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Young Offenders and Juvenile Delinquency in Canada: A Look at the Canadian Juvenile Justice Act (2003)

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Abstract:

This paper provides an evaluation and analysis of the laws in place to deal with juvenile delinquency in Canada. The primary focus of this paper is the Criminal Justice Act (April 1, 2003) which is being introduced to replace the pre-existing Young Offenders Act. Canada's New Criminal Justice Act is the topic of this paper. The Act is to be implemented on April 1, 2003. Fundamentally, it is the old Young Offender Act revised and also includes new changes, revisions, and mandates. After having taken a fairly in-depth look at this new proposal, I will attempt to break it down and explain what it is aiming towards and its purpose. In doing so, I hope to point out both the positive aspects as well as the negative that this new document could have, as well as a breakdown of the propositions and key points.

Key Words: Juvenile Justice, Crime Act, Expectations.

Introduction:

The focus of the Act is a holistic approach to the growing problem of youth crime, which is on the rise in both seriousness and occurrences as illustrated in table 1:1 below:

Table 1:1 Statistical Crime Rate in Canada

Youth Charged	1997	1998	1999	2000	2001
	rate per 100,00 population				
All incidents	4,927.5	4,798.3	4,533.6	4,632.7	4,656.9
<i>Criminal Code</i> offences (excluding traffic offences)	4,543.5	4,386.4	4,054.6	4,113.3	4,140.6

The new legislation is aimed at prevention of youth crime instead of punishment. It is also focused on rehabilitation instead of correction. One of the most significant changes to the new legislation is the increased consideration for the victims of crime, who will be represented through Victim Impact Statements being taken into consideration at the time of sentencing. This is a restorative model of justice.

There are many points in this new proposal that appear as if they may actually work. It would seem that the Federal Government has finally wised up to the idea that a long-term solution was needed to deal with the emergence of young criminals.

As things stand now there are some significant ideas and focuses. The three main components to making this new system functional are:

- making sure that it commands respect. A system that is nothing more than a new book cover will hold little weight.
- driving home values such as accountability and responsibility.
- making clear to offenders that negative behaviour will result in consequences.

Aims and Objectives

The Canadian government has three goals for this program:

- making a clear distinction between violent and non-violent offences.
- preventing youth crime.
- placing a large emphasis on getting involved with the young offenders to turn themselves away from re-offending.

The Federal government, as well as the Department of Justice, feels that these three goals need to be achieved in order to regain the public's confidence. Although we cannot be sure at this time exactly what we can expect when all is said and done, we can speculate according to what is being promised. We are promised four main items to date and they are as follows:

1. Flexibility for the provinces
2. Treating violent and non-violent offences differently
3. A cooperative integrated approach
4. Children are to be the national priority.

The federal government has stated that they will give flexibility to the individual Provinces and recognized that different Provinces have different needs. With the current system all young offender guidelines are imposed at the Federal level. What this new change would mean is that each Province would have the authority and ability to deal with problems that are exclusive to that Province. Problems that occur in New Brunswick on the East Coast are not the same as the problems in say, Quebec (Central), or Alberta (on the West Coast) nor can they be dealt with in the same manner.

The second thing that the Federal Government has said will be a part of this new policy is the clearly drawn lines to differentiate between violent and non-violent offences.

There are to be formal measures for violent offences and informal responses for non-violent offences.

Formal/Informal Measures

An example of a formal measure would be closed custody whereas community service would be an example of informal responses. Some readers may say that we already have community service in place and you would be correct in this. In today's young offender system, the community service is generalized and aimed at the community where the wrong has been committed. Under the new proposal a young offender who has committed a wrong, must amend that wrong to the individual rather than to the community at large. This is a significant departure

This idea is one that can certainly be seen as a high point of the proposed plan. No longer will people who have been victimized feel as if they have been forgotten or poorly represented in legal matters, which is something that you hear a great deal about presently.

