

**MAPPING INTERNATIONAL KNOWLEDGE TRANSFER:
LATVIAN-CANADIAN COOPERATION IN CRIMINAL
JUSTICE REFORM**

by

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ABSTRACT

The 'Mapping International Knowledge Transfer: Latvian-Canadian Cooperation in Criminal Justice Reform' project provides insight and comparative analysis of the perceptions of Latvian participants on the role, development and delivery of specific training resources presented as part of the Latvia Legal Reform Project (LLRP). The LLRP was managed by the Association of Universities and Colleges of Canada (AUCC) and jointly funded by the Canadian International Development Agency (CIDA) and the Latvian Ministry of Justice from 2002-2004.

Through an innovative, exploratory mixed methodology involving a multi-stage data collection process, concept mapping was used to gather evidence and capture experience and frame additional interviews among fourteen (14) research participants. This project considers the apparent dichotomy within the organizational change literature between sharing specific training tools and the development of individual capacity to pursue reform through local innovation. Building on past Canadian studies, this study contributes to emerging knowledge transfer scholarship and considers the potential of legal technical assistance projects to model democratic values.

Through a mixed methods approach involving a quantified salience score and qualitative interviews gathered through multiple data collection stages, the study explores the extent to which Latvian participants identified concepts delivered through LLRP training. Participants identified the value of process related variables such as interactive training, study tours and project delivery, along with training tools related to supervision and assessment of Probation clients and overall system reform.

Keywords: Governance, legal reform, technical assistance, international development, Central and Eastern Europe, Latvia, mixed methods, concept maps.

DEDICATION

I dedicate this work to my family for their courage, strength, and unwavering support. Being born into a family in which both intellectual and empathic growth was so valued has provided me the foundation to seek the light while remaining eternally humble. I am in awe by their various contributions to the world.

I would also like to dedicate this work to my dearest Elizabeth. Mere words cannot convey what you have added to this work and to my life. Thank you for your edits, ideas, and support. You amaze me.

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To live is to war with trolls in heart and soul.

To write is to sit in judgment on oneself.

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GLOSSARY

ABA	American Bar Association
AUCC	Association of Universities and Colleges of Canada
CLCP	Canada Lithuania Corrections Project
CEE	Central and Eastern Europe
CIDA	Canadian International Development Agency
CIDA-INC	Canadian International Development Agency Industrial Cooperation Program
CVSS	Combined Variable Saliency Score
CSC	Correctional Services of Canada
DAC	Development Assistance Committee
DFAIT	Department of Foreign Affairs and International Trade
ECHR	European Convention on Human Rights
EU	European Union
FSU	Former Soviet Union
ICCLRCJP	International Centre for Criminal Law Reform and Criminal Justice Policy
IDRC	International Development Research Council
IMF	International Monetary Fund
IVSS	Individual Variable Saliency Scores
INTERPOL	International Criminal Police Organization
IRO	International Refugee Organization
KNAB	Latvian Corruption Prevention Bureau
LCRP	Latvian Criminal Justice Reform Project
LIAPO	Lithuanian Social Rehabilitation Organization
LLRP	Latvian Legal Reform Program
LNPS	Latvian National Probation Service
LRCP	Legal Reform Capacity Project
MDG	Millennium Development Goals
NATO	North Atlantic Treaty Organization

NGO	Non Governmental Organization
OECD	Organization for Economic Cooperation and Development
OCVSS	Overall Combined Variable Saliency Score
OSI	Open Society Institute
RBM	Results Based Management
ROL	Rule of Law
SIDA	Swedish International Development Agency
UK	United Kingdom
UN	United Nations
UNDOC	United Nations Office for Drugs and Crime
UNDP	United Nations Development Program
UNICEF	United Nations Children's Fund
USSR	Union of Socialist Soviet Republics
VAK	Latvian Environmental Protection Club
WTO	World Trade Organization

Introduction

Governance comprises the traditions, institutions and processes that determine how power is exercised, how citizens are given a voice, and how decisions are made on issues of public concern.¹ It is also an important way to understand the connection between rulers and ruled, citizens and institutions. Since the late 1980s in Canada, the Canadian International Development Agency (CIDA) has pursued international programming focusing on the justice systems of developing nations. These systems determine whether people will be denied life or liberty as they attempt to mediate between the competing interests of individual rights and collective public safety. It is often through the mechanisms of justice that people define their relationship with the state and other communities. For this reason, legal technical assistance has been a favoured approach within CIDA's human rights, democracy and good governance programming stream.

While justice reform through legal technical assistance projects accounts for hundreds of millions of development dollars every year, the role and potential of these kinds of development projects may not be properly understood. States that lack effective, transparent and accountable institutions have several options to bring about structural reform in line with international norms and standards. They may seek to implement reforms themselves through international financial

¹ See the Institute of Governance. Retrieved from http://www.iog.ca/about_us.asp retrieved September 4 2006

aid or may have norms, standards and administrative structures imposed on them by occupation or through external pressure.

Of particular interest, however, is a third 'collaborative' approach to governance reform through international legal technical assistance projects and programs. Historically, this approach has supported the development of formal tools, such as laws and policies, in line with international norms and standards. More recent scholarship acknowledges that regional distinctions in the administration of the law exist, and that political culture, legal traditions and societal attitudes create contextual impediments which often resist change that is predicated on simply reforming old laws or drafting new ones (Linn, 1999). To be sustainable, legal technical assistance must continue to assist in the development of formal tools but increasingly focus on building the human capacity required to utilize and adapt those tools.

The Latvian Legal Reform Program (LLRP) is an example of a 'collaborative' governance project that CIDA funded in the Baltic countries, during the period from 2002 to 2004. Initial programming in 1999 was designed to assist in reforming appellate courts and prosecutions systems, but by 2000 it was refocused on juvenile justice reform based on concerns expressed about the desperate situation for Latvian youth in conflict with the law. With the support of Canada's Latvian Diaspora, the project grew first to support a series of pilot projects intended to offer services to youth in conflict with the law. Its success at the local level resulted in a one-year extension in 2001. During this period, guided by the experience of past pilot project directors, the Ministry of Justice

formed the Probation working group and passed a series of laws that enshrined Probation in law (AUCC, 2005).

Based on these new developments, CIDA funded a final two-year extension to coincide with the “graduation” of its Baltic program. Between 2002 and 2004, this extension offered targeted legislative support, institutional capacity development and human resources training to the Latvian Ministry of Justice as it developed Latvia’s first Probation service. Programming included technical assistance through study visits to Canada, job shadowing in Canada and training seminars and capacity development activities in Latvia provided by senior Canadian officials from both Provincial and Federal justice agencies. It is widely considered an example of successful Canadian programming in the region (Lukensaite, 2005; Caldwell, 2005) and this extension (2002-2004) is the subject of this study.

In Canada, as in other western donor countries, a gap exists between research-based knowledge and practice in international development. This appears especially true within the human rights, democracy and good governance programming streams. While remaining a central feature of CIDA’s overseas programming, there is little research on training strategies for developing countries seeking to connect governance challenges with justice sector reform. To help address this gap, this contribution empirically assesses the means and mechanisms by which knowledge of Canadian trainers was transferred and explores in detail training approaches identified as useful by the Latvian participants through the development of the Probation service.

Through this exploration, this thesis will tell three stories. The first is about Latvia, a small Baltic state with a history of occupation struggling to overcome the legacies of the past. With a dysfunctional criminal justice system, Latvia has faced a number of local, regional and international pressures to bring its justice system in line with European standards and international norms. In 2000, a small group of individuals based in eight Latvian communities partnered with Canadian justice practitioners and began working together to offer alternatives to youth in conflict with the law. Over the first two years, the success of the pilot projects formed the basis for a series of systemic reforms that resulted in new laws and policies throughout Latvia and the establishment of the first Probation service. Since 2003, this service has continued to expand in both personnel and programs.

The second story considers the Canadian role in international development, especially related to law and development and legal technical assistance. Like the CIDA itself, this role has evolved since the 1950s as a result of personalities and policies and has been constrained by a variety of cross pressures (Black & Thiessen, 2007) in which the provision of Canadian assistance is influenced by international demands, national strategic and economic interests, and bureaucratic demands. These pressures have rendered this troubled agency rudderless, scandal prone, and unable to adequately explain the development successes it facilitates.

The third and final story revolves around the process by which Latvians and Canadians interacted. It concerns the process of engagement, an evaluation

of those processes by the Latvian participants, and the discussion and testing of an innovative method to gather data in cross-cultural research using concept maps and follow-up interviews. It also considers the results of Latvian-Canadian cooperation five years after the establishment of the Latvian Probation Service. While justice reform projects have historically focused on formal tools and top-down and hierarchical approaches, this project suggests that to engage with the criminal justice system in transition countries requires a consideration of the norms, values and assumptions that inform the role of law in any society. Legal technical assistance and training is itself a means to model behaviour, and may have significant import especially in countries emerging from the undemocratic, command style regimes of the Former Soviet Union (FSU). Through interactive, participatory and experiential training methods, justice reform initiatives can deliver practical tools, while serving as a unique site for debate, deliberation and democratic development.

Chapter 1 presents the challenge of defining, measuring and attempting to reform governance in developing countries. This chapter argues that governance is often associated with the institutions of the criminal justice system, and development initiatives often seek to influence these institutions through the provision of legal technical assistance. One contribution of this study may be the suggestion that these initiatives themselves serve as a valuable means to understand the challenge of governance reform, democracy development and legal technical assistance. In addition, chapter 1 introduces the Latvian Legal Reform Project (LLRP). Although based on past Canadian programming and

thus a function of the lessons learned since 1999, this project was the most targeted and focused to date. Between 2002 and 2004, the project assisted in developing the Latvian Probation Service, training probation officers and supporting new and amended legislation. The project serves as the subject of this study. Finally this chapter formally outlines the approach taken in this study, the overall objective and specific research questions.

Chapter 2 considers the Baltic country of Latvia by examining its history, multiple occupations in the 20th century and the ongoing challenges of independence. One legacy of the Soviet times that continues to persist is a dysfunctional criminal justice system. With little history of a voluntary sector, low wages and a punishment-based mentality, this chapter considers how Latvians were able to engage with international community, including Canada, to develop a Probation service that today offers diversion programs for youths, and substance abuse and life skills programs for adults in municipalities throughout the country.

In Chapter 3, Canada's role in international development is presented. While Canada has developed some capacity to deliver legal technical assistance and training, CIDA has routinely been critiqued by both the right and left. These critiques have cast CIDA as Canada's neo-liberal sales associate abroad and challenged problematic policies in China and elsewhere. They have also suggested CIDA is trapped between significant cross pressures, limiting its success and ability to sustain "a coherent mission, stable policy priorities, and long-discussed administrative reforms" (Black & Thiessen, 2007:187).

Yet, while these critiques are both powerful and persuasive, CIDA's greatest failing may be its seeming inability to learn from the past and take seriously the need to connect independent peer-reviewed research with development programming. On one view, the LLRP demonstrates a worrying trend by CIDA in which important opportunities to catalogue development lessons and successful legal technical assistance strategies are missed.

Chapter 4 presents the methodology, theoretical perspectives, research design and the means and methods used to collect and analyze the data through the study. Through an exploratory and innovative mixed methodology, concept maps were used to gather and record the unsolicited and personalized experiences of the Latvian participants. When combined with qualitative interviews and a scoring system designed to demonstrate salience between identified concepts, this approach represents a practical example of cross-cultural research in which quantified analysis can be qualitatively framed.

Chapter 5 presents the overall findings of the study. Organized by theme and connected back to existing literature, these findings present implications for the development and delivery of justice reform training, including the potential utility of concept maps to assist data collection as part of cross cultural research and international project reviews. This section also includes a lengthy limitations section that challenges the generalizability of the findings, the methods employed, analysis utilized and the role of the researcher.

Finally, chapter 6 discusses the study's main findings and provides an assessment of this study's contribution to this growing field based on the three-

tier model of project success (Kealey et al. 2005). By exploring the integration of criminological theories such as social disorganization, social learning and moral development, this section provides empirical evidence for the value and role of training initiatives that provide practical and usable tools and develop local champions by explicitly valuing local expertise and experience. At the organizational level, this study finds evidence for the role of community based pilot projects to test reforms and of regional and national level coordination to integrate them. At the individual level, interactive and experiential training can provide practical skill sets while facilitating respectful discussion and deliberation.

While legal technical assistance has a valuable role to play in reforming legal structures, it may also usefully stimulate dialogue and deliberation about how the law interacts with different societies. It may be that to reform systems of criminal justice, one must simultaneously engage in processes to develop a culture of reform and willingness to consider divergent views. By way of conclusion, this chapter revisits each of the three stories explored through this study to make several key points that might usefully guide further and more detailed future inquiries.

1.0 Chapter 1 – Governance, Criminal Justice and Organizational Development

1.1 Chapter Overview

The importance of good governance for development and human security is not controversial (Jenson & Heller, 2005) and few doubt its importance as a way to understand the connection between rulers and ruled, citizens and institutions. Yet, challenges exist when deciding how best to focus development dollars, technical assistance and knowledge transfer to assist and reform dysfunctional governance structures. As funders have moved toward more targeted and specific development approaches, scholars, policy makers and the broader legal and development community have sought to develop more refined, nuanced, and policy-relevant indicators of governance (Kaufman & Kraay, 2008).

This section will review governance measures, existing indices, and argue that a common feature is a focus on the institutions of the criminal justice system. While connecting governance to the justice system makes conceptual sense, significant challenges exist including what to measure, how to collect data and what means should be used to analyze and evaluate findings. Despite the importance of sustainable justice reform initiatives and the hundreds of millions of development dollars spent every year, the role of these kinds of development projects may not be properly understood. This lack of understanding is an issue Aid agencies have been slow to address. It may be that development projects provide an important means to study governance structures because they

provide access to participants with a foot in both worlds who may understand the value of formal rules but who also bring an understanding of the local context in which these laws reside.

In addition, this chapter provides an overview of the subject of this study, the *Latvian Legal Reform Program* (LLRP). While Canada and Latvia had been working together to promote justice reform in a variety of capacities since 1999, between 2002 and 2004, a more specific and targeted effort was made to assist the development of Probation in Latvia. Five years later, it remains funded and operational throughout the country. Finally, this chapter presents this study's approach, research objective, and specific research questions.

1.2 Background: Defining Governance and Criminal Justice

Various authors and organizations have produced a wide array of governance definitions. Some are broad, such as the definition offered by the World Bank in 2002: "rules, enforcement mechanisms, and organizations", while others are more specific. Kaufmann, Kraay, and Zoido-Lobaton (1999:1) suggest Governance is:

...the traditions and institutions by which authority in a country is exercised. This includes the process by which governments are selected, monitored and replaced; the capacity of the government to effectively formulate and implement sound policies; and the respect of citizens and the state for the institutions that govern economic and social interactions among them.

CIDA defines governance as “encompass[ing] the values, rules, institutions, and processes through which people and organizations attempt to work towards common objectives, make decisions, generate authority and legitimacy, and exercise power.”² While variance exists, most definitions of good governance include an assumption that a state should be capable and democratically accountable, and operate under the rule of law (ROL). This focus, while useful in some ways, is conceptually difficult in others (Kaufman et al. 2005). While considered a major aspect of modern governance (Sundstrom, 2005), it is controversial (Sklar, 1987; Waldron, 1992) and while some challenge the notion that ROL reform is necessary for economic development (Upham, 2003), others doubt that a single definition can be easily settled on (Olufemi, 1999; Carothers, 2003). Within Central and Eastern Europe (CEE) and specifically Poland, it has been suggested that the premature adoption of international standards and ROL often results in political manipulation, promotes superficial reforms and often serves to entrench the old legal apparatus (Los & Zybertowicz, 2000).

One problem suggested by Kaufmann and Kraay (2008) is the diversity of empirical measures and definitional dimensions of good governance advanced through the ROL. A central question is what to measure and whose views to rely upon (Kaufmann & Kraay, 2008). This question underlies a disagreement about whether one should focus on measuring the formal laws 'on the books' or the practical application of these rules as they are perceived to apply 'on the ground.'

² See CIDA <http://www.acdi-cida.gc.ca/CIDAWEB/acdicida.nsf/En/JUD-121132928-PPH> retrieved June 24, 2008

Rules-based indicators of governance focus on the formal laws related to the elements of the constitutional, legal or regulatory structures within a country. However, outcome-based indicators consider individuals' perceptions of how laws or provisions are applied (Kaufman et al. 2005).

This preference determines whether one privileges the opinion of experts with an intimate knowledge of the existence of formal rules, or the perceptions of individuals and their experience with and concerns about the structures of the state. Both have built in limitations which make the findings either difficult to link back to specific policy interventions or conceptually confusing, based on aggregated data which may be capturing multiple effects. As Kaufmann and Kraay (2008) remind us by quoting Albert Einstein: "not everything that can be counted counts".

Many studies have been conducted to develop indicators or indexes that illustrate the level of attainment of the ROL in different countries. Some focus on economic freedom,³ while others consider human rights⁴. Some have a regional

3 See, for example the World Business Environment Survey conducted by the World Bank's Investment Climate and Institute Units <http://info.worldbank.org/governance/wbes/index2.html>, and the World Competitiveness Yearbook published by the Institute for Management Development retrieved from <http://www02.imd.ch/wcc/yearbook/> on July 18, 2008 and the Global Competitiveness Report published by the World Economic Forum retrieved from <http://www.weforum.org/gcp> on July 18, 2008.

4 See the CIRI Human Rights Dataset <<http://www.humanrightsdata.com>> developed by David L. Cingranell and David L. Richards; the Political Terror Scale developed by Linda Cornett and Mark Gibney using the annual reports of the Amnesty International and the US State Department Country Reports on Human Rights Practices. Available at: http://www.humansecurityreport.info/background/Cornett-Gibney_Political_Terror_Scale_1980-2001.pdf retrieved June 18, 2008.

focus,⁵ whereas others have covered a global span.⁶ Still others have been conducted by non-private domestic,⁷ regional,⁸ or international organizations.⁹ An innovative methodology has recently been advanced by the American Bar Association (ABA) through its World Justice Project. By rejecting the either/or approach, this methodology provides for data collection that targets legal professionals and ordinary citizens while validating this data with existing cross country ROL indexes. By providing aggregated and disaggregated data, this methodology promotes a triangulated approach to measuring governance (Wheeldon, 2008).

1.2.1 The Challenge of Criminal Justice Reform

Whatever approach is taken to measure governance through the rule of law, a common approach is to measure protections afforded within the criminal

5 See for example the Afrobarometer <<http://www.afrobarometer.org/>>; Latinobarómetro <<http://www.latinobarometro.org/index.php?id=150>>; Progress towards Good Governance in Africa <http://www.uneca.org/adf/adf_4_report_final_sml.pdf> and Latin American Public Opinion Project <<http://sitemason.vanderbilt.edu/lapop>>. Both retrieved and reviewed June 19, 2008.

6 See the Bertelsmann Transformation Index <<http://www.bertelsmann-transformation-index.de/11.0.html?&L=1>> and Freedom in the World <<http://www.freedomhouse.org/template.cfm?page=15&year=2005>> retrieved June 18, 2008.

7 See Latin American Public Opinion Project conducted by the Centre for the Americas at the Vanderbilt University with funding support from the USAID; and Latinobarómetro <<http://www.latinobarometro.org/index.php?id=150>> retrieved June 18, 2008.

8 See Progress towards Good Governance in Africa developed by the United Nations Economic Commission for Africa; Country Policy and Institutional Assessment conducted by the African Development Bank <<http://afdb.org>> and Country Policy and Institutional Assessment conducted by the Asian Development Bank <<http://www.adb.org>> Retrieved June 19, 2008.

9 See Freedom in the World developed by the Freedom House and World Business Environment Survey conducted by the World Bank's Investment Climate and Institute Units <<http://info.worldbank.org/governance/wbes/index2.html>> retrieved June 18, 2008.

justice system. As the former Canadian Minister of Justice Irwin Cotler (2005) suggested:

The best protection for human security is . . . the building of national justice systems as part of the building of an international justice system for the 21st century organized around democratic institutions and rights-protecting instruments, including Charters of Rights, protection of minorities, an independent judiciary, a free press, protection of human rights monitors, transparency, accountability, and responsible government.

Legal technical assistance may range from policy advice, to assistance in drafting legislation, to introducing, implementing, and enforcing new laws and regulations. It often includes devising procedures and developing or otherwise supporting institutions to carry out new laws and functions by working with the staff of those institutions to provide training and to build capacity and competence (Linn, 1999). This focus on the justice system is justified on the grounds that it is there that governance structures must contemplate the complexity inherent in balancing individual rights on the one hand and collective public safety on the other.

While cooperation on matters of justice reform might be seen as an opportunity to model governance structures that can better promote open dialogue, democratic deliberation and community involvement, very little is known about specific mechanisms of knowledge transfer and capacity building through legal technical assistance projects. This is a problem aid agencies have been slow to address (Carothers, 2003: 13). In the Baltic countries of Estonia, Latvia and Lithuania, some argue that most of the research on crime and crime

control is being undertaken by researchers who are either employed by, or closely affiliated with, government and state institution (Zdanevicius, 2006). It may be time for academic approaches.

In general terms, the development community has only recently recognized that a state's ability to maintain law and order is a precondition for economic advancement (Fukuyama, 2004) and as noted by the Development Assistance Committee (DAC) of the Organization for Economic Cooperation and Development (OECD). Despite the importance of understanding the conditions under which successful capacity development can occur, the learning and dissemination of lessons has been needlessly slow (OECD/DAC, 2005).

A core assumption in this submission is that good governance will remain an international goal and the criminal justice system will remain an important site of cross-national engagement through legal technical assistance projects and programs. In Canada, CIDA's commitment to human rights, democratic development, and good governance comprises 10% of Canadian development assistance (Cameron, 2006), and in 2004 more than 2000 Canadian experts were working overseas on technical assistance contracts providing training and advisory services to various government agencies in developing and transition countries.¹⁰ Yet a paradox appears to exist. While the value of a more participatory process within project design and delivery is acknowledged as important by funders, consultants and recipients, it is the traditional mechanisms

¹⁰ In 2003/04 governance programming comprised 18% of CIDA's total Overseas Development Assistance (ODA) budget, or approximately 349 million dollars. See http://www.tbs-sct.gc.ca/est-pre/20032004/CIDA-ACDI/CIDA-ACDIr34_e.asp#sann retrieved April 22, 2007.

of legal reform that are often retained. This results in projects that tend to favour top down approaches to management reform with a focus on broad legislative reform within developing criminal justice systems. The limitations that are endemic to this approach have all too slowly led to the recognition of the role of individuals within organizations as the engines of reform through innovation.

