came into force in April 2003 (Bala & Roberts, 2006). One of the main rationales for enacting the statute was to lessen the burden on the legal system and, by extension, to reduce Canada’s high rates of custody for adolescent offenders (Barnhorst, 2004). The aim is based on the belief that most juveniles in conflict with the law are effectively dealt with through community-based responses rather than punitive sentencing methods (incarceration). Emphasis is also placed on providing appropriate legal rights to youth that come into contact with the system, such as access to counsel and trial without delay (Bala & Roberts, 2006; Reichel & Albanese, 2013).

This chapter discusses the recent evolution of Canada’s juvenile justice system, with a specific focus on the most recent statutes governing youth rights and principles—the Young Offender’s Act (1984) and the Youth Criminal Justice Act (2003) (hereafter referred to as the YOA and YCJA, respectively). These provisions have had significant effects on juvenile policy concerns during the past several decades and continue shaping the scheme of developments (Doob & Sprott, 2004; Junger-Tas, 2002). It is, therefore, important to consider the enactment of these statutes, and the impact the new law is having on juvenile issues.

19 Under the former Young Offenders Act 1984 (YOA), Canada had the highest youth incarceration rate in the world (Carrington & Schulenberg, 2004; Doob & Sprott, 2004).
The topic of juvenile justice in Canada has received much attention in public, community, and legislative spheres. Nonetheless, youth crime has been characterized by much ambivalence and animosity throughout its history (Barnhorst, 2004; Carrington & Schulenberg, 2004). Within this chapter, a historical background to juvenile justice is presented to underscore significant legislative developments in the law, and to demonstrate that the issue is widely multifaceted. A brief discussion of youth court processes and the significance of extrajudicial measures follow next. Then, a comparison is made of the most recent statutes governing juvenile delinquency in Canada. The important influences impacting legislation formation are explored, including some significant perspectives from legal professionals within Canada. This is a particularly useful framework for analyzing the legal and social evolution of juvenile justice in the country.

**Historical Perspective on Juvenile Justice**

Throughout the twentieth-century, the perpetual social turbulence and animosity within Canada has created the sufficient conditions for delinquency to prosper (Doob & Sprott, 1998; Lilly et al., 2011; Roberts, 2003). Historically, Canada has had difficulties establishing concrete barriers between juvenile delinquents and adult criminals (Department of Justice Canada, 2013). Therefore, to fully comprehend the legal processes surrounding youth justice in Canada, it is imperative to analyze the historical context that envelops juvenile justice procedures within the nation. Providing a historical account highlights some of the key factors that contribute to the legal philosophies surrounding juvenile justice, as well as how they apply within Canada.
Canada, being a relatively young country, adopted much of its political orientation from European heritage. However, prior to Confederation in 1867, many juvenile offenders were regularly punished in the same manner as adults (Department of Justice, 2013; Harris, Weagant, David & Weinper, 2004). At the time, there was no legislation that defined juvenile delinquents from adult criminals. Therefore, some youth were subject to overtly harsh punishments for crimes such as minor theft. This included various forms of juvenile neglect and abuse and disproportionate sentencing for first-time offenders. With increased pressure on the government to implement rehabilitation principles, *The Act respecting Arrest, Trial and Imprisonment of Youthful Offenders* was passed on July 23, 1894 (The Youthful Offenders Act) (Department of Justice, 2013; Lilly et al., 2011).

This legislation sought to dissolve the connection between youthful deviants and adult offenders. The segregation of juveniles and adults allowed the government to intervene when families were not adequately raising their children (Department of Justice, 2013; Lilly et al., 2011). Evidently, this raised issues as to the benevolent attitude the government fostered towards delinquent youth (Harris et al., 2004; Hendrick, 2006). Therefore, the Youthful Offenders Act served as an impetus for the development of the children’s court, and more importantly, paved the way for the subsequent Juvenile Delinquents Act, passed in 1908 (Corrado, Grondsdahl, MacAlister & Cohen, 2010; Doob & Sprott, 2004).

The underlying philosophy of the Juvenile Delinquents Act (JDA) is strongly embodied in the ideological practices of *parens patriae* (Lilly et al., 2011; Reichel, 2008). *Parens patriae* is a doctrine derived from the medieval era that granted authority to the
English Crown to intervene in family matters if the parents were deemed unfit to care for
the welfare of their child (Lilly et al., 2011; Reichel, 2008). Therefore, the state could
essentially act as a parent for the child. Similar to the Youthful Offenders Act, the JDA
evoked criticism as to whether or not the principals of parens patriae infringed upon
basic constitutional rights (Bell, 2012; Lilly et al., 2011). From this point onwards, the
Canadian juvenile system and its programs remained under scrutiny by the general public
over disillusionment concerning the rehabilitative philosophy (Bell, 2012). Furthermore,
society urged the government to establish greater accountability for juvenile offenders by
introducing stricter penalties and regulations surround youth justice matters.

The 1960s and 1970s were periods marked by high unemployment rates, detached
familial ties, and general ambiguity regarding social continuity within Canada (Bala &
Roberts, 2006). Essentially, the state has been claiming it has been in crisis since the
1970s, with the law and order approach of governments in full swing during the 1980s.
As a result, juvenile delinquency was on the rise, causing turbulence and unrest within
society (Estrada, 2001). The YOA of 1984 sought to modify the youth justice model,
incorporating both retributive principles and due process of law (Carrington et al., 2004;

However, in the early 1990s, a series of sensational violent crimes involving
juveniles occurred, fuelling the public to call for a new reform. This legislative reform
sought tougher sentencing and greater accountability on the part of juvenile offenders.
The renewal of the youth justice system eventually led to the development of the current
legislation known as the Youth Criminal Justice Act (YCJA) (Bell, 2012; Estrada, 2001).
The introduction of the YCJA was an attempt to revitalize the problematic juvenile justice system in Canada. (Bala et al., 2009). As public faith was diminishing, the YCJA was implemented in the hopes of restoring reliance of public support in the justice system, and more importantly, to address the shortcomings of the previous YOA. The aim was to establish a more balanced and effective youth justice system by highlighting the need for drastic decreases in custodial sentencing for youth, and the increased focus on rehabilitative principles of justice (i.e., less involvement of the formal court system by employing extrajudicial measures and sanctions). (Bell, 2012; Doob & Sprott, 2006). The YCJA exemplifies characteristics of the JDA as well as the YOA, with modifications to better coincide with growing public demand and the welfare of juveniles (Bala et al., 2009; Klein, 2001).

The Canadian government has devoted much time and resources for ensuring the success of the YCJA (Carrington & Schulenberg, 2004). They have taken the initiative and structured the youth justice system to encourage cooperation and integration, working with different levels of youth and government, with the goal that the legislative changes will decrease the amount of youth crime within Canada (Eisler & Schissel, 2008). As previously mentioned, for the purposes of this chapter, the focal point will be the comparative analysis between the YOA and YCJA. Such a comparison will allow for a much better understanding of the evolution and legal development of the primary statute that governs juvenile justice within Canadian society. Additionally, it will provide insights into the advantages and disadvantages of the legal frameworks. Such an analysis is particularly relevant for the comparative comprehension of the Russian context considering that Russia does not have an established juvenile justice system. Additionally,
Russia’s inclination to adopt welfare elements of youth justice as exemplified by the Canada in recent years is another important aspect of examination.

Before proceeding into an analysis of the legislative changes within Canada, an explanation of youth court and extrajudicial processes will be made.

**Youth Court and Extrajudicial Measures**

The Youth Court system in Canada has consistently emphasized that young people should be treated differently from adults, with the goal of ensuring that the rights and representation of youths be held to the highest standards. Criminal justice scholars have consistently pointed out the significant regional variations of the frequency to which youth courts and custody are used across the provinces. Nevertheless, custodial sentencing for youth has witnessed substantial declines under the YCJA (Doob & Sprott, 2004; Winterdyk, 2002). This is certainly encouraging, and permits additional focus on the role and function of youth courts for addressing the various needs of juveniles.

Prior to the introduction of the YCJA, there were substantial problems with the overuse of youth courts, as well as the imprisonment of youth. These issues were common during the implementation of the YOA (predominantly during 1990’s), and reflected the manner by which the Act was administered to the Canadian provinces (Bell, 2012). Doob and Sprott (2006) portray these issues with the following passage:

Too many minor cases were being brought into the youth justice system and too many youths were going into custody. Part of the preamble in the new youth justice law (The Youth Criminal Justice Act) makes these concerns explicit. It formulates that ‘Whereas Canadian society should have a youth justice system
that reserves its most serious intervention for the most serious crimes and reduces the over-reliance on incarceration for non-violent young persons…’ (Doob & Sprott, 2006: 229).

By addressing the shortcomings associated with the YOA, it was possible to work toward improving the legal system, and to place more focus upon the welfare and needs of juveniles. This has been postulated in a study by Bala, Carrington and Roberts (2009) on their comprehensive evaluation of the YCJA. They state:

The Youth Criminal Justice Act (2003) was enacted with the intent of decreasing the use of courts and restricting the use of custody for adolescent offenders, while improving the effectiveness of the responses to serious violent youth offenders. The Youth Court also emphasized that youth are to be treated differently from adults and ruled unconstitutional the provisions of the YCJA that created a presumption of adult sentencing for the most serious offences by young offenders (Bala et al., 2009: 132).

The YCJA has been credited with significantly reducing the rates of court use and custody for juveniles, without leading to increases of recorded youth crime (Bell, 2012; Benekos & Merlo, 2008). Here’s what a Canadian respondent (CAN10) had to say about the significant role of the YCJA:

The Youth Criminal Justice Act has a big effect on how both sentencing and trial rights function in the city [Toronto], but also the existence of specialized judges, crown attorneys and defence lawyers are relevant, specifically relating to the trial rights component.

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20 Refer to Appendix H for a comprehensive list of study respondents.
There are a few other aspects of Canadian youth justice courts worth mentioning here. Firstly, trials in youth court are almost entirely resolved by a single judge without a jury. In the majority of provinces, youth court judges also process adult criminal cases or are responsible for family law cases (i.e., not exclusively focused on juveniles) (Carrington & Schulenberg, 2004; Dammer & Albanese, 2011). The exception to this rule would be the province of Quebec, where the court utilizes specialist judges who focus solely on children and adolescents. These judges deal specifically with youth justice and child welfare cases (Bala & Roberts, 2006). Consider the perspective of a Canadian lawyer (CAN7)\textsuperscript{21} specializing in youth justice in Toronto. This particular individual speaks about the value of youth courts and proceedings:

In the city of Toronto, there are three youth courts. One is in Downtown, one is in Scarborough, and one is in the West end. There is also one highly specialized youth court, in addition to other types of specialized facilities. The availability of such services is a very important piece. I think it has a big effect. Having a good lawyer who knows the youth criminal justice system well will almost always result in more effective sentencing and less punitive sentencing. In the city of Toronto, there is pretty good access to legal representation because of the youth criminal justice system, and because of the way that the youth courts manage that.

Another aspect of youth court is that the general public has the right of access to the proceedings, although a judge has the discretion to exclude certain members of the public from the court proceedings if convinced that their presence would be disruptive or negatively affect the youth in some way (Bala & Roberts, 2006; Greene, Sprott, Madon

\textsuperscript{21} Refer to Appendix H for a comprehensive list of study respondents.
& Jung, 2010). This is in accordance with several provisions of the YCJA that are designated to protect the privacy of juvenile offenders (Justice Laws, 2014; YCJA Section 110(1), 111(1)). The significant aspect is that these provisions reflect the principle of accountability of youth, with the intention of promoting their rehabilitation (Bell, 2012 Justice Laws, 2014).

Lastly, relating to what the media can report about youth court proceedings, there is generally a prohibition on the dissemination of information that can potentially identify a youth. Once again, there are specific provisions under the YCJA that restrict access to records and information about juveniles within the justice system (Justice Laws, 2014). The purpose of this is to prevent unnecessary use of the juvenile’s court record—for intentions of protecting the individual’s liberties and security, limiting stigmatization within society, and preventing disruptions of reintegrative efforts (Bell, 2012; Terrill, 2003).

The following is what another Canadian respondent (CAN2) outlined about the influence of the media on juvenile justice:

I think that the media does influence the public’s view of youth crime but in a skewed way. I think the public winds up with wild misperceptions and not a real sense of what youth crime is really about. I think there’s a bit of a moral panic around youth justice issues. It’s totally unwarranted.

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23 YCJA (S.C. 2002, C.1): Sections 110(1) and 111(1).
24 Refer to Appendix H for a comprehensive list of study respondents.
Indeed, the media has a significant impact on perpetuating negative information toward juveniles, including the way they portray trial proceedings. This impedes many aspects of juveniles’ lives and the implementation of anti-recidivatory methods. Such considerations highlight the value placed on protecting the needs and rights of young people in conflict with the law. The emphasis on reintegrating youth and acknowledging the welfare approach for their treatment arises numerous times in the discussion, particularly within the perspectives of legal professionals. This leads us to a brief discussion on the significance of extrajudicial measures for juveniles.

Within Canada, children who are behaving in an antisocial manner (including the commission of minor offences) can be handled by community organizations or police through a variety of pre-court orders or extrajudicial measures. The purpose of these orders is to divert young people away from the formal system, as well as to provide individuals with support to prevent their misbehaviour (Bala & Roberts, 2006; Barnhorst, 2004). There are a variety of specific contracts and behaviour orders (i.e., warnings, cautions and referrals) that are available at this stage, outlining the conditions to be met by the young person.25

Likewise, the type of extrajudicial measure to be applied depends on whether the person has committed a minor offence, and if it is the first or repeat offence. The young person in conflict with the law may also receive a reprimand, which is essentially a verbal warning provided by a police officer. According to the principles set out in the YCJA sections 4, 6(1), and 7, reprimands are given to young people who have admitted their guilt to a minor first offence. Rather than referring the juvenile directly to court, a

reprimand provides a formal warning, which if not heeded, will follow with a court
hearing (Bell, 2012; Reichel, 2008). 26

Several statements in the Declaration of Principle and specific provisions in the
YCJA encourage lawmakers and regulators (i.e., police and prosecutors) to resolve youth
cases without sending the juvenile to court. Rather, the act encourages the use of
extrajudicial measures and extrajudicial sanctions (Doob & Sprott, 2006). 27 These are
community-based warnings and programs that are associated with restorative justice
responses for youth. They may include referrals to community agencies or specific
cautions, but the overarching aim of these measures is for reducing the overall number of
youths being processed by the court system (particularly first-time offenders and
juveniles who have committed minor offences) (Haines & O’Mahony, 2006; Junger-Tas
& Decker, 2008). 28 In one of the Canadian interviews, a respondent (CAN11) 29 speaks
about the practical approaches for the implementation of extrajudicial measures:

We have a separate youth criminal justice system, so that’s a good place to start. I
think the existence of specialized court personnel (judges, crown attorneys, and
lawyers that regularly work and represent kids) is necessary. If I was going to take
this one step further, I would create some kind of really youth rights-based
coordination of programs and services. What I mean by that is some office or

27 “Extrajudicial measures (cautions, warnings, and referrals) are less formal responses to crime
than court proceedings that are used to deal with youth who have broken the law. They can be
used instead of formal charges and formal court proceedings. Extrajudicial sanctions are a more
formal type of extrajudicial measure and provide another way of dealing with a young person
who is alleged to have committed a more serious offence or who has a history of offending
behaviour. The Youth Criminal Justice Act states that extrajudicial sanctions may only be used if
a young person cannot be adequately dealt with by less formal extrajudicial measures” (Canadian
Legal Website, 2013: Section 1(1.1)(1.3) and Section 2(2.1)(2.2).
28 YCJA (S.C. 2002, C.1): Sections 4, 5 and 10
29 Refer to Appendix H for a comprehensive list of study respondents.
place that has a lot of information about the programs and services that are available out there. For instance, at the Downtown court, they have started doing a youth and mental health drug treatment court where they have tried to coordinate and get access to mental health records and other social services, and that is a very important piece.

Another respondent from Canada (CAN12) touches upon the value that legal professionals place on alternative measures for youth:

I know a judge and she’s amazing, and always when I have been in her court, the first thing she asks the youth is whether the program is working for them. It’s amazing that a judge is asking those questions. I was totally speechless when I heard that.

The significance of extrajudicial measures and social reintegration are reaffirmed consistently within the provisions of the YCJA (Sections 4, 5, 6, 7, and 10) and the function of youth courts within Canada. The following section delves into a more detailed examination of the juvenile legislative framework within Canada. This is necessary for an appreciation of the changes, as well as the strengths and weaknesses of the juvenile justice process in the country. Chapter four presents an analysis of Russia’s legal system, with emphasis on the social underpinnings of youth justice. This enables a thorough understanding of both the function and structure of the Canadian and Russian contexts. Chapter five proceeds to link the information from both contexts to provide a comparative formulation on the systems, utilizing the perspectives of legal professionals

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30 Refer to Appendix H for a comprehensive list of study respondents.
in necessary depth. For now, let’s consider the noteworthy legislative aspects of juvenile justice within Canada.

Legislative Changes in Juvenile Justice: Comparing the YOA and YCJA

I. The Young Offender’s Act (1984)

Speaking about the context of Canadian juvenile justice reforms, both the YOA and YCJA are significant statutes. The YOA was granted Royal Assent by the Parliament of Canada in 1984. Its main purpose was to regulate the criminal prosecution of Canadian youths, and it established the national age of criminal responsibility at twelve years (Bell, 2012; Doob & Sprott, 2006). It was, however, a highly controversial statute with mixed expectations (Roberts, 2003). Carrington and Schulenberg (2004) state that, “When the YOA was proclaimed, it was widely heralded as ushering in a ‘new era’, and even a ‘revolution’ in Canadian juvenile justice” (Carrington & Schulenberg, 2004: 219).

For instance, the YOA banned the publication of the identity of young criminals and restricted access to records in order to avoid labeling of juvenile offenders (Barnhorst, 2004; Department of Justice Canada, 2013); increased the age that delinquent youth charged with a felony offence were to be transferred to adult court to 14 years old; and provided judges with considerable power over youth correctional authorities to guard against abuses or arbitrary decisions (Bell, 2012; Carrington et al., 2004; Department of Justice, 2013).

Despite such praise, critics (mainly conservative politicians) have expressed concerns the law was “soft on crime”, and that under the YOA, the use of courts and custodial dispositions had risen substantially in Canada (Bala et al., 2009; Carrington &
Schulenberg, 2004). The YOA, however, had significant problems within the youth justice system. It has been stated that incarceration was being overused and sentencing decisions were often disproportionate to the offences. Bala and Anand (2004) provide an example of the troublesome consequences of the YOA in terms of increasing incarceration rates, as well as the rising frequency of custodial sentencing. In their publication, *The First Months Under the Youth Criminal Justice Act: A Survey and Analysis of Case Law*, the authors state the following:

A House of Commons report on youth crime and the youth justice system, released in 1997, one year prior to the introduction of the YCJA into Parliament, found that youths are given custodial sentences at a rate four times higher than that of adults, and that Canada’s youth incarceration rate was twice that of the United States and ten to fifteen times that of many European countries, Australia, and New Zealand (Bala & Anand, 2004: 252; House of Commons, 1997: 18).

One of the major criticisms of the YOA was its inherent lack of clarity and coherence, and failure to provide sufficient guidelines for legal decision makers—police, prosecutors, judges, and provincial governments (Barnhorst, 2004; Goldson, 2004). In other words, the problem was specifically related to The Declaration of Principle of the YOA, since it was the primary source guiding all decisions under the statute (Birkenmayer & Roberts, 1997; Roberts, 2003). The Act’s Declaration of Principle states that young persons should be held responsible for the consequences of their behaviour, and that most criminal procedure is the same for young persons as for adults. Similarly, sentencing for young persons must fit the crime as it does for adults (Justice Laws, YOA, 2014).
The absence of clear legislative direction was an important factor, although not the only factor, that contributed to the youth justice system’s problems (Roberts, 2003). There was similarly an absence of public support for the statute during the late-1980s to early-1990s due to increases in reported youth crime in Canada after the implementation of the YOA\(^{32}\) (Bell, 2012; Carrington & Schulenberg, 2004). These factors created an increased awareness of youth criminal activity as rampant and out of control, which warranted appropriate government attention and punitive response (Doob & Sprott, 1998).

Inevitably, sentencing juveniles punitively results in a high proportion of individuals being processed through the judicial system and dealt with in a stringent manner, even for relatively minor offences (i.e., leading to disproportionate sentencing: lengthy custodial terms, high prevalence of youth incarceration, and overuse of courts). This, of course, is counterintuitive because the young people are separated from society, and are simultaneously interacting with more serious offenders. As such, they are likely coming out of prison much worse than they had initially been (Sprott, 1996). Furthermore, by keeping juveniles within the constraints of the system for longer durations, it inevitably costs the government and society much more for maintenance, supervision, and the eventual release of individuals back into society (i.e., deterrence, rehabilitation and reintegration).

Therefore, in response to the inherent limitations of the YOA, the Canadian government reacted by repealing the Act in 2003. Significant amendments were made to the provisions of the YOA, leading to the birth and development of the YCJA (Barnhorst, 2004; Doob & Sprott, 2006).

\(^{32}\) The YOA was consequently amended in 1992/1996.
II. The Youth Criminal Justice Act (2003)

In 2002, the House of Commons passed the YCJA, replacing the YOA to address the issues within the youth justice system (Bala & Anand, 2004; Department of Justice Canada, 2013). The Act officially came into force in 2003, and the goal was to provide a more efficient approach for dealing with juvenile offenders (Bala et al., 2009; Bell, 2012). A concise summary of the statute provides the following description of its intended goals and aims:

The Youth Criminal Justice Act strives to remedy the perceived problems of the Young Offenders Act by, among other things, using the formal justice system more selectively, reducing the overreliance on incarceration and increasing reintegration of young people into the community following custody (Department of Justice Canada, 2013: 27).

