

# THE PLIGHT OF CHILDREN AND YOUTH: A HUMAN RIGHTS STUDY

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The paradigm of human rights that is the cornerstone of the United Nations Universal Declaration of Human Rights focuses on the autonomous individual's inherent rights to freedom, justice and peace. Such a rights paradigm invokes the notion of the right to protect free will and its many manifestations in a "democratic," western political framework. And, indeed, for non-colonized societies which are now in the throes of affluence, such a rights paradigm would seem logical and moral. However, the idea of a western-based human rights program as the standard upon which universal rights, including children's rights, should be seen is under mounting scrutiny. The critiques are clear. First, many societies adhere to a collective rights paradigm in which the rights of the individual do not necessarily take precedence over the rights of the collective. Second, and most importantly, an individual-rights paradigm works only within a context in which individuals already have access to a minimum standard of quality of life, a society in which people can "afford" to be free. Kwame Nkrumah of Ghana and Julius Nyerere of Kenya

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were devoted to the principles of economic statism that dictated that “freedom from want, from hunger, and from economic deprivation necessitated limiting political liberties that could destroy the party or state in its initial stages.” (Pollis and Schwab 2006) In their eyes, the solution to the problems faced by countries in Africa, countries that had experienced centuries of colonial domination, lay not within a libertarian political philosophy but within political strategies that enforced at least a minimum level of economic prosperity, strategies often at odds with individual rights.

Apologists for a western-based human rights model argue that globalization has created the context in which the world itself is becoming more standardized and that the rights embodied in the United Nations Universal Declaration of Human Rights and the United Nations Convention on the Rights of the Child (CRC) are contemporary to all societies and, in many traditional societies, drawn from the pastoral rights of the individual (Drydyk 2006). The argument is compelling: if we are opening up the world to economic innovation and dispersal, then we need a rights-based doctrine to ensure that individuals are not treated as mere commodities, especially with respect to labour and consumption. On the other hand, the oftentimes seemingly insurmountable plight of the majority of the world’s children does not seem to be ameliorated by doctrinal legal paradigms, because, at a very basic level, such paradigms are based on adult conceptions, adult ways of knowing—or adult sensibilities. In the liberal democratic tradition, these adult ways of knowing would include the need to protect the child as an especially vulnerable, incompletely-developed citizen. In this tradition, the three r’s of child protection become risk, resilience and reconciliation, all elements of child care that are foundational. The problem arises, however—and it is the problem that I confront in

this article—is that the three r’s are based on a type of medical/therapeutic approach that may be important in the short term, but often fails as a framework for a protracted healing program. The response to the social problems of the young is typically modernist, typically corrective and juridical in its reactive focus, and delinquent in its failure to envision proactive measures for child empowerment that may be the only source for real change.

I draw on the compelling work of Skott-Myhre and Tarulli (2008) to help form the argument that child rights need to reconsidered and envisioned within the day to day reality of children throughout the world and not just in the context of liberal democratic values that assume a minimum standard of socio-economic and political care. Rights, in this new paradigm, are not given but produced by the subjects who are traditionally the targets of endowed rights:

The codes and regulations of the juridical form are always secondary to the courageous acts of children who resist with their bodies the unwarranted incursion of adults into their lives. In other words, it is the bodies of children and their activities that produce children’s rights, both through their overt acts of resistance, but perhaps even more through their creative capacities to produce the world. (Skott-Myhre and Tarulli 2008, 71).

The problem for those of us who have been trained and socialized within a juridical paradigm based on western democratic principles is that we have several philosophical blinders that we may need to shed. Firstly, we have been steeped in a cultural belief that the legal status of a child is tied to that child’s cognitive abilities that result from developmental maturity. Rights accrue to children and youth on the basis of a science-determined taxonomy based on age. The problem is that such a normative way of producing and universalizing the “legal citizen” is devoid

of all considerations of context and history and, most importantly, devoid of a conception of rights as the result of “immanent potential—rights as daily life are composed out of the activities of lived experiences of multiple bodies creating the world through their activities and actions” (Skott-Myhre and Tarulli, 2008: 70-71). Secondly, our intellectual training has laden us with a bifurcated worldview that sees the child and the adult as separate entities and disallows us from conceiving of development as a process of living as a child and an adult simultaneously. Thus, children, in our traditional ontology, are always “citizens in waiting...potential bearers of rights...not ends in themselves but rather creatures in the process of development” (Arneil 2002, 71). Thirdly, it is so difficult for the modern, juridical-trained mind to conceive of free will as anything other than embedded in the control of the individual. To conceive of the ownership of individual thought as something beyond the individual takes a leap-of-faith that few of us are prepared to make. Moreover, it is difficult to conceive of how thought is a collective production and how we would, for example, give over to children—and not to justice bureaucracies—the will to collectively produce rights.

One of the problems for child policy both within and without Canada is that our understanding of young people is based on antiquated “modernist” paradigms of what it means to be young, especially in a 21st century context characterized by globalization, shifting population demographics, proliferating information and communication technologies (ICTs), climate change, and the rise of fundamentalist movements (Lynch 2010). One modernist paradigm is scientifically paternalistic, based on the developmental presumption of the “vulnerable child”: young people are vulnerable because of chronological (biological difference) and need to be protected from the physical and

emotional dangers of the adult world. Another modernist paradigm stands in opposition to the idea of vulnerable child: children, especially as they approach teenage years, are volatile and incompletely socialized and, as a result, pose a security threat. Such a belief system argues for methods of control that include “heavy-handed,” punishment-based responses to non-conventional behaviour. Many of the societal reactions to children and youth that I describe in this article stem from a belief that punishment is appropriate as a first response to bad behaviour in young people.

Both paradigms stem from the same biological understanding of young people and result, in many instances, in child policy based on the assumption that children and adults need to have separate rights. As a consequence, many of the rights that apply to adults are denied to children due to the very western, scientific ethos that age primarily determines capability and culpability (Skott-Myhre & Tarulli 2008). Ironically, such beliefs foster and grow in a socio-political environment in which the “competent child” is the ideal. Institutions like the family and the school strive to foster independence and competency and the ideological framework for such institutions is that children are our greatest natural resource and that they need to be protected and nurtured.

One of the ways for criminologists, as public intellectuals, to approach issues of childhood injustice is to take an epistemological position that acknowledges and incorporates young people’s “ways of knowing.” This focus on hearing the voices of the young is the foundation for research that starts with children and youth and ends with policies that are first and foremost derived from the knowledge and insights that young people provide. This rather democratic approach to the ontology of children and youth is built upon a social inclusion paradigm, the presumption

being that young people are productive members of society and have the right to have input into the development and administration of their society and their place in it (Hache et al 2010; Watson 2008; Luxton 2005). The African Charter on the Rights and Welfare of the Child, 1999 (Kaime 2009) states that the child has a right and a responsibility to contribute to the sustainability of the community and nation. This is in contrast to an historical reality of almost universal exclusion of children and youth from politics and social policy development (Boyle et al., 2007). The inclusion focus is based on a human rights model that invests young people with the same rights and privileges (including self-determination) that accrue to adults.

Embarking on a social inclusion approach for young people demands that criminologists, as advocates for children's rights, need often stand against developmental presumptions that young people's rights and prohibitions need to be bestowed upon them on the basis of chronological (biological) difference—that they need to be protected from the adult world and that the adult world needs to be protected from them. Instead, a criminologist advocate would argue that the legal rights of a child or youth need to be constituted by them and not by the adult world around them; i.e. children must act with agency to create their world, and their rights are the result of their ontological reality. For many public advocates, this is a rather revolutionary position and sometimes hard to defend. This is where sound research, based on young people's epistemology, needs to be in place. In the end, it would be naïve to assume that all young people, even the very youngest, have the intellectual capacities to decide their futures. However, a child-based epistemology does not need to be absolute—nor does any epistemology. Epistemological approaches are complex and cannot be definitive, but they

can be intuitive and informative. I hope to illustrate this in the forthcoming discussions.