1.3 Changing Notions of Governance and Organizational Development

Historically, legal reform models in developing countries concentrate on the legislative basis by which procedural reforms or custodial alternatives can be supported (Linn, 1999; Chodosh, 205). While legislative reform may be integral to broader sustainable reform initiatives, few would argue that legal reform is simply a matter of drafting and enacting new rules (Hendley, 1996). Yet, more often than not, when foreign legal experts assess the legal needs of developing countries they almost always seem to assume that the problems they have identified can be resolved by simply enacting a new set of legal rules (Demlietner, 1999) or to rely exclusively on judicial training, instead of more integrated justice reform approaches (World Bank, 1995).

1.3.1 Law and Development

The Law and Development movement of the 1960s grew out of the interest of a small group of lawyers working within the international development assistance community who sought to spur economic growth by strengthen legal reform to address weak law enforcement and insufficient regulation (Trubeck and

Santos, 2006; McInerney, 2004). Building enforcement mechanisms was difficult because the rules promoted by western lawyers were inappropriate to specific national contexts and easily ignored. The focus on changing the rules also failed to consider various administrative deficiencies and the problem of corruption within developing countries (Carothers, 2003).

These challenges led to a focus within the development sphere of transforming legal culture and institutions through educational reform and more rigorously selected models of governance institutions. This view held that the most important thing to do was to create a new, more instrumental legal culture and promote the reform of legal education and the development of a new generation of lawyers (Trubeck, 1996).

New partnerships between donors, legal experts, and law schools reformed legal education but failed to target the police and judiciary as relevant sites of legal reform. Support for projects focused on democracy building through social justice and human rights waned (Kennedy, 2003). Instead it was believed a more effective legal system would ensure economic growth and this growth would require a protection of individual rights and eventual democracy (Riddich, 2001; Fiss, 2003).

By the 1970s, the potential of development through legal reform was in doubt (McInerney, 2004) and was not resurrected until the 1990s when the end of the cold war resulted in a massive surge in development assistance for law reform projects in developing and transition countries (Trubeck and Santos, 2006). These projects involved the investment of many billions of dollars, most

heavily in the institutions of governance with a focus on ROL projects. Often tied to neo-liberal economic policies with a focus on an open global economy and minimal state involvement (McInerney, 2004), it quickly became apparent this approach required a legal system that was predictable, transparent and accountable. As the World Bank (2002:17-18) noted:

Practical experience suggested that reform efforts could not stop with policies designed to shrink the state and liberalize and privatize the economies...It turned out that a lack of attention to institutions generally, especially legal ones, placed substantial limits on the reforms as a means to promote economic development and poverty reduction.

Despite this acknowledgement, questions remain about how best to engage these institutions and concern has been expressed that a legal only focus will repeat errors of the past (Stephenson, 2000). Indeed, while there are many benefits to legislative reform and judicial training agendas, many have suggested that these programs cannot, by themselves, address some of the more ingrained challenges to criminal justice reform such as public perceptions of crime, lack of civil liberties, racial or ethnic inequalities, poverty, and emergent concerns around justice and security (Karstedt, 2001; Seidman & Seidman, 1996).

A recent contribution points to lessons that have emerged from rule of law programs. These include the notion that legal cultures often at odds with the assumptions of ROL programming have impacted the expectations of legal actors. This may require the wholesale development of new institutions rather than the reform of old (Jensen & Heller, 2005). In addition, there is an explicit

acknowledgment that alternatives to formal structures of legal institutions should be favoured, where possible, to counter a strict focus on court reform as the site of effective change. This is not new. As Johannes Linn (1999) suggests, most lawyers and policy-makers know that social problems are not always resolved by enacting new rules (1999: 11). In fact, it is often the case that new legal rules are not the best solution because there may be no agreement in society as to the content of the rules or because the rules simply do not reach the groups they are meant to reach (Seidman & Seidman, 1996).

Linn (1999) concludes that legal reform programs based solely on legislative initiatives often fail to promote real and sustainable change. This may be related to Rachel Kleinfeld's (2003) suggestion that ROL initiatives historically have been pursued through state based institutions, the judiciary and by reforming legal codes based on a model that replicates the legal systems of the funding country. The failure to consider local political and cultural issues has resulted in reform initiatives that have not significantly impacted legal inequities or strengthened the respect of human rights by the state. While there is evidence that World Bank projects in Latin America have assisted to reduce the percentage of detainees awaiting trial, speed up trials, and introduce and employ the use of alternative sentencing mechanisms (Biebesheimer & Payne, 2003), these successes have been few and far between (Carothers, 2003).

In Russia and countries of the FSU, some credit rule of law initiatives with playing an important catalyzing role in the complex process of reforming Russia's legal system (Spence, 2003). Some are less complimentary. In addition to the

unintended consequences of the development of civil society in Russia (Sundstrom, 2006), Channell (2005) argues that insufficient resources have characterized legal reform in communist countries. As a result these programs have failed to engage the target population by providing a structural means to address the existing segmentation of the justice system. This results in short term projects characterized by an impatient process of legal transplantation (Watson, 1979; Karstedt, 2002) with little time given to local adaptation and no attention to the broader more systemic problems within the country. One solution has been to focus on criminal justice reform projects in the FSU that use existing legislation to promote alternative programs, support local ownership and improve the use and acceptability of community based programs (Hendley, 1996). Yet, without mechanisms to support the development of new kinds of programming, and a means to demonstrate their local operability, the sustainability of these systemic reforms may be reduced (Griffiths et al. 2005).

A consistent problem appears to be an over-reliance on the formal structures of the state. Because institutions often respond to social, political, economic behaviour and change across time (Steinmo et al. 1992), early ROL reformers have assumed that formal structures and state institutions are the key to law reform. This view is common in the field of political science (Krasner, 1988), where institutional evolution occurs either through the addition of new institutions alongside existing ones or as a result of the restructuring of existing institutions altering the role they play and functions they undertake (Thelen, 2003). Emergent views note the limitations inherent in a structural approach and

argue that even if reform projects are able to change formal structures, they may be unable to penetrate the informal arrangements and socially shared rules that affect the behaviour of those working in those structures (Helmke & Levitsky, 2004).

Another way to conceive of these kinds of projects is as a means to develop democratic mechanisms to involve a greater segment of the population in decision-making about crime, law, and justice. In Central and Eastern Europe (CEE), scholarship has emerged which suggests external actors can assist to lengthen the time horizons of post-communist politicians, expand the circle of interested reformers, and to deter opponents of reform (Jacoby, 2006). While imitation of western institutions has been an expedient first step (Jacoby, 2001), the adoption of sustainable reforms cannot simply be imposed from above (Jacoby, 2006). On this view, ROL projects do best when they empower the populace in developing countries by focusing on civil society (Golub, 2003) and pursuing development approaches that can democratically expand the incorporation of international norms of legal regulation (MacDonald, 2002). This requires a willingness to present, discuss, and consider the values these norms assume and to provide a means to debate the role of law within society.

1.3.2 Conceptualizing Knowledge Transfer: Practice and Principles

Research on knowledge transferability in the field of criminal justice is still evolving (Chodosh, 2005). While some literature addresses the challenges of transferability (Karstedt, 2002) and the obstacles associated with exporting existing models to new countries (Cohen, 1982), other literature considers the

institutional and contextual constraints inherent in any attempt to promote systematic reform (Jiao et al. 2005) including the challenge of legal ethnocentricity (Demlietner, 1999). The international development literature in the field of criminal justice reform tends to focus on policing and the judiciary, as opposed to probation, community corrections and crime prevention, and generally focuses on the development of new laws, polices, and procedures delivered through newly developed reports, assessments, and plans (Biebesheimer & Payne, 2001).

New evidence is emerging (McInerney, 2004). Some is critical of the role of western-based expertise (Yves & Bryant, 2000) and suggests expert knowledge has played an integral role in the formation of the contemporary state (Mitchell, 2002). Rarely neutral or unbiased, external actors use their expertise and influence to order social relations and have shaped domestic political and economic power relations since colonial times (Mitchell, 2002). Others challenge the simplistic dichotomy between expert and learner and argue that day-to-day practices affect issues of legal regulation and draw upon a variety of “hybrid knowledges” (Valverde, 2003). This may require that space be created for variation within the understanding of law and replace abstract conceptualization with careful empirical study (2003:225).

One under explored means to do this is through the examination of legal technical assistance projects. Historically, the organizational reform approaches have been favoured to frame knowledge transfer (Lewin, 1951; Rogers 1962; Simpson, 2002). The conceptual reliance on organizations to lead innovation has

certainly enriched the study of organizational development, yet this focus may not fully capture the role of individuals within organizations (MacGregor, 1960). More recent scholarship appears to favour the role of individual and interpersonal programming elements (Beeson and Davis, 2000; Rogers, 2005). Chodosh (2005) argues that those involved in international justice reform initiatives should pursue value based means and mechanisms of reform and "...favour incremental over systematic strategies, emphasize gradual over sudden change, and the cultivation of understanding and action over time based on the bottom-up over top down" (2005: 196). In this view, international programs do better when they support processes that include and support alternate and innovative programs and invest in individuals and local communities. The reality of multiple paths to institution reform requires that room be made for adaptation within local contexts (McInerney, 2004). As Black and Mendenhall (1990) suggest, increased internationalization in the economic, political, and social arenas has resulted in the acknowledgment that cross-cultural training is a means of facilitating more effective interactions (Mendenhall, 1990).

Yet this sort of interaction is never easy. Innovations appear to require individual energy and autonomy while sustainability requires organizational buy-in, resources, and continuity. For international development practitioners, a key question surrounds whether individuals or organizations should be targeted and what training approaches should be favoured. This project examines the tension between the role of structure, control and rules versus individual agency, initiative, and personalities in promoting and sustaining institutional reform.

1.4 The Latvian Legal Reform Project (LLRP)

In 1995, CIDA took on the responsibility of administering Canada's official assistance programs in Central and Eastern Europe (CEE), and the Former Soviet Union (FSU) by supporting democratic development and economic liberalization. The 1995 *Policy on Human Rights, Democratization and Good governance* presented “responsive” and “flexible” programming, a focus that continued throughout the 1990s (Cameron, 2006). As presented in chapter 2, Canada began working in Latvia in 1999 through the CIDA-funded *Latvian Criminal Justice Reform Project* (LCJRP). Between 2001-2002 CIDA extended this funding through the *Legal Reform Capacity Project* (LRCP) that relied upon the LCJRP's pilot project experience to promote the transfer of community expertise in the field of justice to National institutions. This resulted in the National Youth Justice Strategy and the Probation Working Group.

To build on this success, in 2002, the *Latvian Legal Reform Program* (LLRP) was funded by CIDA and implemented by the Association and Universities of Colleges of Canada (AUCC) between 2002-2004. The project supported the Latvian Ministry of Justice to establish the Latvian National Probation Service (LNPS) and provided training, technical assistance, and capacity development to ensure the probation service was based in law and would conform to and uphold international standards of human rights and justice. The LLRP responded to and further supported a number of additional developments within the field of criminal justice, including bail supervision, victim-offender mediation and alternative dispute resolution (AUCC, 2005). The project

assisted to establish the Latvian National Probation Service by developing new laws, amending existing laws, training staff, assisting in policy development, developing resource materials, and providing support to leading officials within the Latvian Ministry of Justice. The Latvian Probation Service established in 2003 has since grown year by year in staff, programs offered, and services delivered. In general, it is considered one example of successful programming in the region (Luksenaite, 2005; Caldwell, 2005).

The project operated through four (4) components. The Training Development component was designed to support the development of a comprehensive training program for central office staff, probation officers, and a corps of probation officer trainers in Latvia. It involved study tours and in-country training. Study tours through the LLRP occurred in January of 2003. Twenty –two (22) participants travelled to Ontario and Quebec. Presentations and site visits during the first study tour included representatives from Correction Services Canada, Ontario Ministry of Public Safety, Ministère de la Santé et des Services sociaux du Québec, the John Howard Society and a number of smaller community based organizations which work with Probation. In November of 2003, two senior staff visited a number of probation offices, community based programs and training institutes in British Columbia and included meetings with representatives from the Provincial government including from Community Corrections Branch and trainers from the Justice Institute of British Columbia.

The training through the LLRP was provided over ten (10) months, between February 2003 and November 2004, and was delivered by a variety of

trainers drawn from Probation and Justice agencies in Ontario, Manitoba, and British Columbia. Training modules included: roles and responsibility of probation officers, administrative procedures, risk assessments and plans of care (psychological problems, violence and substance abuse), case management of adult criminal justice process, case management of juvenile justice process, supervision of male and female offenders, supervision of special needs offenders, coordination between Probation and Prison Administration, supervision of conditional orders and post-prison supervision, restorative models and community development and institutional challenges and implementation.

The Legislative component was designed as an advisory component in which Canadian expertise was used to advise Ministry of Justice staff on the Canadian experience of drafting and implementing proposed legislative reforms (AUCC, 2005). This included support to the development of the Probation draft, legislative reform and cooperation with agencies such as the police. Integral within this combined variable was the legislative advisory component in which Canadian expertise supported existing efforts to promote legislative reform in Latvia and ensure probation is securely based in law. This involved ongoing consultation from Canada related to efforts to reform the Latvian Criminal Procedure Code and elements of the Criminal Law.

The Communications component was designed to contribute to building public confidence in the National Probation Service and to developing resources that could be used in future awareness campaigns. It included the development

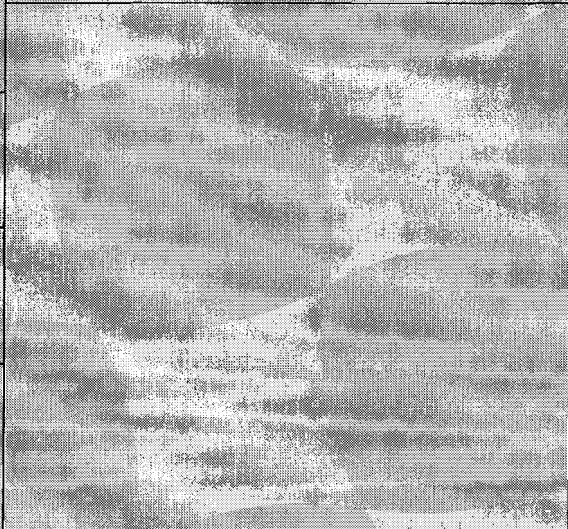
of a Probation public awareness commercial, training video, pamphlets and the initial version of the Probation website located at: www.probatija.lv.

Finally, the Partnership component was designed to develop partnerships in Latvia among international legal reform programming and support past efforts to organize coherent and coordinated approaches among international programming in the field of legal reform. Based on approaches used since 2001, such as pilot projects, coordination councils and working groups, these programs, services, and personnel in 2002 became the basis for the Probation service. The initial pilot projects included after-school prevention programs, community service programs, drop-in centres and supervision programs that worked in cooperation with local police and municipalities. These were further supported, in 2002, to develop additional supervision functions and through the development of regional coordination councils, a model of collaboration emerged that led to the establishment of a National Youth Justice Strategy and National Probation Draft Law in 2003.

Through these four components, the LLRP represented the most targeted and specific programming to date by CIDA in Latvia in the field of criminal justice reform. At the time of the LLRP report to CIDA 2005, specific outputs and outcomes were identified and are included in figure 1-1.

Figure 1-1 LLRP Outcomes and Impacts (AUCC, 2005)

3.2.1 Key Outcomes and Impacts

Five (5) Key Outcomes	Three (3) Key Impacts
1. Probation Service established. Sixteen (16) regional offices opened throughout Latvia based on training provided since 01/03. Training model including manual has been produced and been used in the training of new probation officers.	1. The Probation Service officially established Oct 1, 2003 by the Ministry of Justice. Probation officers continue to be trained based on Canadian models.
2. Laws have been approved that establish Latvian Probation Service. (Probation Act) Additional amended laws recognize Probation and key functions. Courts have relied on Probation for presentence reports and to supervise post-prison release.	2. Fifteen (15) individuals trained through the LLRP subsequently hired by the Probation Service.
3. Community leaders and agencies work cooperatively with Probation in 16 regions. Local authorities have developed resources for additional diversion programs.	3. The administration of Probation Service by HQ staff reflects training provided by Canadian expertise.
4. Latvian HQ has provided increasing financial and human resources year on year to the planning and implementation of regional offices.	
5. Probation Service has instituted a human resources policy to attract strong candidates and developed regional interagency councils to address institutional and operational requirements.	

The LLRP is widely considered an example of successful Canadian programming in the region, not only for the formal establishment of Probation (Caldwell, 2005; Luksenaite, 2005), but also for the variety of programming shared and the Latvian-Canadian networks which continued long after project activities ceased (Bell et al. 2002). For less than a million dollars over five (5) years, the LLRP succeeded where so many justice reform projects have failed.

To consider the importance of various programmatic elements that supported individual training and structural capacity development, this study provides a detailed view of the process of knowledge transfer based on the experience of 14 participants who were exposed to a variety of training environments between 2002-2004.

1.5 Approach and Research Questions

This study presents research that begins from the observation that, there is a growing gap between theory and research related to legal technical assistance and ROL (Jenson & Heller, 2005). Despite the recognition that a fundamental requirement for a functioning democracy is a justice system that operates in line with international norms and standards, there is little empirical research on which training mechanisms and techniques within the field of criminal justice reform are the most effective. By exploring how Latvian participants with a limited knowledge and experience of human rights, due process, and rehabilitation learned about justice through legal technical assistance delivered through the Latvian Legal Reform Project (2002-2004), this study seeks to provide an empirical basis for what previously have been theoretical debates.

Through the development of the Latvian Probation Service participants were exposed to a variety of mechanisms and questions. This study will focus on the identification of and the dichotomy between training tools, such as assessments, reports, laws and policies and the development of procedures and

training processes related to participation, networking, and collective problem solving. The difference between training tools and training processes is based on emergent views within organizational development literature (Rogers, 2005). While formal organizational tools are a general feature of many legal technical assistance projects (Dandurand, 2006), it is clear project success also is related to more individual elements such as the role of intercultural competence and relationship building within development (Kealey et al. 2005).

By means of an analysis of the ways in which the Latvian participants frame their experience and involvement in a Canadian-funded legal reform project, this study will offer more specific information about how different training approaches can best be utilized in practice and provides a more nuanced view of the process of knowledge transfer within justice reform projects based on the experience of fourteen (14) participants who over two (2) years were exposed to a variety of training methods. Of specific interest is how the responses of participants assist the understanding of pedagogical challenges within international justice reform, the resultant design and delivery implications for continued governance reform, and the value of the concept map in uncovering key participant experiences and perceptions in cross cultural research

To catalogue and present this experience, this study will present the data through a mixed-methods research design, including both quantitative and qualitative data. Through a four-stage data collection process guided by the creation of participant concept maps, salience scores for different identified concepts were compiled and analyzed. To provide context to this quantified

expression, the study also presents the results of a series of follow-up interviews that serve to explore the perceived importance of elements within each variable. These interviews serve both to assist in the quantified compilation of salience scores and to provide more depth and detail in the consideration of which and why different concepts were identified, connected and related to Latvian-Canadian program success.

1.6 Concluding Remarks

While governance is a core development goal, challenges exist when attempting to define and measure it. Despite these challenges, the criminal justice system consistently emerges as a key institution in understanding, assessing and measuring governance structures. This chapter has argued that an unexplored means to consider how governance institutions operate in developing and transition countries is justice reform projects themselves. These projects may serve as an important intersection point between the past, present, and future. As a site of potential debate and deliberation, both formal and informal barriers to reform can be identified, explored and assessed.

Through properly facilitated debate and deliberation those contemplating justice reform can better assess and understand existing similarities and differences, and consider the contextual challenges inherent in defining the role of law in different societies in theory and in practice. Although not properly utilized by Aid agencies and others, recent scholarship is displacing the assumption that the development of formal tools such as laws and policies are enough. Emerging research suggests that formal tools must be supplanted with

approaches that build individual capacity, provide a role for the local testing of new ideas and methods, and invest in people as an integral part of larger organizations.

2.0 Chapter 2 – Latvia: History, Occupation and Transition

2.1 Chapter Overview and Highlights

Latvia's central location in the Baltic region has made it long sought after by its larger neighbours. From the North Sea Vikings, Swedish Kings, German Knights, and Russian Tsars, Latvia has a history of invasions and occupations. In the 20th century, it has been occupied for far longer than it has been independent (Bilmanis, 1951; Spekke, 1957). Following the 1917 Russian Revolution, Latvia enjoyed a brief period of independence between 1918 and 1939. Caught up in the Eastern European territorial land grab that instigated the Second World War, Latvians fought with the USSR to drive out the occupying Germans. Upon victory, they found themselves an unhappy addition to the Soviet Union. Executions and expulsions marked the latter half of the 20th century in Latvia, but these could not quell Latvian nationalistic movements. In the era of Glasnost,¹¹ these movements became more pronounced and the citizen-led revolts became instrumental in the formal dissolution of the Soviet Empire (Trapans, 1991; Muiznieks, 1993).

Beginning in the 1980s, two unpopular projects served to focus citizen groups who were concerned about the environmental impact of continued Soviet

11 Glasnost refers to the policy public openness, and transparency in the activities of all government institutions introduced by Mikhail Gorbachev. For more on the relationship between Glasnost and the Baltic revolution see Clemens, Walter (1997) "Who or what killed the Soviet Union? How three Davids undermined Goliath." *Nationalism and Ethnic Politics*, Volume 3, Issue 1 Spring 1997: 136 – 158

industrialization.¹² While opinion about the utility of a subway system in Riga was mixed, a vocal movement organized to protest plans to build a hydroelectric dam on Latvia's largest river, the Daugava. Yet, Soviet occupation left many scars; some more obvious than others. While the stench of the polluted Daugava river was readily apparent, less obvious was what to do about the corrupt governance structures that remained as a legacy of occupation. The restoration of Latvia's 1918 constitution promised a renewed focus on democracy, transparency, and accountability as worthwhile goals; yet these goals required support from the international community, principally foreign investment and capacity development (Dreifelds, 1996).

Throughout the 1990s, Latvia embarked on a program to strengthen key institutions, and engage in knowledge exchange and transfer. It has emerged as an important example of how post-conflict societies can redefine themselves, develop, and thrive. It may be the case that international cooperation has created the conditions for greater citizen participation and assisted to support the critical reform of its criminal justice system. While existing reviews suggest the LLRP was successful (Lukensaite, 2005; Caldwell, 2005), there is little information about why Latvian-Canadian cooperation organized through a series of projects between 1999 and 2004 resulted in more lasting and significant justice reforms. To understand the context in which justice cooperation began in Latvia, it useful

12 A useful overview of the environmental challenges in the last years of Soviet occupation and the first years of independence is Nordic Project Fund (1991) "Environmental Situation and Project Identification in Latvia" (Helsinki:Finland). For more on the environmental situation see WWF Project 4568. Conservation Plan for Latvia Final Report. (In Latvian.) Riga: Vide, 1992.

to understand Latvia's history and the particular challenges faced by this Baltic state.