In addition to creating a number of new sentencing options (i.e., extrajudicial measures and sanctions), under the YCJA, trials take place in a youth court. However, for certain offences and in certain extenuating circumstances, a juvenile may receive an adult sentence (usually reserved for serious violent and repeat offenders). Essentially, the YCJA acknowledges the greater need to process juveniles separately from adults; includes specific principles to guide the use of extrajudicial measures and the imposition of sentencing and custody; places limitations on the use of courts, and defines the importance of rehabilitation (Bala et al., 2009; Bell, 2012; Barnhorst, 2004). 33

As a part of Canada's strategy for the renewal of youth justice, the YCJA seeks to provide additional legislative direction for youth justice (Bala et al., 2009; Roberts, 2003).

33 Refer to Appendix I for a comparison of the major differences between The Youth Criminal Justice Act and The Young Offenders Act.
III. Canadian Justice in Perspective

It is evident that there are many factors and considerations to make when analyzing juvenile justice issues within Canada. Therefore, to fully comprehend the legal processes surrounding youth justice in Canada, it is imperative to first analyze the legislative standards that envelop juvenile justice procedures within the nation. Providing this legal dimension to the issue highlights some of the key factors that contribute to the philosophies surrounding juvenile justice (Junger-Tas, 2002; Roberts, 2004).

The Youth Criminal Justice Act is the latest statute governing juvenile justice in Canada. It has been eleven years since it was brought into effect, and while it does show promise in the implementation of extrajudicial practices and decreasing both custody and incarceration rates for juveniles, it remains to be seen in the long-term whether its policy implications will continue the trend (Bala & Anand, 2004; Carrington, 2013). The social and legal evolution of juvenile justice reform in Canada has certainly been a complex process. Over the years, different legal statutes have attempted to address juvenile delinquency, with varying levels of progress. Within this chapter, the historical development of youth justice legislation has been discussed, and a brief comparison of the most recent acts—the YOA and YCJA—was made to highlight the advancements and pitfalls of both, including their interrelation.

A continued effort is needed for addressing the issue of youth crime within society. Canadian juvenile justice reforms leading up to the YCJA have been steps toward achieving a fairer and more effective system, but are certainly not the last. Progress in juvenile justice is ongoing, and, at the end of the day, we are all part of the fabric of society and justice needs to be equally guaranteed to every individual (Barnhorst,
2004; Goldson & Muncie, 2006). It is, therefore, imperative to work on strengthening and properly recognizing the legal rights and guarantees of juveniles.

Let’s proceed to an overview of Russia’s system of justice, as relating to juveniles.

**Chapter 4: Transitional Russia: Perspectives on Juvenile Justice and Delinquency**

Presently, the juvenile justice system in Russia is undergoing a large transformation from the Soviet-era. Since the dissolution of the Soviet Union, the state and administration of justice in the country has been fragmented and uncertain (Dutkiewicz et al., 2009). Many researchers and scholars have expressed substantial concern, and forecasted a bleak short-term outlook for the state of juvenile justice in the country. This was attributed to the spikes in arrest rates and the increasing trend for administrative offenses throughout the decade of the 1990s (McAuley & Macdonald, 2007; Pridemore, 2002). To exacerbate the issues further, while recent indicators suggest the country’s economy is improving, there are numerous social factors that seem to be influencing the overall state of justice. Specifically, this is comprised of issues with family institution, education, lack of viable job opportunities, and affordable leisure activities for youth (Gilinsky, 2005; Pridemore, 2002).

On top of that, Russia’s drug use and abuse continues to flourish due to increased supply conditions that are conducive to growing demand. In all respects, the perennial problem with alcohol abuse in the country shows no sign of abating (Beck & Robertson, 2003; Pridemore, 2002). In fact, it is likely to become even worse in the coming years unless concrete changes are made in the public policy sphere and key indicators of
socialization (Dutkiewicz et al., 2009; McAuley & Macdonald, 2007). The negative outlooks discussed for Russia are compounded by some plausible steps forward. To illustrate the problematic components of Russia’s legal system and juvenile delinquency, Pridemore (2002) provides us with the following context:

These issues [drug use and abuse, economic instability, family, education, employment opportunities, programs for youth] suggest that rates of juvenile delinquency will remain high, and this will further overburden a justice system that has no true separate component dedicated to juveniles...The level of juvenile offending is much higher than that reflected in the recorded data, and they expect crime and delinquency rates to grow. The interrelated nature of social problems and juvenile delinquency makes the situation even more delicate (p. 207-208).

Without a doubt, these obstacles mold and shape the administration of justice in Russia, as well as the potential steps forward. These issues not only reflect the state of societal challenges within the country as a whole, but also the very real perspectives and themes of juvenile justice. Let us now evaluate the historical context of juvenile justice in Russia, followed by an overview of the challenges and patterns of juvenile delinquency.

**Historical Roots: Soviet Union to Present-Day Russia**

To begin with, it is important to understand that the state of Russia’s criminal justice system—especially as it relates to the treatment of juvenile offenders—is different presently as compared to the Soviet Period. As mentioned earlier, Russia has been in a fragmented state of judicial administration since its post-Soviet transformation (Finckenauer, 1990; McAuley & Macdonald, 2007). This has inevitably led to many
young people being disproportionately affected by negative socio-economic impacts. In the *Executive Summary of the Report on Juvenile Justice in Russia*, Dutkiewicz (2009) echoes some of the many challenges and concerns facing young people in the country:

The current generation of young people in Russia is living through an era of extraordinary changes and unprecedented uncertainty and the challenges of transition continue to place enormous stresses on families, the state, and society as a whole in their responsibilities to nurture and protect the rights of the nation’s children. Negative social trends among the population at large, such as increased unemployment, poverty, the spread of alcoholism and drug addiction, increased crime rates, and decreased institutional capacity to address these issues have significantly augmented the challenges faced by Russian youth. Despite the economic growth and an overall improving of social indicators...the crises of child poverty, neglect, institutionalization, and homelessness have been identified as some of the most serious problems facing Russia (p. 5-6).

Presently, Russia has no separate justice system dedicated to juveniles (Dutkiewicz et al., 2009; McAuley & Macdonald, 2007). The many changes occurring within the country—including social, economic, and legal—make it quite difficult to judge the effectiveness of the criminal justice system and where it is headed. As McAuley and Macdonald (2007) remind us in their comparative study of Russia’s youth crime, “The changes are clear; less clear is the future direction of Russian policy towards young offenders” (p. 2-3).
Essentially, Russia is a country where the process and administration of justice is largely shrouded by a mist of change, confusion, and uncertainty. Some might see this as a collection of social problems, and they would certainly be correct in labeling it as such. More importantly, Russia’s legal developments can also be interpreted as a playground for insight and opportunity, concerning issues of youth justice (McAuley & Macdonald, 2007; Winterdyk, 2002; World Bank, 1999). To understand the opportunities presented by Russia’s evolving system of justice and how it became what it is today, we must examine the twentieth-century. This sets the stage for ongoing changes and debates on matters concerning social progression.

Russia is one of the oldest states in the world, possessing a system of legislation that has experienced rapid and rather dramatic change in recent years (Winterdyk, 2002: 412). Indeed, while Russia has much to offer in terms of making sense of the legal system along with its complexities, it is interesting to take note that the earliest recordings of Russian law date back to approximately the tenth century A.D. The foundation and influence of the doctrines can be found in a text called the *Russkaya Pravda* which, among other things, describes the essence of Russian criminal law (Butler, 1992; Finckenauer, 1990; Winterdyk, 2002). Other major codes of law were formulated in 1497, 1550, 1649, the Military Rules of Peter I in 1716, and “The Order” of the Empress Catherine II the Great in 1767 (Winterdyk, 2002: 412). These legal doctrines paved the

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34 Particularly, this would refer to the starkly different policies and ideological grounds that took place under the Soviet Union, and the enormous transition to a completely different form of government after the break-up of the U.S.S.R. However, it can be suggested, as various scholars have also alluded to, that the classification of Russia’s problems, especially during it’s rapid state of transition, is not based on a single identifiable cause, but rather as a result of a collection of numerous factors, stimulated and fueled by a movement to a new socio-economic form of state. Juvenile justice, by extension, is therefore an issue that is implicated with a variety of complex and often ambiguous components (Estrada, 2001; Pridemore, 2002; Reichel & Albanese, 2013).
way for the interpretation of the rule of law as Russia gradually underwent mass social, political, and economic changes.

Contemporary changes in juvenile justice within Russia commence largely with the Industrial Revolution and the process of mass urbanization. It was primarily during the second half of the 1800s when this process was actively underway and large numbers of homeless waifs known as besprizornye came into the major urban areas, swelling major cities such as Moscow, Leningrad, and Kiev (McAuley & Macdonald, 2007; Zeldes, 1980). In fact, the population of these urban hubs increased by approximately 293 percent between 1857 and 1897. Comparably, “the numbers of juvenile defendants tried by circuit courts increased by 11 percent between 1911 and 1914, and by 75 percent between 1914 and 1916” (Juviler & Forschner, 1978: 18).

The influx of certain segments of the population evidently swept into the crime scene of the country, and had noticeable effects on rates of juvenile crime as a whole—with estimates of an 80 percent increase during the 1960s (Juviler & Forschner, 1978; Williams & Rodeheaver, 2002). Interestingly enough, and quite inconveniently, there is no detailed national data on Soviet delinquents.35 However, estimates range from 5 to 15 percent of the total crime committed. These figures “take into consideration the fact that one-third to one-half of juvenile cases are either dropped or handed over to the Commission on Juvenile Affairs” (Juviler & Forschner, 1978:19). That is certainly worthy of much consideration—policy-wise, legally, and on the societal level. A discussion about the Commission on Juvenile Affairs will follow further in this chapter.

35 Simply, the data does not exist.
What types of crime were Soviet delinquents involved with? Well, as might be predictable of youth in general, the prevalence of juvenile status offences far outweighed serious forms of delinquency. This would encompass actions like petty hooliganism, thievery, running away from home and reform schools (Finckenauer, 1996; Juviiker & Forschner, 1978). When violence was committed, it was instigated by groups of individuals (75 percent of offending) rather than by one person alone (25 percent of offending) (Finckenauer, 1996).

We shall now consider some of the social factors and conditions contributing to delinquency within present-day Russia.

Social and Economic Problems in Transitional Russia

An overview of the Russian context—along with a brief historical recap, the nature of youth delinquency, and the judicial structure—would not be complete without discussing some essential socio-economic factors that have led to changes in official criminality among Russian youth. There are an abundance of social and economic factors associated with juvenile delinquency, which is precisely why it is necessary to isolate and explain some of the key contributors. While certain factors for juvenile delinquency might transcend national borders and are characteristic of youth elsewhere, Russia’s juvenile issues typically take on a different form because they are grounded in tremendous changes in the social and economic spheres of the nation as a whole (i.e., socio-legal developments) (Finckenauer, 1990; Terrill, 2003; Winterdyk, 2002). It is precisely these differences and similarities that are expanded upon within this thesis, utilizing the perspective of legal professionals.
Various scholars have proclaimed that the political and economic changes occurring in Russia over the past several decades have created disruptions in several key social institutions, which in turn have led to fluctuations in problem-behaviours among the youth population. The focal points of Russia’s juvenile problems lay in five major areas: the family, education system, leisure activities, job opportunities, and alcohol/drug use (Juviler & Forschner, 1978; McAuley & Macdonald, 2007; Pridemore, 2002). While each of these factors is a comprehensive study in its own right, this discussion is only meant to highlight the issues as they relate to juvenile justice in Russia. As such, only brief explanations are provided for each topic, and to point out relevant matters.

I. Family

The inherent problems of Russian youth are related to the difficulties faced by Russian families. The impacts of economic strain and uncertainty create conditions that make it difficult for families to remain healthy and intact (Pridemore, 2002; Williams & Rodeheaver, 2002). Further, in the last decade of the twentieth-century (1990-1996), overall marriage rates in Russia dropped 34 percent, while divorce rates rose by nearly 20 percent during that same time period (Goskomstat, 1997; Pridemore, 2002). Interestingly, overall rates of juvenile delinquency in the nation reached their peak levels in 1993 and 1994, and then declined late in the decade. There appears to be a strong indicator that

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36 This is in reference to Russia’s transitional state of governance, going back to the days of the Soviet Union, until its dissolution, and including the affairs of present-day Russia (Finckenauer, 1996; Pridemore, 2002).
37 Some information on each subtopic may have been omitted from this context due to a lack of space. It is, however, not the intention to disregard the importance of the information but rather to discuss only the most applicable points dealing with youth justice. For a more extensive analysis of these points, refer to the full list of references at the end of the document.
38 Interestingly, overall rates of juvenile delinquency in the nation reached their peak levels in 1993 and 1994, and then declined late in the decade. There appears to be a strong indicator that
The proportion of children born to single parents also increased drastically in 1996 (by 50 percent) and the numbers of orphans within the country rose, as did cases of child abuse and neglect (Pridemore, 2002; Winterdyk, 2002). Under the conditions of a shifting economy and the increase of single-parent households, followed by higher divorce and orphanage rates, the prevalence of antisocial behaviours was likely to increase. Pridemore (2002) cites a significant 1991 survey of Russian children who were or had previously lived in orphanages to reveal that:

They had lower self-esteem, possessed poorer household and friendship-making skills, were less involved in social activities, and were less sure of their value orientations than their counterparts who were living with or had grown up with their parents. These risk factors of both offending and victimization do not bode well (Pridemore, 2002: 190-191).

This indicates the enormous importance and influence of family structure and parenting on the lives of juveniles. It is not only correlated to official Russian statistics on youth delinquency, but can also provide clues into further offending behaviours later in life (i.e., adulthood). One of the Russian respondents (RUS9)\textsuperscript{39} emphasizes the significant role of the family for the development of young people:

The vast majority of people that commit crimes are children that did not receive enough love (attention, family, respect, care, and responsibility). Today, the parents do not have the opportunity to watch and monitor their kids all that much. The family has remained in second place within society.

\textsuperscript{39} Refer to Appendix H for a comprehensive list of study respondents.
Additionally, such knowledge helps to comprehend recidivism patterns, types of offences, and perhaps serves as a template for developing more effective youth-based programs.

Another Russian respondent (RUS4) elaborates on the importance of the family factors when dealing with juveniles. She maintains that:

A very serious factor that is of influence is the family and the sociological position surrounding it. These are extremely important factors. First and foremost, work needs to be done with the family because, after all, the individuals are the kids of the parents. Therefore, the family unit is an important mechanism for consideration.

The role of the family in the development of youth is well documented, but as we will learn in the next chapter (Chapter 5: A Comparative Analysis of Juvenile Justice within Canada and Russia), the view of legal professionals in both countries overwhelmingly point to this factor as among the most crucial for understanding youth justice and the structure of legal systems. It is, in many ways, fundamental for understanding the causes and effects of juvenile justice—from the public view, professional standpoint, and from a societal context more generally.

II. Economy

The economic situation in Russia has been severe and quite troubling, even before the collapse of the USSR (McAuley & Macdonald, 2007; Pridemore, 2002). This trend has inevitably affected the capacity of the educational system, resulted in fewer and lower paying jobs, and had negative impacts on institutions such as family, counseling, health, and other services (Pridemore, 2002). The uncertain economic situation in Russia over

Refer to Appendix H for a comprehensive list of study respondents.
the past several decades has been so devastating that it has been referred to as “Depression-level” economic problems by policy-makers, researchers, and sociologists (Pridemore, 2002; Triplett, 2000; World Bank, 1999).

In his thought-provoking paper on social problems and patterns of juvenile delinquency in transitional Russia, Pridemore discusses how the economic problems in Russia “have an immense impact on several elements of social control, social disorganization, and other risk factors that may be correlated with increased levels of crime and delinquency” (Pridemore, 2002: 189). The state of economy in any country is a clear predictor of the standard of living, available resources, quality of institutions, programs available to deal with problem-behaviours, and so on. In this way, numerous issues within a nation are related to the state of economic affairs. Certainly, the trajectory of juvenile justice falls within the interrelation between rising issues and the nature of the economy (Muncie, 2007; Walgrave, 2004). This is reflected by the following respondent’s (RUS4) view:

There are high unemployment rates, especially among young people. Lots of households are run by single parents, preliminary single mothers, and we know that those children are living in a lot of poverty. The situation didn’t happen overnight and isn’t going to be corrected overnight. I believe that the high crime rate mostly has to do with the economic situation, stemming from vast transitional forms of governance within the country.

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41 Refer to Appendix H for a comprehensive list of study respondents.
For Russia, one of the predominant issues is the wide variation of wealth (GDP) across the enormous region. According to a World Bank report in 1999, the per capita gross national product in Russia was less than $2,500 by the end of the 1990s (World Bank, 1999). Again, this figure is marked by much variation across the many regions in the country (Russian Federation, 2005; Pridemore, 2002; World Bank, 1999).

For instance, the vast majority of economic and joint ventures are located in the central urban hubs of the country—specifically, Moscow and St. Petersburg, where most of the resources are allocated (about 60 percent) (Dutkiewicz et al., 2009; Goskomstat, 1999). The remote regions (oblastii) located elsewhere are perhaps the hardest hit by the apparent economic turmoil and instability within Russia (Pridemore, 2002). The unfortunate circumstances in the country are effectively summarized with the following passage:

According to official Russian statistics (Goskomstat, 1999), nearly a quarter of the Russian population lives below the poverty line, and World Bank data have reported this figure to be over 30 percent. These problems of inequity, unemployment, and poverty are exacerbated in many regions because local governments lack basic resources, funding, and the experience required. Thus these, political and economic uncertainties and problems likely influenced several factors at the structural, community, household, and individual levels that are thought to be correlated with delinquent behaviour (Pridemore, 2002: 189-190).

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42 This information is based on official Russian government statistics for the period of the 1990s and into the twenty-first century (Goskomstat, 1999; Pridemore, 2002; World Bank, 1999). It illustrates that the difficult economic situation in Russia is felt at all levels of society, and has significant impacts on key life indicators (i.e., conducive to forms of delinquency as a means of recovering from lack of resources, adequate forms of income, and equal opportunities to pursue means of living).
In addition, there is a pervasive problem with various forms of corruption within the country (i.e., bribery, tax evasion, fixing elections) that only serve to aggravate the extent of the problem (Beck & Robertson, 2003; Dutkiewicz et al., 2009). Corruption is a very real and significant area of concern in Russia, but it is not the aim of this thesis to go into extensive detail on the matter. That is the focus of a specialized study, and a task that would likely require the writing of several books.

III. Alcohol and Drug Use

The last significant factor we will examine with relation to juvenile offending and problem behaviour is the influence of alcohol and drug use. Russia has had a problematic history with high levels of alcohol and drug abuse among the population (Pridemore, 2002; Winterdyk, 2002). Presumably, these already heightened rates of alcohol consumption increased with the alarming economic situation in the country during the 1990s. It is, therefore, reasonable to speculate that the rate of drug consumption correlates with economic and familial issues to influence the rate of youthful offending (Aleshenok et al., 1995; Finckenauer, 1996).

In his study of the social problems and patterns of juvenile delinquency in transitional Russia, William Pridemore (2002) examines how the socio-economic problems within Russia influence alcohol and drug abuse. He states that:

Russian culture and rigid Soviet control limited the demand and supply of illegal drugs in the past. However, the recent confluence in Russia of several factors has increased the presence of drugs in the country. Westernization and continuing social and economic difficulties have also helped fuel the demand for illegal
narcotics. This demand is matched by a supply that has increased because of the easing of border control, a rise in the number of travelers into and out of the country, and the inability of government agencies to combat the situation because of severe resource deficits (Pridemore, 2002: 195).

In fact, the study further reveals that a growing proportion of juvenile offences are committed while under the influence of alcohol or drugs, and that drinking issues within the family tend to lead to heightened levels of youth abuse. Similarly, a group of researchers investigating the dangers and negative effects of drug use and abuse in Russia have documented a substantial increase in mortality rates of youth during the summer months as a result of elevated levels of alcohol consumption during that period (Pridemore, 2002). Given the perennial problem with drug and alcohol abuse in Russian culture, negative consequences can be anticipated.

Various societal factors were compounded to fuel the widespread drug influence within Russia. What’s both interesting and troubling, however, is the way the justice system of the country monitors and controls drug offences. Consider the following passage by a Russian respondent (RUS8) who spent many years working with the Ministry of the Interior, and specializes in youth delinquency. He explains how the justice system views transgressions of criminal law regarding the use of drugs:

The personal use of drugs does not count as an offence or wrongdoing in the Russian justice system presently. Everything else is an offence including purchase and storage of drugs. However, 1-2 dosages for personal use is not considered suspicious, but large doses are an offence.

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43 Refer to Appendix H for a comprehensive list of study respondents.
This reflects the ambivalent nature of justice within Russia, and the need for standardizing the legal system, especially in connection with juveniles. The issue of drug use is interlinked with many aspects of juvenile delinquency in society, and unless something is accomplished in the way of addressing the serious predicament, Russia’s legal system will continue to experience hardships. First and foremost, those difficulties will be felt by youth. To stress this point, Pridemore (2002) states that:

Given the increased supply and stressful conditions that might serve to increase demand, it is also likely that drug use and abuse will continue to increase...These issues suggest that rates of juvenile delinquency will remain high, and this will further over- burden a justice system that has no true separate component dedicated to juveniles (p.207-208).

It is particularly interesting how various key factors interact so clearly amongst each other to influence juvenile justice issues within Russia. This is true of other nations as well, but the rapid level of transition and fragmentation that Russia has been experiencing over the past several decades is both remarkable and troublesome. For this reason, it becomes especially relevant to mention these socio-economic factors. They tell us much about the characteristics of youth offending, assist in identifying the strengths and weaknesses of the justice system, and resolving juvenile justice issues.

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A more detailed discussion on this point will follow in Chapter Five.
Overview of Justice System

I. Model of Justice

There is considerable variation among countries regarding their response to and definition of what constitutes delinquency. Some countries, like those adhering to the common law tradition, place more emphasis on the treatment of youth, while others focus more on justice or administrative efficiency (Reichel & Albanese, 2005; Winterdyk, 2002). Further, it is important to mention that legal traditions and juvenile justice models undergo variations in change over time. If a certain approach did not work well in the past, it may become refined on the basis of the government in place, societal reforms, availability of resources, and demand on the part of citizens.