The question for those interested in issues of justice is why we philosophically treasure young people while creating conditions under which their civil liberties are often submerged. How would the world of rights and justice look otherwise than the way we currently understand it.

The arguments and information in this paper culminate in a new way of understanding the plight of the child in the global world and of fostering ways that make better the world of children by drawing on a foundational assumption that children have wisdom and knowledge that needs to be heard and used. The human rights framework of that way of seeing the world of children is based on the notion of the collective right of children to be heard, their right to make a difference.

## **THE STATE OF CHILDREN AND YOUTH: A RIGHTS ABUSE ANALYSIS**

At the end of this paper, I explore what a new human rights agenda for young people would look like. But before I do so, I want to illustrate, within a rights framework, why we so badly need a new paradigm for enfranchising a significant part of the world community. As we will come to see, leaving young people out of the global conversation places them at unusual risk. My focus here is primarily on Canada, a country that we would expect, given its wealth and democratic history, to have a relatively exemplary approach to the place of children and youth in society.

The explorations that follow are a barometer of how Canada, in the context of a global world, treats children and youth. I present the information within a framework

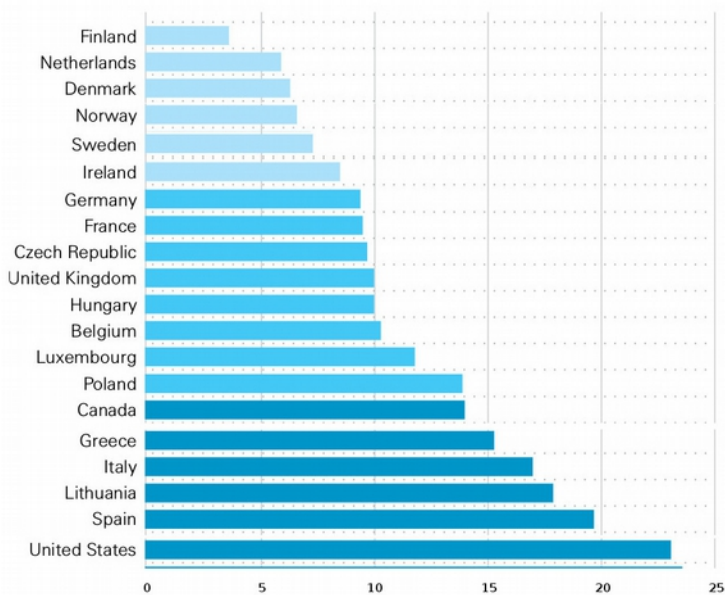
of human rights that I would hope that any caring global citizen would consider inviolable. The first of those rights, the right to protection from privation, is central to everyone's well-being but is arguably most important for young people because we know that early exposure to poverty has lifelong consequences. The right to be protected from poverty is also an issue that is so closely connected to all other dimensions of human rights that it, in itself, may be the central global problem the world faces; certainly it is the main problem for most of the world's children.

### **CHILD POVERTY AND THE RIGHT TO A DECENT STANDARD OF LIVING**

A growing body of evidence shows that the plight of the young worldwide is not improving, is often related to adult-generated conflicts, and is fundamentally related to issues of poverty and exploitation (Cockburn & Kobubo-Mariara 2010; Borer et al. 2006). And as we know from decades of good criminological research, poverty is so closely related to how young people are treated in all systems of social control, especially the justice system. Yet one of the greatest challenges for policy makers working with children and youth is poverty reduction at least and the elimination of poverty at best (Bastos & Machado 2009; Aber et al. 2007). Children represent nearly 34% of the world's population, they are proportionately poorer than their adult counterparts, and are often absent from political theory and discourse, and policy development. As a result, their rights to a decent living standard are persistently under threat. While we may think that child poverty is mostly a phenomenon of the developing world, the following figure is a barometer of how Canada stands as a rich nation.



## FIGURE 1. THE PERCENTAGE OF CHILDREN LIVING BELOW POVERTY LINES, 2013



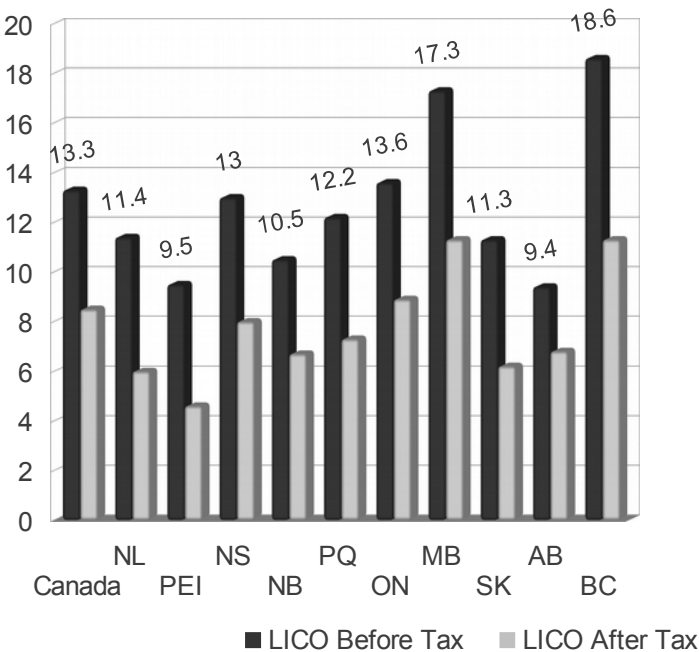
**Figure 1.** Source: Unicef, 2013 *Child Well-being in Rich Countries: A Comparative Overview*. Innocenti Report Card 11: Unicef Office of Research, Florence  
Excerpt from Table 1.1a, Relative Child Poverty Rates (page 7) | [http://www.unicef-irc.org/publications/pdf/rc11\\_eng.pdf](http://www.unicef-irc.org/publications/pdf/rc11_eng.pdf)

It is evident that child poverty is a fundamental problem for Canadian society, but it is also evident that the elimination of child poverty is possible—industrialized countries like Finland and the Netherlands have come close to eliminating the poverty of the young. The Canadian Report Card on Child and Family Poverty shows quite clearly that child poverty rates decrease as transfer payments from federal and provincial governments to helping agencies increase (Campaign 2000 2008). The question remains why countries like Canada and the United States, countries of

considerable wealth, have not used policies as straightforward as transfer payments to poor regions to address such a foundational human rights issue.

Poverty is a human rights violation for many reasons but mostly because it has such traumatic effect on its victims. Figure 2 illustrates the geographic distribution of child poverty in Canada and this spatial rendering tells us much about poverty and its effects.

**FIGURE 2: CHILD POVERTY RATES BY PROVINCE, 2011**



**Figure 2. Source:** Statistics Canada. *Table 202-0802 – Persons under 18 in low income families, 2011, CANSIM (database).* [Low Income Cut-Off (1992 Base)]

Clearly, poverty is associated with area; the territories and the provinces with northern, isolated communities show the highest rates. In addition, it is not necessarily the “have not” provinces that have the highest rates of child poverty. British Columbia, Saskatchewan, Ontario, and Quebec, relatively wealthy provinces, have failed to distribute their wealth to those geographic sectors that are in extreme need. Geoffrey York (1991) in his significant work from years ago entitled *The Dispossessed: Life and Death in Native Canada*, showed quite clearly how rapid resource development in northern Canada sent many First Nations communities into a downward spiral in which displaced communities were left with diminished access to food, increased exposure to toxic environments, and diminishing access to ways of making a living, in spite of industrial promises for increased standards of living with resource development. His work explains one of the sources of geographically-determined child poverty in Canada: community and social disruption that accompanies the forced displacement of people.

The following figure helps us look beyond geography to explore the social reality of poverty.