The Latvian Institute has organized the history of Latvia into five distinct periods.¹³ For the purposes of this submission, these five have been reduced to three conceptual historical periods. The first is organized to provide a brief overview of the earliest days of recorded history in Latvia, including the rule of German Teutonic Knights and Tsarist Russia. The second period considers Latvia's brief independence, the first occupation of the USSR and struggle during the Second World War including its occupation by Nazi Germany. The third period traces the events of the Soviet occupation. This included mass deportations and the control of all spheres of life through a single system of centralized planning based on class struggle ideology. After decades of Latvian resistance, Latvia re-emerged in 1991 as an independent sovereign nation and began the long process of reform. Since 1999, CIDA emerged as a partner in this reform, in the area youth justice, legislative reform, and, perhaps most importantly, the development of the Probation service. In many important ways, Canada's Latvian Diaspora provided context, political leadership and, criminal justice expertise.

13 See The Latvian Institute's useful and detailed website:
http://www.li.lv/index.php?option=com_content&task=view&id=95&Itemid=173 retrieved last June 29, 2008

2.2 An Ancient History of Occupation

The territory known today as Latvia was first inhabited in 9000 BC by the ancient Finnic peoples. In the first half of 2000 BC, early Baltic peoples arrived and are generally acknowledged as the forefathers of the Latvian people, also considered the early ancestors of contemporary Estonians, Finns and Livs (Gimbutas, 1963). At the beginning of this era the territory known today as Latvia became famous as a trading crossroads and Latvia's largest river the Daugava served as an integral route connecting Scandinavia, Russia and the Byzantine Empire (Abols, 2002). The Balts of this time actively participated in this trading network and amber from the eastern shore of the Baltic Sea was known as far away as ancient Greece and the Roman Empire and considered more valuable than gold (Bilmanis, 1951).

While all Balts spoke a similar language, based on the Indo-European family, in the AD 900s, different groups began to establish separate and definable tribal realms. Some left the region to explore and conquer, while others remained at home and developed more complex socio-political organizations and relied upon farming, hunting, fishing, and bee-keeping (Rutkis, 1967). During the 10th and 11th centuries, Latvian lands were subject to pressure from Sweden as Vikings pushed toward Latvian shores. In the 12th century, Germans occupied Latvia and renamed it Livland (Christiansen, 1980) and during this time, German missionaries founded the Order of the Brothers of the Sword. Before they merged in 1237 with the Knights of the Teutonic Order, they had conquered all the Latvian tribal kingdoms. While conversion to Christianity was attempted,

Latvians resisted this imposition and the Balts held on to their atheistic beliefs (Gieysztor, 2004).

In 1282, Riga joined the Hanseatic League, which promoted trade between countries surrounding the Baltic Sea and the North Sea. Through this trade network Latvia prospered (Kirby, 1995), although the rural population continued to pay tithes and taxes to their German conquerors and to provide unpaid work. After the German crusaders conquered Latvia, a succession of regimes ruled different parts of the country throughout the 14th and 15th centuries. Sweden, Poland and Russia all ruled different parts of the Latvian territory (Bilmanis, 1951) and in the 16th century, the Reformation and the collapse of the Livonian nation allowed Lutheran ideas to emerge. By the 1520s, Rīga became an important centre of Reformation in Northern Europe and between mid-16th to the early 18th century, Latvia was relatively stable, ruled by a German landowning class (Rutkis, 1967). By the end of the 18th century, the whole of Latvia had been annexed by expansionist Russia, through the efforts of Peter 1, known as Peter the Great, who took Riga from the Swedes in 1710 (Plakans, 1995).

In the period immediately following the Napoleonic Wars, the Russian emperor Alexander I was induced to grant personal freedom to the peasants of Courland in 1817 and to those of Vidzeme in 1819. While German landowners retained influence, the emancipation of the serfs throughout the Russian Empire in 1861 brought a new measure of stability to Latvia. In step with the growing economic strength of the local peasantry came a revival of national feeling.

Educational and other national institutions were established. The idea of an independent Latvian state was openly put forward during the Russian Revolution of 1905, but did not gain popularity until 1917 (Abols, 2002).

2.2.1 The Russian Revolution and Latvian Independence

Following the Russian Revolution of 1917, Latvia declared its independence on November 18, 1918, after a confused two-year period of fighting in which both Latvian and Soviet governments were formed and controlled different parts of the country (Plakans, 1995). During this time, Germany and the United Kingdom fought separately and together to repel the advancing Russians. In 1920, finding themselves surrounded, the Russian Army withdrew from Latvia and the new nation was recognized both by Soviet Russia and Germany in 1920 (von Rauchs, 1974). The Latvian constitution of Feb. 15, 1922, provided for a republic with a president and a unicameral parliament, the Saeima (Parliament), where 100 members were elected for three years.

During the next decade, governing an independent Latvia proved to be a challenge. The multiplicity of parties in the Saeima made governing difficult and, in 1934, Prime Minister Ulmanis proposed constitutional reforms that were widely opposed.¹⁴ One vocal group, the *Baltischer Bruderbund*, was composed of Latvian fascist groups who waged a fierce propaganda war. On May 15, 1934, Ulmanis issued a decree declaring a state of siege and the Saeima and all the

¹⁴ In 1922 the Latvian Saeima had 22 parties and 24 in 1931 and by that time Ulmanis had at that time been Prime Minister four times since 1918. In a variation on an old joke, in Latvia it is said when three Latvians get together four political parties are created. See The Latvian Institute's useful and detailed website:
http://www.li.lv/index.php?option=com_content&task=view&id=95&Itemid=173 retrieved last June 29, 2008

political parties were dissolved. Between 1934 and 1939 Ulmanis ruled quasi-dictatorially. He outlawed the *Baltischer Bruderbund* and attempted to consolidate power through economic reforms. Although through his efforts the economy was strengthened and Latvia prospered, Ulmanis' centralization of power may have set the stage for a later and much more pernicious siege (Spekke, 1957).

2.2.2. Molotov–Ribbentrop and Occupation

While Latvia was a neutrally declared country during the early phases of World War II, it soon fell prey to the *realpolitik* of geo political interests. On Aug 23, 1939 Nazi Germany and Communist Soviet Union concluded a Non-Aggression Treaty known as the Molotov–Ribbentrop Pact. Through the pact, Russia allowed Germany to invade Poland on September 1 1939 in exchange for the establishment of a Soviet Sphere of Influence in Eastern Europe, which included Estonia, Latvia and Lithuania. On June 15 1940, the USSR invaded Latvia.

USSR proxy candidates won the elections of July 15, 1940 by outlawing non-Soviet approved parties and arresting all opposition parties including Prime Minister Ulmanis, who was sent to Russia and imprisoned until his death (Misiunas & Taagepara, 1983). After establishing its rule through an unconstitutional petition to join the USSR made by the Saeima, a number of countries refused to recognize the illegal annexation. Nevertheless, the USSR consolidated power, identifying, arresting and imprisoning hundreds of former government officials and introduced new laws with retroactive power designed to

track anti-Soviet activity. While imprisonment and deportation was common for former Latvian elites, on the night of June 13, 1941, the Soviet government ordered a mass deportation that removed more than 15,000 people from Latvia to Russian camps. During the night, throughout the Baltic states, the Latvian Museum of the Occupation suggests more than 57,000 people were forcibly removed in cattle cars, including more than 5,000 children.

Despite the mass deportations, Soviet domination proved to be short lived in Latvia and, on June 22, 1941, the German army began advancing into Latvian territory. Initially greeted as liberators, by July the Nazis had fully occupied Latvia and the retreating Soviet Army “evacuated” thousands more Latvians to the USSR. Between 1941 and 1944, Nazi Germany held Latvia and was governed as part of *Reichskommissariat Ostland* (Dallin, 1957). Latvian paramilitary and Auxiliary Police units established by occupation authority actively participated in the Holocaust. More than 200,000 Latvian citizens died during World War II, including approximately 70,000 Latvian Jews murdered during the Nazi occupation and a further 20,000 German Jews who were transported to Latvian death camps (Ezergailis, 1996). Latvian soldiers fought on both sides of the conflict, including in the Latvian Legion of the Waffen-SS (Vardys and Misiunas, 1978). While many were conscripted by the occupying Nazi authorities and threatened with imprisonment, the killing of their relatives, or even death, the Museum of the Occupation suggests others willingly joined in the destruction of Jewish property and the eventual attempt at mass extermination that began in 1941.

The Latvian Institute identifies a number of reasons for this participation including the proliferation of Nazi propaganda that blamed Latvian Jews for Soviet policies and made popular the slogan “Jew-Bolshevik.” Others suggest Latvians have a history of indifference to others and a passive approach to life, seeking not to get involved. Still others suggest the scale of the murderous common plan was unknown. The role of Latvians in the Holocaust is complex and pains are often taken to differentiate between Latvia and other countries based on the notion that, although some Latvians participated, the spontaneous pogrom against the Jewish population which often accompanied Nazi occupation in other countries did not occur to the same extent (Ezergailis, 1996).

While the Latvian Holocaust devastated the Jewish population leaving only a mere 1,000 Latvian Jews in Latvia, other Latvians fared better. Nazi occupiers reversed the collectivist policies of the Soviets, returning land and business and relaxing free speech provisions, allowing Latvian authors to publish prose and poetry. To administer the Eastern Occupied Territories, Nazi Germany sent more than 15, 000 civil servants to Latvia in the latter half of 1941 who took advantage of human and material resources and allowed Germany to buy products in Latvia at far lower prices than possible elsewhere (Abols, 2002).

As a result of the deterioration of the Eastern Front, Hitler declared total war in 1943 and Latvia again served as a key battleground between USSR and Nazi forces. In 1944 as the Soviet Army approached Latvia, more than 10% of the Latvian population, approximately 200,000, fled to the west. On May 8, 1945 Germany surrendered. As a result of the Yalta conference in February, 1945, the

USSR was able to retain its “influence” over territory in Eastern Europe, which was famously decried by Winston Churchill (1946) who stated: “this is not the liberated Europe we fought for.”¹⁵

Latvia lost more than a third of its population between 1945 and 1950 as the reoccupation by the USSR resulted in harsh measures applied to punish the people for alleged collaboration with the enemy and resisting Soviet occupation. This mass emigration of refugees first settled by the International Refugee Organization (IRO) in 1947 and after 1948 most fleeing Latvians ended up in the USA, Canada, and Australia. For those who stayed in Latvia, the first post-war decade proved particularly difficult as the USSR tried to transform the country into a typical Soviet satellite state and compounded the devastation of the war. Severe political repression accompanied radical socioeconomic change and in the first year of Soviet occupation 35,000 Latvians, mainly from the intelligentsia, were deported to Russia. These policies existed throughout the 1940s, during which time more than 100,000 people were deported, most notably in 1949, in connection with a campaign to collectivize agriculture and end the remaining armed resistance against the occupation regime (Plakans, 1995).

In just over 40 years, the proportion of Latvians in the population dropped from roughly three-fourths to little more than one-half. Those who were not deported faced a program of extreme ‘Sovietization’ that overtook national cultural life. Large-scale immigration from Russia and other parts of the Soviet

15 Churchill, Winston (1946) “The Sinews of Peace Address” delivered March 5, 1946 Westminster College, Fulton, Missouri. Retrieved June 27, 2008 from <http://www.hpol.org/churchill/>

Union began and continued throughout the post-war period and the ruling Communist Party was disproportionately composed of non-Latvians (Lieven, 1994).

2.2.3 Soviet Collapse and Independence

The importance of the Baltic States to the collapse of the Soviet Union cannot be understated. As Gerner and Hedlund (1993:7) suggest:

Although constituting a tiny minority of the "Soviet" population, and an almost negligible share of its territory, the Baltic states played a role in the soviet breakdown which can hardly be overestimated...What makes the story of the Baltic republics particularly relevant to a deeper understanding of the drama of Soviet disunion, is the fact that this is where it all started.

Resistance in Latvia to the various occupations had existed from the earliest days of the unconstitutional annexation. Aid movements offered non-sanctioned care in hospitals, sanitoriums, and schools and supported various guerrilla movements by students, former politicians, and police who published leaflets and provided shelter to those threatened by deportation. In the late 1980s, a national renaissance developed in part as a result of international condemnation of occupation by Latvians living outside Latvia. In 1985, a Baltic Tribunal held in Copenhagen featured several prominent Latvian Americans who openly addressed a variety of human rights abuses reported from Latvians within Latvia. In 1986, external pressure was also brought when Helsinki-86, a human rights group made up of persecuted Latvians forced to flee, demanded the restoration of Latvian independence. This international pressure coincided with

campaigns by Gorbachev for *glasnost* ("political openness") and *perestroika* ("economic restructuring").

Latvia was the first Baltic state in which mass demonstrations occurred. Organized to protest environmental issues (Klavin et al. 2000), the Environmental Protection Club (VAK) hosted and staged a number of non-sanctioned political meetings and demonstrations in 1987, popularizing Latvian public empowerment. The "calendar" demonstrations were organized to commemorate long-suppressed critical turning points in Latvian history, and while Soviets sent 6,000 troops to prevent these demonstrations, the momentum could not be stopped.

In 1988, the Latvian Popular Front emerged in opposition to the ruling establishment and the decision of the Latvian Supreme Soviet in December 1989 effectively ended the Communist party's monopoly on political power in Latvia. Opposition grew and smaller groups merged through the Latvian writers union that led to the creation of the Latvian National Independence Movement. Bolstered by wins in elections in all three of the Baltic states on August 23, 1989, millions of Balts joined hands from Vilnius, Lithuania through Latvia and ending in Tallin, Estonia and marked the fifty (50) year anniversary of the Molotov Ribbentrop pact. The "Hands Across the Baltic" event connected people for 650 kilometres and marked a participatory political turning point and an important symbolic end to Soviet occupation.¹⁶

16 Hands Across the Baltic is a collection of pictures which chronicles this incredible event. Retrieved from www.warresisters.org/images/latvia_statue.jpg on March 31, 2008. A number of other images were made available to this study by the Latvian Museum of Photography in Riga, Latvia.

On May 4, 1990, Latvian independence was restored. The Latvian Supreme Council declared the Soviet annexation of Latvia illegal and restored certain articles of the constitution of February 15, 1922. Soviet efforts to restore their rule culminated in violent incidents in Riga in January 1991 (Marx, 1994). In the aftermath of the failed coup in Moscow in August of the same year, the Latvian legislature declared full independence (Dreifelds, 1989; Lieven, 1993). Soon after reinstating independence, Latvia was welcomed to the international community, first by Iceland and soon after by the United States. A member of the League of Nations prior to WWII, Latvia almost immediately became a member of the United Nations (UN). In 1992, Latvia became eligible for the International Monetary Fund (IMF) and, in 1994, took part in the North American Treaty Organization (NATO) Partnership for Peace program and signed a free trade agreement with the European Union (EU). Soon after, Latvia became a member of the European Council as well as a candidate for the membership in the EU and NATO. Latvia was the first of the three Baltic nations to be accepted into the World Trade Organization (WTO).

Since the restoration of independence, Latvia has embarked on a concentrated campaign to engage with the world. In contrast with the two other Baltic states, Lithuania and Estonia, which after the Soviet period developed new constitutions on the basis of pre-war ones, Latvia chose to maintain its original Constitution, introduced in 1922. This was done to reinforce the perception of continuity from the first independence period (1918-1940) and to accentuate the illegitimacy of the long Soviet occupation (Dreifelds, 1996). A major addition to

this Constitution was made in October 1998, when the Saeima added an extensive body of rules protecting human rights

This progress was recognized in 1999, when the heads of the European Union governments invited Latvia to begin negotiations regarding accession to the EU. Over the next few years, Latvia achieved many of its foreign policy goals. On April 2, 2003 Latvia became a member of NATO and a 2003 referendum resulted in Latvia, along with the other two Baltic States, becoming a member of the European Union (EU).¹⁷ Today, in addition to its growing economy, Latvia has become a centre for regional integration on the eastern shore of the Baltic Sea and is the site of the headquarters of the United Land Forces of the Baltic States. In 2003, Latvia contributed 125 troops to the Iraqi operation, and extended its mission until 2007.

2.3 Criminal Justice in Latvia: Problems and Process

While CEE (CEE) and the Former Soviet Union (FSU) comprise a wide and disparate group of countries, these countries share common political, economic, and social legacies from their experience of state socialism. Of interest is the way the structure and functioning of the Soviet socialist states have influenced criminal justice in these states. The Marxist-Leninist state was ideologically framed as a socialist state of the people and set a blueprint for

¹⁷ In the days leading up to the vote, concerns were expressed the Latvians might eschew another "occupation." In the end the referendum passed and 67% had voted in favor of EU membership with turnout at 72.5 percent. See <http://news.bbc.co.uk/2/hi/europe/3126100.stm> retrieved July 22, 2008

political organization. Since the function of the state was to facilitate the transition to an ideal Communist society where all means of production would be communally owned, it justified exercising control and coercion to that end (Fatic, 1997). As a result, criminal laws were intended to facilitate this transition and the justice system existed to enforce conformity with state ideology (Shelley, 1996).

With the change in regime in 1989, countries of the CEE and FSU faced a triple challenge: addressing the growth and public fear of crime, overcoming the communist legacies in their criminal justice systems and building criminal justice systems that were more democratic and transparent. Crimes had to be redefined, depoliticised, and penalties diversified and made less harsh through the introduction of more lenient sentencing, alternative forms of penalties and non-custodial sanctions such as fines and community service (Los, 2003). In Latvia, independence brought about a number of challenges including a rise in the official crime rate as reported crimes and convictions both increased (Asquith, 2002).¹⁸

Compared to Western European states, official crime rates in the USSR were very low. State socialist ideology held that crime was by definition a capitalist phenomenon that would disappear with the achievement of communism and thus a lower crime rate would confirm the superiority of the communist system over the capitalist system. Yet, while the official statistics were artificially

¹⁸ According to Asquith's reading of official statistics, the total number of reported crimes increased from 34,686 in 1990 to 61,871 in 1992 while the number of convictions rose from 7,159 in 1990 to 11,280 in 1993. See Stewart Asquith (2002) Report on Alternatives Measures for Dealing with Young Offenders In Latvia (UNDP: Riga, Latvia) Available at: http://www.un.lv/down/Press/youth/rep_en.pdf.

low, socialist criminal policy was incredibly harsh. High rates of incarceration were used to punish and to facilitate the use of psychiatric evaluations for un-socialist thoughts and acts (Los, 2003).

Another challenge, as in other countries of the FSU, was the role of corruption, organized crime and the shadow economy (Los, 1988). In Latvia, through the International Police Organization (INTERPOL), Latvian authorities gradually began to replace Soviet-trained police, yet allegations of corruption in the law enforcement community persisted. In 2004, the Transparency International Corruption Perceptions Index ranked Latvia 57th out of 146 countries. Yet, while Latvia's Anti Corruption Bureau (KNAB) has been identified as holding great promise, it has suffered from leadership and financing challenges (Freedom House, 2005).

In addition, during this period the broader systematic criminal justice training needs became apparent. While local efforts began to focus on training and increasing compensation for those working within the system, problems of inefficiency and allegations of corruption remained. According to Asquith (2002), the court system in Latvia was too weak to enforce many of its decisions. A major difficulty in enforcing court decisions was the lack of an effective bailiff or sheriff system. While the law allows for alternative punishments, including community service, the courts rarely used alternative punishments because there was no one to supervise them.

Throughout the mid and second half of 1990s, Latvia faced mounting international criticism for inhuman conditions in prisons, rates of imprisonment

and the high number of prisoners awaiting trial.¹⁹ The lack of effective alternatives to imprisonment resulted in long periods of pre-trial detention periods, especially in cases of juveniles (Asquith, 2002), and resulted in the European Committee for Prevention of Torture in a 2001 Report,²⁰ urging immediate implementation of Council of Europe recommendations concerning pre-trial detention and consistency in sentencing.²¹

Another politically relevant event occurred in 2002 when the European Court of Human Rights (ECHR) issued a ruling in the long-running case of *Lavent v Latvia*.²² The Court ruled that the trial court had not been independent and impartial, and that Lavent had been denied the right to a fair hearing within a reasonable period of time. Lavent was awarded costs and the outcome and attention it brought appears to have had a significant effect on the Ministry of Justice. Combined with a series of reports from the European Union on Latvia's Progress Towards Accession including an especially strongly worded criticism in

19 See Towards Accession. 9 October 2002, No. SEC(2002) 1405. p.22-24, 27-28. Pieejams Internetā: European Commission Regular Report from the Commission on Latvia's Progress Towards Accession;

20 Council of Europe Report to the Latvian Government on the Visit to Latvia Carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 24 January to 3 February 1999. Strasbourg, 22 November 2001, No. CPT/Inf (2001) 27.

21 See Council of Europe Recommendation No. R (80) 11 of the Committee of Ministers to Member States Concerning Custody Pending Trial. Adopted on 27 June 1980 at the 321st meeting of the Ministers' Deputies, and Council of Europe Recommendation No. R (92) 17 of the Committee of Ministers to Member States Concerning Consistency in Sentencing. Adopted on 19 October 1992 at the 482nd meeting of the Ministers' Deputies.

22 See *Lavent v Latvia* (2002) ECHR no. 58442/00 retrieved from <http://www.echr.coe.int/ECHR/EN/Header/Case-Law/Case-law+information/Lists+of+judgments/> on June 28, 2008

the Progress Reports of 2000-2002, the Latvian government sought the means to better harmonize its legislation with international regulations and EU legislation.²³ These additional means were based on the initial steps that had been taken in the mid 1990s.

The Latvian government's first foray into substantive criminal justice reform can be traced back to 1994 amendments to the Sentence Execution Code of Latvia, which established a progressive system of imprisonment (Jurevicius, 2008). Designed to address prison overcrowding, it also was a necessary precondition for receiving financial assistance from European Union (EU) and international organizations that advocated for rights of prisoners and broader systemic justice reform (Jurevicius, 2008). Throughout the 1990s the Latvian Ministry of Justice embarked on a number of initiatives in partnership with various local, regional and international actors.