Each country, therefore, can be characterized as representing a unique model of justice, and no individual nation is limited to the implementation of one specific model. Even so, the models provide useful frameworks for describing and differentiating among nations’ treatment of juvenile offenders (Bell, 2012; Winterdyk, 2002). There are four main model typologies that are widely used by researchers: Welfare, Legalistic, Corporatist, and Participatory. However, these categories are intended mainly as conceptual tools that allow for a better understanding of the distinctions and similarities among countries. Many countries will likely (at one point or another) have an overlap of justice models and share certain aspects with them. That being said, these four typologies of justice models serve our present purposes of illustrating both the Canadian and Russian legal systems.

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45 For a useful comparison of these four justice models, refer to Table 2 in Appendix G.
Unlike Canada, which follows a modified justice model\(^{46}\), Russia functions on the basis of a justice model, while attempting to embrace welfare principles (Junger-Tas & Decker, 2008; Muncie & Goldson, 2007). The justice model is often regarded at the opposite end of the spectrum from the welfare model. It emphasizes due process and accountability, as well as promotes determinate sentences relative to the offences, respect for the legal rights of young people, and the establishment of more formal procedures (Dammer & Albanese, 2011; McAuley & Macdonald, 2007). There are critics of the justice model who point out that it deliberately ignores the causes of crime, particularly issues of social disadvantage. The main concern with the justice model is its lack of substantive justice and focus on punishment and due process (procedural justice). In certain cases, however, placing importance on punishment can lead to miscarriages of justice. In some ways, the justice model can be viewed as an inversion of welfare ideals. In recent years, the divisions between the welfare and justice models have become somewhat blurred, making it difficult to readily differentiate between the two (McAuley & Macdonald, 2007).

In Russia during the past few decades, there has been a movement to adopt welfare-oriented attitudes, including principles of rehabilitation and a less punitive stance toward punishment of juveniles. The Russian people believe that judges and legal advocates are often too strict in their dealings with youth. That is, they harbour a punitive attitude toward young people in conflict with the law (Burnham & Trochev, 2007; McAuley & Macdonald, 2007). While there are some indications that the Russian public still holds onto punitive attitudes from the Soviet era, there is a gradual shift in societal

\(^{46}\) This is a justice system that incorporates both punitive and rehabilitative strategies within a formal judicial framework. It places emphasis on the rights of juveniles, due process, and the right to counsel (Bala & Roberts, 2006; Junger-Tas & Decker, 2008).
understanding of what constitutes “effective justice”. In other words, Russia as a society (from professional and public standpoints) is transitioning to the adoption of welfare principles, while acknowledging that punitive responses are not necessarily the correct or progressive way of dealing with youth. This sentiment is reflected by the following passages from Russian legal professionals (RUS5 and RUS9, respectively)⁴⁷:

The widespread belief that the creation of a more penal system will solve Russia’s problems is absolutely ludicrous, simplistic, and an incorrect pathological understanding.

The public has an inclination toward softer and more lenient sentencing.

The Russian publics’ interpretations of the criminal justice system and its objectives are inconsistent in many ways, generating additional obscurity of juvenile justice issues, and the proper methods to address them. A Russian respondent (RUS3)⁴⁸ provides context on the inconsistencies of public opinion:

I think the public winds up with wild misperceptions and not a real sense of what youth crime is really about or like. I think there’s a bit of a moral panic around youth justice issues. It’s totally unwarranted.

Russia is still very much in the process of transition (i.e., economic, political, social, and cultural). Therefore, it is reasonable to speculate that segments of the population would have mixed feelings and priorities about the intended goals of justice. For an insightful look at Russian views on sentencing policy and public attitudes toward the criminal justice system, refer to tables 5 and 6 in Appendix G.

⁴⁷ Refer to Appendix H for a comprehensive list of study respondents.
⁴⁸ Refer to Appendix H for a comprehensive list of study respondents.
II. The Need For A Specialized Justice System

Currently, there is an absence of a separate system dedicated to juvenile justice in Russia. While there are different agencies with specialists in juvenile affairs, and there is a system of detention colonies for juvenile offenders, formal units dedicated to juvenile issues are rare, and there is no separate juvenile family court (Dutkiewicz et al., 2009; McAuley & Macdonald, 2007).

Russia has been aiming to implement a juvenile justice system since the year 2000, but such an initiative has been strongly opposed by conservative groups within the country, including the Russian Orthodox Church, because it was perceived to be a predominantly western practice, inherently responsible for damaging family values (RIA Novosti Russia, 2014). According to a 2013 poll conducted by VTsIOM\textsuperscript{49} on Russian views toward the establishment of a juvenile justice system, a large portion of the public oppose the introduction of a special system dedicated to juveniles in the country. They believe parents and the family should be mainly responsible for defending the rights of minors, as opposed to having it be a state function (RIA Novosti Russia, 2014). Over half (57 percent) of the respondents in the survey supported the idea of juvenile courts in Russia. Nevertheless, 71 percent of Russians indicated they were against children’s rights taking priority over those of their parents (McAuley & Macdonald, 2007; RIA Novosti Russia, 2014).

Once again, this demonstrates the ambivalent views of Russian society toward the criminal justice system and children’s rights. There is no clear consensus about the proper way to safeguard the welfare of youth, while at the same time adhering to the importance

\textsuperscript{49} VTsIOM: All-Russian Center for the Study of Public Opinion.
of family values (something that the Russian population holds in high regard). There is a growing awareness of youth needs and use for juvenile courts in Russia, but progress to realize these aims of youth justice have been slow. Three interview respondents (RUS5, RUS6 and RUS10) present similar views as those discussed in the poll results, highlighting the difficult progression of youth justice in Russia, and the establishment of a separate justice system for juveniles:

There are some very slow and weak progressions in terms of youth justice within the Russian context. Some people have gone so far as to suggest the establishment of a separate juvenile justice system, but for now these are just rumours. We have very big debates about the negativity associated with juvenile justice in the country. That’s why it’s been so difficult to establish a separate system that deals specifically with the sentencing and trial rights of juveniles. Society views juvenile justice as responsible for breaking apart the family, taking children away from parents, and contributing to loss of morality in the justice system. The main issue is that there is no integrated system of justice even while there are good intentions.

Russia has virtually no specialized training available in the area of juvenile justice (Burnham & Trochev, 2007; McAuley & Macdonald, 2007). In regions where there is potential to increase the presence of juvenile justice agencies and personnel, what is severely lacking is the availability of resources. A justice professional (RUS9) speaks about this troublesome trend:

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50 Refer to Appendix H for a comprehensive list of study respondents.
51 Refer to Appendix H for a comprehensive list of study respondents.
There is not a lack of resources in the country as a whole. The lack of resources is specifically for the system of juvenile justice. The money is there, but not for the implementation of juvenile issues.

Simply, the government does not provide the necessary funding to carry out practical and long-term programs, let alone ensuring that juvenile offenders are receiving the proper guidance and reintegrative aspects of their sentences (Aleshenok et al., 1995; Haines & O’Mahony, 2006; Pridemore, 2000).

III. The Commissions for Juvenile Affairs (CJA’s)

The age of criminal responsibility in Russia is 16, but the criminal code allows for the prosecution of adolescents as young as 14 for certain violent crimes (Pridemore, 2002; The Criminal Code of the Russian Federation, 1996). Consider the remarks of two respondents (RUS8 and RUS11) about the main sub-groups of juvenile offenders in Russia:

There are two groups of juvenile classification in the country. The first group is younger: 14 and 15 years. The second group is: 16 and 17 year-olds. 18 years of age is considered to be an adult. The younger group has what is called as “relative criminal responsibility”, meaning that they are not fully liable for their criminal actions. On the other hand, 16 and 17 year-olds obviously have criminal responsibility for all offences with the exception of criminal cases that require a specialist’s subjectivity.

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52 Refer to Appendix H for a comprehensive list of study respondents.
16-17 year-olds are by far the most dominant group of juvenile offenders. Societal danger is distinctly focused on the 16 and 17-year-olds, while 14-15 year-olds pose less threat and frequency of offending.

Juveniles in Russia who are involved in delinquent activity appear before the district court or Commissions on Juvenile Affairs. In order for a case to be handled by the district court, the youth must be 14 years of age or older, and be involved in a very serious crime (Benekos & Merlo, 2009). Youth who are under the age of 14, or older individuals apprehended for less serious crimes, are referred to the Commission of Juvenile Affairs (CJA). The CJA’s were first established in 1918, and have played an important role in Russian juvenile justice ever since (Finckenauer, 1996; Terrill, 2003). These commissions are comprised of community members appointed by local officials, and they typically serve for a period of two years.

The CJA’s include members from a variety of professions and occupations, including: teachers, healthcare personnel, factory workers, the police, local government and youth workers. In the words of Juviler and Forschner, “The Commissions for juvenile affairs are coordinating centers for all community organizations concerned with upbringing and the prevention of juvenile law-breaking” (1978: 22). The commissions were originally created for the purpose of serving in efforts of delinquency prevention and community treatment for juvenile offenders. In fact, the commissions’ central aim was to provide an oversight role and supervise certain institutions dealing with youthful offenders, ensuring the protection of the rights of children and youth, as well as assisting in the development of programs to prevent child neglect (Terrill, 2003).
From the time of their creation and continuing through to the early 1990s, CJA’s played a primary role in preventing and controlling juvenile delinquency in Russia (Maksudov, 2012). In many cases, they operated much like family courts, holding hearings and issuing dispositions. While they are still in use today, their overall influence has become dramatically limited (Benekos & Merlo, 2009; Terrill, 2003).

Nevertheless, the CJA network still remains the key body for providing adequate responses to offences committed by children under the age of discretion, as well as examining the underlying social conditions of delinquency. Currently, many CJA’s are embracing restorative justice practices and training their specialists in areas such as mediation, community circles and family conferences (Maksudov, 2012). In this way, they are working toward creating favourable conditions for addressing juvenile needs within their agencies. Support for restorative justice programs is gaining popularity across many Russian regions, including: Perm Region, Volgograd Region, Kazan, Novosibirsk, Rostov Region, Kirov Region, and Moscow (Williams & Rodeheaver, 2002). This will undeniably reflect the way juvenile justice is administered, and the types of treatment and alternative options available (Maksudov, 2012; Williams & Rodeheaver, 2002). The following interview respondent (RUS10) expands on the role of courts in the restorative justice movement within Russia:

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53 Refer to Appendix H for a comprehensive list of study respondents.
Court proceedings regarding minors are oriented at punishment and not at education. That is the reason why there were no rehabilitation organizations proper to the system of juvenile justice until recent times. But Russia has acceded to the UN Convention on the Rights of the Child, and accepted obligations to harmonize juvenile justice with international standards. This led to the creation of a social movement for the establishment of restorative juvenile justice, where courts take an important part.

It is comforting to witness the growing emphasis on restorative treatment options in Russia since it indicates a commitment to the needs of juveniles, or at least, a growing awareness of such needs. In a country that is in the midst of transition to new forms of governance—socially, politically, and economically—welcoming new techniques concerning juvenile justice should be considered progressive steps forward.

Matters of juvenile justice in Russia are certainly in need of many improvements, primarily in the area of economic assistance for providing effective rehabilitative care. According to Zalkind and Simon (2006), it is not so much an issue of the way young people are treated within the legal system, but the insufficiency of funding and resources provided for youth-based initiatives:

The issue is not a mistreatment or abuse but rather the lack of funds to provide youth with the care that is needed...Support for noncustodial care, where youth remain at home but still receive rehabilitation occurs because more expensive residential interventions are too costly (Zalkind & Simon (2006) cited in Benekos & Merlo, 2009: 312).
Understandably, it is difficult to assess the effectiveness of cases where youth receive some form of rehabilitative care in the privacy of their homes. What is needed is the proper allocation of funds and resources to provide juveniles with standardized treatment, including the active participation of various legal and social professionals who are knowledgeable about the individual circumstances of juveniles (Maksudov, 2012). Ensuring the necessary funds are distributed for the implementation of juvenile justice programs across the regions of Russia is also paramount. For the time being, this is a major consideration that has not been realized.

Evidently, the economic factor depends largely on governmental priorities and a clear understanding of juvenile justice issues and their implications. Once this becomes firmly fixed in the agenda of politically influential bodies, only then will real strides be made in the arena of Russian juvenile justice. The role of legal professionals is significant in its capacity to address youth needs and procedures within the criminal justice system. After all, professionals are specialists in their fields of work, and are in privileged positions to educate both the public and government about the circumstances of juvenile issues. This can translate into practical solutions for the long-term.

**Summary and Conclusions on Russia’s State of Justice**

Presently, the difficulties with Russian adolescents are in desperate need of attention and resources. However, “the overwhelming social, political, and economic difficulties of the country severely detract from the resources devoted to at-risk youth” (Pridemore, 2002: 188). Many of the ongoing issues within Russia have evidently painted a bleak short-term outlook for juvenile crime within the region. While violent crimes
among juveniles as a whole have been on a decline, arrest rates for administrative
offences grew steadily during the 1990s and onwards into the 2000s ⁵⁴ (Finckenauer,
1996; Pridemore, 2002).

This has sparked a drastic increase in custodial sentences among youth and an
influx in the numbers of juveniles interacting with the court system (Pridemore, 2002).
Undoubtedly, the increased contact with the criminal justice system for juveniles leads to
longer and harsher sentences, stigmatization within the system and outside of its confines,
as well as increased chances for recidivism. This trend is problematic in many ways,
especially considering the host of economic, political, social, and cultural factors that are
widespread in Russia (Burnham & Trochev, 2007; Finckenauer, 1996).

Recent indicators of social and economic trends in Russia suggest the country is
improving, but it will likely be many years before the transition is complete and the
country witnesses a true economic recovery (Pridemore, 2002; Winterdyk, 2002). In the
meantime, the various difficulties associated with the family, education, viable job
opportunities, and affordable leisure activities will continue impacting youth in profound
ways (McAuley & Macdonald, 2007).

Presently, Russia is in the “throes of a struggle that has yet to play itself out
completely” (Burnham & Trochev, 2007: 383). The irony of the matter is that Russia has
ratified the largest convention recognizing children’s rights (The United Nations
Convention on the Rights of the Child, 1990), yet has failed to implement the full
standards into practice. Among the multitude of concerns within the country and its

⁵⁴ The Canadian context has a similar pattern for offences against the administration of justice.
various regions, it is paramount to systematize and address the way juveniles are processed within the criminal justice system.

The aim is to determine effective means of addressing juvenile delinquency within Russia, as it relates to the existing social and economic issues. While this is understandably not a simple task, the suggestions for solutions need to be informed by extensive international and comparative research, policy developments, and knowledge of the legal and social dynamics of youth justice. As such, it will, at the very least, serve as a useful foundation through which our understandings and considerations of youth justice can be strengthened and more confidently pursued.

Russia has much to offer and learn in the coming years if there is any hope of witnessing a fundamental strengthening of the legal system and attitudes as they pertain to youth. It is essential for the country to establish a more specialized system and responses to juvenile justice dilemmas (Burnham & Trochev, 2007). This would certainly involve refining the structure of the criminal justice system to be more reflective of centralized efforts to combat crime and address legal issues.

Russia is a major force on the international scene, and both the future and progress of juvenile justice within the country will depend largely on how well it is able to address the multitude of legal, social, political, and economic affairs confronting the nation (Junger-Tas et al., 2010; McAuley & Macdonald, 2007). Adapting models of justice that would better coincide with efforts for addressing societal legal concerns would be of assistance.55 There is no guaranteed method for ensuring this happens

55 When we speak of advancing and improving youth justice issues in Russia and elsewhere, it obviously encompasses a host of factors including but not limited to: re-evaluating the justice models in place, focusing on the family unit, education, available leisure activities, governmental aid and resources within the respective regions, drug abuse and addictions, and the significance of
accordingly, but criminal justice research is a step in the right direction. It is essential that proper knowledge be used as a gateway for the allocation of resources tailored at the correct legal components—consisting of mediation and safeguarding the rights and due process of juvenile offenders, as well as devoting increased focus toward restorative approaches to justice. Monitoring the situation of juveniles during their sentencing and especially afterward is also a prominent concern that requires more coordination (Junger-Tas & Decker, 2008; Winterdyk, 2002).

Russia’s massive transition to a new form of government has been long and tedious, and it needs to be followed through to conclusion as smoothly as possible (Dutkiewicz et al., 2009; Pridemore, 2002). Doing so would ensure the country and its juvenile population is best prepared for the next several decades in a vastly global and increasingly politicized world (Singer, 2002; Pridemore, 2002). This will not come easily to any nation, least of all to Russia. Nevertheless, it can be possible with the proper understanding and focus on judicial matters.

crime figures and statistics. Focusing on matters of youth justice rightfully extends to a more comprehensive analysis of the entire criminal justice system and its structure/function. Nonetheless, this thesis aims to keep the focus on juveniles specifically, and the perspectives and influences of legal professionals on their circumstances.
Chapter 5: A Comparative Analysis of Juvenile Justice Within Canada and Russia

Delinquency and Juvenile Justice Around the World

Juvenile justice as a whole has experienced major transformations during the last several decades worldwide, particularly in Europe. There are many reasons for this, one of the most prominent being the evolution of human rights in the context of juvenile justice and welfare (Bala & Roberts, 2006; Winterdyk, 2002). Such developments have been articulated by the United Nations and Council of Europe standards over the past twenty years.

Considering the ongoing and ever-changing effects of globalization and the opening of borders since the fall of the Soviet Union in the early 1990s, virtually all of the Central and Eastern countries of Europe have reformed their criminal and juvenile laws (Bala & Roberts, 2006; Junger-Tas & Dunkel, 2009). Of course, the process of globalization and judicial reforms extend beyond strictly the countries of Europe. In fact, the entire world has been, to varying degrees, affected by the changes in legal developments and trends of shifting economies, brought about by social, economic, political and cultural forces. In this way, countries such as Canada and the United States have also witnessed many significant changes in the nature and structure of their respective legal systems (Bala et al., 2009; Singer, 2002). In this context, international standards have played an increasingly important role in defining justice from a juvenile perspective, among other developments in the systems as a whole.

The present chapter describes and evaluates the state and administration of juvenile justice as well as the rights of juveniles in the two primary countries of

These legal instruments are of particular importance for an understanding of comparative criminal justice systems and their function, specifically as pertaining to the area of juvenile justice. A careful analysis of the documents and conventions will enable us to formulate an accurate comprehension of the two distinct systems of justice, and the roles of professionals within each. Following this, we proceed to a formulation of interview data that the author of the study has retrieved and organized. This will be examined to inform the readers of the structure, as well as the similarities and differences of the legal systems in Canada and Russia. The data highlights notable trends on juvenile delinquency within both nations, the frequency and type of offending and, most notably, professional conceptions and interpretations of youth justice issues. Within this section, the interview data is presented in such a way that allows for a juxtaposition of the two systems of justice, through which the detailed responses of specific respondents are analyzed.
This chapter (along with the conclusion, Chapter 6) will provide an overview of the significance of the data and gaps to be filled in terms of the administration of justice within the regions of focus. Some policy implications of the research are also highlighted, as well as the significance of the comparative analysis of juvenile systems. Preliminary determinations on restorative justice are also presented to demonstrate the importance of integration for juveniles, and the necessary guarantees for rights and due process. This is, in the authors’ opinion, a key component in formulating an effective juvenile justice system that secures rights and offers options to victims and offenders alike. To begin, let’s speak about the significant international instruments that define juvenile justice in North America, Europe, and the world in general. This will lay the foundation for understanding the complexity of international juvenile justice.

**International Standards and Guidelines**

There are numerous legislative elements governing the state of affairs of justice systems around the world. Within the realm of juvenile justice, some conventions are more significant than others—in terms of implementation and regulation—while others tend to be broader in scope.

The European Convention on Human Rights (ECHR) as well as the Universal Declaration of Human Rights (UDHR) are quite broad in their principles, as they establish amendments that are aimed for securing the general rights of individuals (Goldson & Muncie, 2006; Reichel & Albanese, 2013). For instance, the ECHR sets out in Section 2(1), that everyone has the right to life. Article 6 of the same legislation outlines the right to a fair trial. These amendments are crucial for considerations of
juvenile rights and freedoms. They also describe the necessary conditions for meeting such standards.

In a similar way, the UDHR conveys these same rights and freedoms, except that it is a common standard of achievement for all peoples and all nations—essentially, a consideration for every organ of society (Reichel, 2008) Whereas the ECHR applies to the European context, the UDHR is universal, as the name suggests (Dammer & Albanese, 2011; Reichel, 2008). A discussion of these legal instruments can extend to much greater depths, and entire legal documents are devoted to their complex interpretation and applications. However, the central focus of this chapter is on juvenile justice issues.

A specialized component is, therefore, required to address the intricacies and ambiguities specifically found in the area of juvenile justice. Such a declaration is the United Nations Convention on the Rights of the Child, and it has become the most extensive and relevant human rights treaty for addressing the civil, political, economic, social, and cultural rights of children across the globe (Junger-Tas & Decker, 2008; Reichel, 2008). This is undeniably the most relevant international treaty for analyzing juvenile justice issues. We will return to an explanation of this convention momentarily.

There were several legislative developments initially put forth by the United Nations meant to address juvenile justice in the mid-1900s. These included the United Nations’ Declaration of the Rights of the Child in 1924 and the Declaration of the Rights of the Child in 1959 (Dammer & Albanese, 2011). Interestingly enough, these statutes made no reference to the specific treatment of juveniles. Why is it that prominent
legislation designed to address the needs and welfare of juveniles did not do them any justice or promote their interests?

The *Beijing Rules* (officially adopted in 1985) became the first international legal instrument to outline specific guidelines for the administration of juvenile justice, centered on children’s rights and development (Dammer & Albanese, 2011; Junger-Tas & Decker, 2008). It emphasized fair and human treatment of juveniles, and the importance of rehabilitation for young people.\(^{56}\) In fact, many provisions of the statute were later incorporated into the Convention on the Rights of the Child.