**FIGURE 3: THE SOCIAL FACE OF POVERTY IN CANADA: 2006 POVERTY RATES FOR CHILDREN 0-14 YEARS, SELECTED GROUPS**

All Children	18%
Aboriginal children	36%
Racialized Groups	33%
With Disability	27%
Immigrant children	41%
Recent Immigrants	48%
31% of all families living below the poverty line are Single Parent Female-headed families	

**Figure 3. Source:** Campaign 2000 Report Card on Child and Family Poverty in Canada – 2011. *Revisiting Family Security in Secure Times: 2011 Report Card of Child and Family Poverty in Canada.* (pg 7).  
[http://ywcacanada.ca/data/research\\_docs/00000223.pdf](http://ywcacanada.ca/data/research_docs/00000223.pdf)

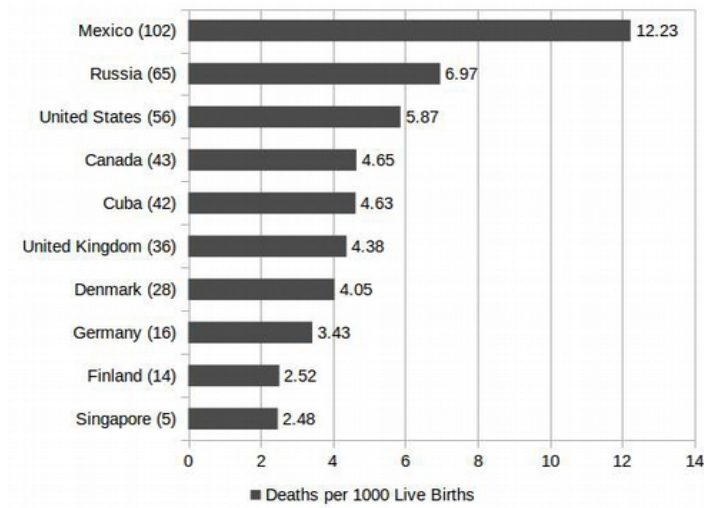
Poverty attacks certain categories of children more than others. While 18% of children in Canada live below the poverty line, children of Aboriginal ancestry, visible minority children and immigrant children are especially disadvantaged. In addition, 31% of all families living in poverty are female-headed single parent families. The Campaign 2000 (2011) concludes that there is a working segment of Canadian society that is poor; families in this “working-poor” segment are unable to maintain an adequate standard of living despite one or two parents/guardians who are working full time, and who supplement their wages with trips to the food bank, especially when children are involved. Forty percent of all Canadian children

are supported in part by food banks every year. To put all this in perspective, in 2010, 5% of single parent families in Sweden and 8% in Denmark lived below the poverty line. Clearly, child and family poverty is not inevitable; it is not the result of laziness or lack of initiative. Poverty is not the cost of “doing business” in a dynamic economy. It is the result of a constellation of historical and political forces that result in a fundamental violation of the human rights of children and youth, the right to a decent standard of living. For anyone who takes the role of the public intellectual advocating on behalf of children and youth, the starting point for advocacy is the effect that the income gradient has on the well-being of all kinds. As we will come to see, poverty has extremely harsh effects on young people to the extent that it often permanently alters their life chances, in direct violation of the Canadian Charter of Rights and Freedoms and the United Nations Convention on the Rights of the Child.

### **CHILD HEALTH AND THE FREEDOM FROM ILL HEALTH**

The social gradient probably has its most severe effect on health, especially with respect to children. While a human rights agenda for children should include the right to live safely, immune from social and physical harm, and should include the rights to access health care, the following discussions will show that for Canada, where universal health care is foundational, children do not do very well, especially in certain social and geographical sectors. Figure 4 illustrates the infant mortality rates for selected countries. Infant mortality reflects not only child and maternal health care, but also the social and economic conditions that contribute to poor health and substandard maternal care.

**FIGURE 4. SELECTED COUNTRIES’ INFANT MORTALITY RATES, DEATHS PER 1000 LIVE BIRTHS (2014)**

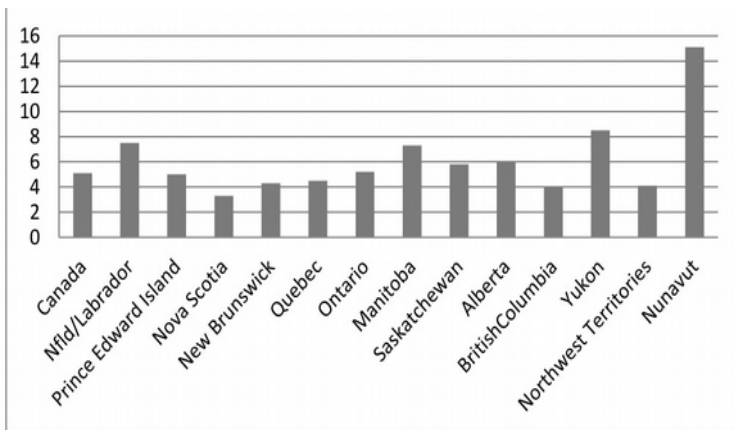


**Figure 4. Source:** US-CIA World Factbook (2014)  
<https://www.cia.gov/library/publications/the-world-factbook/fields/2091.html>  
Note: Numbers after each country indicated world rankings

In 2014, Canada ranked 43<sup>th</sup> in the world in the prevention of infant mortality despite the reality that we are one of the richest nations in the world. In 1990, Canada ranked sixth in the world. The obvious question is what happened? In a 20-25 year period, our ability to maintain the health of newborn children plummeted to levels that put Canada on the edge of the developing world, at least in regard to infant mortality. It is interesting that in that interim, the Canadian government declared in three successive periods (2000, 2005, and 2010) that child poverty would be eliminated.

Figure 5 illustrates that child and family health is very much related to geography. Within Canada, the northern territories (especially Nunavut) have high rates of infant mortality but so do provinces like Saskatchewan, Manitoba, Alberta and Newfoundland/Labrador. All of these jurisdictions are characterized by relatively large populations living in northern areas of Canada, areas that are often cut-off from mainstream Canada to their disadvantage.

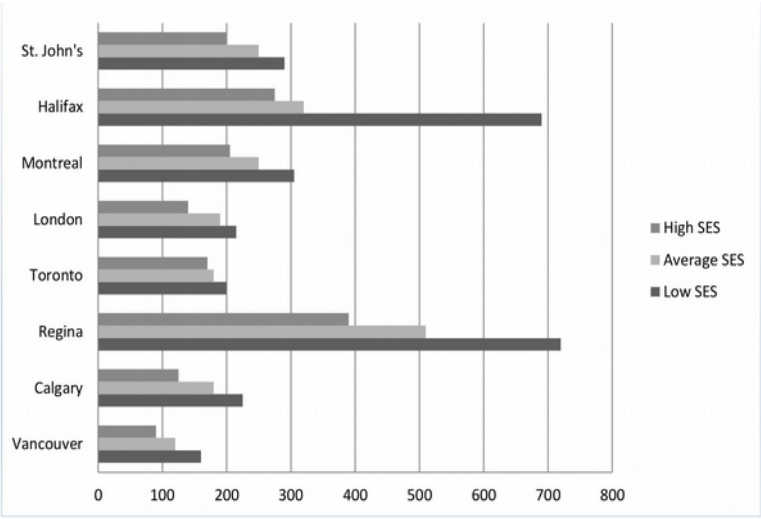
**FIGURE 5: INFANT MORTALITY BY PROVINCE IN CANADA, 2011**



**Figure 5. Source:** Statistics Canada. *Infant Mortality Rates by Province and Territory*. <http://www.statcan.gc.ca/tables-tableaux/sum-som/l01/cst01/health21a-eng.htm>

Figure 6 is both puzzling and revealing. It presents hospitalization rates for asthma for young people under 20 in selected cities in Canada, cities that span the geographical continuum from west to east.