One important initiative based on cooperation between prisons emerged while Latvian Prison Administration hosted a delegation from Norway and Sweden in October 1996. In 1997 this idea was converted into The Nord Balt Prison Project (NBPP) funded by the Council of Europe to improve work of Latvian prisons, implement new programs and increase opportunities among prisoners to education, industrial training, and employment skills. Cooperation between Prison in Latvia, Sweden and Norway assisted to develop institutional capacity within the Latvian Prison Administration by providing invaluable

23 See European Commission Regular Reports from the Commission on Latvia's Progress Towards Accession (1998-2002). Retrieved from http://ec.europa.eu/enlargement/archives/pdf/key_documents/2002/lv_en.pdf (aplūkots: 14.04.2008.).

knowledge about the experience of other countries and challenging well-established Latvian views about the functions and role of prisons. Vitolds Zahars, who was Head of Prison Administration from 1997 until 2002, point that NBPP was “inflow of fresh air into Latvian prison system”, and resulted in significant improvements in the Latvian prison system (Jurevicius, 2008).

Through the NBPP, the Latvian government and prison administration officials were first introduced to the concept of “probation.” While based on a Northern European model, which stresses aftercare and social rehabilitation, this introduction would lead a variety of Latvian actors to continue to support reforms designed to develop a probation service in Latvia. In January 1998, an additional concept paper concerning the Social Rehabilitation of Ex-Prisoners was approved²⁴ and amendments were made to the Sentence Execution Code of Latvia (Jurevicius, 2008).

These amendments, for the first time in Latvia, established a goal of creating a new Probation service with specific tasks including: maintaining regular contacts with prisons; assisting post-prison reintegration including accommodation and obtaining required documentation, and engaging in broader crime prevention including cooperation with police and municipalities to assist those under police supervision.²⁵ Despite these amendments and the acceptance of various concept papers on rehabilitation, prison after care and Probation,

24 Sodū izcietušo personu sociālās rehabilitācijas valsts koncepcija. Apstiprināta 1998.gada 29.decembra Ministru kabineta sēdē.

25 LR Saeimā 1998.gada 14.oktobrī pieņemtais likums Grozījumi Latvijas Sodū izpildes kodeksā, stājās spēkā 1999.gada 1.aprīlī.

these initiatives were not funded and received little political support (Kamesnka, 2003).

2.3.1 Community Engagement, Experimentation and Innovation

While the lack of political will required to implement large scale reform at the National level might be explained by the host of other priorities facing the Ministry of Justice,²⁶ government action was also undermined by frequent changes of governments and Ministers of Justice during 1990s. An additional concern was the challenges between the National government who made laws and local municipalities who were tasked with implementing them without consultation, proper funding or additional support (Jurevicius, 2008). For example, Latvia's new Criminal Law came into force in April 1999 and introduced "community works" as a possible punishment.²⁷ Despite the fact that municipalities would now be obliged to create separate institutions or appoint persons to be responsible for community, municipalities were not consulted during the development of this new criminal punishment. By the summer of 1999 it became clear that nobody had explained to municipalities or to judges the meaning of this criminal punishment, nor assigned funding to municipalities to administer execution of this punishment (Jurevicius, 2008).

In 1999, two projects sought to engage communities, work with local municipalities and develop alternative programs. Based on the work of the Soros

26 Ministry of Justice priorities at that time can be found in Latvia's Contribution to the Regular Report from the Commission on Latvia's Progress towards Accession (National Progress Report 1999-2001. See <http://www.mfa.gov.lv/data/file//LNPR-2001.pdf> retrieved April 14, 2008

27 LR Saeimā 1998.gada 17.jūnijā pieņemtais Criminal Law, stājās spēkā 1999.gada 1.aprīlī

Foundation-Latvia, a number of Latvian municipalities were supported to learn about community service or “community works” through study tours and conferences. To assist municipalities in implementing “community works” as an alternative sentence to imprisonment, Soros Foundation-Latvia provided information, training workshops and salaries for regional coordinators (Kamenska, 2000a). With support from the British Embassy in Riga, Soros Foundation–Latvia published the newsletter “Alternatīva” to provide information, support information exchange, to popularize community works and the development of probation in Latvia (Kamenska, 2000b). Despite the increase in use of community service as a punishment in the pilot regions (AUCC, 2002) cooperation and coordination between the National government and local municipalities was complex. When Soros Foundation-Latvia funding was not renewed, municipalities reduced their support for community works (Jurevicius, 2008).

During the same period, the Canadian International Development Agency (CIDA) began working with the Association of Universities and Colleges of Canada (AUCC) to develop alternatives to incarceration as a part of broader juvenile justice reform (AUCC, 2002). While in development since 1993 (CIDA, 1997), Canadian programming began in earnest in the fall of 1999, through the *Latvian Criminal Justice Reform Project (LCJRP)*. Funded by the Canadian International Development Agency (CIDA), the LCJRP brought a group of Latvian judges and prosecutors, including several Supreme Court judges and the Prosecutor General to Canada. This was followed by a conference, in May 2000,

in which Latvian police, social workers, psychologists and legal officials met to study the Canadian legal process, including prevention strategies, the court system, correctional facilities and post-custody programs.

Through the project the LCJRP launched a Latvia-wide pilot project competition in 2001 to develop alternative approaches for the juvenile justice system. These projects ranged from after-school prevention programs, community service programs, drop-in centres, and supervision programs that worked in cooperation with local police and municipalities. Pilot Project Directors were supported through the project through training and capacity building, and these projects explicitly detailed new forms of community involvement and agency coordination. Between 2001 and 2002 these programs had become models and CIDA had agreed to fund a one-year extension through the *Legal Reform Capacity Project (LRCP)*.

While both AUCC and Soros Foundation-Latvia had provided initial funding to municipalities, an important difference in strategy was the provision of salaries. While Canadian programming provided training and workshops for individuals, pilot projects required the support of local governments who agreed to fund successful pilot projects and in some cases integrated them into their social services systems (Bell et al. 2002). Another important feature of Canadian programming was the establishment of coordination councils comprised of a number of justice professionals working in one region. This had the effect of not only sharing information about alternatives among those working in the field, but also of developing informal networks among these professionals (Bell et al.

2002). These networks proved invaluable when in late 2001 the Ministry of Justice demonstrated renewed interest in the coordination of a Probation system and additional alternatives to imprisonment.

2.3.2 Latvian-Canadian Cooperation and Probation (2002-2004)

While Canadian programming up to 2002 had been broadly defined, in late 2002, CIDA again funded AUCC to implement a two-year project entitled the *Latvian Legal Reform Program (LLRP)*. Specifically designed to support the Latvian Ministry of Justice to establish the State Probation Service (SPS), the project provided training, technical assistance, and capacity development to ensure the probation service was based in law and would conform to and uphold international standards of human rights and justice. The LLRP responded to and further supported a number of additional developments within the field of criminal justice, including bail supervision, victim-offender mediation and alternative dispute resolution (AUCC, 2005). The project assisted to establish the Latvian National Probation Service by developing new laws, amending existing laws, training staff, assisting in policy development, developing resource materials, and providing support to leading officials within the Latvian Ministry of Justice.

The LLRP operated through four (4) components. The Training Development component was designed to support the development of a comprehensive training program for central office staff, probation officers, and a corps of probation officer trainers in Latvia. The Legislative component was designed as an advisory component in which Canadian expertise was used to advise Ministry of Justice staff on the Canadian experience of drafting and

implementing proposed legislative reforms (AUCC, 2005). The Communications component was designed to contribute to building public confidence in the National Probation Service and to developing resources that could be used in future awareness campaigns.

Finally, the Partnership component was designed to develop partnerships in Latvia among international legal reform programming and support past efforts to organize coherent and coordinated approaches among international programming in the field of legal reform. The Latvian Probation Service established in 2003 has since grown year by year in staff, functions and clients served. Table 2.1 demonstrates this development.

Figure 2.1 Latvian Probation Service in Numbers (Jurevicius, 2008)

Year	2003	2004	2005	2006	2007
Budget (Lats)	190 000	444 908	2 516 816	3 271 540	5 368 111
Staff	20	39	257	409	513
Probation clients	n/a	204	2581	12 081	19 492
Case Load	n/a	5.23	10.04	29.53	37.99

The LLRP represented the most targeted and specific programming to date by CIDA in Latvia in the field of criminal justice reform and is considered one example of successful programming in the region (Luksenaite, 2005; Caldwell, 2005).

2.3.3 Challenges to Reform: Assumptions, Expectations and Interactions

Since 1991, Latvia and the countries of the FSU have had to face the challenges posed by societal restructuring following a history of occupation and the sudden advent of independence (Joutsen, 1996). By seeking to reform their criminal justice system in line with international standards and meet public demands for safety and security, the Baltic transition to independence has altered what Lauristin calls the 'symbolic environment' (1997:38).

It may be that legal technical assistance must take seriously the radical changes undergone by societies in transition, and knowledge transfer must be guided by an awareness of the different cultural and historic expectations of those from the East versus the West (Hebenton, 2001). In an adapted table (Lauristin, 1997:39) the conceptual differences in expectations and assumptions are usefully outlined in table 2-1.

Table 2-1: Assumptions, Expectations and Interactions

Individualism (West)	Collectivism (East)
Individual identity – use of 'I', 'Me'. Loose in Group relationships.	Group identity. Use of 'We', 'Us'. Tight in Group relationships.
Self and Immediate Family only. Looking after self.	Extended Family and in-group networks. Protection for loyalty.
Belief in competition. Challenge. Express self, assert uniqueness.	Belief in cooperation. Harmony, deference. Avoid confrontation.
Personal responsibility. Independence, maximize outcomes.	Shared responsibility. Interdependence, shared resources
Doing one's own thing. Personal time. Honesty to speak one's mind.	Little time for self. Opinion pre-determined by Group.
Individual Freedom, Right to privacy	Equality and Group Consensus. Private life concealed.
Confrontation with authority. Resentment of conformity.	Acceptance of authority. Conformity.
Value originality, youth and initiative.	Value tradition, structure, and hierarchy.
Control by guilt, conscience	Control by shame and loss of face.

While these outlined differences are useful in understanding some of the broad differences between East and West, Latvia's history of occupation is also relevant. Both the organization of society through the Soviet state apparatus (Los, 2003), and the use of the justice system to enforce conformity with Socialist ideology (Shelley, 1996) have impacted public confidence in the institutions of the state (Gestautaite, 2001). While Latvians have a history of indifference to others and a passive approach to life (Ezergailis, 1996), the current punishment-based mentality of many Latvians may reflect a history of control by means of shame (Lauristin, 1997) and political repression. It may also suggest broader problems in encouraging more community participation in justice reform.

2.4 Concluding Remarks

According to Judt (2005), the Baltic States were distinctive when compared with other occupied countries of the USSR. While Estonia, Latvia and Lithuania were all relatively prosperous it was Latvia's history of independence and connection to the west that is of significance. Latvia's twenty years of independence had allowed Latvia to establish borders, strengthen national cohesion, and demonstrate a viable economy (Dreifelds, 1996: 5) and served as common nationalistic reference throughout the 1980s. In addition, Latvia had some exposure the west, through the large number of Latvians who lived outside Latvia. Many Latvians remained in touch with those outside the USSR, and independence allowed those who had remained in Latvia to rely upon the experience and expertise developed by Latvians abroad. In Canada, the large

Latvian Diaspora mobilized after independence, returning to Latvia to live and otherwise assist in Latvia's transition (Lukensaite, 2005).

In addition to the participation of Latvian-Canadians Drefields and Berzins, another key figure, in office during the project years from 1999-2004, was Latvia's President Vaira Vīķe-Freiberga. Born in 1937 in Riga, Latvia she fled with her parents to Germany and later to Canada. In 1965, she earned her PhD from McGill University, while remaining active in the Latvian community, and used Latvian folklore, such as the dainas, as part of her research in various academic studies. In articles on Latvian identity, she was critical of the Soviet Union and outlined her views of the political future of Latvia (Vīķe-Freiberga, 1980; 1989; 2000). In June 1998, she was made a Professor Emerita and took this opportunity to return to Latvia, where she received the offer of the Directorship of the Latvian Institute. In 1999, Vīķe-Freiberga was elected as President and served for eight years before stepping down in 2007.

Despite some advantages, challenges have remained. Independence has required Latvia to adjust to totally new circumstances and new laws had to be introduced and accepted and democratic structures and practices had to be revived, formed, or revised. While progress has been made since independence, much still remains to be done. The pressure of internal relations between Latvians and those who identify themselves as Russian, the associated citizenship issues, and economic strategies and priorities remain (Vīķe-Freiberga, 2000). Latvia's re-emergence as an independent sovereign state and its history of occupation has influenced both its institutions and identity (Abols,

2002) as the command style of Soviet system and its particular hierarchy has limited the autonomy, flexibility and discretion of two generations of Latvians. While perhaps difficult to measure, the Diaspora provided much-needed context to Latvian-Canadian cooperation funded by CIDA, an organization with a mixed record in the Baltics.

3.0 Chapter 3 – Canada, International Development and Legal Technical Assistance in Latvia

3.1 Chapter Overview

CIDA's mandate is to "support sustainable development in developing countries, in order to reduce poverty and to contribute to a more secure, equitable, and prosperous world" through Overseas Development Assistance (ODA).²⁸ This assistance, generally from rich, industrialized countries to poorer, developing countries is based conceptually on the 1945 UN Charter but its roots are perhaps most usefully understood in the context of post-WWII reconstruction. Based on the experience of the *Marshall Plan*, resources were channelled from the US to war-torn Europe. Western leaders were convinced that a similar transfer of resources to newly independent countries in Asia and Africa could lead to rapid development (Morrison, 1998).

The Development Assistance Committee (DAC) of the Organization for Economic Cooperation and Development (OECD) defines ODA as resources to eligible recipients or multilateral institutions that are administered with the promotion of the economic development and welfare of developing countries as its main objective. Yet, historically in Canada, foreign aid has been an all-encompassing term suggesting "philanthropic generosity" (Head, 1991) and over the years has included everything from military weapons and massive public

28 Retrieved from <http://www.acdi-cida.gc.ca/CIDAWEB/acdicida.nsf/En/NIC-5493749-HZK> on June 14, 2008

works projects to humanitarian relief and university scholarships (Morrison, 1998: 4).

This situation has resulted in an aid policy that suffers from a confused collection of motives. Doubts have persisted about Canada's development priorities, motivations, and effectiveness (Morrison 1998: 12-13). The combination of the development goals of CIDA with the broader Canadian commercial and foreign policy needs associated with the Department of Foreign Affairs and International Trade (DFAIT) have pleased few. Critics have assailed it from both the left and the right as either the means of economic neo-colonialism or as a bad case of tax-dollar waste premised on utopian ideals. For some CIDA suffers from "developmental romanticism" and has failed to achieve significant results because of a desire for quick and tangible results (Morrison, 1998: 427). More recent contributions cast these critiques within a framework of cross pressures (Black & Thiessen, 2007) such as the transnational requirements of globalized aid, intergovernmental and interdepartmental strife, and the changing winds of political whim.

Yet, while numerous critics raise important issues, they often fail to acknowledge what good can come from development cooperation. Properly supported, a competent network of individuals working together toward shared goals can facilitate important development successes. It may be that the numerous critiques that exist are premature because there is far too little information about how or why development projects funded by Canada have been successful. The failure by CIDA to properly support development research

or make existing evaluations public suggests an organization mired in administrative secrecy (Morrison, 1998:13). Far from implementing new research protocols, it appears CIDA is considering a new role for the private sector to reinvigorate Canadian development (Berthiaume, 2008).

This section will trace the development of CIDA and situate development in Canada, and set the stage for more detailed discussion about why the LLRP is of interest to this study.

3.2 CIDA's History: Personalities and Policies

Between 1950 and 1998, CIDA allocated more than 50 billion in development dollars. While it has ebbed and flowed through different decades, policies and presidents, the rationale for foreign aid has always been controversial (Morrison, 1998). While Canada's development priorities may have arisen as result of broader East-West security concerns of the Cold War (Morrison, 1998:1-3) and been influenced by the global war on terror (Dandurand, 2006), competing interests and conceptualizations have historically confused any unified purpose. On the one hand, foreign aid can be seen as a self-interested tool, designed to further donors' own political, commercial, and security interests. International Realism considers foreign aid an additional "weapon in the political armoury of the nation" (Morgenthau, 1962: 309). Against this view, many see aid as an expression of international solidarity and believe it should be provided out of ethical concern and compassion (Morrison, 1998). Cranford Pratt (2000) characterizes these two visions as "international realism"

and “humane internationalism.”

Canada’s first foray into foreign aid in 1950 was designed to prevent the expansion of Soviet influence in South Asia. As the cold war became a geopolitical reality, development assistance provided a useful avenue for western involvement around the world. The *Colombo Plan for Cooperation and Economic Development* (1950) was established specifically to target South East Asia. While there was a general assumption that aid would be temporary, in 1960, the Development Assistance Committee (DAC) was formed as a small external aid office in the Department of External Affairs. While fractured program management among the departments of External Affairs, Finance and Industry, and Trade and Commerce produced early organizational challenges in 1968, these were partially addressed by the creation of CIDA. During the next 2 decades Canada’s program grew steadily, expanding to include the Commonwealth Caribbean (1958), Commonwealth Africa (1960), Francophone Africa (1961), and Latin America (1970). Yet, in the words of a 1987 parliamentary report, Canadian ODA has historically been beset with confusion of purpose (Morrison, 1998: 278). To help understand this complex history, one might consider both the personalities and policies that have shaped Canadian overseas development.

3.2.1 Personalities

Morrison (1998) chronicles Canada’s involvement in international development, tracing the fifty-year history of Canadian aid by looking at the

various episodes that coincide with the terms of the men and women who have headed CIDA. This 'monumental work' of political science (Therien, 1999) serves as the lynch pin in understanding the complex and confused history of development assistance in Canada.

Therien's (1999) review offers a useful summary of the personalities that shaped CIDA's development until 1998. Through the "entrepreneurial leadership" (Morrison, 1998:68) of Maurice Strong (1966- 1970), Canadian development assistance experienced growth as an organization and the professionalization of CIDA's personnel. The support of Prime Ministers Pearson and Trudeau resulted in a new global bilateral program and the expansion of the existing program in Francophone Africa, and the launch of a Latin America program.

While Morrison suggests that Strong's private sector honed managerial innovations were not universally appreciated (1998:60), his ability to identify and attract talent led to a competent complement at CIDA and coincided with a dramatic rise in budgetary allocations. During this period, key programs were launched such as the NGO program, the Business and Industry Program, the International Development Research Centre (IDRC), and the massive geographic expansion in host countries from a handful in 1950 to more than 70 by 1970 (Therien, 1999).

Between 1970 and 1977, under the presidency of Paul Gerin-Lajoie, CIDA's increased budget allowed the extension of its co-operation programs to all parts of the developing world, built on developments in the Commonwealth African and Caribbean, and reflected the new international focus on basic human

needs. Organizationally, Gerin-Lajoie's interest in the promotion of bilingualism resulted in the recruitment of more francophones – a development that resulted in staffing complaints (Morrison, 1998: 134).

While Strong had been an exceptional manager, Gerin-Lajoie was less competent at adhering to bureaucratic convention and attracted resistance to proposed organizational changes resulting in the emergence of critiques and criticisms, both fair and foul. While once a small agency, CIDA was initially out of the limelight, but as budgetary allocations increased so did oversight. When CIDA had trouble allocating and managing the increased funding, newspapers took turns criticizing the agency (Morrison, 1998: 138) based on by complaints by former staff of morale problems, project waste, and neglect. While few of these charges were ever proven, they dampened public confidence in CIDA and led to some fundamental changes, for good and ill.

As a result of these so-called scandals, the expansion of the early 1970s was followed by a period of retrenchment that Morrison (1998) associates with the management of Michel Dupuy (1977-1980). During this period of reorientation, the vision of long-term development priorities was undermined by a more traditional governmental focus on short and medium term political goals as CIDA supported Canada's foreign policy objectives and pursued trade interests. While many were against using CIDA as a sales agent (Morrison, 1998:160), CIDA's mandate has become more confused as the humanitarian traditions of development assistance appeared to be increasingly supplanted by broader economic interests.

Under the presidencies of Marcel Masse (1980-1983) and Margaret Catley-Carlson (1983-1989), CIDA experienced its "second golden age" (Morrison, 1998: 188) with the advent of new political priorities, such as women in development, the environment, and human rights. Morrison identifies Catley-Carlson's personal style as one of the reasons for her success. Gifted as a public speaker and able to effectively manage public relations, Catley-Carlson could at once acknowledge the challenges of aid while appealing to the generosity of Canadians (1998:268).

This drive for change was cut short as the fight against the budget deficit, beginning at the end of the 1980s, induced an aid crisis. Marcel Masse returned as head of CIDA (1989-1993) after serving as Canada's executive director at the IMF. Yet, while this period marked the end of the cold war and the fall of Communism, the end of apartheid and the recognition of the stark challenges faced by developing countries, CIDA went into a nose-dive marked by cutbacks and downsizing. This downsizing significantly limited CIDA's international profile and appears to have significantly reduced the role that personality played in influencing CIDA's development since the 1970s.

Presidents Jocelyn Bourgon (1993), Huguette Labelle (1993-1999), Leonard Good (1999 - 2003) and Paul Thibault (2003-2005) presided over a period of reconstitution and rebuilding. CIDA budgets increased as priorities shifted away from infrastructure, and food and commodity aid, and toward sustainability, private-sector development, human rights, democracy, good governance and peace-building (Black and Thiessen, 2007). While to this point,

CIDA policies had been determined largely by the personalities at CIDA and senior policy makers (Morrison, 1998: 436), this changed in the 1990s. During this period, a series of policy documents pointed to a new international aid consensus that proclaimed, "...the legitimacy, effectiveness and efficacy of political and administrative institutions were essential for the success of development policies and programs" (Morrison & Islam, 1996:5).

3.2.2 Policy Documents

The use of policy documents to influence aid policy has historic pedigree. In 1970, Prime Minister Lester B. Pearson headed an international commission to examine the results of 20 years' development assistance and to propose policies for improvement and the report, *Partners in Development*, called for each donor country to provide foreign aid equal to 0.7% of its Gross Domestic Product. Though Canada accepted this target in 1970 and has repeatedly reaffirmed this commitment, it has never met it. While during CIDA's early years, personalities played a significant role in Aid policy, since the early 1990s, policy documents - especially those related to human rights and democratic development - have arguably had more influence.

CIDA's first policy document was entitled *CIDA's Strategy for International Development Cooperation, 1975-1980* and focused on countries at the lowest levels of the economic spectrum, emphasized respect for the host country's national objectives, and required the program to be in line with the Canadian government's foreign policy. In 1988, the Mulroney government launched *Sharing Our Future*, the first review of official development assistance policy

since 1975 and the product of several years of public consultations. The document marked a definitive shift in Canadian aid policy so that, by the late 1980s and early 1990s, the provision of aid was increasingly based on a host of domestic political variables in recipient countries and the integration of rights and democracy into the calculus of Canadian aid policy (Morrison, 1998).