Another significant declaration by the United Nations to develop international standards pertaining to juvenile delinquency was the Riyadh Rules (Guidelines for the Prevention of Juvenile Delinquency) (Goldson & Muncie, 2006; Reichel & Albanese, 2013). These guidelines encourage countries to take a community-based approach (involving the family, school, community, media, and social policy) to prevent children from coming into conflict with the law. Under these assumptions, the legal system should only be used as a last resort in addressing juvenile delinquency (Dammer & Albanese, 2011).

The final set of guidelines to be discussed are the Rules for the Protection of Juveniles Deprived of their Liberty. This statute was brought into force in 1990, stating that the deprivation of liberty for children should be the last resort, for the shortest possible period of time, and restricted to exceptional cases (Dammer & Albanese, 2011).

\(^{56}\) For instance, The *Beijing Rules* section 5.1 stressed the well-being and fair treatment of juveniles. Section 6.1, 6.2, and 6.3 defined fair and humane juvenile justice administration. Section 11 emphasized diversionary measures for juvenile offenders (United Nations, 1985).
Collectively, these international agreements demonstrate a growing global consensus about responses toward juvenile delinquency.\textsuperscript{57}

**The UN Convention on the Rights of the Child (1990)**

In the scope of juvenile justice, it is logical to point out the underlying ambiguities of the UN Convention on the Rights of the Child (hereafter the CRC) before proceeding to a discussion of the Convention’s strengths. By outlining the issues, we are better able to account for the positive aspects of the statute and the applicability of legal obligations.

Perhaps the most significant matter about the CRC is the absence of centralized information available (Bala et al., 2002; Junger-Tas & Decker, 2008). While the CRC is of substantial importance for youth protection, and has been ratified by 193 nations, the Convention cannot be enforced by an International Tribunal (Junger-Tas, 2008; UNICEF, 2014). This means there is not a sufficient level of oversight of the various aspects under the Convention. There are no formal proceedings or sanctions on nations for disregarding elements of the Convention, and, as such, it can prove problematic for the welfare of children (Ame, 2011a; Junger-Tas & Dunkel, 2009).

The Convention guarantees children’s rights in accordance with the law.\textsuperscript{58} Under the Convention, the main guarantees are: (1) rights of provision (adequate nutrition, healthcare, education, economic welfare), (2) rights of protection (protection from abuse, neglect, violence, exploitation), and (3) rights of participation (a voice in making

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\textsuperscript{57} Refer to Table 1 in Appendix G for the key principles of international agreements related to juvenile justice.

\textsuperscript{58} For the purposes of this thesis, we will speak of “children’s rights” as those recognized by the CRC and its provisions.
decisions that affect the child) (Ame, 2011b: 272-273). In recognizing such important guarantees, the Convention places an obligation on state parties to provide and protect these rights. Of course, this is difficult to ensure on a global scale, considering the many differences in legal systems. This is effectively expressed in Ame’s work (2011) with the following excerpt:

In a country where implementing children’s rights in general remains a major challenge, the idea of according rights to children in conflict with the law can be a daunting task (Ame, 2011b: 271).

While, in this case, Ame is specifically referring to Ghana, the statement holds just as true for other nations of the world. The issue of adhering to children’s rights and guarantees is a challenge for any country, including Canada and Russia.

As indicated by the Committee on the Rights of the Child in several reports, both countries are not fully compliant with the principles outlined in the UN Convention on the Rights of the Child. Canada’s Youth Criminal Justice Act was considered compliant with international standards until substantial changes were introduced in 2012, with the passing of the Harper government’s Bill C-10 (Parliament of Canada, 2012). This was an omnibus crime bill that included more punitive sentencing for youth and made it easier to try them as adults. The new bill is excessively punitive for children and does not sufficiently focus on restorative principles of justice (Department of Justice, 2013).

As such, Canada’s YCJA no longer falls in accordance with the Convention for Children’s Rights and other international standards (United Nations, 2007). Russia has had some notable steps, specifically in relation to progress with criminal and procedural laws regarding minors. However, most of the Committee’s (CRC) recommendations from
the early-to-late 1990s were not properly implemented (United Nations, 2007). Some of the main issues addressed by the Committee’s report consisted of: the absence of specialized juvenile courts; insufficient mechanisms regarding violence towards children and other infringements of children’s rights; establishing a legal framework for civil initiatives in the area of social work and issues surrounding the family; in addition to addressing problems of children in custody (UNICEF, 2014).

As chapters three and four have outlined, there are loopholes and strengths of both the Canadian and Russian contexts. It is, therefore, of primary importance to focus on the weak-links of the systems and necessary legal provisions. This would establish gradual improvements for youth justice—not just on a temporary basis, but also for the long-term. This brings us to a point on the objectives and principles of the CRC.

Article 3 of the Convention outlines, with respect to the treatment of children in conflict with the law, that the best interests of the child will be the primary consideration in all actions concerning children (Muncie & Goldson, 2006; United Nations, 2007). We are aware that in many parts of the world, this is simply not the case, as exemplified by lengthy colonial or penal terms, custodial sentences, lack of rehabilitation and supervision efforts, and disregard for health and safety concerns, etc.

The establishment of children’s courts across different jurisdictions would aid in the successful implementation of the CRC principles into practice. The very reason why the creation of children’s courts was required, along with special considerations and rights, is because young people are not in a position to contemplate the complexities of legal proceedings to the same degree that adults are capable of (Dammer & Albanese, 2011; Goldson, 2000). In fact, while they do exhibit rational tendencies in the
commissions of certain acts, they have not developed to the full capacity of adulthood. This must be taken as a substantial factor when dealing with youth. Why else would we require an age of criminal responsibility or circumstantial factors for children in conflict with the law?59

The UN Committee on the Rights of the Child, which is in charge of monitoring the implementation of the CRC, issued in January 2007 General Comment No. 10 on Children’s Rights and Juvenile Justice (United Nations, 2007). The comment strikes at the heart of the issue. It states that:

If the key actors in juvenile justice (...) do not fully respect and protect these guarantees, how can they expect that, with such poor examples, the child will respect human rights and the freedoms of others? (United Nations, 2007: 6)

Undoubtedly, juvenile justice professionals are among the key actors referred to in the above passage who are in charge of oversight and administration of the respective legal systems. Therefore, they should be held to the highest account possible on issues concerning children’s rights.

Arguably, if youth rights and obligations are the gears embedded within the workings of the system, then the role of professionals would be characteristic of the engine of the mechanism—without which the entire intricate system cannot function. Legal professionals are the mechanism directing governmental legislations down to the juvenile body, and are responsible for observing how those legislative developments work or do not work (Hough & Roberts, 2004; Muncie, 2007). Similarly, the roles of professionals will reflect the necessary changes back up to the governing body to assure

59 See Table 3 in Appendix G for the age of criminal responsibility in selected countries.
that those legislations are formed in the best possible way, considering each country’s specific requirements (Muncie, 2007; Winterdyk, 2002). Without this cohesion between professionals and young people, developing the necessary legislation to address youth justice issues and needs would not be entirely possible.

Substantial changes in the way legal systems operate, and a comprehension of the place of professionals and youth within those systems can be achieved by analyzing professional perspectives on youth justice. This will facilitate a better understanding of their points of view on the existing systems within the corresponding countries, in addition to a formulation of how the systems should be improved. With this point in mind, the comparative interview data from Canada and Russia will now be presented.

The intent is to allow the words of the respondents to convey the issues as fully as possible. In addition to presenting the views of various legal professionals on the topic of youth justice and procedures, brief analyses will be included as transitions, and for purposes of outlining significant information. As the data is presented, keep in mind how respondents discuss the similarities of professional views on the workings of the systems. This section illuminates those valuable and often unspoken perspectives for an understanding of the complexity of justice systems worldwide.

The interview data is vast and, unfortunately, all points cannot be expressed within the limited space available. Throughout the interviews, respondents from both countries stressed the importance of three general categories for the comprehension of the structure and function of the judicial system: the implementation of social integration programs, specifics of social structure/culture, and characteristics of the justice systems. The Canadian data is presented first, followed by the Russian data. This allows for a
contrast between the two sets of responses, representing each context in appropriate detail.

Data Comparison

I. Social Integration

This point considers professionals understanding of reintegrative methods and their implementation, as well as factors relating to the prevention of crime.

For many professionals in Canada, a prominent theme is to provide youth with a variety of opportunities once they leave the correctional facility. Similarly, professionals stress the importance of integrating useful educational and life-skills programs while youth remain in contact with the justice system.\textsuperscript{60} This view is echoed by one of the Canadian interview respondents (CAN1)\textsuperscript{61} employed in the area of dispute resolution with the P.A.C.T Urban Peace Program in Toronto.\textsuperscript{62} Consider the following excerpts, in which the respondent speaks about the nature of the integration program for youth in Toronto, and the role of coaches to facilitate skills and goals:

\begin{quote}
We have two types of programs. One is the life skills program and the other is the coaching program. With the coaching program, which is the one that I manage, youth are referred to us by the court lawyers or sometimes they are referred by
\end{quote}

\textsuperscript{60} There are many capacities through which young people can be detainted or the type of facility they are being held in. Interestingly enough, professionals from both Canada and Russia praised the importance of social integration regardless of the situation, suggesting that they placed high value on such initiatives. However, issues of cost, resources, and efficiency all played roles in determining whether such programs would be possible to implement within the respective regions.\textsuperscript{61} Refer to Appendix H for a comprehensive list of study respondents.

\textsuperscript{62} This is a combination of an extrajudicial measures and sanction program, where efforts are made to handle youth crime outside of the formal criminal justice system. P.A.C.T. stands for: participation, acknowledgement, commitment, and transformation. The program takes as its notion that rates of youth crime and court costs can be drastically reduced given that first-time offenders are made accountable to the community and victims instead of the criminal justice system (Daly, 2014).
themselves...and we assess the youth in order to determine whether they can be in our program (i.e., do they fit the criteria?), and if they do, then we accept them and find a coach. The coach will work with them for the length of a year doing coaching—establishing and maximizing goals, working on values, and trying to support the youth who are in conflict with the law.

The coaches in our program are coaching the client towards moving to a different level...for what they (youth) want to achieve—to set goals, to finish school, and get a job. It’s from a variety of different perspectives. They’re not at the office doing research about crime and so on (trends, etc.).

The respondent continues by pointing out that:

We are not on the streets recruiting people. What we deal with are kids that have been in the courts more than once, that have been in detention and...you know...they are the more difficult ones. And kids that don’t have another alternative or another chance to discover themselves other than committing offences. We wish we could receive more youths but we can’t because we don’t receive all of the referrals that we could.

Such is an example of a unique youth program operating in Canada’s largest city. An initiative like this would clearly inspire reintegrative practices and develop more awareness of youth needs. There are also many benefits for maintaining coach-youth relationships. The same respondent outlined her experiences of working with and being a guide for youth in need:

It’s a very unique program because we’re sending coaches to people who don’t have the opportunity to have those kinds of experiences. The benefit of coaching
is that it’s not really for the benefit of the coach or the probation officer. It’s what matters most for the client (youth).

It’s such an amazing experience to have somebody just for the youths, even if it’s difficult for them to understand how the process works and how to assess it in the beginning. When the youth get it and see the benefits, it’s absolutely amazing.

What’s especially interesting to note here is the professional’s emphasis on being a support model for juveniles, and helping them accomplish tasks, while overcoming life barriers. Throughout the study, the majority of Canadian survey respondents (83 percent) held strong support for the application of extrajudicial programs. These initiatives offer an invaluable support system for young people. How might social integration differ within Russia? Let’s consider the perspectives of Russian respondents to develop this further.

A particularly exemplary case of the implementation of reintegrative social practices for at-risk youth is discussed by a Russian respondent (RUS4) \(^{63}\) employed with The Centre for Work and Rehabilitation of Juveniles. The Centre focuses on law-breaking and conditions leading to problem behaviours among young people. This is what she had to say about the structure and operation of the organization:

For now, it is only a regional centre that works with youth in criminal situations. The Centre operates like a mediation facility, where we attempt to reconcile and rehabilitate individuals from both parties (i.e., offender and victim). Both sides must want to be involved in this process, and the juvenile must want to meet with the victim and discuss and reconcile the situation. If both groups can meet and, in

\(^{63}\) Refer to Appendix H for a comprehensive list of study respondents.
a way, smooth things out between each other, then a lot of the important things can be dealt with early on before proceeding to a court hearing. In fact, if they can do this effectively, the entire situation may not even need to be taken to a formal court hearing. This is certainly beneficial for the offending individual’s future.

The respondent proceeds to a discussion of the logic of reconciliation procedures, and the importance of active participation for meeting the needs of both parties.\textsuperscript{64}

The logic is that if mediation is attempted, then the offender feels more comfortable and proactive in seeking reconciliation from the other party, and will address his/her issues with much more clarity. On the contrary, if the juvenile offender is afraid, distant, or hesitant, then they are less likely to negotiate and admit their wrongdoing to the victim. This inevitably stretches out the problem and inflicts more stigmas in the long-term. This way, when both groups attend the court hearing to determine what can be accomplished, they have already agreed about some things and can more effectively begin the reconciliation process. This does not mean they immediately lean in and kiss each other, but they have agreed on some important aspects and they can greet each other and sort of look at one another in a different light.

While there are critiques of how the Russian system of justice is structured and administered, it has largely shifted into a different framework from what had existed during the Soviet Union. This is predominantly seen with the change of public and professional attitudes toward delinquency in general, as well as how youth should be

\textsuperscript{64} This program is equivalent to the extrajudicial measures and sanctions approach utilized by Canada, where measures are taken outside the formal court process to provide effective and timely responses to youth crime. This may consist of warnings, cautions, referrals, Crown cautions, and sanctions (Bala & Roberts, 2006; Department of Justice, Canada, 2013).
treated and the rights accorded to them. (Pridemore, 2002; Solomon & Foglesong, 2000).

The Russian data from the current study supports this understanding, and it is evident that professional views are gradually shifting toward more welfare-based approaches in contemporary youth justice and principles. Based on the youth justice survey results of the current study, approximately 90 percent of Russian study respondents indicated that more lenient sentencing, rehabilitation, and the establishment of a specialized juvenile system were of the utmost importance. This is indeed encouraging because it acknowledges the potential for improvements in addressing the core dimensions of juvenile justice policy. Likewise, the professional views contribute to facilitating initiatives that have the practical capacity for addressing prevailing youth issues.

Consider the perspective of a Russian respondent (RUS1)$^{65}$ working in the area of legal reforms within an organization that concentrates on restorative justice in Moscow. In the following passages, this respondent discusses the shared characteristics between Russia and Canada in terms of the models in place, as well as the ongoing issues being encountered with respect to youth justice:

The word “restorative justice” has gained wide recognition in Russia. There’s a growing recognition in recent years of things like victim offender mediation and reconciliation. Canada is interesting to the Russian context based on circle sentencing, family sentencing, and group conferencing practices.

The respondent goes on to provide an informative point on the structure and legal changes within the country:

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$^{65}$ Refer to Appendix H for a comprehensive list of study respondents.
The conservative structure of Russia’s judicial system is not good, not bad, but rather self-solving. In the autumn of 1991, the concept of judicial reform really took hold. The main leader of the reform was Sergei Anatol’evich Pashin, and this raised the issue of creating a system specifically for juvenile justice. In Russia, there is no system of juvenile justice, and this reform gave a boost for the expansion of juvenile justice. At certain points in time, Russia attempted to model Canada’s juvenile justice acts (i.e., Young Offenders Act). Since the early 1990s, victim offender mediation became important for considerations of both children and adults.

Considering the fact there is no specific system dedicated to juvenile justice affairs within Russia, it is nonetheless promising that legal professionals are emphasizing the need for such a legislative development, despite the difficulties and contradictions of the existing system of justice in the country (i.e., unequal application of law and resources to different regions, lack of standardized legislation for processing juvenile offenders, and the absence of alternative measures for young people) (Junger-Tas & Decker, 2008; Winterdyk, 2002).

When speaking of implementing programs and initiatives within both Canada and Russia, that is where things become even more complicated. It is one thing to outline the models in place—assessing their strengths and weaknesses—and another task altogether to formulate working strategies; specifically, ones having the potential to improve the structure of legal systems, and be advantageous to youth (Finckenauer, 1996; McAuley & Macdonald, 2007).
Speaking about the type and structure of implementation procedures for youth justice programs, this is what one Canadian respondent (CAN2)\textsuperscript{66} expressed:

Our coaches move around for the clients. If the client is in Brampton and the Brampton court is referring youth to us, we have some coaches in the area and they can coach them there, on location. The youth do not need to come to an office, and that is one of the uses of the program. We know where the youth are. We find them in a public space or sometimes through community centres, libraries, coffee shops—it all depends. These are mostly places where the youth are comfortable to discuss and begin to resolve their issues.\textsuperscript{67}

Many programs in Toronto are doing their part to meet the growing needs of at-risk youth. Rather than simply confining their efforts and resources to a head office, for instance, they are delegating efforts throughout the community (Doob & Sprott, 2004). Partnerships among certain organizations are also quite common within the city, and across the provinces of Canada (Bala & Roberts, 2006; Muncie & Goldson, 2006).

An example of a large organization dealing with a variety of mental, social, and legal issues is the Centre for Addiction and Mental Health (CAMH). Based in Downtown Toronto, Canada, this organization recognizes the need for reintegrative aspects in dealing with individuals’ mental conditions, as well as addiction issues and legal offences (CAMH, 2012). Rather than keeping the clients in isolation, the Centre actively promotes social responses for dealing with illnesses and problematic behaviours. Clients are able to interact with working professionals and other individuals (volunteers and clients), receive

\textsuperscript{66} Refer to Appendix H for a comprehensive list of study respondents.
\textsuperscript{67} The program being referred to in the following passage is a combination of extrajudicial measures and sanctions. In certain cases, the youth are referred to the program by a court, and in other instances, the coaches locate the youth within the community.
daily care, take outdoor walks, and experience a variety of educational and
developmental workshops (CAMH, 2012).

All of this demonstrates the engagement of professionals and the community in
meeting the various needs of individuals, particularly at-risk youth. CAMH is affiliated
with several network organizations around the city that address cases and provide
resources to those in need (CAMH, 2012). Focusing on the mental health of juveniles is
of importance to reintegrative initiatives. It is estimated that at least 20-25 percent of the
roughly 500 most serious violent youth offenders in any given year may suffer from
various mental health issues that must be addressed if they are to be rehabilitated and
safely reintegrated into the community (Erickson & Butters, 2005).

A Russian respondent (RUS3) employed with the Centre for Rehabilitation and
Juvenile Law-breaking in Moscow, discusses the issue of reintegrative practices. He
maintains that:

Kids should be cared for, nurtured and respected before punishment is
administered. In Moscow, we don’t have any institutes specifically for
development and effective reintegration. In Germany, I like the system because
when the juvenile gets admitted into a corrections program or police custody, they
have a huge number of resources and measures available to them to deal with the
situation. They have developmental measures, disciplinary measures, measures of

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68 In the mission and strategic plan of CAMH, it outlines their target areas and provides a brief
summary of their services: “The Centre for Addiction and Mental Health (CAMH) is Canada's
largest mental health and addiction teaching hospital, as well as one of the world's leading
research centres in the area of addiction and mental health. CAMH combines clinical care,
research, education, policy development and health promotion to help transform the lives of
people affected by mental health and addiction issues”. The Centre also places focus on legal
cases pertaining to youth and adults (CAMH, 2012).
69 Refer to Appendix H for a comprehensive list of study respondents.
last resort, and only after all those have been exhausted and attempted, do they proceed to formal sentencing procedures.

A Russian social worker (RUS2) that has worked for the past several decades in the area of youth crime and justice, presents the following perspective for addressing juvenile justice in Moscow:

There is no institutional organization for the investigation of youth factors or measures. Moscow has a prominent problem these days. It’s a fond occupation with alcoholism and narcotics. The city achieved a lot in the 1990s, specifically through the Classical School of juvenile justice. This was sort of an experimental project, tying all of the elements together: mediation, social work, justice, reintegration, and rehabilitation. This became known as the model of reintegrative juvenile justice. The main issue is with allocation of resources to the areas where improvement is drastically needed. This has not been sufficient at all.

Underscoring the need for reintegrative youth procedures appears to penetrate national boundaries, as both sets of respondents—within Canada and Russia—indicated. Of particular interest is the extent to which respondents kept referring to the need for alternatives to punishment. This includes specialized programs developed for youth and, at times, with their active input and cooperation, ensuring that the young person has proper representation and resources available to them when being processed through the judicial system. Being informed of the complexities of the legal system itself was also an important component. The issue with juveniles in conflict with the law is their lack of understanding about the way the criminal justice system operates. This not only has the

\[70\] Refer to Appendix H for a comprehensive list of study respondents.
effect of slowing down and disrupting legal proceedings, but also prevents juveniles from being directly involved in their cases (Roberts, 1997; Templeton & Hartnagel, 2012).

To bring this section to a close, consider the perspectives of several respondents from both Canada and Russia, speaking about social integration of at-risk youth. One Russian respondent (RUS4)\(^{71}\) indicates that:

> Of course, it’s important to know whom and where to integrate within the justice system. I’d like to see, depending on the situation, how to integrate the juveniles based on their social status. I’m speaking about a rehabilitation program, depending on what the problem is. It’s important to find a place where juveniles can find work, to feel valued, needed, and where there is sufficient room for personal development. For now, this is not there.

A Canadian respondent (CAN9)\(^{72}\) believes that:

> In government institutions, it’s difficult to find employment and in the public sector, there is a lack of incentive to find work. Perhaps within the frame of some particular program, work can be found for youth that gives them a sense of self-worth, in addition to doing something that is engaging and relevant to their strengths.

A Russian respondent (RUS11)\(^{73}\) provides her view as follows:

> There need to be clear incentives and appeals for the youth, otherwise, they will not proactively engage with the tasks, whatever it happens to be. And this is specifically the case for juveniles that have been released from “colonies”. It is in

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\(^{71}\) Refer to Appendix H for a comprehensive list of study respondents.