**FIGURE 6. HOSPITALIZATION RATES FOR ASTHMA  
IN CHILDREN (UNDER 20 YEARS OF AGE/100,000  
PEOPLE), 2006**



**Figure 6. Source:** *Reducing Gaps in Health: A Focus on Socio-Economic Status in Urban Canada, 2008.* The above table is based on information in a series of tables identified as Tables D.16, D.15, D.13, D.9, D.11, D.7, D.4, & D.3 (pgs.121-134) Ottawa: Canadian Institute for Health Information/Institut Canadien d'Information sur la Sante, [https://secure.cihi.ca/free\\_products/Reducing\\_Gaps\\_in\\_Health\\_Report\\_EN\\_081009.pdf](https://secure.cihi.ca/free_products/Reducing_Gaps_in_Health_Report_EN_081009.pdf)

The information is somewhat perplexing because it shows that two cities, Halifax and Regina, have inordinately high rates of child/youth hospitalization for asthma. What is it about these two relatively affluent cities that determines such a high demand for hospital care for kids? The table is also very revealing because it shows that children and youth from the lowest socio-economic category have the highest rates of hospitalization for asthma, double the rates for high socio-economic status children.



As we try to work through the disparities in health that are evident in the above tables, there are certain realities about children and health that stand out. Clearly, being poor disposes kids to being at greater health jeopardy than their wealthier counterparts. Often poor kids live in isolated northern areas of Canada and in inner cities, typified by Regina and Halifax. In both areas, the realities are that good food is difficult to obtain and expensive when it is available. Darcy Frey (2004) has an invaluable book on inner city kids entitled *The Last Shot: City Streets, Basketball Dreams* in which he describes a New York inner-city community that is poor, isolated from the privileges of mainstream society, and whose kids depend on the dream of an NBA career as their only perceived means of escape from poverty. What he shows in addition, however, is that typically poor, inner city communities have very few of the amenities that one would expect in a sustainable, livable community, especially grocery stores with fresh food that is not overpriced. The Coney Island projects community does not have grocery stores within the community; parents have to commute miles by train or bus to access fresh food. There are, however, fast food stores sprinkled throughout the projects that become the primary food source for the community. We know that fast food consumption is one of the root causes of health issues in children in North America, especially issues of obesity and childhood diabetes (Thompson 2012).

Neighbourhoods that typically do not have access to healthy, fresh food have come to be known as “food deserts,” communities in which adults and children have to “commute out” to find decent grocery stores. People in these communities do not have food security, something which people outside poor communities take for granted.

For residents who live in Toronto’s inner suburbs and Priority Neighbourhoods, access to good quality and affordable food is a growing challenge. Today, many grocery stores are located either next to new commer-

cial developments in the inner city or alongside large, retail developments in the outer suburbs. As a result, they are often a considerable distance away from those who live in these inner suburbs and Priority Neighbourhoods, making them difficult, time consuming and costly to access without a car. The importance of nearby grocery stores in the inner suburbs and Priority Neighbourhoods is that they provide easy access to a range of healthy food options, including fresh fruits and vegetables, meats, dairy and bread... Unable to easily access good quality food, those living in many inner suburbs are served instead by an army of corner, convenience and fast food outlets that offer an assortment of unhealthy foods high in fats, sugars and salts...

Toronto, however, is not alone in its struggle to improve access to healthy food options and eliminate the existence of food deserts. Cities of all sizes across North America face similar challenges to those in Toronto.<sup>2</sup>

It is important to realize, as well, that food insecurity is not restricted to inner cities. The northern communities in Canada suffer many of the same food ills that are suffered by inner city communities. Fresh food is expensive and hard to come by and fast food is cheap and easy to access. The Canadian Medical Association in 2010 published the results of a study that indicated that 70 per cent of Inuit families in Northern Canada have reported not having enough food; two-thirds of parents reported that they ran out of food at times (CMA 2010). A study conducted specifically in the Northwest Territories showed that 44% of the calories ingested by the people came from soda and bottled juices and that childhood diabetes was epidemic in the north (Thompson 2012).

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<sup>2</sup> Excerpted from: "Food Deserts and Priority Neighbourhoods in Toronto," *Martin Prosperity Insights*, The Rothman School of Management, University of Toronto, June 15, 2010.

The other issue regarding child health and poor communities that warrants our concern is victimization. The reality of inner city street life is that young people are vulnerable to high rates of sexual and physical exploitation. A Winnipeg Free Press article offers an example:

Jane Runner has spent the past 21 years talking to sexually exploited teens and women about their experiences on the street. She offered some sobering statistics to the court on Monday. Runner, who heads programming at New Directions in Winnipeg, said there are “hundreds” of teen and pre-teen girls working the streets, with an even greater number abused by adults behind closed doors. The youngest she has heard of was eight, and the average age is about 13. She told court that 80 per cent of child prostitution occurs in gang houses and “trick pads.” Runner estimated that 70 per cent of the girls are aboriginal, more than 70 per cent are wards of Child and Family Services, and more than 80 per cent get involved after running away from their placements. Runner said a majority of the kids in prostitution have already been victims of sexual abuse. Other common precursors include fetal alcohol syndrome and physical abuse at home. “Unfortunately, we’re seeing a lot more of the generations, where maybe the mother or the older sister have been previously involved in the sex trade before they get involved,” Runner said.<sup>3</sup>

The issue of sexual exploitation has clear implications for criminology and justice studies. The arguments by the police and the courts that it is difficult to bring the exploiters of children to justice because of evidentiary issues and issue of credible child testimony seem unfair and counter-productive. At a very basic level, the problem is that as long as we treat exploitation of kids as a “crime control”

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<sup>3</sup> Excerpt from: McIntyre, Mike. 2007. “Hundreds of kids in sex trade; Testimony jolts inquest; police say hands tied” Feb 20, *Winnipeg Free Press*

issue, and not an issue of community health, the impotency of the law will continue. And, of course, the language of the sex “trade” compounds the problem of legal and public perception because it implies the market of exchange for sexual favours for money. The issue at hand is the undeniable exploitation of children by sexual predators. Importantly, the term prostitution, because it itself implies mutual consent and mutual benefit, tends to hide the predatory reality of the sex trade. The discourse of prostitution condemns children for their complicity. As we, as criminologist and legal scholars, work through issue of crime, justice, and law, it is important to consider that the use of the law, as the place in which real justice can occur, may not be the most appropriate vehicle for promoting child rights and child security. The task may best rest with agencies that focus on individual and community healing and community enhancement.

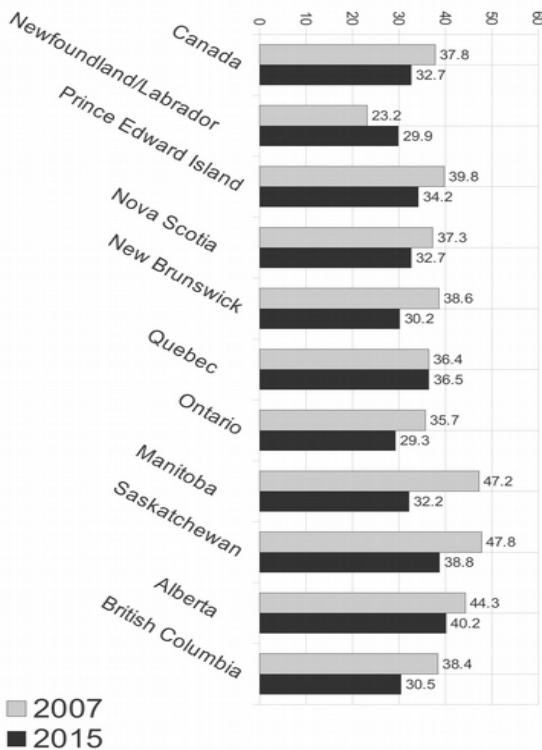
## **FREEDOM FROM LABOUR EXPLOITATION AND THE RIGHT TO WORK**

Most people who have a sense of the global world understand that child labour is a persistent child and youth rights issue which we often discuss only in the context of the developing world. We know that children as young as five work in factories in developing countries to provide cheap consumer goods for the global economy. Rarely do we think about child labour as a problem for North America and yet the following figures illustrate that, indeed, children and youth do work, they contribute to the family economy and the economy of the country and, they do so in the context of very little labour rights protection. The discussions herein are not framed around the moral debates about children and youth in the work place, but rather about what a “right to work” child/youth rights framework might look like when we consider that kids have the right to work, they have the right to organize, and

they have the right to be protected from labour exploitation. In fact, they should have the same rights that accrue to adults.