In 1992, the *Challenge of Democratic Development: Sustaining Democratization in Developing Societies* argued for ODA to target democratic institution building and the promotion of political participation. Within CIDA, this shift was evident by the embrace of human rights prioritization human rights in Canadian foreign policy (Cameron, 2006). Development assistance was targeted at projects and programs that could build the essential components of a democratic regime, and the publication in 1995 of *Canada in the World* formally and specifically added the promotion of 'human rights, democracy, and good governance' to CIDA's mandate (Cameron, 2006).

Although never formally adopted by CIDA, *Canada Making a Difference in the World: A Policy Statement on Strengthening Aid Effectiveness* (2002) hinted at a new pressure on CIDA requiring more attention to sustainability in international development. By focusing on principles of aid effectiveness, such as local ownership, greater partnership, donor harmonization, policy coherence, and aid outcomes (Brown, 2008), Canada committed, with other donors, to increase the cost-effectiveness of assistance by allowing developing countries to use development funds to buy programs and project services themselves and led a

focus on refocusing aid on Sub-Saharan Africa. Since that time, aid effectiveness has become a central development focus.

The culmination of ten years of donor discussion on ways to improve aid effectiveness, the *Paris Declaration* (2005) represents the new international approach to development. Expressly guided by the *United Nations Millennium Development Goals* (2000),²⁹ it was also justified as a necessary means to reduce bureaucratic hurdles, the cost of aid delivery, and misuse of high-level talents in recipient countries through aid-related visits and the removal of tied aid, delays in aid delivery and parallel institutional setups.³⁰ Building on the international commitment to focus on effectiveness through international donor cooperation, the *International Policy Statement* (2005) promotes domestic policy integration as well. As Cameron (2006) notes, this “whole-of-government” approach emphasizes the policy integration of the various departments involved in the international arena. Early incarnations of this policy were presented as first the “3D approach” (diplomacy, defense and development) and then “3D+T” (three Ds plus trade). On one view, this integration has strengthened DFAIT’s primacy in international policy (Brown, 2008).

29 The Millennium Development Goals (MDGs) to be achieved by 2015 include: Halving extreme poverty and hunger; Achieving universal primary education; Promoting gender equality; Reducing under-five mortality by two-thirds; Reducing maternal mortality by three-quarters; Reversing the spread of HIV/AIDS, malaria and TB; Ensuring environmental sustainability and Developing a global partnership for development, with targets for aid. See <http://www.acdica.gc.ca/cidaweb/acdica.nsf/En/JUD-829101441-JQC> retrieved June 20, 2008

30 See the Paris Declaration (2005) retrieved from http://www.oecd.org/document/18/0,2340,en_2649_3236398_35401554_1_1_1_1,00.html on June 28, 2008

3.2.3 Motivations and Critiques

A number of theories have been advanced to explain Canada's role in international development. Dominant class theory draws on Marxism and dependency theories to suggest that foreign aid fundamentally benefits the privileged classes in the North and South. This view suggests that development simply seeks to "entrench western dominance by using development assistance to identify and secure raw materials, new markets and investment opportunities" (Carty and Smith, 1981:38-41). Citing the influential Edward Said, Laura McDonald (1995) suggests Canada has learned from the UK a paternalistic view of the developing world, and connected development initiatives to the travels of early Christian missionaries, substituting the religion of free markets for the salvation of Christ. While this view fails to account for programs and policies that do not result in beneficial trade deals, it has served as the dominant theory among those who are committed to a humanitarian justification for Foreign Aid (Pratt, 1982, 1984) yet see aid as too often serving corporate interests and the Canadian business community (Morrison: 1998).

Another view, advanced by the political lion of the right Kim Nossal (1989), suggests development policy is best seen through a Statist analysis in which the outcome is the result of the influence of competing actors within States. In this view, the State is not a unitary entity with a singular interest, but is instead comprised of a host of individualized interests connected to a dominant class or broader societal interest. According to Nossal, the State simply mediates numerous and pluralistic interests and exerts its influence only where a conflict

exists between its interests and those of other actors. For Nossal the State interests can be seen through the trinity of prestige, organizational maintenance, and limited expenditure (1989). Prestige relates to the ability of development programs to secure good standing within the international community and to advance international standing in a specific issue area. Organizational maintenance refers to the traditional interest in maintaining a large bureaucracy. Limited expenditure refers to the mitigation of the former two elements when economic times are tough. In his words, "what is the least Canada can do to maintain its international standing while maximizing prestige and spending as little as possible" (1989:56).

As Morrison points out, this theory does not provide much assistance in understanding the content or delivery modes of Canadian development (1998: 438). As an explanatory model, however, it is very useful in understanding the 1990 cuts in aid budgets (Black & Smith, 1993), the new focus on aid effectiveness, the continued maintenance of such a large Headquarter staff despite decades of critique, and the reorganization of Canadian development aid to target only 25 countries.³¹ Morrison (1998) maintains that neither the statist nor the dominant-class approach account for the complexity of Canadian development assistance policy. An adequate explanation of Canadian aid, Morrison maintains, must emphasize political interactions at three levels: state-

31 By 2010 Canada will direct two thirds of aid toward 25 development partner. These include: Benin, Burkina Faso, Cameroon, Ethiopia, Ghana, Kenya, Malawi, Mali, Mozambique, Niger, Rwanda, Senegal, Tanzania, Zambia, Bolivia, Guyana, Honduras, Nicaragua, Bangladesh, Cambodia, Indonesia, Pakistan, Sri Lanka, Vietnam and Ukraine. See www.acdi-cida.gc.ca/CIDAWEB/acdicida.nsf/En/JER-324115437-MU7 retrieved June 27, 2008

societal, state-centred, and transnational. Building on this approach, a recent and useful means to frame CIDA's precarious predicament has been advanced by David Black and Rebecca Thiessen (2007) who argue CIDA is beset by significant "cross pressures" based on transnational, governmental, and state societal interests.

At the international level critics suggest that Canada, and the international community more generally, is promoting an institutional and state-based approach to development and undermining civil-society-development actors by formalizing aid policies that are at best unproven and at worst of dubious value (Pratt, 2005). These policies, it is argued, appear to be driven by a desire to reduce the transactional costs traditionally involved with international development, although there is little evidence to support the utility of direct monetary transfers and budget support over more complex technical assistance packages (Pratt et al. 2006). Indeed, it may be that, without significant monitoring, direct monetary transfers may suffer from the very corruption this aid is meant to address.³²

At the governmental level, others view the "whole of government approach" as the latest in a long-running turf war between CIDA and DFAIT (Brown, 2008). As Morrison has noted, "every effort to enhance CIDA's autonomy... provoked a strong reaction, aimed at putting the Agency under the thumb of External/Foreign Affairs and harnessing aid more fully to commercial

32 For a broader discussion of the challenges represented by corruption, see Transparency International's 2005 Report retrieved August 14, 2006 from:
<http://www.transparency.ca/Reports/CPI%202005%20PressKITfinal111005.pdf>

and foreign policy priorities” (Morrison, 1998: 401). With a fundamentally different philosophical approach to foreign aid, sustainable development priorities within CIDA may be forgone and replaced by DFAIT’s more self-interested objective of “advanc[ing] Canada’s national interests” and “achiev[ing] increased economic opportunity and enhanced security for Canada and for Canadians” (Brown, 2008:3).

Though appearing to retain elements of the 2005 *International Policy Statement*, Stephen Harper’s Conservative government has provided very little policy direction of its own on foreign aid. There has been the suggestion that Harper’s new mandate will revise Canadian development policy to create more opportunities for the private sector. While the private sector has consistently had a role in Canadian development initiatives through the Canadian International Development Assistance—Industrial Co-operation program (CIDA-INC),³³ in a series of meetings in Ottawa in 2008, there appeared high-level Ministerial interest in greatly expanding the role for the private sector in development. Reports in the summer of 2008 suggested that CIDA Minister Bev Oda and former International Trade Minister and Foreign Affairs Minister David Emerson were quietly meeting with key members of the business community since May 2008 to provide more roles for the private sector within Canadian international development efforts (Berthiaume, 2008).

33 CIDA-INC a cost-sharing program that provides a financial incentive to Canadian companies to start a business or provide training in developing countries or countries in transition to a market economy. See <http://www.acdi-cida.gc.ca/cidaweb/acdicida.nsf/En/JUD-1129121142-N6V>. Reports of the Harper government’s new drive toward private sector improvement in international development are based on a series of interviews and private communication with former colleagues at CIDA and beyond.

At the state societal level, Black and Thiessen (2007) focus on the role of civil society partnerships. The importance of this role however has been undermined by the *Paris Declaration (2005)* that failed to explicitly include a specific role for civil society within the new framework of developmental consolidation. In addition to these pressures, another societal pressure originates from the Canadian public at large. Historically, the prevailing motivation for Canadian foreign aid, as revealed in public-opinion surveys and in the statements of political leaders, is a humanitarian concern for the many millions of people who are obviously far poorer than most Canadians. Yet recent surveys suggest a “softening” in public opinion, at least in part a result of a lack of information (Black & Thiessen, 2007: 189) or perhaps of too much negative coverage. Despite frequent calls for CIDA to learn from its donor agency colleagues and support and make public development research, little has been achieved in the careful compilation of existing projects and lessons learned.

3.2.4 Failing to Learn from the Past?

On one view, CIDA is simply an easy target, held to an impossible standard and forced to absorb the blame for the numerous and complex challenges international development entails. Indeed, despite the immense value of Morrison's (1998) contribution, it does not consider the impact of Canadian aid on developing countries, often focusing instead on the missteps. Yet, it may be that CIDA cannot reasonably be held responsible for every international partner, consultant, or decision made by the numerous executing agencies with whom it

has worked. Neither can it reasonably be blamed for mistakes among local partners, changing host governmental priorities, nor the enormity of trying to navigate the difficult social, political and cultural environment that exists at the site of development initiatives.

Indeed, even when CIDA embarks on a process to reform aid provision in line with other countries' by focusing on the aid watchwords of accountability, autonomy, and cooperation in international development, critiques persist. The events related to the *Paris Declaration* may be a useful example. Having responded to the criticisms of waste, duplication, and even paternalism (McDonald, 1995), by reforming its aid provision policy, CIDA has immediately faced a host of new (or perhaps old) criticisms (Pratt, 2005).

It may be that CIDA is in an impossible position, so overcome by cross pressures (Black & Thiessen, 2007) that it simply cannot please the numerous stakeholders who claim an interest in the business of international development. While perhaps deserving of some sympathy in this regard, CIDA's consistent failure to connect theory and research to development practice (Cameron, 2006) fuels continued scepticism about its purpose. The constant critique faced by CIDA can perhaps be seen as a result of what Roger Young (1985:13) called a "confusion of objectives," and a lack of consistency around aid practices which have been prone to "frequent twists and turns" and policies which have been adopted and rejected in what Morrison suggests is a haphazard fashion (Morrison 1998: 19). In addition to the traditional division of left and right, more nuanced political and economic theories have been advanced to explain CIDA's

development policies. While beyond the purview of this submission, Morrison suggests Dominant Class Theory and Statist Approaches deserve additional analysis (1998:430-431).

Perhaps CIDA's biggest failing may be its seeming inability to learn from the past (Ridell, 1987). CIDA's history of administrative secrecy (Morrison, 1998) and its failure to support, analyze, disseminate and apply peer-reviewed research has limited its ability as an institution to properly tell its story (Perlin, 2003; Thede, 2005). Challenged by cross pressures (Black & Thiessen, 2007) including inter-departmental strife and the changing winds of political whim (Brown, 2008; Cameron, 2006), CIDA has failed to connect theory and research to development practice (Goldfarb & Tapp, 2006).

Nancy Thede (2005) argues that, despite the apparent recognition of the link between human rights and democracy promotion delivered through the human rights, good governance, democratic development triad, Canada's policies and programs are not guided by a strategic understanding of the nature of this link. As a result, while Canada delivers assistance through programming concepts such as good governance, human rights, democratization and civil society, the complexity associated with democracy building (Rawkins & Bergeron, 1994) has limited a general understanding about what is meant by democratic development and what conditions are necessary to achieve and sustain it (Perlin, 2003).

Based on a number of interviews with field personnel throughout the early 1990s, Rawkins and Bergeron conclude CIDA staff lack confidence, they are

unclear about what democracy promotion entails and how and when it should be delivered (1994:24). Cameron (2006) suggests this is a knowledge problem and not specific to CIDA.³⁴ Indeed this concern is consistently expressed among external funders (Jenson & Heller, 2005) in a variety of countries. Yet, in Canada while research on relevant projects that considers the dynamic relationship between human rights and democratic development does exist, at the project level it is often methodologically challenged (Caldwell, 2005), and rarely disseminated.

3.3 Existing Canadian Studies

There is emerging academic interest in democracy development through aid and the related challenge of legal technical assistance in Canada. Systematic treatments have placed the challenges of development assistance in context (Morrison, 1998) and theoretical treatments have assisted in conceptualizing the challenges of justice reform and democracy development (Perlin, 2003; Thede, 2005). Useful recent contributions in Canada have provided qualitative insight into the challenge of democratic development through the civil society sector (Sundstrom, 2006), and some suggest that the manner in which assistance is offered is often as important as the type of assistance offered (Griffiths et al.

34 For example the 1996 closure by the OECD of a CEE database on existing international co-operation projects surprised many. Despite the research potential and practical utility of the database the high cost of maintaining it has required another organization pick up the slack. The European Institute for Crime Prevention and Control, affiliated with the United Nations (HEUNI). Serving as the European link in the network of institutes operating within the framework of the United Nations Crime Prevention and Criminal Justice Program and promotes international knowledge exchange through conferences, reports, and papers. See <http://www.heuni.fi/> retrieved Aug, 8, 2008.

2005). Yet, few empirical studies exist in Canada and the development community has failed to support, disseminate or integrate lessons learned through past project implementation. This has led to the pursuit of unreasonable expectations and unrealistic timelines (Crawford, 2003; Griffiths et al. 2005).

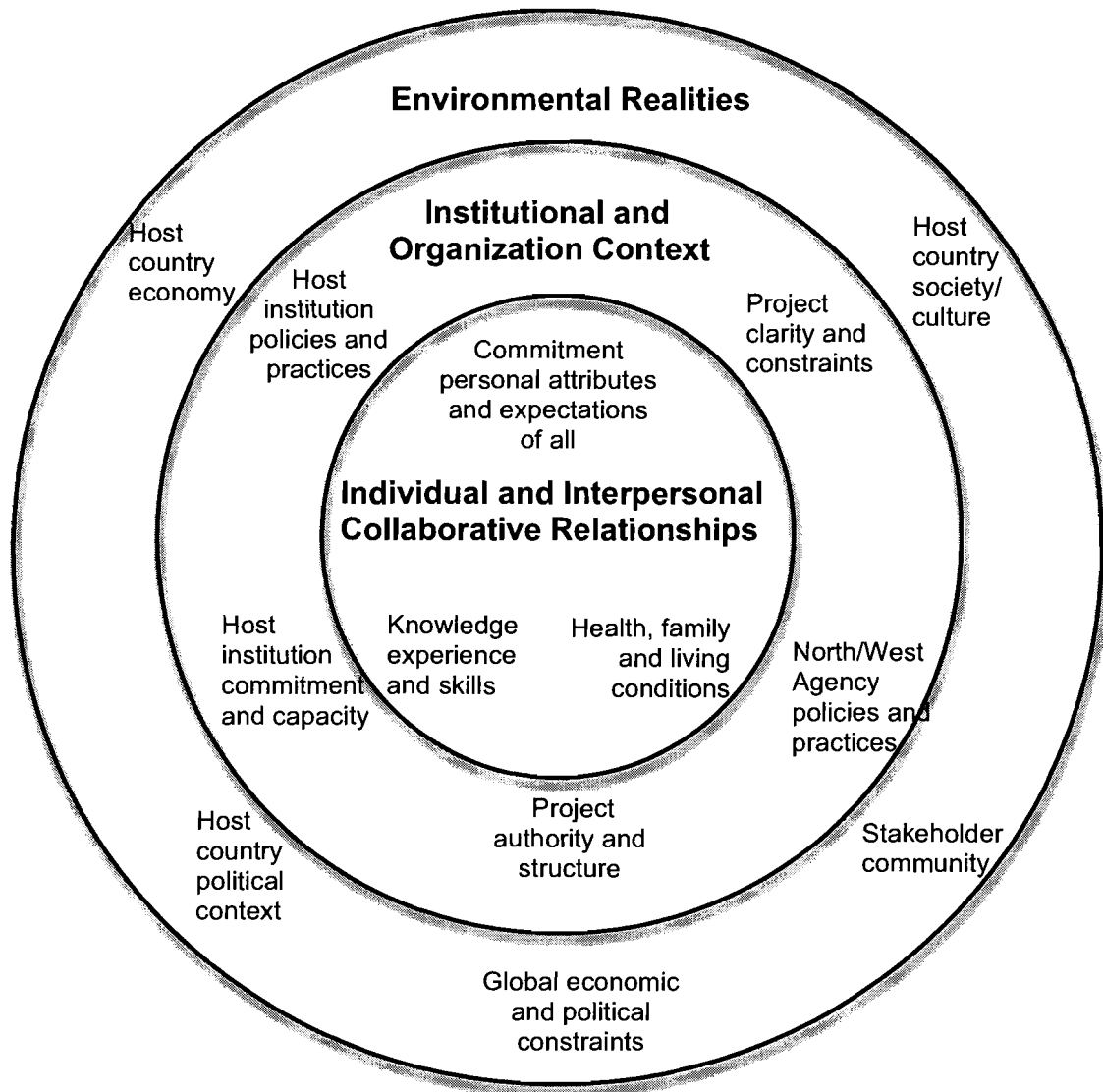
Canadian scholarship has identified a number of critiques levelled at existing legal technical assistance initiatives (Dandurand, 2006: 21-22). These critiques suggest a lack of sufficient funds, uncoordinated external attempts by multiple and under-informed donors (Protic, 2005), and a failure to promote coordinated and cooperative technical assistance among the numerous justice agencies within a country (Herman, 2001). In addition to the failure to understand the context and needs of those on the ground, since 2001, a growing focus within development has been on security sector reform as a part of the larger global war on terror. This has had a negative influence on democracy promotion and human-rights-based reforms (Shaw & Dandurand, 2006). A continuing challenge is the failure to connect these and other lessons to individual projects. While individual projects are often assessed as part of ongoing evaluations by CIDA, too often they are reviewed as part of macro-level evaluations (Luksenaite, 2005; Palmer, 2005), often with questionable methodologies (Brown, 2008). These reviews tend to serve organizational needs without contributing more broadly to the field (Gilley, 2004).

One justice reform project in the region that was not evaluated by CIDA was delivered in the Baltic country of Lithuania. Between 1999 and 2002, CIDA funded the Canada Lithuania Corrections Project (CLCP), delivered by the

Correctional Services of Canada (CSC). As one study suggested, many Lithuanian participants felt the project had not had an impact and the reforms implemented were not sustainable (Gestautaite, 2001). In suggesting that the project failed to comprehend the complex relationship between the state and community groups, Gestautaite (2001) points to one telling example. As a result of the lack of qualified social workers to work with prisoners in Lithuania, former police officers were hired instead. This decision alienated *Lygtinai Isleistu Asmenu Prieziuros Organizacija* (LIAPO), an NGO established to assist with post-prison release and community reintegration, and significantly undermined the project's impact (Gestautaite, 2001).

Some of these challenges may be inherent in international cooperation. Difficult decisions must be made and easy solutions may not be readily apparent. To assist researchers, policy makers, and practitioners to conceptualize the challenges inherent in development and legal technical assistance, recent Canadian scholarship has provided a model of the constraints to international project success (Kealey & Protheroe, 1995). As demonstrated in figure 3-1, this model presents three concentric levels that affect project success: Environmental, Organizational/Institutional and Individual/Interpersonal.

Figure 3-1 Levels of Cooperation and Constraints (Kealey & Protheroe, 1995).



Environmental factors are broad and can be related to country readiness, institutional transparency and accountability and the involvement of civil society (Dandurand et al. 2004). Kealey et al. (2005) suggest the most significant environmental factors include the friendliness of the host country's national culture to the project's aims; the overall wellbeing of the host country and international economy and other economic factors; the host country's regulatory framework; the amicability, efficiency, and well-being of the project's interest groups; the host country's political and social atmosphere, including the extent of political and social stability; and the ability of project managers to implement the proposed reforms with stakeholders' approval, based on the compatibility of norms (Sundstrom, 2006:169). In addition to the factors identified by Kealey et al. (2005), Shaw and Dandurand (2006) consider other broad-based external conditions specifically relevant to legal technical assistance. These include: Political Context; Geopolitical Factors; Psychological Attributes; Economic Circumstances; Normative Accountability; Government Effectiveness; Corruption; Institutional Context and Civil Society Involvement (2006:46).

Organizational and Institutional understanding is another barrier to project success often identified within the literature (Kealey et al. 2005). Overcoming this barrier requires a foundation of mutual commitment, and a shared understanding among development partners. It is also integral that those working abroad have an understanding about the culture they are to live and work in, including its historical, political and socio-economic features and social models. This knowledge can assist in the understanding of the organizational and institutional

realities and the appropriate technical training and other resources required to build strong partnerships, local ownership, and positive and sustainable outcomes (Kealey & Protheroe, 2002). The organizational factors most frequently identified include: partner selection, clarity of objectives, management structures and responsibilities, and the fit between organizational cultures among collaborating organizations (Kealey et al. 2005).

In addition to these factors, training tools have been consistently used to assist the reform of criminal justice systems since the law-and-development movement of the 1960s (Carothers, 2003). Related to legal technical assistance, organizational training tools are defined as manuals, handbooks and toolkits (Dandurand et al. 2008: 63) and are widely used in training and technical assistance to enhance overall organizational ability (Griffiths et al. 2005). As Dandurand (2006) suggests this requires effective needs assessments that consider not only legislative or human resource gaps or weaknesses but acknowledge the organizational context. One useful development has been the UNODC Criminal Justice Reform Unit Tool Kit,³⁵ a practical set of assessment tools that provides a means to understand the context in which various justice reforms are proposed (Dandurand, 2006: 43). In Latvia, specific training tools included the presentence report, risk/needs assessment, prison intake report, community reintegration plan, case file management or program manuals shared by Provincial and Federal agencies in Canada on substance abuse, life skills and respectful relationships (AUCC, 2005).

35 See UNDOC Tool Kit retrieved July 15, 2008 from <http://www.unodc.org/unodc/en/justice-and-prison-reform/Criminal-Justice-Toolkit.html>.