\(^{72}\) Refer to Appendix H for a comprehensive list of study respondents.

\(^{73}\) Refer to Appendix H for a comprehensive list of study respondents.
these situations where we can maximize the development and re-integration of individuals.

Another Russian legal professional (RUS2)\textsuperscript{74} expands on how to develop effective services for youth:

We need to base ourselves on practical assumptions and, secondly, we need to incorporate different organizations. For example, I really like the idea of ‘technologies of case management’. We can’t have five people doing their own thing. If it’s not linked to each other and to the actual client, it will not work successfully. These various methods must be linked to each other so one method or program does not try to accomplish one thing while the other is doing the opposite. In some cases, however, one department will be in competition with another and we often disagree about certain aspects, which can actually be conducive to the broader understanding of important youth issues.

Throughout the interviews with professionals in both countries, there were numerous points of agreement and admiration for reintegrative practices among respondents. This is not to say that each respondent wanted to change the system based on what other nations were offering, but rather, they seemingly embraced aspects of “effective” justice.\textsuperscript{75} This warrants additional dialogue among professionals in both systems, and contributes to policy formulations on international systems of justice.

\textsuperscript{74} Refer to Appendix H for a comprehensive list of study respondents.

\textsuperscript{75} While respondents (in both countries) expressed their own perspectives on youth justice, they did underscore the importance of restorative justice, in addition to the role of family, society, and the state as pivotal for addressing youth issues. Widespread consensus dictated that punitive sentencing was counterproductive for youth, in addition to fostering an environment in which juvenile offenders were at a higher risk for antisocial behaviour, recidivism, and negative life indicators of all kinds. These issues were also believed to be heavily influenced by the state of government and policy within each nation (i.e., insufficient resources allocated and lack of centralized legal regulation for youth issues).
Developing and implementing effective programs, tailored specifically to the needs of young people in conflict with the law is challenging to say the least, but has the effect of steering conceptions of society and justice in the needed direction. In the hopes of strengthening a country’s system of justice, and international justice for that matter, it is imperative to concentrate greater effort on youth strategies that show promise. For instance, it is necessary to consider the overlapping thematics of youth justice policy including: welfare, justice, restoration, prevention, and retribution—in addition to accounting for the differences of implementation and approaches they present (Goldson, 2004; Haines & O’Mahony, 2006).

Such a task will undoubtedly require an understanding of research evidence and policy trajectories on contemporary youth justice, as well as the distribution of the necessary resources. However, given the consequences of not meeting the needs of society’s youth, we must make the appropriate efforts.

Having presented the views of professionals in both Canada and Russia based on matters of social integration, let’s proceed to formulations on social structure and cultural influences.

II. Social Structure/Culture

This section considers the perspectives of professionals on various factors that impact youth development. The points of focus include: the influences of family control, social values and traditions on the comprehension of youth justice and crime prevention. Interview data is presented to include all of these points as fully as possible, as they are the ones defined as significant by the respondents of the study.
Let’s begin with respondents from both countries sharing their perspectives on the issue of family control and delinquency prevention. Throughout the lengthy interview process, and speaking with twenty-four respondents, this factor resonated strongly across all individuals. The emphasis here was on the role of family in child development, emotional attachment, implications of social control, and nurturance.

Here’s what a Canadian social worker and activist (CAN10)\(^{76}\) had to say about establishing emotional connections with youth, and the lack of such attachments in his hometown:

You have a town that kind of thrives on this “unattached parenting saga”. What we have now is a severe case of parents detached from their children. This is a detachment of parenting, and mothers and fathers are being taught to stop listening to the instincts of their children. Parents are essentially taught to follow these rules by a person who is considered an expert, instead of listening to their gut feelings. And that translates through all of childhood and into the teenage years too, because if you can do that to an infant, how much more so do you do that to a five-year old or six-year old. You ignore their needs and it perpetuates itself to the next generation, and that is one of the faults that I find is so great in the younger generation. They don’t have an emotional attachment to their parents.

To expand, a respondent from Russia (RUS8)\(^{77}\), working with the Academy of Advocates and Notaries, discusses the role of family. He feels the most important way to address the issue of youth justice is primarily through family development:

\(^{76}\) Refer to Appendix H for a comprehensive list of study respondents.  
\(^{77}\) Refer to Appendix H for a comprehensive list of study respondents.
The main factor is the family, family development, and nurturance. The family has always been the most important and will always be the most important factor in the development of juveniles and their personalities. Everything else is so-called roses and decoration on the cake. And the cake is baked first and foremost within the family.

The same respondent also spoke about family development and nurturance as a key indicator of crime prevention:

The vast majority of people who commit murder (i.e. crimes) are children that did not receive enough love such as: attention, family respect, care, and responsibility. Certain forms of control—for example—when walking and holding a child’s hand and greeting strangers, this is a form of care and control. You are teaching the child the importance of value and societal interaction, and norms. We must, therefore, place the development of the child as a priority, and consider psychology and its effects in the development of juvenile offenders.

These points obviously stem from the awareness that children are predisposed to certain forms of anti-social behaviour based on their personal development. Most people can agree that, as far as forming bonds and learning life lessons, the family is among the most influential (Junger-Tas & Dunkel, 2009; Winterdyk, 2002). It, therefore, makes sense that if a child is not adequately treated and socialized at an early age within the family unit, they will likely encounter obstacles related to that lack of development (Winterdyk, 2002).
This is not to say that they are destined to become offenders. Later in their development, peers will become a substitute for the absence of family bonds for the at-risk youth. At this point in their development, however, it should be assumed that the juveniles would engage in various acts to gain acceptance within their network of friends or associates (something they never experienced previously). The absence of nurturance and moral boundaries that is ideally provided within the family will be understandably shifted toward the peer culture (Bala et al., 2002; Dammer & Albanese, 2011). This may result in heightened opportunities for risky behaviour. Certainly, both nature and nurture go a long way in determining an individual’s life circumstances, but, as the respondents rightfully claim, moral development is initially formed within the family before the child has begun to fully experience the outside world.

Speaking of the influences of family control and social apathy, a Canadian lawyer (CAN3)\(^78\) with a specialization in economic law and dispute resolution among youth, suggests the following perspective. She presents a vivid interpretation of the differences between Canada and Latin-American countries in terms of how youth plan and visualize their life goals:

One of the main differences about Canada and Latino-American countries is that in Latin-American countries, maybe because of the situation and everything, youth are more willing to *dream*. To dream about what they want to achieve. If they were poor or in a good condition, they are always thinking about something bigger. For instance, they think ‘I would like to have a house, a piece of land, and I would like to give it to my mom’. Especially the people in the lower income

\(^{78}\) Refer to Appendix H for a comprehensive list of study respondents.
level... Here, in Canada, it’s a totally different thing. Here, most of the kids don’t have any particular long-term interests. They are not sufficiently challenged to have interests and have lives of their own.

Possessing an extensive background with law and dispute resolution, and having worked in a life-skills and youth coaching program in Toronto, the perspectives of this respondent surely hold some significance. Whether we are to fully agree, disagree, or fall somewhere in between with the above logic, it does shed valuable light on social implications for youth. The respondent had this to say about the Canadian context as well:

Here, in Canada, it’s not the same because some of the parents have addictions or are living from welfare...And it’s okay to live on welfare if that is the only option. Sometimes, they have kids that are also okay with living off the welfare, and that is tough because they are told that it’s fine to do so. No one seems to be challenging the youth to dream and to dream big. Nobody is telling these people that to dream is right, and a right.

Relating to contributing factors for an increased likelihood of youths committing offences, much is associated with insufficient family controls (Junger-Tas & Decker, 2008; Walgrave, 2004). In this sense, a Russian respondent (RUS8) addresses issues of weakening family influences:

Also, family control has seriously weakened in the justice system of Russia. Russia is located in the post-revolutionary situation. The revolution has never offered anything beneficial to society, specifically towards the monitoring and

\[79\] Refer to Appendix H for a comprehensive list of study respondents.
addressing of youth justice. Today, parents do not have the opportunity to watch and monitor their kids all that much. The family, therefore, has remained in the second place.

The lack of family oversight and control is likely due to many factors, including the economic and social position of individuals, developmental characteristics of young people, changing roles and influences of peer groups, as well as the new dynamics of culture (Pridemore, 2000; Zabryanskii & Yemelyanova, 2000). This reflects a prominent theme of this thesis, and patterns of justice more generally, in that professional perspectives on youth justice are highly consistent across different cultural landscapes (Bateman, 2006; Reichel & Albanese, 2013).

Dealing with the point of social values and culture, and how they contribute to understandings of youth justice, this is what respondents had to say. Speaking about the cultural impact on youth behaviour in Canada, one respondent (CAN3) had an illustrative example to share:

I had a client that was from a Latin-American country and he didn’t want to find a job in the summer. And nobody understood why he didn’t want to find a job. He said it was cultural. Where he was from [Colombia], teenagers did not go to work in the summertime and everyone was opening their eyes [in Canada], and they couldn’t believe it. And that is another factor. I even wrote a paper about this specifically...Being in a multicultural city in a multicultural country doesn’t mean that we are an intercultural mind. An intercultural mindset is doing the cross-cultural. It’s not just about accepting that cultures are different and diverse. It’s

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Refer to Appendix H for a comprehensive list of study respondents.
also about understanding how to interact with different cultures. It’s understanding how to co-exist among those differences and putting it into a form of action.

Another Canadian respondent (CAN8)\(^{81}\) expands on the cultural influences attached to youth behaviour, striking at the root of the cause. He believes that many issues can be associated with the assimilation of cultures:

For youth, essentially in certain cultures, it’s very different because they’re coming with the parents. Even if the parents were born here, they are trying to fit between both cultures. They are trying to fit into the roots of the parents and that kind of thing. They are also trying to fit into the Canadian stage, and that is a huge struggle. The parents are from the mindset of where they come from originally, and they are told that you can maintain the traditions and don’t need to change. And the kids want to fit into the new space where they grew up. Those things are sometimes very difficult, and serve as a repercussion of why certain things happen, such as youth delinquency, antisocial behaviours, and so on. Youths seem to be tied between two parallels and trying to assimilate into two cultures, essentially. This creates many obstacles.

Understandably, assimilating into another culture is difficult, especially when the family still holds onto the values and traditions of their country of origin. The degree to which the parents choose to adapt and practice certain values will surely reflect on the development of youth. Likewise, the young person, having acquired—to varying degrees—the norms of their country of origin may view and interpret things considerably.

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\(^{81}\) Refer to Appendix H for a comprehensive list of study respondents.
differently in their environment. This leads to complications, misunderstandings, as well as the youth being perceived as incompatible with the given system of education, law, and society at large. This difference, which is merely an assimilation of cultural identity, can often have the consequence of labeling young people in ways that further undermine their identity and position within the fabric of society (Bell, 2012; Charmaz, 2006).

Pertaining to the issue of social values, ideology, and cultural understanding within Russia, there appears to be substantial concern over immigration, and how that drives cultural behaviours. A Russian respondent (RUS8) who possesses extensive knowledge of the legal system of Moscow, both intellectually and practically, reflects on what he believes are culturally indicative factors for youth delinquency:

Problems of immigration are arising from countries of the previous USSR, such as Uzbeks, Tajiks, and so on. These people are considered dangerous to the societal fabric in their criminal associations and socio-economic and socio-psychological traits. They have very different mindsets and traditional norms. For example, there is the occurrence of shooting all sort of weaponry during weddings and causing danger. Also, there is a conflict of religious rules and obligations. That is, what might be good for someone might be bad for another. For instance, contrast the playing of loud music and displaying happiness through use of

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82 Refer to Appendix H for a comprehensive list of study respondents.
83 By possessing both intellectual and practical knowledge of the Russian legal system, this is in reference to the respondent’s deep association with the Legal Institute of Russia (MVD), as well as his specialization in problems of juvenile justice and criminology. In fact, the respondent has written both his Master’s and Doctorate papers on the individualization of sentencing on juveniles, and published several prominent books on the subject matter. He has also spent six years as a juror in Moscow, interned with the justice department, has been employed with the prosecutor’s society, and worked with the MVD institute of Russia for 14 years. Since then, he has also become a professor, specializing on Russia’s legal system and youth justice (jury and the nature of punishment). It is reasonable to say he has an extensive and knowledgeable comprehension of Russia’s system of legal affairs.
weapons. You see, different cultures express themselves differently according to societal ideals and factors.

The above passage provides a compelling explanation of the many conceivable problems facing Russian society as a whole. Young people in both countries of examination factor greatly into these issues, and have tremendous impact on societal structure, values, and cultural interpretations. It would be wise to expand the literature on these youth justice influences, and work toward implementing social integration programs designed at addressing them more effectively.

III. The Judiciary

To proceed with the analysis, we must examine the nature of the justice systems in both regions of study. More specifically, we need to address significant issues that were raised by the interview respondents. While there are countless factors that can be analyzed and discussed about a particular system of justice, we will narrow our scope to the most notable points addressed by the interviewed individuals. These points consists of the following categories: issues of fragmentation, contradictions and inconsistencies of the justice system, implementation and scale of priorities, attitudes toward punishment, and the specifics of the system as it relates to juveniles. While the points seem somewhat broad, they do fit in with what the respondents are speaking about. As the quotations and passages are presented, they illustrate precisely these aforementioned categories in necessary depth.
1. Inconsistencies of the Justice Systems

*Fragmentation* refers to the allocation of resources within a system of justice, specific regions of a country, and within the entire nation itself (Aleshenok et al., 1995; Dutkiewicz et al., 2009). When certain resources are withheld or allocated only to chosen locations and initiatives, it becomes difficult to implement effective strategies.

Geographically, Russia is a very large Federal State, containing various regions. Each of these different parts (provinces, republics, and regions) have their own procedures for administering justice (Gilinsky, 2005; Winterdyk, 2002). Evidently, the extent to which each region specializes in specific matters of youth justice is characteristically different. The same can be said about the amount of available resources, environmental and cultural factors, and public and professional attitudes toward juvenile offenders (McAuley & Macdonald, 2007; World Bank, 1999). All of these factors intermingle to have profound effects on judicial administration throughout the nation as a whole.

In Russia, the central hub is the city of Moscow, which delegates the vast majority of policy initiatives in matters concerning justice (World Bank, 1999). Therefore, it has a widespread effect on the rest of the country by deciding where and how resources should be allocated, as well as setting an example for how legal proceedings are conducted (Aleshenok et al., 1995; Dutkiewicz, 2009). The vast majority of resources and political power are centralized in this area. Consequently, this has the potential of overshadowing other regions that drastically require changes in the law, and the delegation of economic assets for building, testing, and implementing facilities and programs (Dutkiewicz et al., 2009).
The following Russian respondent (RUS5)\textsuperscript{84} outlines some prominent issues of the justice system in the country:

The main issues are: lack of resources, fragmented system of justice, lack of knowledge for the specialist, and the inability to create a transparent system. What’s happening is essentially a form of chaos.

Canada, consisting of separate provinces and territories, generally has a more consistent formulation of law across the geographical spectrum (Bell, 2012; Birkenmayer & Roberts, 1997). Nonetheless, even here, there are many fluctuations in the way the law is structured and administered—relating to sentencing principles, specialization of judges in handling youth cases, and implementation of extrajudicial measures, among other factors. While the various provinces of Canada generally abide by a standard law pertaining to justice—The Youth Criminal Justice Act (2003)—there are still notable variations in the way the statute is applied across the provinces and territories (Doob & Sprott, 2006; Roberts, 2003).

The overarching system of law in Canada follows the principles of common law, but Quebec, for instance, abides strictly by civil law principles (Bala et al., 2009). This inevitably reflects differences in the application of law and how it is interpreted. For example, in the province of Ontario, the vast majority of matters under the YCJA are exercised by The Ontario Court of Justice (Caputo & Vallée, 2010). Some of the judges from the Court of Justice specialize in the area of juvenile delinquency, while others can focus on several aspects including adult criminal cases, family disputes, and YCJA provisions (Caputo & Vallée, 2010). In this sense, there is not a full degree of

\textsuperscript{84} Refer to Appendix H for a comprehensive list of study respondents.
specialization among Ontario judges in matters of youth justice.

In the province of Quebec, there is a specialized Youth Division under The Court of Quebec. The Division makes use of specialized youth judges and considers all cases involving minors under the Youth Protection Act (Caputo & Vallée, 2010). Quebec’s Youth Protection Act was adopted by The National Assembly on December 24th, 1977, and the law became effective on January 15th, 1979. The legislative framework provided legal counsel to young people charged with a criminal offence, and institutionalized voluntary alternatives to formal court processes, which were essentially the precursors to alternative and extrajudicial measures (Caputo & Vallée, 2010).

The legal variations in juvenile justice across a country can have notable consequences for young people. It really is similar to an intricate puzzle, in which certain pieces must fit appropriately in order to form the complete picture. In the case of comparative youth justice, the puzzle is not only fragmented, but the individual pieces themselves are essentially from different boxes (i.e., different colours and sizes). This is the real problem for addressing youth justice at large, with the task being to standardize the individual components and make sure they can be arranged as neatly as possible. This would create a strong foundation for addressing youth justice, and bring us a step closer to understanding how the various factors are interconnected.

A unified justice system is one that is aware of the specific needs of young people, balances priorities efficiently, and ensures that proper adherence is given to the rights and welfare of juveniles (Bazemore & Walgrave, 1999; Winterdyk, 2002). These are the type of considerations that have long-term feasibility and success. Here’s what a Russian
respondent (RUS7) mentioned about fragmentation of the justice system:

Moscow has different sectors and each type of sector offers a different system of work. There is no single system of operation by which to adhere to juvenile issues and justice. A viable model may be the Chelyabinskaya Province where more integration of services is evident. There is much more to show than in Moscow. Other areas, known as the Permskaya and Archangelskaya Provinces are two regions that rely predominantly on mediation and reconciliation of individuals as opposed to direct sentencing. In these regions, there are specialists that are specifically focused on certain tasks and initiatives influenced by the Norwegian legal system because they are located in close proximity to it. These European programs have, in many cases, become adopted and integrated into the scheme of work. For now, however, this is not strongly evident within the city of Moscow and things are moving very slowly there. Hopefully, we will see the influence and permeation of these sorts of developmental programs in the future.

The same respondent elaborates further on issues of Russia’s conflicted system of justice, and the misappropriation of resources:

Russia needs to better prepare its specialists in dealing with various youth-related tasks and initiatives. Russia is a country rich from the point of resources. For instance, we have a lot of oil and the means are there. The real issue is that the resources are not rationally allocated into the various fields that require them. The money does get released but does not entirely reach the specialists at the center.

Refer to Appendix H for a comprehensive list of study respondents.
Another Russian respondent (RUS6)\textsuperscript{86}, associated with the administration of the justice system, summarizes the intrinsic difficulties of the system:

> It’s not strictly a problem of finances. Everybody says it’s an issue of money, but it’s not that people are bad or have bad working habits. There is no collective understanding and desire for change, and this is a serious problem for sure, and we will see how it turns out.

The lack of a collective consciousness and willingness to change things is considered the underlying obstacle for Russia as a whole (Moscow Centre for Prison Reform, 2006; Pridemore, 2002). Before resources can be properly administered and the rights of juveniles respected, what is required is a societal drive for change (McAuley & Macdonald, 2007). Without a motivation for change and restructuring, a unified system of justice is not attainable. A passive view toward youth justice only goes so far before it takes a turn for the worse.

One particular quote by Abraham Lincoln illustrates this idea well. He famously stated: "I walk slowly, but I never walk backward" (Mintz, 2014, On Character, Para. 6). This is tremendously important because it suggests that slow, progressive steps are the key to improvement. Anticipating large leaps forward may result in missing components and undesired consequences. Comparably, waiting too long to implement a strategy leads to ineffective and often negative results.

Even so, implementing continuous steps in the right direction means very different things to different groups of people. The public has their own interpretations of how youth justice and responses should be structured, while politicians are swayed by

\textsuperscript{86} Refer to Appendix H for a comprehensive list of study respondents.
other incentives (personal, voter-based), and justice professionals add their views to the
debate. Needless to say, this is the complex nature of youth justice and legal reform we
are presented with. Now, expand this notion to incorporate not just an individual country,
but several nations, or the international scheme of criminal justice. Laws, perspectives,
and formulations of the issues have a tendency of becoming ambiguous and contradictory,
where proactive developments are increasingly difficult to come by (Bala et al., 2002;
Muncie & Goldson, 2006).

Despite such bleak realities, during the past several decades, international
criminal justice has made consequential steps forward in addressing the problems of
youth justice. As previously mentioned, international instruments like the Convention for
the Rights of the Child (CRC) have been developed precisely with the aim of ensuring
the rights and freedoms of young people around the world, and within individual nations
(Winterdyk, 2002).

The United Nations and the International Criminal Court have also concentrated
on important youth issues, and overseeing uniformity of judicial proceedings across the
global spectrum (Junger-Tas et al., 2010; Muncie, 2007). These are, conceivably, steps in
the right direction that address the issue of fragmentation, leading to increased awareness
of juvenile proceedings and the structure of legal systems. The approaches, however, are
not without their own problems, but they do serve the purpose of focusing additional
effort and resources on youth issues.

Continuing to equally represent the needs of youth across different regions of a
country is crucial. In Russia’s case, working on changing attitudes and pressuring
government bodies to implement a separate juvenile justice system is one of the top
demands (Dutkiewicz et al., 2009; McAuley & Macdonald, 2007). By contrast, Canada must work on improving uniformity of legal administration across its provinces and territories, as well as continuing to limit the use of custodial sentences accorded to juveniles (Bala & Roberts, 2006; Junger-Tas, 2002). As substantiated by the respondents of the study, efforts such as these will strengthen the justice systems and assist in controlling the issue of fragmentation.

Having spoken about some contradictions and inconsistencies of the justice systems, let’s present professional views on matters of judicial administration and sentencing procedures of juveniles.