Figure 7 shows the percentages of children and youth who work by provincial jurisdictions.

**FIGURE 7. PROPORTION OF STUDENTS WORKING, AGES 15-19 (APRIL 2007 AND APRIL 2015)**



**Figure 7. Source:** *Canadian Labour Force Survey, 2007.*

Statistics Canada. Table 282-0005 - Labour force survey estimates (LFS), Employment rate by province, by full- and part-time students during school months, CANSIM (database).

<http://www5.statcan.gc.ca/cansim/a26?lang=eng&id=2820005>

Young people, particularly in resource rich provinces like Alberta and Saskatchewan work more so than youth in other provinces, in part because the opportunities for work are numerous. While the data for the above table cover 15-19 year olds, it is important to realize that many kids under 15 also work. For example, in 2005, Alberta reduced the legal age for young people to work from 14 to 12 to accommodate the labour requirements generated by the resource extraction sector, in particular the labour requirements of the fast food industry. British Columbia did the same in 2002.

The degree that young people work across Canada is compounded by the following: young people are much more likely to be injured on the job than adults; they are especially in danger if they are working illegally compared to adults; and they are most likely to be hurt working in the fast food and agricultural sectors, the sectors in which kids typically find work. (Raykov and Taylor 2013).

Clearly, children have few labour rights protection. They most often work for minimum wage or below. They most often receive very little mentoring or on-the-job training, specifically with regards to safety and especially with regards to their labour rights. They are poorly paid, poorly protected, non-secured labour is compounded by retail employers who encourage their young employees to spend money at their places of employment, on price-reduced food in the fast food sector, or on brand-name clothes in the retail clothing sector (Schissel 2011; Schlosser 2005). In many ways, their labour is free as they give back some of their earnings to buy lunch and dinner, or to dress in clothes dictated by the employer for work.

If we make the assumption that some children and youth have to work, or even just choose to work, then there is no reason to expect that they would not receive the same rights, privileges and protections that accrue to adults. That is generally not the case, and the question remains why. One of most enduring arguments as to why we persist in exploiting young labour is that we are embedded in an historical legacy that believes that hard work is character-building. With the inception of the system of public education in Canada, led by education reformer Egerton Ryerson (1844-1876), Canadian public policy spawned a type of “puritan work ethic” that equated hard work with moral development. Despite the positive education reforms that Ryerson and others implemented, including the introduction of standardized public education, Canada became a country in which children could be forced to work because work was an elemental moral activity. The darkest legacy of the “work-education” movement indeed was the development of residential schools to “isolate and reprogram” First Nations kids through hard work, discipline, and severe punishment (Milloy 2000). As we observe children and youth still working in Canada without the protection of labour rights, it is clear that the puritanical position that children’s moral development is incomplete is still with us. That is precisely why Manfred Liebel and others have called for a new human rights manifesto that embeds the fundamental right to work for children and youth within a framework of safe, secure, and well-paid work (Liebel, 2010). He also calls for labour policy to be driven by young people themselves.

THE RIGHT TO EDUCATION AND TRAINING

I include education as one of the fundamental rights for children and youth for two reasons. Firstly, as the following discussions will show, how well young people do in our formal system of education has immediate and long-term implications for all forms of well-being including mental and physical health and exposure to the criminal justice system. Secondly, studies that track the life histories of young people in conflict with the law show most often that the spiral into the justice system often starts with problems in school. The implication is clear: if school is meaningful, then young people have a reasonable chance at a good life.

Figures 8 and 9 show just how important success in school is. Figure 8 is a simple but clear illustration that the starting point for success is wealth.

FIGURE 8. CANADIAN CHILDREN, BY INCOME, AGE 9, “DOING WELL IN SCHOOL” (2006-2007)

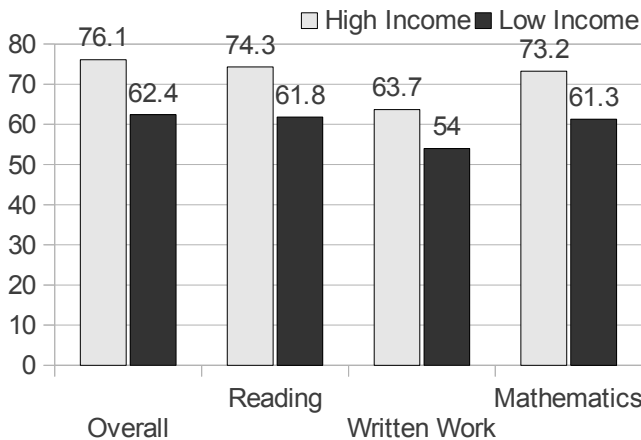
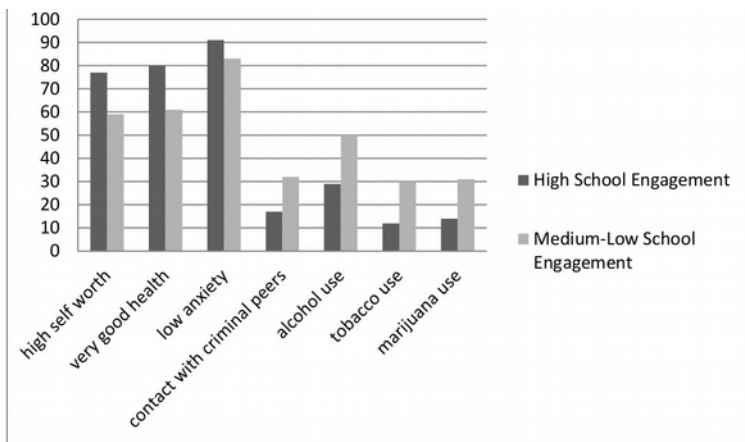


Figure 8. Source: Statistics Canada: *National Longitudinal Survey of Children and Youth 2006/2007*.  
<http://www.statcan.gc.ca/pub/89-599-m/2009006/t003-eng.htm>



Simply put, grade point average in all basic subject areas is associated with wealth. This finding defies, in principle, the presumption of public education that all children have access to equal and standard education. Figure 9 tells us more about the role that school success plays in a young person's life.

**FIGURE 9. ADOLESCENT HEALTH STATUS AND BEHAVIOURS BY SCHOOL ENGAGEMENT, AGES 12-15 YEARS (2006-2007)**



**Figure 9. Source:** Canadian Population Health Initiative, *Youth Health Outcomes and Behaviours in Relation to Developmental Assets*. (2009) Ottawa: the Canadian Institute for Health Information/Institut Canadien d'Information sur la Sante. Excerpt from Table 3, Percentage of Youth (12-15) Reporting Health Outcomes in Relationship to School Engagement (page 6). [https://secure.cihi.ca/free\\_products/cphi\\_youth\\_health\\_outcomes\\_aib\\_e.pdf](https://secure.cihi.ca/free_products/cphi_youth_health_outcomes_aib_e.pdf)

School is the one public space that young people are allowed to occupy during the day. It is the equivalent of their work place, so it is not a mystery why being connected to school has such positive benefits for kids. High

levels of school engagement result in kids that have high self-esteem, good health, low levels of anxiety and relative immunity from contact with the criminal justice system and substance abuse. It is not difficult to understand that if kids cannot adjust to school, or more fundamentally if schools cannot welcome and nourish all kinds of young people, then school can become a risk. Unfortunately, our common sense cultural presumption is that school failure is about student failure. Some very good research, although not widely publicized, has shown that this presumption is misleading. The alternative and community school movements have illustrated very clearly that when schools adopt an inclusive framework that welcomes difference and does not punish failure, kids flourish. For many kids at risk, they not only flourish but become advocates and mentors for other kids at risk (Robertson 2013; Schissel 2011).