Expectations

Another aspect that is being highly anticipated is the new cooperative approach planned by the Department of Justice. This would encompass many different arms of the Canadian government such as the Departments of Child Welfare, Mental Health, Education, Social Services, and Employment. This is most likely to be the one thing that will draw vast support from the voting public. Too often we see that the different branches of government don't work together to achieve their common goals. It is hoped that this particular problem will be a thing of the past.

There are two strong positives that are the aim of this proposition. The first is to cut the expenditures and the second is to become more effective. If all parties mentioned were able to put aside their individual departmental agendas/mandates, then it would eliminate a great deal of the wasted man-hours that are so desperately needed. One of the most important keys, if not the single most important key, is to see that one hand washes the other in every possible instance. The days of wasteful spending ought to be over.

Implementation

The process for restructuring the system is not a quick and simple one. It will need to encompass all three levels of government (Municipal, Provincial, and Federal). It

will also need the support of all the different agencies that deal with youth as well as the legal community. A few of these groups are; parents, schools, social workers, and law enforcement.

This process is expected to take approximately six years to be put in place. An important part of getting this proposition passed into law is public opinion. It is going to require the support of the public to convince the majority that this is in the best interest of the country and society as a whole. An integral part of drumming up public support is getting information out in the light. Putting all the cards on the table. Most importantly the information needs to be accurate. All citizens of Canada must be made aware of what exactly is intended and how it will affect them. One reason for making the public aware of what is taking place relates to the financial aspect. Taxpayers want to see exactly where their money is going. If the Federal government tried to pass this proposal without consulting with the average John Q. Public it would not be well received. The average taxpayer wants to know what their taxes are paying for. The Government needs to make sure that its citizens are aware of changes such as this. "The idea has to be sold to the people who put the policymakers into office. If the government tried to slide something like this through the back door it would further the cause of social dissidence" (Cameron, K., 2001).

Sentencing

Sentencing changes in most respects will not be all that noticeably different to the untrained eye. It will be in the implementation that we see just how these improvements are to have an effect. One aspect that is expected to receive significant attention is the severity of new sentences. The idea is to have the sentence accurately reflect the seriousness of the offence.

Another potential strong point of the proposed sentencing changes is the expansion of offences that could be punishable under adult status. It is rather simple. One of the biggest problems that the current Young Offenders Act has is how young offenders perceive it. Many of them see the stature as a farce. In broadening the area of offences that can be transferred into adult court youth will have to think twice before going out and committing a crime.

Intensive treatment for high-risk youth is yet another idea in the works. It would impose and enforce a wide array of services and programs, for those that have been deemed a danger to society. Simply being put into custody and doing your time quietly would no longer be an option. Allowing Victim Impact Statements in youth court is something else that is strongly being considered. Victims would get the voice they have sought after for so long. A Victim Impact Statement is a personal statement from a victim on what effects the crime has had on their life. This allows the judge

to get a feel of the impact that particular crime has had on its victim, before handing down his/her decision.

Comparisons

Although there are some subtle differences between the new and the old, for the most part the terminology is the same. One of the differences is in the Declaration of Principles. The new proposal is aimed at rehabilitation whereas the current (referred throughout as the old) lies a little more on the disciplinary side of the fence. In the old Declaration it states that it is the responsibility of society to prevent youth from misconduct. In the new proposal the emphasis is on accountability being the responsibility of the youth. It is not that he/she is going to be expected to solve all their own problems but they are going to be looked on to become more responsible in seeing that they do not end up repeat offenders. There are mixed feelings as to whether this type of approach is one that is realistic. Those who think it will work are the ones that want it to work. The other side feels that this sort of idea will take an extremely long time to work, if at all.

Conclusion

It is still quite premature to say whether these changes are going to have any lasting impact. The fact that there is at least an attempt being made is good news in itself. It will be a number of years before statistics showing any real progress, or lack of, become available. Not everyone is going to agree with the changes. Very rarely do two sides agree on anything, and especially on a matter such as this. It is crucial that if this new approach is to be effective, that it receive the full support of all parties involved. Without a strong backing then the chances of it being successful are unlikely. I believe that Canada has at last taken pro-active steps towards finding a viable solution to a problem that could only become overwhelming if not addressed immediately.

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