2. Reintegrative Aspects of Youth Justice

One of the respondents (CAN6), working as both a lawyer and manager of a life-skills program for youth in Toronto, speaks about punishment and inconsistencies of program implementation:

Kids are punished in ways that even I don’t quite understand. They are treated in ways that astound me. Even those youth that should not have been punished have gotten punished in such hard ways. And, that different system [referring to the Youth Criminal Justice Act], I’m not sure how good it is in reality because who is keeping track of that? Sometimes, the kids are deferred to certain programs instead of going into probation. They go to the program and present certification that they completed the program, and that’s it. We are seeing something, but I’m not sure if the government or judicial system is doing the necessary follow-ups. And to determine if the programs are truly successful or not, follow-ups are

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87 Refer to Appendix H for a comprehensive list of study respondents.
The same respondent also questioned the logic for certain governmental youth programs that have not, in her mind, received the needed follow-ups and implementation strategies. She asks:

What is the logical basis for diversion into these youth programs? Is it necessary and will it help the youth in a real way?

According to legal professionals within the criminal justice systems, this signifies that there are quite a few loopholes with the administration of youth justice. For instance, there is an apparent lack of oversight about what really works and what is simply put into effect without proper research and testing. This can have the consequence of making the public as well as certain individuals within the legal systems believe that everything is going according to plan (i.e., proactively) because all these new and unique programs are being utilized (Alvi, 2000; Bala & Roberts, 2006). The data gathered from interviews and survey results with Canadian respondents support some dissatisfaction with the implementation of extrajudicial programs and measures. 60 percent of these respondents strongly agreed that the existing judicial system in Canada was ineffective for reintegrating juvenile offenders back into society.

The hidden trap is that many programs, sentencing procedures, and punishments are not doing what they should be, in terms of considering the welfare of youth, along with their rights and future goals (Doob & Sprott, 2006). This contributes to inconsistencies and disproportionate juvenile punishment in relation to the offence committed, as well as issues concerning the reintegration of juveniles back into society, and the consequences they face afterwards.
Beyond a misappropriation of resources and money, the real *victims* of these problems are the young people themselves. They are the ones being sentenced punitively and, in some cases, unnecessarily, in addition to being kept for much longer periods of time within the confines of justice institutions (Birkenmayer & Roberts, 1997; Doob & Sprott, 2006). This is a serious impediment to effective youth justice procedures, which further confines them [juveniles] to the legal system, producing negative effects at all levels—particularly, through association with more serious offenders, stigmatization and labeling, and an increased difficulty of reintegrating back to functional levels within society (Goldson & Muncie, 2006; Klein, 2001).

In comparison to the Canadian respondent above, a Russian social worker (RUS10)\(^{88}\) at the Centre for Rehabilitation with Juveniles, provides her take on issues surrounding the reintegration of young people back into society:

Russia makes use of custodial sentences for juveniles on certain probational conditions. They test whether the youth are successful during their probation period. In Russia, there is no specific term for “probation”. It’s known as a “trial run” or “conditional sentence”. For example, if a youth steals a car and gets sentenced for two years and they commit another offence, the initial period of two years is kept and the extra charge is added onto the original sentence. So, two years plus two years will be four years of so-called probation. This is the nature of the Russian system.

\(^{88}\) Refer to Appendix H for a comprehensive list of study respondents.
The situation in Russia dealing with reintegrative aspects for youth is considerably different than the one witnessed in Canada. Based on the results of the youth justice survey\(^\text{89}\), 90 percent of the Russian study respondents conveyed a negative outlook toward the present-day administration of extrajudicial measures in the country, stating they are highly ineffective. The interviewed individuals believe there is insufficient governmental support, resource allocation, and coordination of services for the necessary reintegrative measures to function appropriately.

The respondent then speaks about the contradictions of juvenile justice in more depth:

There is an idea within the Russian youth colonies that juveniles can also find a sense of comfort and belonging to the group—a certain status. They find a sort of niche within the colony and the outside governmental system becomes somewhat foreign and negative for them. The youth become accustomed to life and experience within the colonies and they are not scared to be readmitted into the facility in the future. They learn the conditions and what it takes to thrive under their own terms.

There’s also the issue of denied employment and opportunity once a juvenile has committed a crime. As the respondent maintains:

Once a juvenile is charged for a crime, even a minor one, they are often denied standard employment such as: police work, grocery store, manual labour, and so on. They are even prohibited from entering the Russian army. It operates like a system of sanctions whereby the juveniles collect points and are subject to certain punishments, or are denied access to societal institutions like low-level

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\(^{89}\) The results of the survey were tabulated and included in the body of the text. Refer to Appendix E for the list of survey questions.
employment.

If the youth serves out the entire length of the sentence without any major conflicts and is deemed fit for completion of the program, then the minor offence for which he/she was initially charged with is extinguished. However, the government drafts an official report where they outline all of the details of the juvenile’s conditional sentence, and read the report aloud within the court (in front of the public). This is shocking because the legal system gives belief that there are no further repercussions or the juvenile, yet they still communicate the information publicly...There is still a societal effect and stigmatization for the juvenile that impacts them negatively in various ways.

As clearly expressed by the Russian respondent, the justice system has the negative effect of drawing youth into a cycle of delinquency and association with offenders. This is true of Canada as well because many juveniles in conflict with the law do not have functional families and support networks, so they resort to forming closer bonds with those individuals in the facilities. Even if they do have a certain level of attachment at home, it loses importance because, having spent a duration of time in the justice institution, the youth become desensitized to the negative factors associated with them.

Like the Russian social worker, RUS10\textsuperscript{90}, stated, “They [youth] find a sort of niche within the colony and the outside governmental system becomes somewhat foreign and negative for them”. In a way, life roles for the young person become reversed and new associations are made, often contributing to recidivism, further offending behaviours,

\textsuperscript{90} Refer to Appendix H for a comprehensive list of study respondents.
and trouble with the justice system in general. Specifically, these issues result in lack of employment, stigmatization of the juveniles, harsh sentencing procedures, negative public and societal attitudes toward youth, cultural stigmas, and problems with the administration of youth justice policy (Goldson & Muncie, 2006; Junger-Tas & Decker, 2008).

Generally, we must acknowledge the value of reintegrative procedures for the purposes of juvenile justice. However, this on its own is not sufficient. Focus must also be dedicated to the proper implementation of any youth-related initiatives, whether it be court proceedings or alternative programs. This will require practical steps to ensure correct implementation in order to address the rights and needs of youth within the context of society. Neglecting to do so will result in potentially negative consequences for the administration of youth justice (i.e., anti-social behaviour, cycle of delinquency). However, our respondents, who are specialized professionals within each respective legal system, provide invaluable perspectives about their experiences of “What works”, “What doesn’t” and how these obstacles might be overcome. This is exactly what makes their words so valuable and important to examine in the context of the current study.

3. Specifics of the Justice Systems, and Attitudes Toward Punishment

The specifics of juvenile justice systems and their structure, as well as attitudes toward punishment will now be discussed, as concerning the areas of analysis. A respondent in Toronto (CAN3) ⁹¹, who is employed as a lawyer and currently holds a

⁹¹ Refer to Appendix H for a comprehensive list of study respondents.
directorial position at a large youth-based organization, provides this perspective on the structure of the youth justice system:

In Toronto, there is one highly specialized youth court, in addition to other types of specialized facilities. In the city of Toronto, there are three youth courts: one is Downtown, one is in Scarborough, and one is in the West end. The availability of youth-specific services is another important piece.

By contrast, a Russian respondent (RUS6) provides this perspective of the courts and reintegrative justice:

Various regions of Russia have now expanded to try to incorporate elements of reintegrative justice (Victim-Offender Mediation). However, there is only one court that is capable of handling VOM. It is located in the city of Moscow, within the region of Cheromushki—called Cheromushki Court. Moscow has 31 courts but only one is capable of handling juvenile justice. Each region has its own rules, but overall, this is not encoded into law. This is a problem of fragmentation of Russia’s legal system.

Under the YOA, the Canadian legal system had a reputation as being punitive in its administration (Roberts & Hough, 2002; Sprott & Doob, 1997). This changed under the provisions of the YCJA, which included reversing this trend for all but violent and serious repeat offenders, in addition to reducing custodial sentencing and dealing with

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92 This individual has worked at the youth centre for most of her career, and has represented young people within the youth criminal justice system. Mainly, her work focuses on law reform and policy, as well as examining Canadian youth justice issues and the context of those issues. She also possesses a background in policing and specialized knowledge of young people’s connection with police.

93 This is refers to: the imposition of proportionate custodial sentences in accordance to YCJA principles; the application of extrajudicial measures and sanctions; promotion of rehabilitation and reintegration of youth into society; exercise of discretion, etc.

94 Refer to Appendix H for a comprehensive list of study respondents.
youth increasingly through extrajudicial measures and sanctions (Justice Laws, 2014).

Since the Harper government first took office in 2006, there has been a “Get Tough on Crime” approach dominant in Canada’s philosophy of justice (Doob & Sprott, 2006). The governing party passed several bills aimed at reinforcing this approach, stressing that crime in Canada was rising and efficient countermeasures were required to keep offenders in prison for longer durations. Among these bills were: Bill C-2 (the “Tackling Violent Crime Act”) (2008); Bill C-25 (the “Truth in Sentencing Act”) (2010); Bill C-4 (“Sebastien’s Law”) (2010); and Bill C-39 (the “An Act to Amend the Corrections and Conditional Release Act and the Criminal Code”) (2010) (Parliament of Canada, 2012).

Most recently in 2012, the omnibus crime Bill C-10 (the “Safe Streets and Communities Act”) was passed, stipulating fundamental changes in Canada’s criminal justice system. This included: the classification of new criminal offences, increased mandatory minimum sentences for drug offenders, selective elimination of conditional sentences, increased pretrial detention and harsher sentencing principles for young offenders, lengthier waiting times before individuals can apply for pardons, etc. (Parliament of Canada, 2012).

Overall, the legislative changes introduced by Bill C-10 contributed to a Canadian justice system that jails more often, for longer periods of time, and with more lasting consequences (Parliament of Canada, 2012). This is quite a problematic path that is largely unsupported by social science evidence. In fact, research suggests that incarcerating individuals for longer actually increasing the likelihood of reoffending (i.e., cycle of crime) (Doob & Sprott, 2004). It also contributes to the overcrowding of prisons,
as well as imposing high costs and unconstitutional punishments. This is the kind of policy that contributes to the punitive nature of juvenile justice within the country. For this reason, Canada’s is not able to sufficiently fulfill its obligations of certain principles under the Convention on the Rights of the Child\textsuperscript{95} (United Nations, 2007).

When asked to comment on the type and quality of youth sentencing in Canada, the respondent (CAN3)\textsuperscript{96} emphasized the punitive nature of the system and its uncertain outcomes for youth offending:

I’m not in favour of harsh and punitive sentencing. They do not help to reduce or alleviate crime. I wouldn’t say the ideal is overly harsh or soft sentencing...rehabilitation efforts are what help to reduce crime. I think that having young people spending time in jail only leads to more negative outcomes. I believe that we, in Canada, are more likely to sentence young people to custody or have them waiting in custody, so I think our justice system is quite punitive. Even prior to the introduction of the Youth Criminal Justice Act, Canada had one of the highest rates of incarceration in the Western world.

The respondent concludes by referencing the government’s role in the sentencing procedures of youth, suggesting that harsh punishment is not the ideal method for addressing such concerns:

I think that the Federal government is taking a more harsh on crime punitive approach to young people’s criminal involvement. Whether the public welcomes harsher policies, I think \textit{maybe}. But this is wrong-headed. It’s not in the best interests of our youth or us, for that matter. Being punitive doesn’t help...it’s not a

\textsuperscript{95} Specifically, the principles of the CRC being referred to are: Articles 3, 19, 37, 39, and 40.

\textsuperscript{96} Refer to Appendix H for a comprehensive list of study respondents.
crime remedy. When individuals are handled punitively and incarcerated, they come out much worse than they were to begin with. They have become disengaged from the community and missed time from school...And being disengaged from community and school is a recipe for future offending and problematic behaviour.

This point was echoed by respondents in the study that addressed concerns of overly harsh and lengthy sentences even for minor offences, and the eventual stigma associated with youth actions. Such factors make it much more difficult for juveniles to re-enter society and remain proactive citizens. This combination of factors is precisely why North America experiences a very high-rate of imprisonment and recidivism, despite the copious amounts of resources and money directed at youth justice initiatives (Doob & Sprott, 2006; Winterdyk, 2002). It is somewhat of a “Catch 22” scenario, where both sides present difficulties for the efficient functioning of the legal system.

Consider these respondents’ final words on the perspectives toward youth justice and sentencing. First, a Canadian professional (CAN4)\textsuperscript{97} provides this outlook:

The goal is working for the youth instead of promoting more stigmatization that works against them and the goals of society. The other piece is, I think, getting people in positions of power to become knowledgeable about the fact that punitive measures don’t work. Punitive approaches are how you punish crime, it’s not how you make things better. Making things better is about making better communities—healthy, happy, hopeful communities. I think that we have good legislation in Canada, which is a good foundation. I also know that having a

\textsuperscript{97} Refer to Appendix H for a comprehensive list of study respondents.
separate youth justice system is essential and required under the UN Convention on the Rights of the Child.

Another Canadian respondent (CAN5)\(^98\)—a professor and social worker, specializing in youth justice policy in Toronto—explains the factors associated with the sentencing and trial rights of juveniles:

The Youth Criminal Justice Act has a big effect on how both sentencing and trial rights function in the city, but also the existence of specialized judges, crown attorneys and defense lawyers are relevant, specifically relating to the trial rights component. Specifically, previous charges and encounters with police and law are significant. Especially since the law tends to label kids, I think that the ethnic profiles are also there, because somehow, in court you see a lot of blacks and minorities. I’m wondering if in those cases, you have twenty individuals and one is white and the rest are black kids. Is it equally evaluated? I don’t think so. In my personal opinion, I think that has a substantial impact on court proceedings.

As these passages indicate, the legal professionals that were interviewed commented on the punitive nature of the law and its implementation, as well as other concerns including unequal treatment, racial profiling, labeling, and stigmatization.

How might the structure of the Russian legal system compare to that of Canada, with relation to juveniles? As the following respondents clearly indicate, there are both similarities and stark differences. As mentioned throughout previous chapters, juvenile justice does not presently exist as an independent branch of the judiciary in Russia (Dutkiewicz et al., 2009). The country’s existing court system is not able to guarantee

\(^{98}\) Refer to Appendix H for a comprehensive list of study respondents.
that all matters would be considered in the best interests of a child as required by Article 40 of the CRC (Russian Federation, 2005). In spite of the persistent efforts of the international community and Russia’s non-governmental organizations, there is still no machinery available for making Russia a country with a developed legal system and enforceable legislation aimed at the protection of children. In this way, Russia can be described as being in contravention of UN declarations (Fliamer, 2000; Russian Federation, 2005).

Consider the views of this respondent (RUS11) on the absence of an independent juvenile system and its implications for justice policy in Russia:

We have big debates about the negativity associated with juvenile justice in the country. That’s why it’s been so difficult to establish a separate system that deals specifically with the sentencing and trial rights of juveniles. Society views juvenile justice as responsible for breaking apart the family, taking children away from parents, and contributing to loss of morality in the justice system. It also allows children to blame their parents for all of the wrongdoings and so on.

The respondent proceeds to discussing the shortcomings of Russia’s legal system:

It’s important to adapt the regulation and procedures based on the Russian condition. For now, the Russian system works poorly. It doesn’t really work. The way the system is structured now, they still take away children. If there is juvenile justice or there isn’t, a lot of governmental institutions can still deem it necessary and in their interests to take away the child. If it’s not in their interests, then they will not take away the child. If there was something to really destroy here in

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99 Refer to Appendix H for a comprehensive list of study respondents.
Russia...there isn’t really anything established in terms of a solid and targeted justice system so I’m very skeptical about it.

Another Russian respondent (RUS8)\textsuperscript{100}, echoes similar points and concerns about youth justice in the country:

The main issue is that there is no integrated system of justice even while there are good intentions. Canada and Russia have vastly different legal systems, particularly the systems of governing juveniles. There is no separate juvenile system in Russia that controls, sentences, and rehabilitates juvenile offenders.

This next passage summarizes the respondent’s position on the establishment of a system devoted specifically to the welfare of juveniles:

I am for the establishment of a separate system for juveniles. How this is to be done is very complex but it needs to be accomplished one way or another...For example with sufficient government resources and preparation at various levels such as individual, group, and societal.

Interestingly, the literature on the justice system in Russia, including official statistics and public opinion in the different regions suggests that the system operates in often ambiguous and contradictory ways (Muncie, 2007; Zabryanskii, & Yemelyanova, 2000). This certainly includes youth justice affairs, as well as those concerning adult offenders. The research also indicates that a punitive mentality is ever-present in the logic and operations of Russian justice, but that the country as a whole is in the process of transitioning to and adopting welfare attitudes toward sentencing and punishment (Gilinsky, 2005; Pridemore, 2002).

\textsuperscript{100} Refer to Appendix H for a comprehensive list of study respondents.
Next, a Russian respondent (RUS7)\textsuperscript{101} speaks about the inherent punitive ideology of the justice system:

I consider the legal system to be quite penal and strict in comparison with what it could be… and this is very connected to the system of justice within the country. I would even say that it’s the dominant ideology of the system. The judge, even if he has the ability to grant a more lenient sentence, often does not do this because there is no understanding of who can practically implement alternative methods such a reintegration or correctional services. In this way, the court simply has no choice or options available to them but to impose strict sentences.

As this indicates, despite the ambiguous nature of Russia’s legal system and mixed public interpretation on issues concerning young people, the general sentiment among professionals is that a youth justice system is a necessary and much-needed development. According to the interviewed professionals—in both Canada and Russia—a separate youth system would alleviate and help to address many inconsistencies of youth justice, including various negative impacts on young people in conflict with the law. About 92 percent of respondents in Canada emphasized the significance of a specialized justice system for juveniles, while 100 percent of the Russian respondents felt it would be crucial for addressing youth rights and needs (i.e., in the areas of custody, detention, and implementation of extrajudicial measures and sanctions).

In the sample of respondents used for the present comparative study, it is likely that more of the Russian respondents indicated the need for a separate juvenile justice system because the country currently does not have an established system for juveniles,

\textsuperscript{101} Refer to Appendix H for a comprehensive list of study respondents.
whereas Canada has a relatively long-standing system for processing juvenile offenders. Given a larger sample size, there would likely be more variation in the statistical results.

This is what a Russian respondent (RUS6)\(^{102}\) stated about the intended aims of the justice system in the country:

> The system of justice needs to be not too penal, not too welfare. It needs to be lawful, respectful and adequate.

This brings us to the final point about what a justice system is, and what it needs to be. There are many interpretations about how a legal system should function, and this involves numerous individuals and groups, as well as policies, attitudes, and action. One thing is clear: the justice system in place is corresponding to the society that holds it in place.

The following Russian respondent (RUS8)\(^{103}\) summarizes the idea clearly:

> If the society does not understand moral boundaries or ideologies and where children are located on this scale, this is problematic. If the ideologies are held in one way, it is one type of system. Otherwise, it is completely different...a contrast.

The problem of societal offending and juvenile justice issues cannot be solved with an open hand. The way to address it is through an iron fist.

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\(^{102}\) Refer to Appendix H for a comprehensive list of study respondents.

\(^{103}\) Refer to Appendix H for a comprehensive list of study respondents.
Lastly, a Russian respondent (RUS12)\textsuperscript{104} provides an interesting perspective by speaking about the role of various professions in addressing youth issues\textsuperscript{105}:

We need to incorporate different organizations and this work needs to be coordinated. We can’t have five people doing their own things; if it’s not linked to each other and to the actual client, it will not work successfully. We need to proceed deeper into the understanding of the various complexes of youth justice. I think that each individual profession needs to consider their fields of specialization. A sociologist must deal with social issues, the economist with issues of the economy, the psychologist must focus on issues of the mind and personalities, and so on.

The professional perspectives presented within this chapter have aimed to illuminate some of the significant aspects of the respective legal systems, as well as the concerns and improvements to be made in the structure and function of youth-focused justice. Comparative and international analyses of youth justice allow us to get a refined comprehensive understanding of the strengths and weaknesses of multiple legal systems, through which we can begin to scrutinize them more closely (Dammer & Albanese, 2011; Laird, 2005). Examining multiple locations (as was the case in this particular study) further permit critical comparisons by stimulating dialogue among legal professionals. This enables us to understand how certain aspects of the systems work, and to utilize that knowledge for measuring the effectiveness of a nation’s legal system.

\textsuperscript{104} Refer to Appendix H for a comprehensive list of study respondents.

\textsuperscript{105} This individual is a lawyer by training, and has an extensive background in sociology. His work is based in Moscow, Russia, where he deals with juveniles in conflict with the law. This includes various trial stages and court proceedings, in addition to focusing on the varying situational factors of youth once they have formally concluded their time within the justice system.
Despite the regional and cultural differences between Canada and Russia, the study respondents indicated many similarities in the way they interpreted youth issues and the structure of the criminal justice system. The similarities involve professional attitudes toward welfare elements of youth justice, the need for extrajudicial measures and their implementation, and the establishment of a specialized juvenile justice system. The distinct similarities between professionals’ perspectives of youth justice and the data on juvenile offending are significant points of consideration. It suggests that, despite the ongoing limitations and contentions of justice systems worldwide, the individuals infused within the fabric of the systems (i.e., legal professionals) share similar sentiments and perspectives about how to address those dilemmas. Such recognition presents a viable opportunity for the exchange of knowledge among justice professionals. There is much-needed rhetoric in criminal justice systems, especially involving youth matters (Bala et al., 2002; Junger-Tas & Decker, 2008). With current technology and the spread of globalization, this goal is realistic and within reach. We must, therefore, take the necessary steps to realize these ambitions.
Chapter 6: Conclusion

The Significance of Comparative and International Analysis

Comparative analysis makes it possible to glimpse into the intricate operation of several systems of justice, and to investigate the role of professionals within each. Additionally, it allows for a comprehension of the structure and function of those legal systems, and the implications of policy formation (Goldson & Muncie 2006; Reichel & Albanese, 2013). The aim of the current comparative study is to make a contribution to the research on the welfare of juveniles, and the establishment of a comprehensive system in accordance with their needs. This is referred to as a youth justice with integrity. As Goldson and Muncie (2006) indicate, this is:

A form of justice that is based on more sophisticated, measured, dignified, and rationally defensible approaches. Ultimately, this demands the de-politization of youth crime and justice and the development of more progressively tolerant, human rights compliant, non-criminalizing, inclusionary and participative strategies. We must map the contours of a youth justice with integrity; free of crude political posturing and informed by comparative analysis, international human rights and research evidence (p.102).