A human rights approach that incorporates education needs to be built on the principles firstly that education is not a drain on the economy or public revenue. Secondly, an education manifesto would need to reframe educational administration to include young people directly in the administration and management of schools. Thirdly, the ideal school would need to be based on the assumption that the institution is a public place for young people and that it needs to be, in part, under their jurisdiction. School is so important in the current and future lives of the young that it can no longer warehouse students in overcrowded classes just because it is fiscally prudent to do so. Education is too important to well-being.

## FREEDOM FROM LEGAL DISCRIMINATION AND THE RIGHT TO JUSTICE

The last focus of our discussions is probably the most significant in relation to the role of public criminology for two very important reasons. First, all of the issues we have discussed herein are related to youth crime and justice; the disadvantages that some children and youth experience in the Canadian socio-political economy predispose young people to interaction with the justice system. Interaction with the justice system predisposes them to protracted disadvantage most of their lives. Second, many of the young people who come into contact with the justice system and who ultimately end up in custody are identifiable by poor health. They often suffer from skin problems and poor dentition, conditions that are often indicative of poor nutrition and a lack of health care. In fact, in many ways, the problems of youth in trouble with the law are often problems of health and not of crime. We have, I argue, created a problem of crime from what would be more rightly conceived of as a problem of collective and individual health.

A rights paradigm for young people in contact with the criminal justice system would surely need to be based on a series of inviolable legal rights: the right to legal protection, including the right to *adequate* legal counsel; the absolute right to non-discrimination by the law, including the right to be dealt with under the principles of the best interests of the child/youth; and the “right to accuse your accuser,” including the right to actively defend themselves in courts of law. The foundational question that encompasses the above rights is whether all of these rights that accrue to adults within the justice system are the same rights that young people experience.

Figure 10 gives us a fairly stark indication that the Canadian youth justice system uses an inordinately severe,

“crime and punishment” approach to youth in trouble with the law. Children’s legal rights do not appear to be well-served in this country.

**FIGURE 10. YOUTH AS A PERCENTAGE OF TOTAL PRISON POPULATION, SELECTED COUNTRIES, 2014-2015**

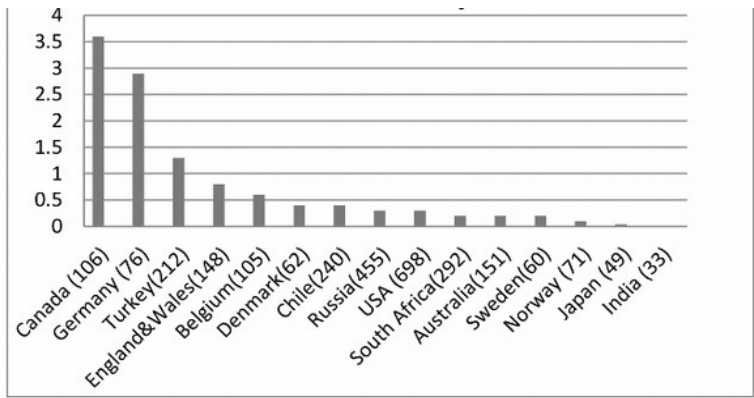


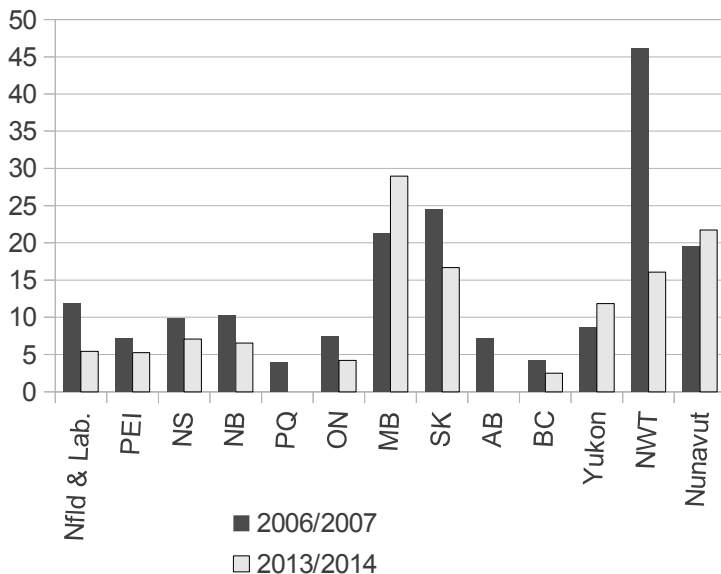
Figure 10. Source: International Centre for Prison Studies. World Prison Brief. [http://www.prisonstudies.org/country/\\*\\*\\*](http://www.prisonstudies.org/country/***) (where \*\*\* stands for the country. The number in brackets beside each state is their overall rate of incarceration / 100,000 of their population.)

Historically, Canada locks up more kids per capita than most other industrialized nations. In fact, in 2012, Canada incarcerated young offenders at a rate twice that of the United States. Interestingly, for adults in Canada and the USA, this trend is reversed. Countries like Japan and Norway lock up almost no young offenders, choosing instead, to use other, community-based methods to help young people in trouble with the law. For some reason or other, Canada has gotten into the habit of dealing with young offenders through imprisonment, a likely characteristic of

the state paternalism that has characterized Canada's history in relation to children and youth. Importantly, despite Canada's reputation for being tough on young people, the current government is pursuing youth justice reform that would actually toughen the law and is coming under considerable international criticism (Paperny 2011).

Figure 11 illustrates the disparities in incarceration of young people across the country.

**FIGURE 11: YOUTH INCARCERATION RATES IN CANADA, BY PROVINCE FOR 2006 AND 2007**



**Figure 11. SOURCE:** Statistics Canada Table 251-008 - Incarceration rates per 10,000 young persons in provincial and territorial correctional services, annual, Comparing 2006/2007 with 2013/14. Note: Data is suppressed for Quebec and Alberta in 2013/14. | CANSIM database: <http://www5.statcan.gc.ca/cansim/a26?lang=eng&retrLang=eng&id=2510008>

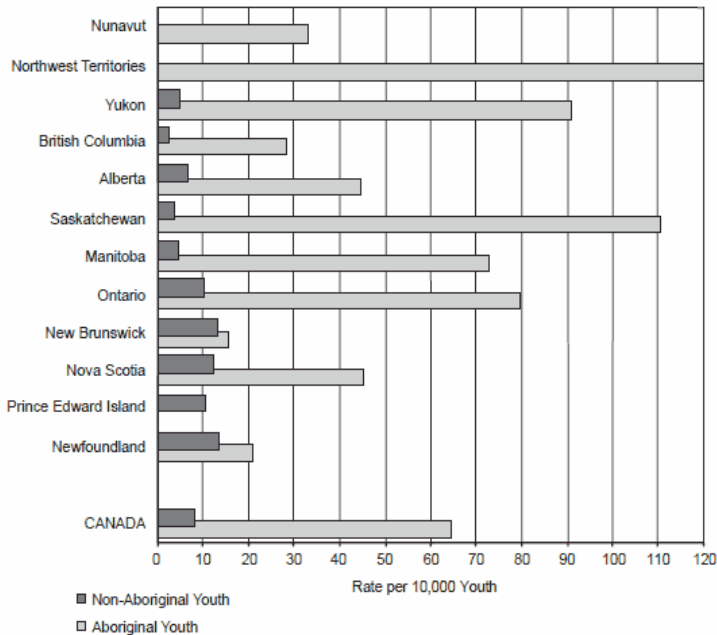
Provinces like Saskatchewan and Manitoba choose to use jail to “treat” young offenders much more so than the other provinces. The same trends are also evident in the Northwest Territories and Nunavut; in these isolated jurisdictions, services for youth are few and far between and the courts are often compelled to use custody as a form of default treatment centre. For Saskatchewan and Manitoba, it is much more confounding as to why the courts use custody in cities like Regina, Saskatoon, and Winnipeg. Provinces like Quebec and British Columbia have found a better way and that better way includes community services and schools to help young people to restore their lives. The disparities in justice within Canada regarding the treatment of children and youth are tied historically and contemporarily to race relations, racism, education and residential schools, immigration and migration and resource development. The race dimension of this complex problem is represented in Figure 12.