Finally, individual and interpersonal elements to project success have been studied for more than two decades in Canada. Identified by Kealey et al. (2005) as the most important element for international projects, a number of Canadian studies have focused predominantly on the skills required among those who deliver assistance through training and technical assistance abroad (Hawes & Kealey, 1981; Kealey, 1990; Abramson & Ai, 1999; Chatterjee, 2001; Luo, 1997). A leading voice in studies of this kind in Canada is Daniel J. Kealey. A Canadian social and clinical psychologist, Kealey has spent most of his career developing tools and procedures for use in the selection, training, monitoring, and evaluation of international personnel based on intercultural competence (Kealey & Protheroe, 1995). Intercultural competence means that the outside trainer is able to develop adaptive capacity, altering his or her perspective to understand and accommodate the demands of the host culture effectively (Taylor, 1994) and has been influenced by those that suggested that the next wave of development required a shift toward the “knowledge economy” (Toffler, 1990).

Kealey’s early work considered the role of communicative competency in cross-cultural adaptation (Kealey & Ruben, 1979) and the importance of the selection of technical assistance personnel to development effectiveness (Hawes & Kealey, 1981). A significant contribution is the notion that effectiveness in technical assistance requires more than technical knowledge and expertise. Instead of blocking counterparts’ careers by staying too long, and failing to adapt to the local context (Berg, 1993), Kealey and Protheroe (1995) argued that to be

effective Canadian trainers had to understand the importance of professional modesty, to rely on local experts through mutual learning, and consider cultural dimensions to create positive learning environment (Kealey & Protheroe, 1995). Through interviews with Canadian trainers who worked on the LLRP, my own work has suggested that building relationships appears to be a core requirement for successful knowledge transfer. This may be related to Kealey's notion of intercultural competence but may also be a function of the individual personalities of the selected trainers. While issues in language, translation and interpretation can constrain project success, new modes of dialogue and deliberation through participatory training workshops can help close the gap (Wheeldon, 2008).

Although there is a growing recognition of the importance of the above factors, there is less information about which specific training and technical approaches can usefully be employed to promote change. Some literature is critical of study tours, training modules and the role of Canadian experts overseas (Griffiths et al. 2005), and the focus on 'universal absorption' over acknowledging the local distortions and modifications inherent in international knowledge transfer (Sundstrom, 2006:172).

A Canadian socio-legal approach has also challenged the traditional view that legal experts always order social relations (Valverde, 2003). Because day-to-day practices affect issues of legal conception and regulation, law relies upon a variety of 'hybrid knowledges' (Valverde, 2003). This may require that space be created for variation within the understanding of law and its manifestation through legal technical assistance, and a general resistance to a one-size-fits-all

approach. On this view knowledge transfer and negotiation in legal technical assistance requires more innovative approaches, including the use of one-on-one experiential learning through job shadowing and restorative justice practices (Dandurand, 2005; 2006). Yet, while efforts have been made to identify various training elements, little empirical evidence exists to evaluate how these training elements compare, how they were received, and to what extent they can be recalled by the target group.

In Latvia, what literature exists focuses on the import of the legislative developments through the LLRP resulting in amended laws, policies and agency cooperation (AUCC, 2005; Luksenaite, 2005; Calder, 2005; Jurevicius, 2008), and there is little provided on other aspects of the project. Based on LLRP reports (AUCC, 2005), other aspects of interest include study visits, job shadowing, material developed through training seminars and the actual training methods utilised including experiential participation and debriefing. In addition, of interest is the way in which the project was delivered and implemented through the use of pilot projects, regional councils, and working groups and the sharing of specific programs from Canada, including anger management and substance abuse programs.

This submission builds on past scholarship by specifically testing the relevance of previously identified concepts in Latvia such as: language issues, relationships, and intercultural competence (Kealey & Protheroe, 1995), and cataloguing the individual and organizational project components that are identified by participants as being salient. While the larger environmental factors

are beyond the purview of this study, the salience and relative import of both training tools and training processes related to the organizational and individual/interpersonal models of reform will be assessed.

3.4 Concluding Remarks

As Brown points out, 2007 was not a good year for CIDA. Already reeling from a Senate study critical of CIDA's work in Africa, John Manley's report on the Afghan mission highlighted systemic problems that affect both CIDA's organization and delivery. Both reports highlighted the fact that CIDA is top-heavy with too few personnel on the ground. This centralization of power in Hull-Gatineau has resulted in field officers who have too little power to respond to emergent needs by funding local projects and are instead tasked with administering policies which are often out of date and about which they know very little (Brown, 2008).

While these criticisms are hardly new, the seniority of the authors and the comprehensiveness of the critiques suggest serious and systemic failings. Despite the renewed focus on development assistance, international aid cooperation, funding increases and broader integration with other government agencies, CIDA is still an organization that cannot seem to overcome its own bureaucracy and legacy of administrative secretiveness (Morrison, 1998). Though conceptual critiques have been advanced through the lens of political theories such as dominant class, statist, and neo-realist, the most damning may be related to aid effectiveness. This chapter has argued that one cannot

reasonably discuss aid policy and lessons learned without a clear sense of what has been achieved. Without understanding the inputs and outputs and process that facilitated the two, it may be that the critics have put the cart before the horse. Without a focus on, and dissemination of, independent and peer-reviewed research to inform and assist the provision of development assistance, CIDA is failing to learn as an organization.

Building knowledge requires connecting research and practice. While research on democratic development cannot be expressed with the empirical rigor and theoretical authority of quantitative research that is often privileged in public policy, useful contributions based on empirical evidence have been undertaken (Sundstrom, 2005) although not all have found a clear link (Knack, 2004). A greater focus is required on consolidating research results and establishing stronger ties between members of the academic and practitioner communities. While there can be no simplistic fix for Canadian aid policies, Canada could learn from other donor countries and invest in and properly use the research resources necessary to make it an innovator and leader among development agencies (Goldfarb & Tapp, 2006).

4.0 Chapter 4: Theoretical Perspectives and Research Design

4.1 Chapter Overview

This chapter presents the methodology utilized in this study. It includes a discussion of the relevant theoretical perspectives, including post-positivism, constructivism and pragmatism. Based on the pragmatic approach, this study advances a mixed-methods research design that uses a four-stage data collection procedure, weighted scoring, and a salience measure that privileges data gathered through unsolicited and more open-ended procedures. Through participant-generated concept maps, more robust initial measures of association are favoured over more complex secondary analysis to demonstrate reliability and validity. This chapter is guided by three integral assumptions. The first is that, while the utilization of different theoretical perspectives may be challenging, it can be achieved through a pragmatic integrative attempt that combines complimentary methods to reduce, though not overcome, the inherent limitations of relying upon either quantitative or qualitative research designs. The second is that concept maps may be a useful data collection method for small-sample mixed methods because they can be user-generated, unsolicited, free-form and individualistic and can be analyzed quantitatively and qualitatively. Maps may be additionally useful in cross-cultural studies in which language and translation challenges further limit accurate data collection. The third and final assumption is that, wherever possible, multi-stage data collection should be used in small-

sample research. This may reduce the potential of researcher bias and error, facilitate the gathering of multiple types of data, and allow the construction of robust initial measures of association.

This chapter is organized to present the theoretical perspectives and foundations, describe the research design, provide more information about the sample, and delineate the ethical, language and translation issues. In addition, this chapter presents concept maps as a data collection tool in small-sample-mixed-methods research, and justifies the use of a salience scoring system based on concept counting and weighting to privilege unsolicited perceptions and reflections. It also specifically describes the steps taken at each stage of data collection, presents the data analyses and explores the importance of validity and reliability.

4.2 Theoretical Perspective and Foundation

All research is inherently limited. Whether geographical or temporal specificity or because of small, pre-selected, or incomplete samples, truly generalizable findings are rare. Perhaps more important is the acknowledgement that the research paradigm chosen by the researcher will shape any interaction between the phenomena studied and the data collected (Feyerabend, 1978; Kuhn, 1962; Lakatos, 1970). Whether quantitative, qualitative or through mixed methods, these 'research decisions' (Palys & Atchinson, 2007) shape both the reliability and validity of any findings and come associated with their own specific limitations. Integral in any honest study is the acknowledgment of its limitations.

Another approach seeks to explicitly acknowledge the limitations related to both quantitative and qualitative research by focusing on their combination. As a means to strengthen the meaning derived from gathered data throughout the research process, this more pragmatic approach nonetheless requires an understanding of the theoretical antecedents that have historically informed social science research.

A recent theoretical starting place is that of post positivism (Slife & Willams, 1995). Associated with quantitative research, it is concerned with cause and effect, the reduction and selection of key variables and detailed observations and measurement (Cresswell & Clarke, 2007). Unlike positivists, post positivists see human knowledge as speculative and, therefore, not based on unchallengeable, rock-solid foundations. Influenced by Karl Popper (1972; 1987), post positivists argue that knowledge, while speculative, is not simply hypothetical and foundationless. While a basis may exist for asserting certain beliefs exist (Guba & Lincoln, 1994), the post-positivist project is concerned with theory testing and validation through 'falsification' which requires that one modify or reject certain beliefs based on the integrity and consistency of research findings through legitimate investigation (Cresswell & Clarke, 2007). The focus on 'falsification' often leads quantitative researchers to focus on sample size and statistics to showcase broad generalizability. At its most short-sighted, some quantitative research considers the role of setting and context either unmanageable or irrelevant. A central critique is that statistics cannot capture the complexity associated with human behaviour and thus may miss the depth and

detail that is assigned to phenomena by participants.

Another theoretical starting place, generally associated with qualitative research, is constructivism. As a theory of knowledge, constructivism assumes that meaning is highly subjective. Framed through social interaction and personal histories and experiences (Cresswell & Clarke, 2007), knowledge is inherently localized and the notion of generalizability overly mythologized. Instead of validating historical theories that may be the result of societal assumptions, research can and should be used to develop theories. Because there are many possible interpretations of the same data, all of which are potentially meaningful, researchers cannot assign value to one meaning without acknowledging the role they themselves play within this construction (Guba & Lincoln, 1989).

To overcome this constraint, researchers must study, as closely as possible, the experiences, influences and activities of research participants, while explicitly and reflexively acknowledging their personal biases. The acceptance within qualitative research of the inherent bias of any researcher challenges the tradition of objectivity and threatens the potential for non-partisan research. In addition, while privileging localized understanding through the inclusion of depth and detail, qualitative research sometimes proudly presents findings that can easily be accused of lacking more rigorous analysis.

Of specific interest to this study is the pragmatic approach. While John Dewey has been associated with both post positivism and constructivism, he is perhaps best understood as a pragmatic philosopher who has influenced contemporary thinkers including Richard Rorty. Rorty (1998) argues that to be

effective researchers should embrace a new pragmatism that seeks to ground the various post-modern, anti-foundationalist critiques into practical, realistic and achievable goals. Associated with mixed methods, Pragmatism rejects either/or approaches to research designs. By focusing on the questions asked through multiple stages using multiple methods of data collection (Cresswell & Clark, 2007), researchers can get a better, if still imperfect, understanding of a phenomenon.

Within criminology, the integration of theoretical perspectives has been widely considered (Einstadter & Henry, 2006) for a multitude of purposes (Barak, 1998). Of immediate interest is the notion that the integration of different perspectives can bring cohesion to existent fragmentation and increase understanding. Yet integration has been identified as complex and problematic (Hirschi, 1989; Bernard, 1991; Akers, 1994; Gibbons, 1994; Barak, 1998; Lanier & Henry, 2004) and there is little agreement about how it can be done. One challenge is that, inherent in any integrative project is the tendency to pick and choose elements of a theory one likes while disregarding other, less fitting elements (Heidt, 2003). This can lead to the combination of theories that have very different theoretical starting points and that may rely upon conflicting assumptions about human behaviour.

On one view, the challenges of theoretical integration are magnified when attempting to combine theoretical research perspectives. Yet these challenges might also be seen as strengths when researchers seek to combine methodical approaches. Integral is the justification that the theoretical perspectives that

underpin the research design are complementary, and to acknowledge the limitations that nonetheless exist.

4.3 Research Design

The long-standing argument between qualitative and quantitative researchers has underscored broader political differences and research agendas (Jick, 1979) and is a waste of ever-decreasing public research dollars. While perhaps useful in creating insular research fiefdoms, the either/or approach must give way to more nuanced, relevant and socially useful approaches. For an emergent generation of researchers, what is needed is an approach that explicitly acknowledges the limitations inherent when using either quantitative or qualitative methods and recasts research as a series of choices for which multiple paths to meaning may exist.

Based on qualitative approaches that seek new partnerships with quantitative research, the construction of mixed-methods methodologies can provide a useful and novel way to communicate meaning and knowledge (Johnson & Onwuegbuzie, 2004; Poole & Davis, 2006). These approaches also offer a pragmatic solution for researchers who seek to combine the reliability of counts with the validity of lived experience and perception. Mixed-methods research has been defined by Cresswell & Clark (2007: 5) as:

...a research design with philosophical assumptions that guide the collection and analysis of data and the mixture of qualitative and quantitative approaches through the research process. A central premise is that the use of quantitative and qualitative approaches provides a better understanding of research problems.

Studies that employ mixed methods may do so in a variety of ways. Researchers may gather data through quantitative surveys and qualitative interviews (Way et al. 1994; Baumann, 1999), may use different data procedures though multiple data-collection phases (Rogers et al. 2003) or may collect both qualitative and quantitative at the same time (Gogolin & Swartz, 1992; Jenkins, 2001). While approaches that use multiple methods to analyze data collected using only one method (Onweugbuzic & Teddie, 2003) might be problematic, Cresswell and Clark prefer a broad definition of mixed methods (2007:12) that includes a wide variety of projects that incorporate multiple research methods. Mixed methods also provide a choice to researchers as to how they present their data. Data might be merged together through separate analysis, or might remain separate by quantifying emergent qualitative themes. Of specific interest is the embedding of the data, in which quantitative data helps to frame key findings and qualitative data are used to explore in more depth the meaning associated with the quantified expression (Cresswell & Clark, 2007:7).

This study's approach has been influenced by the notion that the constructed realities of participants are of integral importance and can be used to bring a qualitative perspective, nuance and greater meaning to the collected data. Yet this study also borrows from the post-positivist theoretical foundation in its assumption that, while the specific meaning assigned to identified concepts is best represented by the participants themselves, researchers can - and should - attempt to derive quantitative meaning from data collection procedures which involve counts, measurements and compilations. Through the use of the salience

scoring system, this study advances a practically pragmatic approach to mixed-methods research.

Two previous studies have informed the methodological development of this study's research design. In a study on cross-national differences in classroom learning environments in Taiwan and Australia by Aldridge, Fraser and Huang (1999), qualitative data were used to explain in more detail quantitative results. The authors used two separate data collection phases: a quantitative instrument with multiple sub-scales to assess aspects of the classroom environment and qualitative interviews with students and teachers. The quantitative data were analyzed to validate the quantitative sub-scale items and then group comparisons were used to compare differences between Australian and Taiwanese schools. Based on the quantitative results, the qualitative data helped provide a more detailed picture of the differences in classroom environments in each country (Aldridge et al. 1999).

The second study, by Myers and Oetzel (2003), used qualitative data to create and validate a quantitative instrument to measure organizational assimilation among new employees. This study again was organized through two phases of data-collection. Through qualitative interviews, the authors gathered data through field notes and transcripts. This data were analyzed using techniques drawn from qualitative data including coding, theme identification and connection to existing literature. Through this analysis, the authors developed an instrument that could provide quantitative measures based on the qualitative interviews. They then administered this instrument and the quantitative data

analyzed to test correlations and overall validity (Creswell & Clarke, 2007). This study provides a useful example of how a quantitative instrument might be used alongside qualitative interviews.

4.3.1 Current Study

While the above studies provide some justification for the approach undertaken, several important research design revisions were made. The first is related to the type of exploratory research design utilized. While this study relies on more detailed qualitative data to explain compiled quantitative results (Aldridge, et al. 1999), it also relies upon the concept-map instrument as a tool for data collection. The use of the concept-map instrument in this study was quantitative as it was used to facilitate groupings and to contribute to the compilation of individual variable salience scores (IVSS). However, concept maps could easily be used in other ways. As a flexible data-collection instrument, it may prove extremely useful for other types of mixed-methods research.

Another revision is based on the degree of analysis undertaken. The above studies describe their data collection as occurring over two phases, defining phase temporally and in terms of the method used. Of interest to this study is the exploration of data collection strategies for small-sample research that are more unsolicited and participant generated. Instead of clearly defined phases, this study relies upon multiple data-collection 'stages.' While these stages consider data collection temporally, they also relate to how the data gathered in each stage should be weighted in the construction of IVSS.

Based on this design, this study includes four data-collection strategies.

The first stage included the generation of a concept map, designed to gather unsolicited data about participants' experience of Latvian-Canadian cooperation in justice reform; the second stage occurred between 6 and 8 months later and involved general interview questions asked to all participants; the third stage included specific interview questions based on participant concept maps; the fourth stage involved questions designed to allow the participant to reflect upon the experience, sum up their interview, and add any aspects they feel had not been previously mentioned.

This study relies upon the creation of a unique and original mixed-methods measure: the salience score. The salience score might be seen as a means to operationalize the mixed - methods design. It relies upon 'concept counting' to quantify common themes identified through all stages of data collection, while at the same time weighting the value of these counts based on which data collection stage the participants identified them. In this way, researchers can derive quantitative meaning while privileging data collection strategies that are more user-generated, participant-centred and open-ended, themes generally favoured in qualitative research. This measure seeks to numerically represent the value assigned by an individual to each concept, based on the frequency of the identification and the data collection in which they were identified. Concepts that appear in stage after stage of data collection suggest salience, relevance, and meaning. For the purposes of this research, concepts that are identified through general, user-generated, and unsolicited data-collection stages are weighted more highly than those given at the reflective and

summative stage. Once tabulated, these scores provided quantified variables that can be explored in more depth based on the data gathered through qualitative interviews.

4.4 Sample, Ethics, Translation and Interpretation

In this study, Latvian participants were identified based on the level of their involvement in the Latvian Legal Reform Program (LLRP). All participants had been to Canada on a study tour, had attended at least three training sessions in Latvia, and remain involved with the Probation service today. This resulted in the identification of nineteen (19) potential participants. Of these nineteen (19), fourteen (14) completed all the data-collection stages. Eleven (11) were female and three (3) were male; twelve (12) were probation officers and two (2) were headquarters staff; eight (8) were from the capital city Riga and six (6) were from outside regions. These fourteen (14) participants completed the general and specific interview questions as well as the reflective and summative questions based on an approved informed consent document (Appendix A). Participants were requested participants to complete a concept map and participate in a follow-up interview on their experience of the Canadian training provided through the Latvian Legal Reform Program. Participants were informed that participation was voluntary and would result in no material benefit. They were also informed that the data would be kept confidential and that they could withdraw from the study at any time and for any reason. The informed consent form was translated into Latvian and completed by all participants (Appendix B).

Key to the collection of data throughout the study was the role of

translators. To ensure the instructions (Appendix C) were clear, they were translated in advance and delivered in Latvian (Appendix D). All completed concept maps created in Latvian were translated. While some participants spoke English and participated in the study without translation or interpretation, this study was able to rely upon access to a number of professional interpreters from the University of Latvia, the Latvian Institute, and the Latvian Ministry of Justice who sat in during interviews, provided word-for-word interpretation, and clarified meaning where required.

A number of reviews of Canadian projects abroad rely on strictly qualitative methodologies using interviews with staff to collect data (CIDA, 2003). Others have used more comprehensive approaches including both qualitative and quantitative methods that rely on pre and post-training surveys and follow-up interviews to collect data (Kealey, 1990; Kealey & Protheroe, 1995). Yet, using surveys and interviews in international settings may rely too heavily on the role of translation to ensure that non-English speakers are represented and their experience captured (Chapman & Crater, 1979).

Despite a common language of criminal justice, difficulties remain in the translation between countries, cultures, and contexts (Redo, 2008). This may be because interpreters are not always able to provide a firmly defined one-to-one correlation between the words and phrases of different languages. Instead they must focus on developing phrases that carry similar scope and shades of meaning as the original (Kelly, 1979). While this study also faced the challenge of language and interpretation, the user-generated concept map provided an easy

means to gather data and allowed this data to be translated, validated, and revisited to confirm the findings as required.

4.5 Instrumentation: The Concept Map

First developed by Joseph Novak in the 1970s at Concordia University, concept mapping is a technique that can demonstrate how people visualize relationships between various concepts (Lanzig, 1996). Nesbit and Adescope (2006) define concept maps as "...a type of graphic organizer that is distinguished by the use of labelled nodes denoting concepts and links denoting relationships among concepts" (2006: 415). Concept maps can assist to organize research projects, reduce data, analyze themes and present findings (Daley, 2004) and have been used more recently as a means to collect data. Ebener et al. (2006) suggest that: "...mapping offers an opportunity to elucidate and assist with analysis of complex processes and hence play a role in knowledge translation" (2006: 638-640). Using concept mapping, they continue:

...has the advantage of being concrete and tactical. It makes tacit and explicit knowledge graphic and visual. The analysis and application phases of process-based knowledge mapping are oriented towards the definition and planning of a pragmatic project or activity, or towards implementation of a knowledge management strategy or programme.

Concept mapping used as a data-collection method facilitates a global understanding of the topic. Because it is less common to collect data through visual representations, mapping may uniquely demonstrate the way in which people connect knowledge and experience (Daley, 2004). Within the fields of

science education, engineering, mathematics, nursing, psychology, statistics, and medicine, concept maps have been the subject of a number of studies.

In education, they have been shown to be more effective to assist knowledge retention than attending class lectures, reading, or participating in class discussion (Poole & Davis, 2006: 434). Concept maps can impact concentration and overall test performance in part because they promote interaction and engagement between the student and material (Hall & O'Donnell, 1996). They also may be an easier way to communicate one's knowledge when compared to text writing (Czuchry & Dansereau, 1996).

Nesbit and Adescope (2006) discovered, through selective searches of education and psychology databases, that more than 500 peer-reviewed articles have been published on the application of concept or knowledge maps. While most of these publications came after 1997 (Nesbit & Adescope, 2006: 413), concept maps have been used in qualitative and quantitative research in the past, although primarily as a means to assess knowledge integration (Gerchak et al. 2004). There is evidence that important differences between people, groups, personalities and learning styles (Rohm, 1994) limit the utility of concept maps to gather data and Czuchry and Dansereau (1996) found that women identified the mapping assignment to be easier than the men within the study.

4.5.1 Scoring Maps and Quantitative Research

Quantitative concept mapping provides rigorous statistical analysis to the data within completed maps by scoring individual concept maps through a variety of scoring systems. Novak and Gowin (1984) first considered how to

quantitatively score a concept map. A complex and time-consuming process, their method requires that maps be scored by a subject matter expert based on the number of valid propositions, levels of hierarchy, and number of branchings, cross-links and specific examples provided in the map. Since then, various refinements have been proposed and organized and scoring systems today can be usefully understood as either structural or relational (West et al. 2002).