Beyond an understanding of youth justice function and structure within Canada and Russia, the significance of this study extends to other nations of the world because it highlights the importance of dialogue and implementation of effective youth-based initiatives. Despite the important contributions permitted by the analysis of comparative
and international youth justice, there are issues of jurisdictional differences. Consider the passage from Pitts and Kuula (2006) to underscore this point:

Discrete jurisdictions have developed different judicial systems for defining and processing ‘young offenders’. For example, what is classified as ‘penal custody’ in one country may not be in others, even though the regimes and their practices of secure detention may be similar. Furthermore, not all jurisdictions collect the same data on the same groups and populations, and few, if any, appear to do so within the same time periods. Linguistic differences in how the terms ‘minor’, ‘juvenile’, ‘child’ and ‘young offender’ are defined and operationalized, further hinder any attempt to ensure a sound comparative base (p.158-159).

Furthermore, the fact that data and international statistical comparisons of the operation of youth justice systems are now collected by various agencies\textsuperscript{106}, create additional difficulties in recovering and interpreting the information (Bateman, 2006; Goldson & Muncie, 2006). The codification and recording of crimes themselves vary considerably from region-to-region, and between nations.

In addition to comprehending statistical data and the recording of crime across regions, national differences must also be taken into account (social, political, economic, and cultural). This means establishing a clear point of comparison between the way nations process young people (Dammer & Albanese, 2011; Goldson & Muncie, 2006). Focusing strictly on \textit{national} differences, however, is not enough for a strong comparative analysis. Local and/or regional differences within jurisdictions must also be

\textsuperscript{106} For example: The United Nations and the Council of Europe, among other notable organizations.
accounted for, if any attempt to standardize international responses to juvenile offending is to be achieved.\textsuperscript{107}

Rather, we need to examine the various factors contributing to youth justice policy, and work on addressing the key concerns and contradictions they present. There is no direct process or solution for ensuring beneficial comparative analyses, free from inconsistencies. We must continue to strive for a youth justice with integrity, informed by thought-out comparative examinations, international human rights procedures, and research evidence (Janeksela, 1992; Winterdyk, 2002).

The intriguing and complicated study of contemporary youth justice is often relegated to the realm of theory and description. What it ultimately requires is a deeper emphasis on how youth justice plays itself out in practice. That is, a refined understanding of the value of comparative analysis, as well as how judicial systems are structured, operate, and tend to the specific needs and rights of juveniles (Janeksela, 1992). This is precisely what the present study and paper have aimed to underscore—through the detailed and thought-provoking perspectives of legal professionals within Canada and Russia.

\textsuperscript{107} This would involve establishing stronger and more uniform laws and regulations relating to juveniles/minors—regionally, nationally, and on the international scale. Similarly, a standardized approach to international youth justice would include prioritizing the welfare of young people, creating a higher obligation for adherence to youth welfare and rights, equal treatment, and sentencing procedures. Realizing goals such as these would inevitably limit the amount of fragmentation within the systems and countries as a whole, allowing youth justice policy and practice to be implemented more effectively. Simply put, by delegating resources and attention towards youth justice, it will contribute to the strengthening of the system and practice, while also limiting the gaps in the discourse (Dammer & Albanese, 2011; Goldson & Muncie, 2006; Janeksela, 1992; Reichel, 2008; Winterdyk, 2002).
Making Sense of Youth Justice

Within this study, three prominent points have been brought to attention: 1) the roles of legal professionals within criminal justice systems are a crucial aspect to consider, particularly with emphasis on youth justice; 2) the perspectives and views of legal professionals appear to be relatively consistent across geographical regions (i.e., international context); and 3) respondents believe that punitive attitudes toward youth sentencing procedures do not offer a beneficial result when it comes to dealing with young people in conflict with the law.

The striking similarities of the nature of youth justice are no coincidence. In a comprehensive 12-country study on self-reported delinquency, Junger-Tas (1996) outlines “a remarkable similarity among the countries, leading to at least the suspicion that committing delinquent acts is part of growing up for Western children”\(^{108}\) (Junger-Tas, 1996: 13). Understanding that crime by young people presents similar issues for countries throughout the world is a fundamental step in learning how to address youth justice. The perspectives and views of legal professionals appear to be relatively consistent across geographical regions. As has been discussed in chapter five, legal professionals often held similar views on both the positive and negative outcomes of the systems in place, as well as the methods of improvement for establishing a comprehensive juvenile framework.

\(^{108}\) Refer to Table 4 in Appendix G, for information on similarities of delinquency around the world.
The consistent theme throughout the discussion with the interviewed legal professionals was the notion that young people require different responses and treatment than adults (Goldson & Muncie, 2006; Reichel, 2008). This is a fundamental aspect of the topic, which carries much promise for adjusting youth justice policy. The respondents of the study agreed upon the need for a dedicated and unified system of juvenile justice that addresses the rights and needs of young people.

Through an analysis of respondents in the study, it is possible to formulate several core principles that characterize a youth justice with integrity. These principles consist of: an emphasis on welfare elements of justice (child appropriate justice; protecting the legal rights of children in conflict with the law), use of extrajudicial and alternative measures (with an emphasis on the role of family), proper implementation of reintegrative practices, and removing stigmatization of youth. According to legal professionals, putting these principles into practice is important for achieving a justice system that benefits both juveniles and society as a whole.  

Throughout the thesis, we have learned (based on the descriptions of respondents) that punitive attitudes prevail in many aspects of youth justice policy, including the viewpoints of the public and media. Nonetheless, the sample of professionals interviewed for the study clearly indicated their dissatisfaction with harsh sentencing and trial procedures for juveniles. They often viewed punitive sentencing as contradictory to the goals of youth justice, while highlighting the need for alternative programs and sentencing options for juvenile offenders.

109 For example, significant principles of juvenile justice are found in Section 3 of the YCJA’s Declaration of Principle, and in Section 2(1) of the Criminal Code of the Russian Federation. The Russian Criminal Code regulates administrative offences committed by juveniles (Justice Laws, 2014; The Criminal Code of the Russian Federation, 1996).
The general inclination among the group of respondents was away from harsh punishment of juveniles and toward an exploration of their needs and rights. Overly harsh treatment of juveniles prevents improvements in the individual’s way of life, potentially stigmatizes the child, and neglects proper policy formations from being developed to address their unique needs.

An illustrative quote from Abraham Lincoln once again falls conveniently in line with these professional sentiments toward youth justice. He stated: “I have always found that mercy bears richer fruits than strict justice” (Mintz, 2014, On Character, para. 6). While these words were conveyed in a different context, they do portray the powerful need and implications of considering a less punitive form of sentencing for juveniles. Given the many factors that distinguish young people from adults—mainly their mental capacity, rationalization, emotional and physical development—it is understandable how a higher degree of leniency would present more opportunities for young individuals, while considering their future needs (Goldson, 2000; Haines & O’Mahony, 2006).

A greater focus on welfare carries the potential for reduced rates of recidivism and future problematic behaviours, as well as the ability to hold youth properly accountable for their actions, while simultaneously engaging efforts to reintegrate young people successfully into the societal structure (Bell et al., 1999). This should be considered the essential goal of youth justice because of the fundamental long-term implications.

Another core principle is the focus on alternative measures and reintegration. Young people can be kept locked in the justice institutions, but this will likely not socialize them according to the values and cultural norms that society demands (Junger-
Tas, 2002). Rather, it will retain them in the cycle of delinquency and a process of de-socialization, whereby efforts to prevent their problematic behaviours will likely cost high sums of money and present opportunities for ongoing offending (i.e., the paradigm known as the cycle of crime) (Goldson, 2002). This is not coinciding with the interests of governments, societies, or the goals of youth justice, more generally.

Based on the findings of the current comparative study, it is not simply sufficient to have alternative measures in place, but we must also outline the methods for their proper implementation into practice. Utilizing all available data within society, including government control of program implementation and resource allocation across the regions is necessary. We should involve not only legal professionals, but also the community and social resources into re-engaging juvenile offenders back into society. Putting things into practice is the final step, and the one that is perhaps the most difficult and important.

The final principle is that of limiting stigmatization for juveniles who come into conflict with the law. We are aware that both media and public influences can skew information on juvenile offending. This is often not coinciding with research and statistical data that represents the problem (Cohen, 1972; Junger-Tas & Decker, 2008). Therefore, it is imperative to examine the perspectives of legal professionals because they have substantial grounding in the respective judicial system and its proceedings (i.e., knowledge of offending patterns and tendencies.). Likewise, decreasing stigmatization toward young people allows them to retain their own sense of identity, and improves the chances of social reintegration, not to mention contributing to society in potentially meaningful ways.
Placing a negative label on anyone would be difficult, but children are particularly susceptible to the dangerous consequences of doing so. They may withdraw from society and retreat to associations with delinquent peer-groups because they share similar identities. At a young age, identity formation is an essential component that needs to be fostered in the right direction. This would be most productive for the individual as well as the society in which the juvenile is located. De-stigmatizing young people in conflict with the law is of the utmost importance for the principles of youth justice. It is also a beneficial component for the proper structure and function of any criminal justice system that understands juvenile needs, rights, and welfare. Being aware of these core principles enables us to more confidently pursue a youth justice with integrity—centered on professional formulations of the issues, and considerations of young people themselves.

Recognizing that Canada and Russia are starkly different nations is one thing. However, realizing that professionals within each of those systems view the fundamentals of youth justice and policy in exceedingly similar ways reinforces the urgency of establishing youth justice procedures that reflect those shared characteristics and strengths. Focusing on the aspects that legal professionals see as promising indicates that it is not only possible to achieve those standards of effective juvenile justice\textsuperscript{110}, but also that it is drastically needed. The indicators for advancements in judicial administration are clearly there—in the perspectives of legal professionals that are embedded within the justice systems.

\textsuperscript{110} Specifically, this refers to justice that aims at adhering to greater due process in the sentencing of juveniles, reducing recidivism and the overreliance on incarceration, and providing means for successful reintegration of young people into the community. Such approaches would be practical and beneficial for the individual and society.
Similarly, by comprehending the significant perspectives of legal professionals, we can progressively continue to formulate stronger systems of justice based on the needs and welfare of youth. This can be achieved by focusing on evidence-based practice, exchanging dialogue among legal professionals, and applying that knowledge for the establishment of effective judicial administration. This will expectantly lead to the administration of stronger programs and promising procedures concerning youth within society.

Final Word

As all comparative analyses, this study is far from complete. It is an additional attempt to map the contours and priorities of youth justice from a comparative point of view. A limitation of the current study was its restricted sample size, which nevertheless permitted for an insightful analysis on the topic. Future research on comparative justice systems will benefit from expanding the number of respondents to be more representative of the diversity of professional viewpoints on juvenile justice issues.

It is also imperative to develop new and progressive theories that effectively test the study assumptions. This will evidently contribute to factual conclusions and improve the construct validity and reliability of the study. Additional work is required to address the local and regional characteristics of nations’ juvenile justice policy. This will enable the development of practical approaches for the implementation of the core principles of youth justice, as well as account for the complex characteristics of judicial philosophy in the areas of examination.
The perspectives of justice professionals provide a unique understanding of youth justice matters, but more so, their words serve as a drive for change. The real question is: are we willing to listen and take note of their advice? This would be the next viable step forward before fundamental changes are witnessed at the structural and policy levels. The voices of legal professionals resonate profoundly across the international spectrum, and provide practical and trained outlooks on the situation at large. In many ways, they are the keys that have unlocked the door to the analysis of comparative youth justice. It is now our task to push through the obstacles and continue the climb, while ensuring the fewest possible setbacks. This is how to truly realize a youth justice with integrity.
APPENDIX A—RECRUITMENT EMAIL LETTER

Dear Sir or Madam:

I am a graduate student and candidate in the M.A. Criminology program at Wilfrid Laurier University, Brantford. I am conducting a research study entitled, “A Side of Justice Rarely Seen: Professional Perspectives Toward Youth Justice and Sentencing Procedures in the Exploratory Context of Canada and Russia.” This study has been reviewed and approved by Wilfrid Laurier University’s Research Ethics Board (REB # 3290).

The purpose of the proposed study is to undertake a comparative analysis of both Canada and Russia to make sense of professional perceptions regarding youth justice and sentencing procedures. Through the dialogue of legal professionals, the aim is to learn from the key experiences of juvenile practices, and understand the pros and cons of the specified justice systems. The aim of the current analysis is to explore the perceptions of legal professional toward youth crime and youth justice within the corresponding countries, and their justifications for criminal justice system responses. An analysis of professional perspectives allows us to systematize the suggestions and insights on how to improve the existing situation of juvenile justice.

I am contacting you to inquire into your willingness to be interviewed. The interview will be conducted by myself in person, and will last approximately 1-1.5 hours, at your convenience and discretion. You will have the opportunity to withdraw from the study at any time without prejudice or consequence. The interview will take place at a location that is most convenient for yourself.

I hope to use this information to formulate a final thesis paper concerning professional perceptions of youth justice and court proceedings. As a participant, you will receive summaries of any results acquired from this project. If you have any questions about the study or your participation, please do not hesitate to contact me via email at loks8070@mylaurier.ca. You can also get in contact with my supervisor, Nikolai Kovalev at nkovalev@wlu.ca.

Thank you very much for considering my invitation. I look forward to speaking with you soon.

Serge Lokshin
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Brantford, ON, N3T 2Y3
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APPENDIX B—INFORMED CONSENT STATEMENT

WILFRID LAURIER UNIVERSITY
INFORMED CONSENT STATEMENT

[A Side of Justice Rarely Seen: Professional Perspectives Toward Youth Justice and Sentencing Procedures in the Exploratory Context of Canada and Russia”]

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You are invited to participate in a comparative research study investigating professional perceptions of youth justice and sentencing procedures in Canada and Russia. Through the dialogue of legal professionals, the aim is to learn from the key experiences of juvenile practices, and understand the pros and cons of the specified justice systems. The aim of the current analysis is to explore legal professional perceptions toward youth crime and youth justice within the corresponding countries, and their justification of criminal justice system responses toward youth crime. An analysis of professional perspectives allows us to systematize the suggestions and insights on how to improve the existing situation of juvenile justice.

INFORMATION

For this study, you are invited to participate in an in-depth interview, which will be conducted face-to-face or via telephone, at a place and time most convenient for you. With your consent, the interview will be tape-recorded for transcriptions and analysis by Serge Lokshin. The interview will last approximately 1-1.5 hours and will be in the form of a semi-structured, open-ended interview. A total of twenty-four participants will be involved in this study and your identity (as a participant) in reports will be kept confidential by the use of an assigned code or pseudonym. The interview questions are intended to analyze your perceptions of youth justice and sentencing procedures in the respective country (i.e., either Canada or Russia). As such, you may be contacted with follow-up questions or with questions of clarification. You may, at your inclination, review the transcript of the interview.
RISKS

There are no perceived physical, social, or other types of risks to participation in this study. You will be asked a variety of questions about your perceptions of youth justice in the country. As such, there are no foreseeable social risks involved in the research. The research, however, may cause some minor emotional discomfort because you may be asked about some sensitive issues or topics. However, if you feel concerned or uncomfortable at any point during the research or interview process, the researcher will respect your feelings and proceed to other questions. If needed, you may withdraw from the study altogether.

The interviews are strictly voluntary and there are no expected repercussions from the research. All efforts will be made to maintain your confidentiality and anonymity. You will be informed of the purpose of the study prior to the interview. Specifically, you will be informed that you (a) do not have to participate, (b) may withdraw from participation at any time in the study, and c) may omit a response to any question. If you wish to withdraw, the interview will stop and the necessary data will be destroyed. Anonymity will be ensured through anonymous participant numbers and the manner in which information is transcribed and stored (please see section on ‘Confidentiality’ below).

BENEFITS

Your participation in the study will provide the opportunity to express your views and opinions on significant issues of youth justice and the structure and operations of the legal system. In addition, an exploration of professional perceptions of youth crime and sentencing procedures is an area of scholarship that has been lacking qualitative research, especially from a comparative standpoint. The countries’ of Canada and Russia (specifically, the cities of Toronto and Moscow) will benefit immensely from a careful analysis of professional perceptions and an understanding of the process and structure of the legal systems. It is anticipated that this study will provide additional perspectives on youth justice issues as applicable to an international context. This knowledge will prove useful for a refined understanding of youth justice and the formulation of policy measures to deal with the increasingly global dilemma of youth delinquency, in its many forms.

CONFIDENTIALITY

Interview data will be audio-recorded and transcribed for later analysis by the primary investigator, Serge Lokshin. You should know that if you agree to participate in this interview, you can withdraw from the study at any time and have your responses up to that point destroyed. All participants will have a numbered code name assigned to their interviews rather than their actual names. All of your answers will be held in strict confidence. Similarly, your taped responses will be assigned a number and will not be identifiable in any results presented. Data collected in the form of written notes will be stored securely in a privately locked cabinet, accessible only to the primary investigator and his research supervisor. When the digital voice files and transcripts are not in use, they will be secured in a password-protected computer accessible only to the primary
investigator. With your permission, quotations may be used in the project write-up. However, as the participant, you will not be directly identifiable in the quotations. Rather, you will be referred to by a code name (CAN7 or RUS 3). This will ensure anonymity. You can consent to taking part in the project but choose to have your quotations omitted from the final report. You may, of course, choose to participate in the study without being quoted altogether.

CONTACT

If you have any questions at any time about the study or the procedures, (or you experience some type of discomfort as a result of participating in this study), you may contact the researcher, Serge Lokshin, at loks8070@mylaurier.ca. The Research Ethics Board at Wilfrid Laurier University has reviewed and approved this project. If you feel you have not been treated according to the descriptions in this informed consent statement, or your rights as a participant in research have been violated during the course of this project, you may contact: Dr. Robert Basso, Chair, University Research Ethics Board, Wilfrid Laurier University, (519) 884-1970 ext. 5225 or rbasso@wlu.ca

PARTICIPATION

Your participation in this study is entirely voluntary. You are free to withdraw at any time and without prejudice. Also, you may decline to participate. If you decide to participate, you may withdraw from the study at any time without penalty and without loss of benefits to which you are otherwise entitled. If you withdraw from the study, every attempt will be made to remove your data from the study, and have it destroyed immediately; transcription files will be deleted and written notes shredded. You have the right to omit and/or refuse to answer any question or participate in any activity.

FEEDBACK AND PUBLICATION

Major research findings will be submitted as a final thesis paper for criminology. The study will directly inform and contribute to the researcher’s personal thesis work on the topic of International and Comparative Youth Justice throughout graduate school and for upcoming years.

You will be informed about the findings of the study after completion and upon request. This will be done by providing you with an executive summary (either by email or hard-copy) of a few paragraphs outlining the results of the research; feedback will be available one-to-two months after the completion of the study. The results of the study will also be distributed to your respective community agencies at their request. The information that you provide will be retained for a period of one-year following the completion of the study. After the elapsed time, the digital voice files will be deleted and the interview list shredded, along with all other data you have provided. For your information, the tapes (media recordings) will not be used for any additional purposes without your permission.
## CONSENT

<table>
<thead>
<tr>
<th>Consent and Privacy Options</th>
<th>YES</th>
<th>NO</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1) I understand and agree to participate in the research, I am willing to participate in an in-person interview to be scheduled/conducted at my convenience.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(2) I agree to the interview being tape-recorded.</td>
<td></td>
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<tr>
<td>(3) I would like to review the transcript of the interview.</td>
<td></td>
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<tr>
<td>(4) I am willing to grant the researcher permission to use direct quotations from my interview.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(5) I am willing to allow the researcher to cite information offered in my interview (cited anonymously, not ascribed directly to me).</td>
<td></td>
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</tr>
<tr>
<td>(6) I would like to review and comment on a draft report before it is made public.</td>
<td></td>
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<tr>
<td>(7) I would like to receive a copy of the final report when it is published.</td>
<td></td>
<td></td>
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<tr>
<td>(8) I would agree to be re-contacted if necessary.</td>
<td></td>
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</tr>
</tbody>
</table>

I have read and understand the above information about the study being conducted by Serge Lokshin of Wilfrid Laurier University, Brantford. I have had the opportunity to ask questions about my involvement in this study, and to receive any additional details I wanted to know. I understand that I may withdraw from the study at any time, if I choose to do so, and I agree to participate in this study. I have been provided with a copy of this form.

Participant’s Name ________________________________

Participant’s signature ______________________________
Date ______________________________

Investigator’s signature ______________________________
Date ______________________________
APPENDIX C—INTERVIEW GUIDE

Wilfrid Laurier University, Department of Criminology, Canada

Serge Lokshin, M.A. Candidate

INTERVIEW QUESTIONS

A SIDE OF JUSTICE RARELY SEEN: PROFESSIONAL PERSPECTIVES TOWARD YOUTH JUSTICE AND SENTENCING PROCEDURES IN THE EXPLORATORY CONTEXT OF CANADA AND RUSSIA

GUIDENOTES

Terms used in the questionnaire

(1) “Court” = any court involving lay adjudicators (unless otherwise specified)

Contact information

If you have any questions, please contact:

Serge Lokshin at loks8070@mylaurier.ca or
Professor Nikolai Kovalev at nkovalev@wlu.ca

August 2013
I. INTRODUCTION

(1) Tell me a bit about yourself. How long have you been connected or associated with the city?

(2) What do you do in the city (e.g., employment/occupation, living circumstances)?

(3) What is your connection to the legal system, with specific relation to youth justice?