The following figure is based on rather dated data. I have included this table because it is the last evidence available comparing all the provinces in Canada. Statistics Canada did publish some information on Aboriginal youth incarceration for 2011<sup>4</sup> but the table excludes Nova Scotia, Quebec, Saskatchewan, British Columbia and Nunavut. Interestingly the results for the provinces that are included in both time periods (2004 and 2011) are much the same. Therefore, I have included this somewhat dated table because it includes comparisons for all provinces.

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<sup>4</sup> “Aboriginal youth admissions to correctional services, by province and territory, 2010/2011.” Statistics Canada, Canadian Centre for Justice Statistics, Youth Custody and Community Services Survey. <http://www.statcan.gc.ca/pub/85-002-x/2012001/article/11716-eng.htm#r2>

## FIGURE 12. INCARCERATION RATES FOR ABORIGINAL AND NON-ABORIGINAL YOUTH IN CANADA



**Figure 12.** Source: Justice Canada. 2004. *A One-Day Snapshot of Aboriginal Youth in Custody Across Canada: Phase II* <http://www.justice.gc.ca/eng/rp-pr/cj-jp/yj-yj2-jj2/yj2.pdf>

The disparities in the use of incarceration that we observed across jurisdictions are undeniably compounded by the distinctly harsh treatment of First Nation's youth. In provincial jurisdictions like Saskatchewan and Manitoba, there are four times as many Aboriginal adults incarcerated compared to non-Aboriginal adults; for children and youth, the ratio increases dramatically. In fact, for Canada overall, the ratio is about 7 to 1. The extreme racial skew illustrated here is endemic to most regions in Canada and tells us much about the history of the country and the ag-

gressive displacement of Aboriginal people and cultural genocide of First Nations and about the current inability of Canadian society to break free from the habit of treating people differently in the justice system on the basis of race and culture.

The undeniable reality for the Canadian justice system and its treatment of the young is that it is a system that is not working; it is based on historical habit that prefers incarceration, and it has not changed very much since its inception. It conflates issues of individual and collective health with criminality, and it makes judgments about young people, in part, dependent upon where a young person lives, the colour of his/her skin, and how well s/he is doing in school.

The use of incarceration as a solution for young offending leads us down a very dangerous path. The greatest predictor of recidivism for young people is whether they have been incarcerated in the past—a predictor that is 4 times as strong as gang membership. Spending time in prison also reduces the likelihood of a return to school or success in the labour market. Incarceration also dramatically increases the likelihood of self-harm, depression, and suicide. In the calculus of social justice and healing, prison is a tragic mistake, if our intentions are to do the best by young people (Holman and Ziedenberg 2006).

## **THEORETICAL ARGUMENTS/EXPLANATORY ISSUES**

In the end, we need to be able to understand how the violations of the human rights of children and youth, sometimes critiqued but most often ignored, come to be acceptable global practice. While there is considerable global anxiety about the treatment of young people, especially in war zones and child labour contexts, the reality is that young people do not receive the protections that adults re-



ceive, nor do they have the opportunity to express their wishes in effective political contexts. These realities speak somewhat to the place of children and youth in global politics, a place in which their labour provides corporate and government administrations with the potential to maximize profit while ignoring workers' rights. In a global context in which countries are compelled by the IMF and the World Bank to increase their national productivity by reducing public spending, the search for cheap labour thrives. Cheap, unsecured labour is part of the answer to increased productivity and maximized profits. And this is where young people enter the equation: they often need to work, they live outside the protections of constitutional protections, and they are vulnerable to egregious exploitation. They are the consummate slaves. And, as we have come to see, this reality extends to first world countries where profit maximization overrides moral consciousness. This all occurs in a global context in which young people have little voice: they cannot vote, and they have no formal venue for influencing local, national, and international politics, other than becoming activists, often times to their own peril.

The denial of the rights and capabilities of the young occurs within a deep-seated belief system that diminishes the capabilities and the value of young people. Such a powerful ideological framework lives within the discourses of Science, Education, and Criminology/Law, conjoined under the "paradigm of risk." The language of "at-risk," generation-at-risk," and "risk-assessment" all provide the linguistic and academic contexts in which adult stakeholders can talk, with authority, about the "social and scientific" origins of school shootings, child-murderers, and online abusive children. Certainly, the media has fostered images of young people and dangerousness through selected depictions of high-profile cases of chil-

dren as perpetrators, cases which are often presented as normative or at least understandable within a paradigm of risk (Schissel 2006)

Embedded in the view that children need to be assessed for their potential to do deviance is what I call the “conundrum of competence.” In public consciousness, children are too young to protect themselves because of their physical, emotional, and cognitive immaturity. They are at the same time, because of their immaturity, a potential threat as incompletely socialized beings. Their incapacities demand that they be protected (hence a child welfare response), but those same incapacities demand that society be protected from them (hence the harsh justice response).

Finally, it is a reality that the baby-boom generation is the most powerful generation: demographically it is largest; economically it has the most wealth invested in the global economy; and politically, it is the political power-elite worldwide. It is not difficult to comprehend, based on these realities, that older-generations have a vested interest in protecting their wealth, much of which is tied up in pension and stock-market investments. And, certainly, those investments are perceived to be threatened by many things: social justice programs that demand relatively high rates of taxation; or equity and fairness programs that demand a minimum standard of living and a wage system that distributes the wealth fairly. It is arguable, that older generations, given their economic and political power, will not jeopardize their place of privilege by advancing the cause of young people. Importantly, the discussions around space and place give evidence to this. While public space shrinks and private space grows, as a consequence of the growing wealth of a minority of people, young people become increasingly dispossessed of their physical and social space in the world. They are relegated to designated places like schools that are highly

controlled environments created around the adult-driven principles of physical efficiency, restraint, discipline, and productivity. Children and youth's tenancy is not of their making; their space and place is increasingly in jeopardy.

### **A CHILD/YOUTH RIGHTS APPROACH: A PARADIGM SHIFT IN LEGAL STUDIES**

So what, then, would a new paradigm of rights look like that provides a way out of the dilemma that seems to be “the universal abrogation of the rights of the young”? The “new childhood studies” movement (Liebel 2012) provides an initial answer: children need to be perceived as a social group that lives under certain conditions. In other words, children are not “beings in development,” but individuals with human agency. They are members of an identifiable social group living within the constraints of larger society and because of this, they have the right to have rights. In this context, they have the right to self-determination, the liberty to formulate their place in society as a collectivity. In short, they have the right to participate in their own destinies.

Such an approach stands against the assumption of biological incompleteness and concentrates, instead, on the abilities and competencies of children to advocate for themselves and to establish agendas for the future. It shrugs off the language of modern science that equates maturity with competency, and ultimately, with superiority.

By conceiving childhood as social category, and by recognizing children as social subjects, new childhood studies have opened a new view on children and childhood(s). They represent a paradigm shift that could advance the equality of children and adults on the level of

social co-determination without negating the particular and special needs of children. (Liebel 2012, 20)

## **CONCLUSION: THE IMPLICATIONS FOR PUBLIC CRIMINOLOGY**

The role of the public criminologist in the context of child-rights might seem a little elusive at first blush, but the arguments presented in this paper, I believe, set an agenda for action that is clear, straightforward, and consistent with principles of legality, fairness, and democracy. Criminologists need to broaden their mandate and speak to issues of social justice before they speak to issues of crime and justice. They need to see the criminal justice system as often at odds with social justice, either by design or by omission. They need to see the denial of the right to self-determination for young people as a foundational roadblock to public policy. They need to see the discourse of dangerousness and public security, especially in relation to young violators, as the language of generational politics that is unproductive at best and dangerous at worst. They need to see that there are vested interests that lobby, often in subversive ways, to keep young people out of the political economy. Finally, they need to understand that the right to place and space is a fundamental human right, that the world is shrinking rapidly for young people, and that forcing young people out of places and spaces is a type of physical and cultural relocation that is reminiscent of the relocation of peoples throughout history. Such relocations have always resulted in great social tragedy.