A structural assessment assigns weighted scores to physical graph characteristics such as number of concepts, number of links, number of hierarchical levels, number of cross-links, and number of examples/information resources linked (Turns et al. 2000). While structural assessment can be objectively calculated, it does not consider the quality of the concepts or links. Relational assessments can also be structurally based. One approach requires concept maps to be generated using a template, scaffold, or guide (Bahr & Dansereau, 2005). Through this approach, users are given some initial information, such as a list of concepts that they arrange, and the ways in which participants arrange these concepts are later assessed for similarities and differences (Rye & Rubba, 2002).

While these approaches may be useful in assessing knowledge or understanding how different groups consider the relationship between a pre-identified set of concepts, placing restrictions on map creation can impact their repeatability (Meel, 2005). One solution may be the use of computer software such as CMap and others to create defined interfaces to examine how participants consider map structure and concept quantification. It can also be

used to simply ensure consistency through the comparison of maps (Derbentseva et al. 2007; Safanyi et al. 2005; Bayram 1995).

Other relational assessments include the expert examination of student maps to score the quality of concepts and propositions within the maps (Rye & Rubba, 2002). This method allows the scoring of the different levels of concepts and sub-concepts along with the correctness of included propositions (Bayram, 1995). The co-creation of an expert map allows comparisons between an expert and a learner map (McGaghie et al. 2000) and scoring based on the convergence of concepts between a novice and expert map (Ruiz-Primo & Shavelson, 1997; 2001). One limitation, however, is that these approaches appear to be based on a uniform structure and specific comparability of generated concepts among different maps. They also appear to assume a correct answer, which is determined by comparison to an expert's map. For these reasons, this type of scoring may not be useful when attempting to capture unique, individual perceptions, reflections or experiences that may not be easily predicted.

Instead, as described below, a simplified concept count approach was used in this study. In this approach, the concepts identified in each completed map were recorded (Turns et al. 2000). This list of concepts was first used to identify the frequency of individual variables and subsequently in the compilation of salience scores. Yet, as Gerchak et al. (2004) suggest, a major limitation in the use of concept maps to gather data in quantitative research has been the sole reliance on "traditional" scoring methods. Given this limitation, it may be more

useful to consider concept maps as but one of several data-collection strategies within more systematic mixed-methodological research designs that include quantitative and qualitative data collection (Poole & Davis, 2006).

4.5.2 Framing Experience through Qualitative Research

The use of concept maps in qualitative research has been justified in a number of ways. While concept mapping can benefit qualitative research by clarifying relationships between and among various elements identified through interviews (Raymond, 1997), they might also serve as a useful means to gather data from research participants. By requiring research participants to first frame their experience, concept maps may help researchers in the refinement of other data collection strategies, unlocking unique memories of past participant experiences and prompting recall in ways traditional data collection may not (Legard et al. 2003:148).

Using concept maps as a technique of data collection allows researchers to see respondents' meaning and the connections that respondents draw across and through concepts (Novak & Gowin, 1984:15). When data are being gathered through cross-cultural research, maps offer an innovative means to capture experience in a way that minimizes the challenges of translation and provides an unsolicited opportunity for an individual to demonstrate the importance of various concepts and their inter-relationships (Wheeldon & Faubert, 2008).

4.5.3 Variables, Groupings and Approach

While exploratory, this study seeks to consider which project elements were identified through participant concept maps. Thus, some of the identified elements can be predicted or hypothesized. Project elements could include reference to legislative developments, amended laws, policies and agency cooperation, site visits, study visits, or job shadowing. Other elements might include material developed through training seminars, and the actual training methods utilised including experiential participation and debriefing. In addition, of interest is the way in which the project was delivered and implemented through the use of pilot projects, regional councils, and working groups and the sharing of specific programs from Canada, including anger-management and substance-abuse programs. To create individual variables, common unique concepts based on project elements were identified in each concept map.

The identification of these individual variables in each map, while useful, may lead to a one-sided conclusion about participant experience, complicating the sense-making in the interpretation of participant maps (Daley, 2004). Based on a previous study (Wheeldon, 2007), the way in which the maps were themselves created can serve as a useful means to guide follow-up interviews and to probe additional areas of the subject not identified in their maps. In this study, two groups emerged based on map construction. Groupings were generated based on the presence or absence of variables related to two identified areas of interest related to knowledge transfer: training tools and training processes. For the training tools group, the maps might include variables

that focus on the specific tools shared and developed during the training. Based on LLRP reports (AUCC, 2005) these might include reference to the presentence report, risk/needs assessment, prison intake report, community reintegration plan, case file management, or program manuals shared by Provincial and Federal agencies in Canada on substance abuse, life skills and respective relationships. For the training process group, the maps might include concepts that focus on the means by which knowledge was transferred. Based on LLRP reports (AUCC, 2005), these might include general reference to: role plays, job shadowing, study tours, regional councils, and working groups or specific reference to exercises which involved experiential participation and debriefing. Based on the number of concepts identified in the maps that could be connected to either training tools or training processes, participants were assigned to a group.

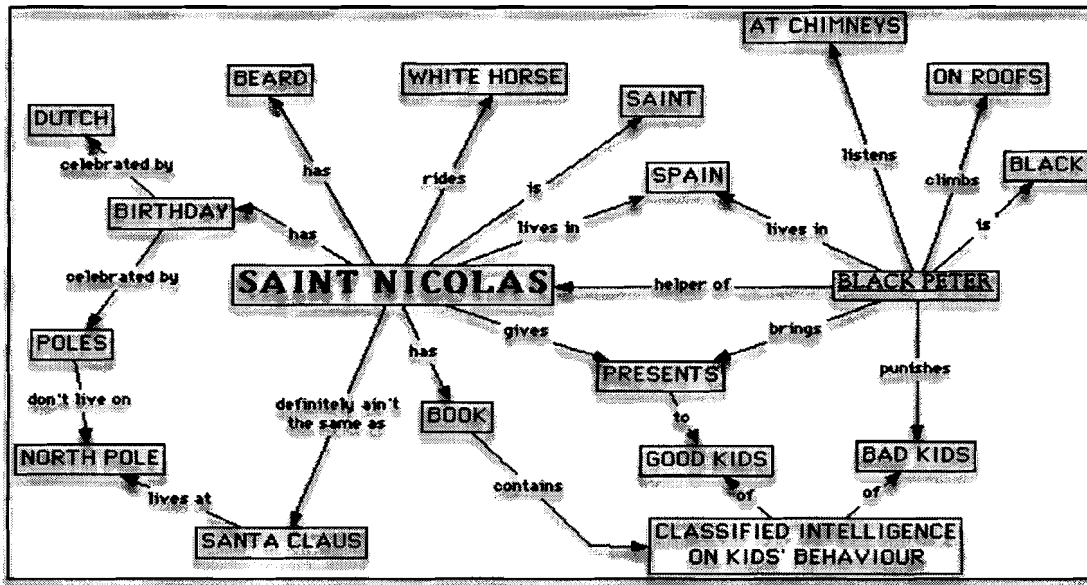
This approach provided a means to discover commonalities between individuals through the completed concept maps and assisted in the design of group interviews based on existing literature and past experience using a similar methodology (Wheeldon, 2007). By combining maps with follow-up interview questions, researchers can identify how often concepts are identified through multiple data collection stages. When this quantified expression is combined with the qualitative results of the qualitative interviews, researchers can get a better sense of how the maps complement the overall information provided by the participant (Aldridge et al. 1999, Kinchin et al. 2000;).

4.6 Data Collection and Measures

4.6.1 Stage 1 Concept Maps

Between September 2007 and May 2008, 15 participants completed a concept map on their experience of the Canadian training during the Latvian Legal Reform Program. The St. Nicholas concept map (Figure 4-1) was provided to the map group to demonstrate the variety of ways in which the concept of St. Nicholas might be understood, including different names, physical features and additional characteristics. In addition to these features, the exemplar concept map also includes connectors, to provide participants with an illustration of how maps could be constructed to link different concepts. Participants filled out a cover sheet, including spaces provided for gender, region and probation role and signed an informed consent document, assuring the confidentiality of their responses.

Figure 4-1 Concept Map Example³⁶



In addition to the example (Figure 3), the following instructions were provided to all participants:

- Concept maps can demonstrate how people visualize relationships between various concepts;
- Concept maps do not require complete comprehensiveness: however, the map should reflect key experiences and perceptions related to your role as trainer;
- You are encouraged to include both challenges and successes (where applicable) in the creation of your concept maps;
- Please limit your concept map to one page (A4)

4.6.2 Stage 2 Data Collection: General Interview Questions

One identified disadvantage of using concept maps to gather evidence is related to their complexity (Daley, 2004). The maps can be difficult to read and the linkages may be harder to see as the maps grow in size. Owing to this

³⁶ Retrieved from <http://users.edte.utwente.nl/lanzing/network.gif> on September 14 2006

disadvantage, in the second stage of data collection, participants were asked general interview questions. The follow-up interview focused on “content mining” or asking participants questions “...designed to explore the detail which lies within each dimension, to access meaning it holds for the interviewee, and to generate an in-depth understanding from the interviewee’s point of view” (Legard, Keegan and Ward, 2003: 148). The general interview questions were open-ended and probed positive and negative experiences, perceived results and challenges as well as previously identified concepts, such as language and intercultural competence and the experience of completing a concept map. All participants were asked the questions in table 4-1.

Table 4-1 General Interview Questions

Question No	Question Text
1.	Describe your most positive or memorable experience with Canadian trainers?
2.	Describe your most negative or challenging experience with Canadian Trainers?
3.	What if anything did you learn through the concept map exercise?
4.	How important was the role of the Translator/translation within the training sessions?
5.	Have you remained in touch with any of the Canadian trainers?
6.	What would you say the biggest result of Latvian Canadian cooperation was?
7.	What would you say was the biggest challenge of Latvian Canadian cooperation?
8.	Was working with Canadians different than working with other international experts?
9.	If you could change one thing about Canada’s involvement with Latvia, what would it be?
10.	Anything else you’d like to add?

4.6.3 Stage 3 Data Collection: Specific Follow-Up Questions

In addition to the general questions, additional questions were asked of participants based on each participant's concept map. These questions ensured that those who identified training tools more prominently in earlier data-collection stages also considered training processes as described in table 4-2. Those who identified training processes more prominently in stages also considered training tools as described in table 4-3.

Table 4-2: Specific Questions for Group A

Question No	Question Text
1.	Did you participate in a study tour to Canada? How did it assist or hinder training? What was your most memorable time there?
2.	What, if anything, was the role of the pilot projects in assisting the development of Probation in Latvia?
3.	What, if anything, was the role of local coordination councils in assisting the development of Probation in Latvia?
4.	What was the most important contribution Canada made through project funding to the development of Probation in Latvia?
5.	Anything else you'd like to add?

Table 4-3: Specific Questions for Group B

Question No	Question Text
1.	What were some of the most effective training seminars you attended? What were some of the least effective?
2.	What made a training seminar effective? How did different training styles affect learning?
3.	Name some of the exercises you recall from the training seminars?
4.	Do you wish that the Canadian training had concentrated on other areas relevant to your work?
5.	Anything else you'd like to add?

4.6.4 Stage 4 Data Collection: Reflection and Summation

Within the general and specific question sets, conclusionary and more reflective open-ended questions followed concept-map and directive-interview collection stages. Although perhaps simplistic, by asking: “Is there anything else you’d like to add?” participants were provided the opportunity to identify areas not previously addressed and to reflect on the interview.

4.7 Analysis

The analysis is based on the identification by participants of various elements, defined as individual variables, delivered through the LLRP (LLRP, 2005). Of interest in the analysis section is how participants identify individual variables throughout the data collection stages, how individual variables might be thematically combined, and what this suggests about participants’ perceptions of the project.

4.7.1 Individual Variable Frequencies

The analysis followed the collection of data through concept mapping and follow-up interviews. The results were quantified through the use of a concept counting system that simply recorded the frequency or presence of individual variables throughout the data-collection stages. These variables were counted individually and totalled to provide a sense of the number of times an individual variable was identified throughout all data collection stages. In addition, variables identified in multiple stages of data collection were tabulated and presented.

4.7.2 Salience, Differences, and Data

In addition to the frequency, a weighted count system (Stillwell et al. 1987) was used to assign each participant a score for each individual variable depending on the stage(s) at which they were identified. Individual variables that emerged from user-generated, open-ended and unsolicited data collection procedures are treated as more valuable. To tabulate a score for each individual variable, common unique variables were identified in each concept map (Turns et al. 2000) and within the qualitative interviews (Sandelowski, 2001). This 'salience score' was tabulated for each individual variable (IVSS), combined variables (CVSS) and an overall combined variables salience score (OCVSS), based on the average scores for the total sample (Appendix F).

Of some concern are demographic differences among groups in the sample. These included gender, region and role. To assess the statistical significance of demographic differences among groups in the sample, an independent t test was used. If no significant differences based on the demographic groups are observed, the ORVSS can be used to provide a means to catalogue key concepts delivered through the training.

To supplement this quantified expression, the data collected through stages 2, 3 and 4 will be reviewed based on a revision of Kvale's (1996) seven stages of conducting qualitative research. This data will be embedded within the salience scores and provide qualitative depth and detail to quantified findings above. In addition, a separate discussion of the role of translation and intercultural competence will be presented, along with other emergent cross-

cutting themes.

4.7.3 Validity and Reliability

A significant challenge in the use of maps in quantitative research is the problem of validity and reliability. Identified by Trochim (1989), reliability can be understood here to mean the degree to which a map is repeatable, while validity refers to the degree to which a map accurately reflects reality. As noted above, one important problem in the use of maps in educational or knowledge assessment is the scoring system utilized (Ruiz-Primo et al., 2001).

To address these challenges, it may be useful to draw a distinction between studies that use concept maps as the sole means of data collection and those that use it as but one of many. For studies where maps are the sole means of data collection, the definitions provided by Trochim (1989) are useful. For studies that use multiple methods, they may not be. It could be argued that reliability in mixed methods is generally enhanced given that researchers are replacing one means of data collection and analysis with multiple measures. Then again, it is far from certain that multiple and poorly designed data collection strategies are necessarily better; all they may be good for is multiplying error.

Specifically in this study, the design attempted to ensure the validity of the initial salience measure by weighing more highly concepts identified through more open-ended and unsolicited data collection. This design also assists reliability because concepts that are continually referred to by participants in multiple stages of data collection are scored higher through the combined concept-counting scoring system.

Reliability is further addressed in this study by the simplistic 'concept count' scoring system which facilitated easy concept quantification by the researcher and facilitates potential future repeatability by others. Validity is addressed through the use of the independent t-tests that compared the differences between means of the combined variables and the demographic differences within the sample, including gender, region and role.

4.8 Concluding Remarks

This chapter has presented the theoretical perspectives and studies that inform the research design, described the data collection procedure and means and methods of analysis to catalogue and present the data. In addition, it has included a detailed justification for the use of concept maps and a series of tests to explore their utility as a data-collection means. While innovative, the multiple stages of data-collection, the analysis of individual variable frequency and the use of salience scores suggest a means to gather more unsolicited data, mitigating the challenges of cross-cultural research while exploring themes and tensions within the existent literature.

As the research is in many ways exploratory, the results may be unknowable. While there is the suggestion that training tools remain essential within legal technical assistance (Dandurand et al. 2008), emergent views suggest more participatory and relational processes (Chodosh, 2005) are of value. However, this view is not without qualification (Griffiths et al. 2005). To date, while no empirical data specifically compares training tools and training processes, past studies and existing literature suggest some themes that may

arise. These include the value of tools such as pre-sentence reports, risk needs assessment, and case-management supervision strategies, and the role of legislative reform and the Draft Law on Probation. Process-related themes include the role of pilot projects, the use of local experts in training seminars, participatory training techniques and the role of interpersonal relationships. Additional themes drawn from past studies include the challenge of translation and interpretation, and the role of intercultural competence.

5.0 CHAPTER 5 – FINDINGS, ANALYSIS AND LIMITATIONS

5.1 General Findings

Throughout multiple stages of data collection, the Latvian participants identified a number of individual variables. Some were expected while others were not. Drawn from literature in the field of organizational management and based on the procedure outlined in chapter four, these concepts were divided into two groups: training processes or approach and training products or tools. In addition, a number of cross-cutting themes were identified. While these additional cross-cutting themes provide a more nuanced view of the experiences of the Latvian participants, they were not included in the two groups above and are instead presented separately below. All individual variables identified in the study are identified in table 5-1.

Table 5-1 Individual Variables Identified

Product	Cross-Cutting	Process
Presentence report	Success of Project	Job Shadowing
Risk/Needs assessment	Language Issues	Role Plays
Prison Intake Assessment	Intercultural Competence	Working Groups
Reintegration Plan	Concept Map Utility	Canada Site Visits
Case Management	Reform Challenges	Regional Coord. Councils
Canadian Program Manuals	Wish Canadian	Networking
Probation Draft	cooperation had continued	Personalities
Legislative Reform		Pilot Projects
Police Reform		RJ Exercises

5.1.1 Process and Product: Concept Counting and Frequency

While participants identified individual variables in a variety of ways throughout the data collection stages, of initial interest was the number of times individual variables were identified in total across the data collection stages.

Table 5-2 provides an example for the individual process variable job-shadowing.

Table 5-2 Frequency of Job-Shadowing Variable

Valid	Frequency	Percentage	Valid Percentage	Cum. Percentage
Absent	9	64.3	64.3	64.3
Present	5	35.7	35.7	100
Total	14	100	100	

A concept count was tabulated for all 18 process and product variables and provided the total number of times participants identified these variables throughout all data-collection stages (Appendix E). Participants identified process variables 139 times and product variables 79 times. Eight individual variables were identified more frequently than others. These are reported in table 5-3.

Table 5-3 Highest Frequency Product and Process Variables

Product Variables	Count	Process Variables	Count
Probation Draft	17	Personalities	27
Case Management	12	Site Visits	21
Risk Needs Assessment	11	Networking	20
Canadian Programs	11	Role Plays	18

Of additional interest was the number of times each participant identified a variable across multiple data-collection stages. Individual variables might have been identified in concept maps, in general interviews, in their conclusionary and

reflective statement, or in multiple stages of data collection. Table 5-4 reports the number of participants who identified the product variable, presentence reports, in multiple stages. Seven (7) individual variables were identified by at least one (1) participant in all three (3) stages of data collection. These variables are reported in table 5-5.

Table 5-4 Concept Count Across Stages - Presentence Report

No. Stages Identified	Frequency of Identification	Percentage	Valid Percentage	Cum. Percentage
0	7	50.0	50.0	50.0
1	5	35.7	35.7	85.7
2	1	7.1	7.1	92.8
3	1	7.1	7.1	100
Total	14	100	100	

Table 5-5 Variables Identified in All-Data Collection Stages

Product Variables	Process Variables
Probation Draft	Personalities
Presentence Report	Site Visits
Risk Needs Assessment	Networking

While of some interest, these frequency measures only provide a sense of whether and how often these variables were identified throughout the data-collection stages. An assumption of this study is that the way in which the variable was identified might more usefully demonstrate the relevance or legitimacy of a proposed association between an individual and a concept (Cash et al. 2002). For this reason, an additional approach was contemplated to provide a mixed methods measure, called the 'salience score.'

5.1.2 Process and Product: Variables and Salience Scores

In attempting to construct a mixed-methods measure, Silverman's advice to "keep it simple" (2005:63) is useful. Presented for the first time in this study, a 'salience score,' is simply a weighted count measure designed to privilege user-generated and unsolicited data collection stages over subsequent stages in which variable identification may be the result of previous collection procedures. The salience score, in this study, is designed to provide one with a sense of the how often a participant identified an individual concept over a number of different data collection stages, while acknowledging that the stage in which the concept was identified is also important. In this way, the score provides a means to quantify qualitative data, based on a simplistic concept count technique.

Based on table 5-5, the sum of the weighted measures produced values ranging from 0 (not salient) to 9 (extremely salient) based on the following procedure. User-generated concepts gathered through the maps were deemed worth four (4) points, along with responses to general, non-specific questions that were worth three (3). Unsolicited and open-ended, these stages of data collection were judged to represent the best way to capture uninfluenced recollections.³⁷ At the end of each question set, participants were given an opportunity to sum up their experience. Concepts that re-emerged during this third stage were separately tabulated within the salience scoring system and valued at two (2). By adding the points assigned through each stage of the data collection process,

³⁷ Within the general question set, questions 3 and 4 (What if anything did you learn through the concept map exercise? How important was the role of the Translator/translation within the training sessions?), were based on the literature review and tabulated separately in the cross cutting themes section 5.2.5.

individual variable salience scores (IVSS) were tabulated. Table 5-6 presents an example of how the individual variable salience scores were tabulated using participant 4 (four) and the process variable networking.

Table 5-6 Salience Scoring Procedure for Variable Networking

Data Collection Stage	Freq.	Weighted Measure	Percentage	Valid Percentage	Cum. Percentage
Concept Map	0	4	0	0	0
Gen. Interview	1	3	50.0	50.0	50.0
Ref. Statement	1	2	50.0	50.0	100.0
Total	2		100	100	
Salience Score		5			

The above procedure provided a salience score for each individual and each individual variable, represented as the IVSS. While useful as initial measures, many of the individual concepts appeared to be interrelated, either thematically or temporally. Through an additional data-compilation procedure, individual concepts were added together into combined variables constructed through the combination of three (3) thematically related concepts. These were based on LLRP reporting (AUCC, 2002; 2003; 2005) and existing literature (Bell et al. 2002; Griffiths et al. 2005; Dandurand and Shaw, 2006; Dandurand et al. 2008).

As discussed above, individual process-based variables, such as, site visits, job shadowing, and networking, were combined into the variable *Study Tour*; role-plays, restorative justice and personalities were combined into the variable *Interactive Training*; and individual variables pilot projects, coordination

councils, and working groups were combined into the variable *Project Delivery*. Individual product-based concepts such as presentence report (PSR), risk/needs assessments (RNA) and case-management and supervision strategies were combined into the variable *Assess/Supervision*; prison intake assessment, community reintegration plans and program manuals were combined into the variable *Programs*; and individual variables probation draft, legislative development and police reform were combined into the variable *System Reform*. These combinations are reported in table 5-7.