II. SAFETY AND CRIME PREVENTION QUESTIONS

(4) In your opinion, how has Toronto’s/Moscow’s youth crime rate fluctuated in the past five years? Do you think it has increased, decreased or remained stagnant? Why?

(5) At which age do you think youth (persons between the ages of 12-17) are most likely to commit an offense? Why?

(6) In your opinion, what proportion of crime in the city is committed by youths?

(7) What do you think are the most prevalent types of crimes committed by youths in the city?

(8) In your opinion, which of the following factors have an impact in instigating criminal behaviour: Age? Gender? Family income? Ethnicity?

(9) What measures would, in your view, be most likely to lead to a reduction in crime?

(10) What do you believe are the best ways of improving youth problems within society (e.g., youth-directed services such as clubs, gyms, police control, school involvement, family integration, etc.)?
Are there any prominent youth programs in the country that are actively working to address youth problems (i.e., at-risk youth, drug addiction, socio-economic factors, sentencing)? In your view, which program is most active in addressing juvenile issues?

III. SENTENCING PROCEDURE QUESTIONS

12) Do you feel that it is important to improve the social integration of youth at risk in the country?

13) What are some effective services for at-risk youth in the city?

14) In your view, would softer sentencing or harsher sentencing lead to a reduction in crime, or would neither make a difference?

15) Do you believe that juveniles are sentenced more punitively in your country in comparison with others?
   a. To what degree do you believe this to be related to the legal system in place?

16) Does the public welcome harsher policies towards young offenders? If so, in what way?

17) Do professional attitudes impact the level of juvenile sentencing in your country/city? How so?

18) What main factors are implicated in the sentencing and trial rights of juveniles in your country/city?

19) To what degree does legal representation affect the sentence that the individual youth receives?
20) How might sentencing involving juvenile offenders be influenced by the predispositions or bias(s) inherent in judicial decision-making processes?

21) Considering the system of justice in your country/city, which parties play the most significant role in the sentencing procedures of juveniles?

22) How can a comprehensive system of juvenile justice be formulated?

IV. MEDIA-RELATED QUESTIONS

23) In what ways has the media influenced your perceptions of youth crime and the legal system in the city?

24) In what ways have the recent advents in technology had an impact/influence on court proceedings (i.e., the filming or recording of trials)?

V. CONCLUDING QUESTIONS

25) What do you think are the most important ways to address the issue of youth justice in society?

26) In your view, what is among the most important factor(s) that can lead to an optimal structure or organization of the legal system in the city?

27) Is there anything else you think I should know to understand youth justice and professional perceptions better?

28) Are there any final or concluding statements you would like to make at this point?

Thank you for your input and cooperation.
Dear Sir or Madam:

Hello, my name is Serge Lokshin and I am a graduate student and candidate in the M.A. Criminology program at Wilfrid Laurier University, Brantford. I am conducting a research study entitled, “A Side of Justice Rarely Seen: Professional Perspectives Toward Youth Justice and Sentencing Procedures in the Exploratory Context of Canada and Russia”. This study has been reviewed and approved by Wilfrid Laurier University’s Research Ethics Board (REB # 3290).

The purpose of the proposed study is to undertake a comparative analysis of both Canada and Russia to make sense of professional perceptions regarding youth justice and sentencing procedures. Through the dialogue of legal professionals, the aim is to learn from the key experiences of juvenile practices, and understand the pros and cons of the specified justice systems. The aim of the current analysis is to explore the perceptions of legal professional toward youth crime and youth justice within the corresponding countries, and their justifications for criminal justice system responses. An analysis of professional perspectives allows us to systematize the suggestions and insights on how to improve the existing situation of juvenile justice.

I am contacting you to inquire into your willingness to be interviewed. The interview will be conducted by myself in person, and will last approximately 1-1.5 hours, at your convenience and discretion. You will have the opportunity to withdraw from the study at any time without prejudice or consequence. The interview will take place at a location that is most convenient for yourself.

I hope to use this information to formulate a final thesis paper concerning professional perceptions of youth justice and court proceedings. As a participant, you will receive summaries of any results acquired from this project. If you have any questions about the study or your participation, please do not hesitate to contact me via email at loks8070@mylaurier.ca. You can also contact my study supervisor, Nikolai Kovalev, at nkovalev@wlu.ca.

Thank you for considering my invitation. I look forward to speaking with you soon.

Serge Lokshin
Master’s of Arts, Criminology
Wilfrid Laurier University, Brantford
73 George St.
Brantford, ON, N3T 2Y3
Loks8070@mylaurier.ca
APPENDIX E: YOUTH JUSTICE SURVEY

A Side of Justice Rarely Seen: Professional Perspectives Toward Youth Justice and Sentencing Procedures in the Exploratory Context of Canada and Russia

1. What is your gender?  □ Male  □ Female  □ Other Association
2. What is your age?  □ 18-29  □ 30-49  □ 50-65  □ Over 65
3. What is your association with the legal system?  □ Court Official  □ Lawyer  □ Police Service  □ Academic  □ Corrections/Probation Officer  □ Other ____________

Using the following scale, please check the box/number that best describes your response to each statement or question. Please note, these responses are strictly based on your own interpretations of the statements. To the best of your ability, try to focus on your personal feelings, expertise, and understanding of the issues.

Thank you for taking the time to share your valuable insights on youth justice and sentencing procedures.

<table>
<thead>
<tr>
<th>Statements/Questions</th>
<th>Strongly Disagree</th>
<th>Disagree</th>
<th>No Opinion (Doesn't Matter)</th>
<th>Agree</th>
<th>Strongly Agree</th>
<th>Not Applicable (N/A)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Youth crime and delinquency is a serious issue within society.</td>
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<tr>
<td>2. The legal/justice system in your country is effective in addressing crime.</td>
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<tr>
<td>3. The courts are well-equipped to handle cases of youth misbehaviour.</td>
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<tr>
<td>Statements/Questions</td>
<td>Strongly Disagree</td>
<td>Disagree</td>
<td>No Opinion (Doesn’t Matter)</td>
<td>Agree</td>
<td>Strongly Agree</td>
<td>Not Applicable (N/A)</td>
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<td>------------------------------------------------------------------------------------</td>
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<tr>
<td>4. The views/opinions of legal professionals relating to youth justice are most reflective of reality.</td>
<td>1</td>
<td>2</td>
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<td>4</td>
<td>5</td>
<td></td>
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<tr>
<td>5. Youths should be treated and sentenced equal to their adult counterparts.</td>
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<tr>
<td>6. The legal system in the country is effective in handling youth offenders.</td>
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<tr>
<td>7. The trial and sentencing procedures in the country operate to ensure minimal youth recidivism.</td>
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<tr>
<td>8. The existing legal system operates effectively to reintegrate offenders into society.</td>
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<tr>
<td>9. If a youth commits a violent offence (e.g., assault, robbery, murder), the sentence should be longer in duration.</td>
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<tr>
<td>10. If a youth commits a property or drug offence (theft, vandalism, etc.), the sentence should be shorter in duration.</td>
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<tr>
<td>11. Community reintegration and rehabilitation is a strong and viable option for the treatment of youth offenders.</td>
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<tr>
<td>12. The outcomes of contact with the juvenile justice system have a negative impact on juveniles.</td>
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<td></td>
</tr>
<tr>
<td>Statements/Questions</td>
<td>Strongly Disagree</td>
<td>Disagree</td>
<td>No Opinion (Doesn’t Matter)</td>
<td>Agree</td>
<td>Strongly Agree</td>
<td>Not Applicable (N/A)</td>
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<td>-------------------------------------------------------------------------------------</td>
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<tr>
<td>13. The existence of a specialized juvenile justice system does/would aid in the processing of youth offenders.</td>
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<tr>
<td>14. The public is poorly informed about issues of youth justice.</td>
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<tr>
<td>15. Overall, professionals are adequately informed about issues of youth justice.</td>
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<tr>
<td>16. The sentencing of young offenders by the courts is, at present, too lenient.</td>
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<tr>
<td>17. The welfare-oriented model of justice is preferable for managing youth justice.</td>
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<tr>
<td>18. The punitive-oriented model of youth justice is preferable for managing youth justice.</td>
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<tr>
<td>19. There is discontent among legal professionals about the effectiveness of the present system of youth justice.</td>
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<td></td>
</tr>
<tr>
<td>20. The administration and trial proceedings of juveniles had a potential to improve over the past several years (i.e., organization, treatment, assessing risk/motivation, etc.).</td>
<td></td>
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<td></td>
<td></td>
<td></td>
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</tr>
</tbody>
</table>
APPENDIX F: FORMAL TEMPLATE LETTER

30 ноября 2012 г.

Для представления по месту требования:

Уважаемый господин [имя]

Настоящим письмом подтверждаю, что [имя] Сергей Локшин является студентом магистратуры по специальности криминология Университета им. Уильфрида Лорье (Wilfrid Laurier University). Как Локшин работает под моим непосредственным научным руководством на магистерской диссертации на тему «[Тема диссертации]». В декабре 2012 г. он находится в научной командировке в городе Москве для сбора материала для своей диссертации. В этой связи, я, как научный руководитель [имя] Локшина, прошу Вас оказать ему помощь и поддержку в его научном исследовании.

Данное исследование и его методология были одобрены кафедрой Криминологии и Комитетом по научной работе Университета. Уважаемый [имя], Результаты исследования будут использованы строго в научных целях и могут быть опубликованы в научных журналах на английском и русском языках.

Если у Вас возникнут какие-либо вопросы по поводу научной командировки или исследования [имя] Сергея Локшина, то Вы можете связаться со мной по электронной почте: akovelev@wlu.ca

С уважением,

[Фамилия]

[Должность]

[Институт]

[Адрес]

[Телефон]

[Электронная почта]
APPENDIX G: LIST OF TABLES

TABLE 1: KEY PRINCIPLES OF INTERNATIONAL AGREEMENTS RELATED TO JUVENILE JUSTICE

<table>
<thead>
<tr>
<th>Principle</th>
</tr>
</thead>
<tbody>
<tr>
<td>All children should be respected as fully fledged members of society, with</td>
</tr>
<tr>
<td>the right to participate in decisions about their own futures, including</td>
</tr>
<tr>
<td>in official proceedings, without discrimination of any kind.</td>
</tr>
<tr>
<td>Children have the same rights to all aspects of due process as those</td>
</tr>
<tr>
<td>accorded to adults as well as specific rights due to their special status</td>
</tr>
<tr>
<td>as children.</td>
</tr>
<tr>
<td>Children should be diverted from the formal system of justice wherever</td>
</tr>
<tr>
<td>appropriate, specifically to avoid labeling as criminals.</td>
</tr>
<tr>
<td>There is a set of minimum standards that should be provided to all</td>
</tr>
<tr>
<td>juveniles in custody.</td>
</tr>
<tr>
<td>Custodial sentences should be used as a last resort, for the shortest</td>
</tr>
<tr>
<td>possible time, and limited to exceptional cases.</td>
</tr>
<tr>
<td>A variety of noncustodial sentences should be made available, including</td>
</tr>
<tr>
<td>care, guidance and supervision orders, counseling, probation, foster</td>
</tr>
<tr>
<td>care, education, and vocational training programs.</td>
</tr>
<tr>
<td>Capital and corporal punishment of children should be abolished.</td>
</tr>
<tr>
<td>There should be specialized training for personnel involved in the</td>
</tr>
<tr>
<td>administration of juvenile justice.</td>
</tr>
<tr>
<td>Children have the right to be released from custody unless there are</td>
</tr>
<tr>
<td>specified reasons why this should not be granted.</td>
</tr>
<tr>
<td>Children have the right to measures to promote recovery and reintegration</td>
</tr>
<tr>
<td>for victims of neglect, exploitation, abuse (including torture and ill-</td>
</tr>
<tr>
<td>treatment), and armed conflict.</td>
</tr>
<tr>
<td>States are obliged to establish a minimum age of criminal responsibility,</td>
</tr>
<tr>
<td>which is not set too low, but reflects children’s capacity to reason and</td>
</tr>
<tr>
<td>understand their own actions.</td>
</tr>
<tr>
<td>States should invest in a comprehensive set of welfare provisions to</td>
</tr>
<tr>
<td>contribute to preventing juvenile crime (International Human Rights, 2004)</td>
</tr>
</tbody>
</table>

Adapted from Dammer & Albanese (2011: 267)
### TABLE 2: FOUR JUVENILE JUSTICE MODELS COMPARED

<table>
<thead>
<tr>
<th></th>
<th>Welfare</th>
<th>Legalistic</th>
<th>Corporatist</th>
<th>Participatory</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Key personnel</strong></td>
<td>Child-care experts</td>
<td>Lawyers</td>
<td>Administrators and bureaucrats</td>
<td>Community members</td>
</tr>
<tr>
<td><strong>Use of formal</strong></td>
<td>Partial; prefers nonjudicial process</td>
<td>Full</td>
<td>Partial; prefers nonjudicial process</td>
<td>Scarce; prefers extralegal process</td>
</tr>
<tr>
<td><strong>Prime objective</strong></td>
<td>Protection and well-being of the juvenile are emphasized, with treatment taking priority over due process.</td>
<td>Due process and formal action take priority over treatment because the emphasis is on applying the law.</td>
<td>Emphasis is on operating an effective juvenile justice system with increased efficiency and decreased delays.</td>
<td>Education of all citizens and the full integration of misbehaving youth into law-abiding society are emphasized.</td>
</tr>
</tbody>
</table>
TABLE 3: AGE OF CRIMINAL RESPONSIBILITY IN SELECTED COUNTRIES

<table>
<thead>
<tr>
<th>Country</th>
<th>Minimum Age of Criminal Responsibility</th>
</tr>
</thead>
<tbody>
<tr>
<td>India</td>
<td>7</td>
</tr>
<tr>
<td>Switzerland</td>
<td>7</td>
</tr>
<tr>
<td>Kenya</td>
<td>8</td>
</tr>
<tr>
<td>Ethiopia</td>
<td>9</td>
</tr>
<tr>
<td>New Zealand</td>
<td>10</td>
</tr>
<tr>
<td>Saudi Arabia</td>
<td>10</td>
</tr>
<tr>
<td>Turkey</td>
<td>11</td>
</tr>
<tr>
<td>Greece</td>
<td>12</td>
</tr>
<tr>
<td>Canada</td>
<td>12</td>
</tr>
<tr>
<td>Austria</td>
<td>14</td>
</tr>
<tr>
<td>Russia</td>
<td>14</td>
</tr>
<tr>
<td>Denmark</td>
<td>15</td>
</tr>
<tr>
<td>Norway</td>
<td>15</td>
</tr>
<tr>
<td>Belgium</td>
<td>16</td>
</tr>
<tr>
<td>Colombia</td>
<td>18</td>
</tr>
<tr>
<td>Venezuela</td>
<td>18</td>
</tr>
</tbody>
</table>

Adapted from Reichel (2008: 345)
TABLE 4: SIMILARITIES IN DELINQUENCY AROUND THE WORLD

SIMILARITIES IN DELINQUENCY AROUND THE WORLD

Junger-Tas (1996), reporting results from an International Self-Report Delinquency Study in 12 countries, summarized the similarities in delinquency as follows:

- Boys, in all countries, are two to four times more likely than girls to commit violent offenses.
- Boys in all countries are one and one half to two times more likely than girls to commit property offenses.
- The peak ages for committing particular crimes are similar in most countries, for example, 14 to 15 for vandalism, 16 to 17 for property crimes, 18 to 20 for violent crimes.
- In all countries there was less delinquent behavior when the relationship with parents was close.
- Parental supervision is a powerful predictor of delinquency in all the countries—the less supervision, the more delinquent behavior.

Adapted from Reichel (2008: 343)
### TABLE 5: VIEWS OF SENTENCING POLICY

<table>
<thead>
<tr>
<th>Do you think that the sentencing of young offenders by the courts is, at present:</th>
<th>Russia 2004</th>
<th>Eng./Wales 2003</th>
<th>Canada 2000*</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>All</td>
<td>Giving view</td>
<td>All</td>
</tr>
<tr>
<td>too lenient?</td>
<td>27</td>
<td>35</td>
<td>71</td>
</tr>
<tr>
<td>about right?</td>
<td>44</td>
<td>56</td>
<td>20</td>
</tr>
<tr>
<td>too harsh?</td>
<td>8</td>
<td>10</td>
<td>3</td>
</tr>
<tr>
<td>[Difficult to say]—</td>
<td>22</td>
<td>—</td>
<td>5</td>
</tr>
<tr>
<td>100%</td>
<td>100%</td>
<td>100%</td>
<td>100%</td>
</tr>
</tbody>
</table>

Adapted from McAuley & Macdonald (2007: 11)

### TABLE 6: RUSSIAN VIEWS ON THE CRIMINAL JUSTICE SYSTEM IN RELATION TO YOUNG PEOPLE

<table>
<thead>
<tr>
<th>Aims of today’s justice system for young people:</th>
<th>Are (%):</th>
<th>Should be (%):</th>
<th>Disparity (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>To punish an offence</td>
<td>61</td>
<td>40</td>
<td>-19</td>
</tr>
<tr>
<td>To isolate the offender from society</td>
<td>47</td>
<td>19</td>
<td>-28</td>
</tr>
<tr>
<td>To deter the offender and others</td>
<td>26</td>
<td>15</td>
<td>-9</td>
</tr>
<tr>
<td>To ensure that justice is done</td>
<td>25</td>
<td>55</td>
<td>30</td>
</tr>
<tr>
<td>To show society's disapproval of the crime</td>
<td>20</td>
<td>32</td>
<td>12</td>
</tr>
<tr>
<td>To re-educate the offender</td>
<td>24</td>
<td>55</td>
<td>31</td>
</tr>
<tr>
<td>To compensate the victim for loss of property/damage</td>
<td>16</td>
<td>30</td>
<td>14</td>
</tr>
</tbody>
</table>

Adapted from McAuley & Macdonald (2007: 11)
APPENDIX H: STUDY RESPONDENTS & FOCUS OF DISCUSSION

Canada

CAN1: Corrections worker/coaching program (Youth dispute resolution)
CAN2: Ministry worker (Youth services)
CAN3: Lawyer (Economic law and dispute resolution)
CAN4: Legal scholar (Penal system and sentencing)
CAN5: Professor/social worker (Youth justice policy)
CAN6: Lawyer (Youth life-skills program manager)
CAN7: Lawyer (Youth justice issues)
CAN8: Probation officer (Youth social/community services)
CAN9: Corrections worker (Restorative justice for youth/extrajudicial measures)
CAN10: Social worker/activist (Youth justice issues)
CAN11: Judge (Youth court; implementation of extrajudicial measures)
CAN12: Member of police force (Alternative measures for juveniles; social reintegration)

Russia

RUS1: Ministry worker (Legal reforms/restorative justice)
RUS2: Social/legal aid worker (Youth delinquency/rehabilitative measures)
RUS3: Correction worker (Rehabilitation and juvenile law-breaking)
RUS4: Probation officer (Youth rehabilitation/social and community services)
RUS5: Lawyer (Penal system)
RUS6: Ministry worker (Social services/court system/rehabilitative measures)
RUS7: Lawyer (Judicial administration/youth issues/allocation of resources)
RUS8: Ministry worker (Ministry of the Interior/legal system and youth justice)
RUS9: Member of police (Public/media interpretations of juvenile delinquency/sentencing issues/social factors for young people)
RUS10: Social worker (Judicial administration/Implementation of juvenile reintegrative justice practices)
RUS11: Judge (Juvenile justice policy/sentencing and trial rights of juveniles)
RUS12: Lawyer/sociologist (Juveniles in conflict with the law/trial and court proceedings)
## APPENDIX I: MAJOR DIFFERENCES BETWEEN THE YOUTH CRIMINAL JUSTICE ACT AND THE YOUNG OFFENDERS ACT

<table>
<thead>
<tr>
<th>Declaration of principle</th>
<th>Youth Criminal Justice Act</th>
<th>Provides a clear statement of goal and principles underlying the Act and youth justice system.</th>
<th>Contains some of the same themes as the YCJA.</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Includes specific principles to guide the use of extrajudicial measures, the imposition of a sentence and custody.</td>
<td>Is not supplemented by more specific principles at the various stages of the youth justice process</td>
</tr>
<tr>
<td>Measures outside the court process</td>
<td>Youth Criminal Justice Act</td>
<td>Creates a presumption that measures other than court proceedings should be used for a first, non-violent offence.</td>
<td>Allows the use of measures other than court proceedings (alternative measures) but does not create a presumption that they should be used for minor offences.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Encourages their use in all cases where they are sufficient to hold a young person accountable.</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Encourages the involvement of families, victims and community members.</td>
<td></td>
</tr>
<tr>
<td>Youth sentences</td>
<td>Sentencing principles:</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Youth Criminal Justice Act</td>
<td>Includes specific principles, including need for proportionate sentences and importance of rehabilitation.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Young Offenders Act</td>
<td>Included in general principles; sometimes inconsistent and competing principles.</td>
<td></td>
</tr>
<tr>
<td>Sentencing Options:</td>
<td>Youth Criminal Justice Act</td>
<td>Custody reserved for violent or repeat offences.</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>All custody sentences to be followed with a period of supervision in the community.</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>New options added to encourage use of non-custody sentences and support reintroduction.</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Creation of intensive custody and supervision order for serious violent offenders.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Young Offenders Act</td>
<td>No restriction on use of custody.</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>No requirement for community supervision following custody.</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Does not provide for YCJA options like reprimand, intensive support and supervision or custody and supervision order for serious violent offenders.</td>
<td></td>
</tr>
<tr>
<td>Custody and reintroduction</td>
<td>Youth Criminal Justice Act</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>All custody sentences comprise a portion served in custody and a portion served under supervision in the community.</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>A plan for reintroduction in the community must be prepared for each youth in custody.</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Reintegration leaves may be granted for up to 30 days.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Young Offenders Act</td>
<td>No requirement that there be supervised reintegration after custody.</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>No requirement to plan reintroduction during custody.</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Temporary leaves may be granted for up to 15 days.</td>
<td></td>
</tr>
</tbody>
</table>

Adapted from the Department of Justice, Canada (2013)
References