## REFERENCES

- Aber, J., S. Jones, & C. Raver. 2007. "Poverty and child development: New perspectives on a defining issue." In *Child development and social policy: Knowledge for action*, edited by J. Aber, S. Bishop-Josef, S. Jones, K. McLearn, & D. Phillips, xvii (311): 149-166. Washington, DC: American Psychological Association.
- Arneil, B. 2002. "Becoming vs being: A critical analysis of the child in liberal theory." In *The moral and political status of children*, edited by D. Archard & C.M. Macleod, pp. 70-96. New York: Oxford University Press.
- Bastos, A., C. Machado, & J. Passos. 2010. "The profile of income-poor children." *International Journal of Social Economics*, 37(12): 933 – 950.
- Borer, T.A., J. Darby, & S. McEvoy-Levy. 2006. *Peacebuilding after peace accords: The challenges of violence, truth, and youth*. South Bend, Indiana: University of Notre Dame Press.
- Boyle, E.H., T. Smith, and K. Guenther. 2007. "The rise of the child as an individual in global society." In *Youth, globalization, and the law*, edited by S. A. Venkatesh and R. Kassimir. Palo Alto, CA: Stanford University Press.
- Campaign 2000. 2000. *Report card on child and family poverty in Canada*. Toronto: Campaign 2000.
- Campaign 2000. 2008. *Family security in insecure times: The case for a poverty reduction strategy for Canada*. Toronto: Campaign 2000.
- Campaign 2000. 2011. *Report card on child and family poverty in Canada - 2011 Revisiting Family Security in Secure Times*. Report Card of Child and Family Poverty in Canada.  
[http://ywcacanada.ca/data/research\\_docs/00000223.pdf](http://ywcacanada.ca/data/research_docs/00000223.pdf)
- Canadian Institute for Health Research. 2008. *Reducing Gaps in Health: A Focus on Socio-Economic Status in Urban*

Canada, 2008. Ottawa: Canadian Institute for Health Information/Institut Canadien d'Information sur la Sante, <https://secure.cihi.ca/estore/productSeries.htm?pc=PCC448>>.

Canadian Population Health Initiative. 2009. Improving the Health of Young Canadians. Ottawa: the Canadian Institute for Health Information. [https://secure.cihi.ca/free\\_products/cphi\\_enewsletter\\_200907\\_e.pdf](https://secure.cihi.ca/free_products/cphi_enewsletter_200907_e.pdf).

CIA World Factbook. 2014. <https://www.cia.gov/library/publications/the-world-factbook/fields/2091.html>

Cockburn, J., & J. Kobubo-Mariara. 2010. *Child welfare in developing countries*. Ottawa: IDRC.

Drydyk, J. 2006. Globalization and Human Rights. In Christine Koggel (Ed.), *Moral issues in global perspective: Moral and political theory*, 2<sup>nd</sup>. Toronto: Broadview Press. Frey, Frey, Darcy. (2004). *The last shot: City streets, basketball dreams*. (New York: Mariner Books.

Haché, A., Dekelver, J., Montandon, L., Playfoot, J., Aagaard, M., & Elmer, S.S. 2010. "Research and policy brief on ICT for the inclusion of youth at risk: Using ICT to re-engage and foster socioeconomic inclusion of youth at risk of social exclusion, marginalized young people and intermediaries working with them." European Commission.

Holman, B, & J. Ziedenberg. 2006. *The dangers of detention: The Impact of incarcerating youth in detention and other secure facilities: A Justice Policy Institute Report*. Washington, DC: The Justice Policy Institute.

Justice Canada. 2004. *A on-day snapshot of Aboriginal youth in custody across Canada: Phase II*. Ottawa: Department of Justice Canada. <http://www.justice.gc.ca/eng/rp-pr/cj-jp/yj-jj/yj2-jj2/yj2.pdf>

Kaime, T. 2009. *The African charter on the rights and welfare of the child*. Pretoria: Pretoria University Law Press.

- Liebel, Manfred. 2012. "Framing the issue: Rethinking children's rights." In *Children's rights from below* edited by M. Liebel, pp. 9-28. New York: Palgrave Macmillan.
- Luxton, M. 2005. "Feminist perspectives on social inclusion and children's well-being." In *Social inclusion: Canadian perspectives* edited by T. Richmond & A. Saloojee, pp. 82-104. Halifax: Fernwood Publishing.
- Lynch, K. 2010. *The global drivers of change*. Montreal, Canada: Policy Options.
- Milloy, John. 2000. *A National Crime: the Canadian Government and the Residential School System, 1879 to 1986*. Winnipeg: University of Manitoba Press.
- Paperny, A.M. 2011. "Canadian youth crime plans bewilder international observers." Toronto: *The Globe and Mail*. Tuesday, July 19.
- Pollis, A. & P. Schwab. 2006. "Human rights: A Western construct with limited applicability." In *Moral issues in global perspective: Moral and political theory*, edited by Christine Koggel. Toronto: Broadview Press.
- Raykov, M, & A. Taylor. 2013. "Health and safety for Canadian youth in trades." *Just Labour: A Canadian Journal of Work and Society*, 20(Summer): 33-50.
- Schissel, Bernard. 2011. *About Canada: Children and youth*. Halifax: Fernwood Publishing.
- Schissel, Bernard. 2006. *Still blaming children: Youth conduct and the politics of child hating*. Halifax: Fernwood Publishing.
- Schlosser, Eric. 2002. *Fast food nation: The dark side of the all-American meal*. New York: Perennial.
- Skott-Myhre, H.A., & D. Tarulli. 2008. "Becoming-child: Ontology, immanence, and the production of child and youth rights." In *Child rights: Theory and practice* edited by T. Oneill and D. Zinga. Toronto: University of Toronto Press.
- Statistics Canada. 2015. Table 251-0008 - Youth correctional services, average counts of young persons in provincial and

- territorial correctional services, annual, CANSIM (database), Using E-STAT (distributor).  
[http://estat.statcan.gc.ca/cgi-win/cnsmcgi.exe?](http://estat.statcan.gc.ca/cgi-win/cnsmcgi.exe?Lang=E&EST-Fi=EStat/English/CII_1-eng.htm)  
[Lang=E&EST-Fi=EStat/English/CII\\_1-eng.htm](http://estat.statcan.gc.ca/cgi-win/cnsmcgi.exe?Lang=E&EST-Fi=EStat/English/CII_1-eng.htm)
- Statistics Canada. 2011. *Income in Canada, 2010*. Table 802, Cat. No. 75-2-2-X. Ottawa: Statistics Canada.
- Statistics Canada. 2013 *Infant mortality rates by province and territory*. <http://www.statcan.gc.ca/tables-tableaux/sum-som/l01/cst01/health21a-eng.htm>
- Statistics Canada. 2007. *The Canadian labour force survey*.  
<http://www.statcan.gc.ca/daily-quotidien/080111/dq080111a-eng.htm>
- Thomas, E.M. (2009) "Canadian Nine Year Olds at School." Ottawa: Statistics Canada
- Thompson, Isha. 2012. "Cut the Western diet and get moving." *AMMSA Aboriginal Multi-Media Society Association*, 30(2).
- UNICEF. 2013. *Child Well-being in Rich Countries: A Comparative Overview. Innocenti Report Card 11*. Unicef Office of Research, Florence. [http://www.unicef-irc.org/publications/pdf/rc11\\_eng.pdf](http://www.unicef-irc.org/publications/pdf/rc11_eng.pdf)
- Venkatesh, S., & Kassimir, R. (Eds.), *Youth, globalization and the law* (pp. 255-283). Stanford, CA: Stanford University Press.
- Watson, M. 2008. "Social networking: An opportunity for health and social care?" *Journal of Integrated Care*, 16(1): 41-43.
- York, Geoffrey. 1992. *The dispossessed: Life and death in Native Canada*. Toronto: Little, Brown.