Table 5-7: Combined and Individual Variables

Training Process and Approach			Training Products and Tools		
Study Tour	Interactive Training	Project Delivery	Assess/Supervision	Canadian Programs	System Reform
Canada Site Visits	Role Plays	Pilot Projects	Presentence Report	Prison Intake Assessment	Probation Draft
Job Shadowing	Personalities	Coordination Councils	Risk/ Needs Assessment	Reintegration Plan	Legislative Reform
Networking	RJ Exercises	Working Groups	Case Mgt/ Supervision	Program Manuals	Police Reform

Values for combined variables were based on the sum of the three (3) IVSS . This produced a combined variable salience score (CVSS) for each participant, represented by the formula $CVSS = [IVSS^1 + IVSS^2 + IVSS^3]$. These scores are included in Appendix G. Finally, an overall combined variable salience score (OCVSS) was tabulated for the total sample by adding each combined variable salience score (CVSS) and dividing the result by fourteen (14), represented by the formula $OCVSS = [(CVSS^1 + CVSS^2 \dots CVSS^{20}) / 14]$. These values are reported in table 5-8.

Table 5-8 Overall Combined Variable Saliense Scores (OCVSS)

Combined Variables	Total Average Saliense Score
Study Tour	10.64
Interactive Training	12.14
Project Delivery	8.71
Assess/Supervision	8.36
Canadian Programs	5.29
System Reform	6.14

5.1.3 Relevance, Frequency and the Problem of Inter-Group Difference

It is important to note there were differences between groups within the sample. These groups included: male and female; participants from Riga and outside Riga; and Headquarters staff and Probation Officers. Table 5-9 reports the mean group differences. However by conducting t-tests (adjusted for undertaking multiple tests), these differences were found to be statistically insignificant in all instances.

Table 5-9 OCVSS by Group

Combined Variables	AVG TOT	AVG M	AVG F	AVG RIG	AVG XRI	AVG PO	AVG HQ
Study Tour	10.64	11.33	10.45	8.83	12.00	9.83	15.50
Interactive Training	12.14	12.00	12.18	11.50	12.63	11.50	16.00
Project Delivery	8.71	8.67	8.73	6.67	10.25	8.50	10.00
Assess/Supervision	8.36	11.67	7.45	7.00	9.38	7.92	11.00
Canadian Programs	5.29	2.33	6.09	5.67	5.00	4.58	9.50
System Reform	6.14	5.67	7.00	7.50	5.13	5.42	10.50

5.1.4 Combined and Individual Variables

This study suggests that research participants identified as most salient the combined training process variables, study tour and interactive training, and the combined training tool variables, assessment and supervision, and system reform. To better consider the role of the individual program elements within the

combined variables, this section explores in greater depth the three individual variables that make up each combined variable, as outlined in table 5-10.

Graphically presented, based on their IVSS, this section explores each individual variable and considers the qualitative data gathered through collection stages two, three and four. Embedded within the quantitative findings, these interview results provide a more detailed and nuanced means to understand why the concepts were identified as important, and how they might be interrelated.

Table 5-10 Combined and Individual Variable Scores

Combined Variable (CV)	CV Saliency Score	Individual Variables (IV)	IV Saliency Score
Interactive Training	12.14		
		Personalities	5.64
		Role Plays	3.93
Study Tour	10.64	Restorative Justice	2.57
		Site Visits	4.86
		Networking	4.71
Project Delivery	8.71	Job Shadowing	1.07
		Pilot Projects	3.42
		Regional Coordination	2.79
Assessment/Supervision	8.36	Work Groups	2.50
		Case Management	3.14
		Risk/Needs	2.79
System	6.14	Presentence	2.43
		Probation Draft	3.64
		Legislative Reform	1.36
Programs	5.29	Police Reform	1.14
		Program Manuals	2.86
		Prison Intake Form	1.93
		Reintegration Plans	.50

5.2 Thematic Findings

5.2.1 Interactive Training

The training through the LLRP was provided over ten (10) months, between February 2003 and November 2004, and was delivered by a variety of trainers drawn from Probation and Justice agencies in Ontario, Manitoba, and British Columbia. Training modules included: roles and responsibility of probation officers, administrative procedures, risk assessments and plans of care (psychological problems, violence and substance abuse), case management of adult criminal justice process, case management of juvenile justice process, supervision of male and female offenders, supervision of special needs offenders, coordination between Probation and Prison Administration, supervision of conditional orders and post-prison supervision, restorative models and community development and institutional challenges and implementation.

The combined variable Interactive Training was based on an average of three identified concepts: Personalities, Role Plays, and Restorative Justice Exercises. A wide variety of styles were utilized throughout the training sessions including: lecture, problem-based learning, work groups, role-plays, and experiential exercises drawn from restorative justice principles and practices. All participants universally acknowledged the personality of the Canadian trainers. Identified as 'friends,' and 'role models,' trainers provided background information about approaches taken in Canada, shared both successes and failures and 'unlike trainers from other countries took time to learn about Latvia.' As one

senior official suggested, 'sometimes we feel like trainers from outside Latvia are telling us what to do...Canadians only asked, how can we help?'

Another aspect related to the adaptive ability of Canadian trainers was their ability to 'change training program' as required to address emergent questions and concerns. Less formal than other trainers, the Canadians were 'passionate about justice' and many participants suggested they were never worried about asking questions and used social time in the evenings of the training seminars to learn more about the Canadians, their jobs, and the Canadian justice system. Many participants suggested they had remained in touch with Canadian trainers since the project ended in 2004 and former trainers have visited Latvia, both professionally and socially.

Many participants spoke of the utility of the seminars that provided practical and participatory exercises. These participants identified 'role-plays, interactive exercises' and 'client focused small group sessions' as the most important element within the training seminars. For many, the shift in learning styles from 'authoritarian to interactive and participatory' was initially difficult. However, according to one participant who works with youth at risk, this approach has continued in Latvia '...we use this style because it is easier for everyone to participate and learn.' A number of participants spoke about activities in which groups were given facts and constructed treatment options for clients. In these sessions, role-plays were used to help future probation officers practice developing '...presentence reports, assess risks and client needs, and also for working with difficult clients.'

Participants also noted training sessions that were delivered on mediation and restorative justice. While more general interactive exercises were used as introductions and ice-breakers, exercises based on elements drawn from restorative practices, such as dialogue circles were also used to promote participatory debriefs following different group activities. In these debriefs and wrap ups, everyone took a turn to speak through the use of a mutually agreed 'talking piece.' Some participants spoke about the initial difficulty of 'staying quiet' when listening to a speaker with whom they did not agree. In several sessions, exercises were used to highlight how difficult, emotional, or stress-related environments or situations can alter one's actions or responses. While a new concept for many participants, many recounted the experiential nature of the exercises described in great detail. According to a senior Probation Headquarters official, some of these '...[exercises] are being used in mediation training sessions in prison and schools, led by Probation officers.'

5.2.2 Study Tour

Study tours through the LLRP occurred in January of 2003. Twenty –two (22) participants travelled to Ontario and Quebec. Presentations and site visits during the first study tour included representatives from Correction Services Canada, Ontario Ministry of Public Safety, Ministère de la Santé et des Services sociaux du Québec, John Howard Society and a number of smaller community based organizations which work with Probation. In November of 2003, two senior

staff visited a number of probation offices, community-based programs and training institutes in British Columbia and included meetings with representatives from the Provincial government including from Community Corrections Branch and trainers from the Justice Institute of British Columbia.

The combined variable Study Tour was based on an average of three identified concepts: Sites Visits in Canada, Networking, and Job Shadowing. All participants identified the importance of the study tours through the LLRP, for a variety of reasons. Site visits to police stations, courts and prisons were identified, as was the cooperation between various justice agencies. Participants suggested that the 'Study tour was very good, well organized, and allowed us [Latvians] to see variety of programs and services.' Many also identified the study tours to Canada as the first time they had heard of pre-sentence reports, risk needs assessments, mediation programs and post-penitentiary assistance. Participants identified 'meetings with probation officer, and site visits', as useful and 'job shadowing and ride-alongs as helpful in seeing 'work in action and providing some practical experience'.

In addition, many participants spoke about the study tour as an integral time in building networks among the Latvians who travelled to Canada. Latvian pilot project directors and community leaders were paired with Latvian Prosecutors, Judges and Ministry of Justice staff and this was identified as instrumental in 'team building between Latvians' and in helping to create a 'common strategy' for Latvia. According to one respondent, the study tour didn't

just alter her attitude, but 'changed the attitude' of all the Latvians that participated.

Some participants also referred to the visits to Probation offices in Ontario and Quebec and meetings with Probation officers. These visits included two days of job shadowing, identified by some participants, that allowed the Latvians to see the 'work in action' in Canada and provided a 'one-on-one' opportunity to ask questions, clarify functions, and understand the approaches taken in Canada.

5.2.3 Project Delivery

Based on approaches used since 2001, such as pilot projects, coordination councils and working groups, these programs, services, and personnel in 2002 became the basis for the Probation service. The initial pilot projects ranged from after-school prevention programs, community service programs, drop-in centres and supervision programs that worked in cooperation with local police and municipalities. These were further supported, in 2002, to develop additional supervision functions, and through the development of regional coordination councils, a model of collaboration emerged that led to the establishment of a National Youth Justice Strategy and National Probation Draft Law in 2003.

The combined variable, Project Delivery, was based on an average of three identified concepts: Pilot Projects, Coordination Councils, and Working Groups. Pilot projects were identified as very important in the development of Probation because they provided policy makers with 'practical examples,

provided new information and allowed pilot project Directors to try different programs and innovations.’ The pilots were identified as the ‘basis of probation’ because they provided ‘alternatives to help convince people’ that other kinds of less punitive approaches could work. In addition, these projects created community experts in alternative programming who were hired as Latvia’s first Probation Officers. While important, the pilot project approach had both strengths and weaknesses, and, according to one senior official, ‘without the pilots, Probation would have taken much longer to develop’, but while they were ‘useful in early days, early adopters developed ownership which made management of larger agency more difficult’.

Through the coordination councils, networks throughout the regions were established and allowed those working within the justice system to share information and work together to explore ‘available services and what could be done’ through better communication and linkages and ‘new blood through new innovations and ideas.’ The coordination councils gave important support, insight and strategies and modelled new kinds of cooperation, which were picked up at the state level. While the National Probation Working Group took some time to meet and agree on priorities, participants identified its establishment and the identification of required legislative reforms as ‘leading directly to the Probation Draft Law,’ passed by the Council of Ministers in October of 2003.

5.2.4 Assessment and Supervision

The combined variable, Assessment and Supervision, was based on an average of three identified concepts: Case Management and Supervision, Risk/Need Assessments, and Presentence Reports. Assessment and supervision refers to a number of probation training modules delivered between January and May of 2004. These modules first shared models of presentence reports and risk-needs assessments from Ontario, Manitoba and British Columbia. Led by the Pilot project Directors and Ministry of Justice staff, these models were used in training exercises and then revised based on the experience of two communities, Tukums and Cesis. Another aspect of this training relates to work undertaken by a senior official from Community Corrections for the province of British Columbia. Focusing on case management, supervision strategies and operational needs of managing an office, these sessions were held in February and March of 2004 and have been identified as integral. This individual has returned to Latvia numerous times over the last four (4) years and has continued to assist Probation beyond the project end date.

Many participants identified the sharing of the case management approach and risk-needs assessment forms as the most useful aspect of Canadian training and some specifically recalled the adaptation of the presentence forms by Latvians in the training sessions. They credited these tools with the 'development of a supervision model' in Latvia and a 'change in mentality.' Some participants identified supervision and interviewing exercises as useful in assisting them to be able 'to start a conversation' and 'work with difficult

clients.’ These lessons continue to be used in the training of future officers, according to one participant, and elements of the training about how to ‘run an office and manage staff’ remained relevant as well.

Others stated that they wish they had personally paid more attention to the training provided on administrative requirements. One individual stated that the training should have addressed issues of personal security, based on some recent events in Latvia in which Probation Officers had been physically threatened. Another theme that emerged was the feeling among some that Probation had become ‘too focused on paper not people.’ While Canadians warned against this, ‘administrative functions have increased and reduced amount of time for client visits.’

These observations speak to something of a paradox raised by a senior Probation official. While Canada provided useful initial training, now that Latvia has some experience and capacity, additional cooperation would be really helpful to check in, clarify and review. According to this individual, ‘Latvia is now in a position to share their experience with Canadians, but has no opportunity since project activities ceased’.

5.2.5 System Reform

The combined variable, System Reform, was based on an average of the individual variables: Legislative Reform, Agency Cooperation, and Probation Draft. Integral within this combined variable was the legislative advisory component in which Canadian expertise supported existing efforts to promote legislative reform in Latvia and ensure probation is securely based in law. This

involved ongoing consultation from Canada related to efforts to reform the Latvian Criminal Procedure Code and elements of the Criminal Law.

The concept of probation that has developed in Latvia is broader than in many other countries and incorporated aspects of the Youth Justice Strategy as drafted during the LRCP (AUCC, 2005). It resembles the Canadian system in that the probation officers within the service act as case managers for all offenders from the time of arrest through to incarceration and post-release. Functions of the Latvian Probation Service include the assessment of an offender and the presentation of recommendations to the court concerning sentencing, the supervision of alternative sentences, such as community service, probation and conditional sentences, and the development of a release plan for the offender, if incarcerated. The draft was identified as one of the key successes of Canadian programming and many connected the establishment of Probation with broader themes including: 'a deeper understanding of justice,' a 'switch from military prison system to focus on social rehabilitation,' and the 'creation of Latvian networks of people and the promotion agency cooperation.' This also required legislative support.

After the draft had been accepted, legislative consultations through the LLRP began specifically targeting legislative impediments to the role envisioned for Latvian Probation Law. LLRP advisors communicated frequently with drafters of legislation within the Latvian Ministry of Justice, produced policy papers and developed specific recommendations for the Latvian Probation Service and the Legislative Affairs section of the Ministry of Justice. Many participants suggested

that the legislative reform that resulted from the LLRP was the most important outcome. They suggested these changes have lent credibility to 'alternative approaches and ideas about justice', and that 'mediation, restorative justice and community service now part of Latvian justice system.' The other individual variable within System Reform related to Police reform and was identified by only a few participants.

5.2.6 Canadian Programs

The combined variable, Canadian Programs, was based on an average of three individual variables: Prison-Intake Assessment, Reintegration Plan and substance-abuse and anger-management programs. The prison Intake form was shared by a LLRP trainer with connections to the Correctional Services of Canada (CSC) and was used in meetings with probation and prison administration officials to streamline data collected by Prison Administration and to assist in the development of individual correctional plans. The community reintegration plans were shared by LLRP trainers with specific expertise in post prison release and formed the basis of one training seminar. This approach has resulted in the creation of reintegration plans for those about to be released including the '...identification of barriers to reintegration such as work, living situation and proper papers to receive state aid'. While some participants referred to the prison forms as 'useful in facilitating more and better cooperation' with the Prison Administration, many more referred to the 'sharing of the program manuals,' including on respectful relations, substance abuse and anger

management. Sourced by a LLRP trainer from both Provincial and Federal agencies, these manuals were shared with Probation officials and some participants suggested Latvians have adapted these, '...especially the programs on substance abuse and anger management'. One senior official suggested that Canadians appeared able to share programs without 'great bureaucracy,' which was a core feature of other projects with the European Union (EU).

5.3 Cross-Cutting Themes

In addition to the main findings presented above, a number of cross-cutting themes also emerged from the data collection. Presented here, these themes either did not emerge as salient, based on the definition previously provided, or as in the case of language/translation and intercultural competence were gathered through a means that violated the salience scoring system described in chapter 4. They nonetheless are important factors to consider given the main findings as described.

5.3.1 Continued Cooperation

Building on the paradox identified by a senior Probation official about the utility of continued Canadian cooperation in 5.2.4.4, a number of participants noted that they felt the project had ended too quickly. In 2004, CIDA appeared eager to wrap up project activities in time for what was called, somewhat pejoratively, "Baltic graduation.' Participants, including senior officials, noted that a planned research trip was cancelled and that they were disappointed that an

expressed desire to continue to partner with Canada was not continued. Many suggested they wished cooperation had continued and Canada had provided more feedback after probation had been established. Some probation officers in the regions outside suggested that, as Probation had grown, the focus on 'paper over people,' identified by Canadian trainers, had not been adequately addressed and that Canadians could have stayed on and assisted as mentors.

5.3.2 Reform Challenges

In addition to these observations, participants usefully identified a number of challenges they believed impacted the LLRP, as well as perceived challenges to continued justice reform in Latvia. Some related to language and distance between cultures but many more considered the Latvian bureaucracy and overall mentality a challenge. Participants suggested that 'Latvians see things differently', are 'resistant to change' and believe in 'punishment versus rehabilitation.' This mentality could not be changed through 'laws and policies' but had to address personal, and 'societal impediments' to change. Some expressed optimism that, as older generations were replaced by younger, more open and educated individuals, this could be overcome.

5.3.3 Concept Map Utility

In response to the concept map question, virtually all participants (12/14) identified the maps as a 'useful way to see experience'. Some suggested this was because making a map 'helped them to remember events from years ago' and 'organize their thoughts about the experience systematically.' Others

suggested that, as a visual aid, it helped put the experience in 'context' and provided a 'clearer view' by looking at events again, realizing how much had happened and helped them to 'focus on the key experiences, concepts and connections.'

While some participants suggested they had used concept maps before through past employment in the fields of social rehabilitation and policing, others found the experience difficult. Three participants suggested that, while it was a 'good idea', it was 'hard at first,' and some struggled to complete it. For these participants, visualizing the experiences and organizing their thoughts took some time. For others, the concept map exercise 'was easy to compile' and provided them with 'a new way to see the system of project.'

5.3.4 Language and Intercultural Competence

Based on existent literature, the general question set included more specific questions about both intercultural competence and the role of translation. While this ensured that this study could investigate the importance of these concepts within international development, this approach did not allow for the compilation of a valid salience score based on the scoring system as outlined in chapter 4. Nonetheless, this study validates the importance and role of language and intercultural competence in international project success. While all interviewed participants identified language issues, translation and interpretation as important, many felt it had been well done. Some suggested that it was very important to use 'professional and experienced' interpreters who could provide some context to the specific terminology used. Other suggested that training

materials should be translated and provided before the sessions with 'specific terminology and vocabulary' provided at the beginning of the info package.

Some participants had served as informal interpreters and suggested that more important than word-to-word translation was the understanding of the meaning of what was said and 'providing examples' that would make sense in the Latvian context. Others, while identifying the challenge of language in international development, suggested that understanding could be achieved through connections and relations with trainers through non-formal activities such as dinners, Latvian saunas and parties.

In addition to language, this study validates two decades of research into the role of technical assistance personnel to development effectiveness (Hawes and Kealey, 1981; Kealey & Protheroe, 1995; Kealey et al. 2005). A useful connection in this regard is related to the notion that trainers abroad must understand the importance of professional modesty, relying on local experts through mutual learning, and the need to consider cultural dimensions to create a positive learning environment (Kealey et al. 1995). Many participants suggested the Canadians involved in the project were different than other trainers. Some of this was identified as the personality of the trainers, yet other aspects appear more related to Kealey's notion of intercultural competence. Participants suggested that Canadians took more time getting to know 'Latvia, its people and criminal justice issues'. Others identified the Canadians as 'open, friendly and humble'. They did not 'force ideas' and it was up to Latvians to 'take what they wanted.' This cooperative spirit made it easier to work with and

communicate with Canadians and participants described special feelings for Canada and Canadians. Some spoke of Canada as their 'second country' while others spoke about Latvians and Canadians as 'somehow soul relatives.'

5.4 Limitations

All research is inherently limited; this study is no different. It is limited geographically, temporally and numerically. There is no way of knowing to what extent these findings can be relied upon to guide further legal technical assistance projects in other regions of the world. Specific limitations of interest in this study relate to the conceptual challenge inherent in mapping the sites of knowledge transfer, the use of the concept maps to capture experience, the devised salience scoring system, and challenges related to my role as project manager.

One limitation is related to a central assumption that informs this study. While of specific interest is how the Latvian participants viewed different training approaches based on the training tools and training process distinction, it may be that the research participants focused more on their positive experiences of the training. On one view, this may suggest that this study did simply record the Latvian's memorable moments rather than providing a practical outline of the most useful aspects of the legal technical assistance provided. Yet, it may be that memorable experiences and positive associations are inexorably linked to successful learning. Without further study, this remains a supposition. Yet, the findings of this study suggest that the process of knowledge transfer in legal

technical assistance appears more nuanced and complex than previously detailed and few would doubt that positive learning environments can result in better learning outcomes.

Another important limitation is this study's use of concept maps to gather evidence. As a relatively new tool in mixed methods research, maps have both strengths and weaknesses. While there is evidence that concept maps provide a useful and novel way to conceptualize knowledge, assist in the details and depth of responses of participants and can predict the overall findings in a study, they may not be acceptable data collection tools among certain populations. While the graphic representation of experience may serve certain populations, it may alienate others. Some within the sample suggested completing the map was difficult and five (5) potential participants who did not complete maps could not be included in this study.

A further concern is related to the use of salience scores and the challenge of tabulating a score based on multiple stages of data collection. The salience score was justified as providing a useful means to highlight the value of data collected through stages that were general and user generated. Thus the maps, and the responses to the general interview questions were most important. While defensible, there are few - if any - studies that have attempted to weigh data in this way. Another mechanism that might have been employed is an additional validation process through focus groups. Ideally, the main findings of the study could have been reviewed by two focus groups representative of the

total sample. This validation exercise would have allowed the entire data collection procedure to be reviewed by the participants themselves.

A final and significant limitation is related to my role. As Project Manager for the LLRP, I wrote the proposal, negotiated the contract and managed all aspects of project delivery, including the selection of Canadian trainers. Thus, it is disingenuous for me to suggest I do not have an opinion about what I saw during my time in Latvia and that it is hard to separate this opinion from what should be independent and impartial research. My former role may have impacted this project in two important ways. The first relates to my relationship with the research participants. It may be that certain participants, based on their relationship with me, sought to share only more 'positive retrospections.' While questions were included which were designed to provoke more critical reflections, a key feature of this study's findings is the high level of satisfaction with the project amongst the project participants.

A second relates to the possibility that my experience on the project influenced the themes identified in the study and privileged the training process and approach findings, findings which themselves challenge existing orthodoxy in this much underexplored area. There may be no way to adequately address critiques of this nature. My experience in Latvia and with project participants and Canadian trainers did suggest something more was happening than the translation of forms, manuals and institutional policies. What was less clear was the interaction between the need for practical tools that could be used by future

Probation officers and more personal aspects of training, learning and interacting.

The potential for this challenge to bias this study is a serious one. It was at least partially addressed by the concept map methodology, which was proposed and tested through this project. The use of concept maps to generate unsolicited reflections, unprompted by a literature review or leading questions may have successfully mitigated against the suggestion that my own experience related to the personal aspects of knowledge biased the findings. It may not convince everyone. Ideally, those involved with project delivery should never undertake evaluations of that same project. The potential for a conflict of interest and self-serving findings is too great. While it is likely that the LLRP would not have been otherwise studied, projects of this kind should be the exception and not the rule.

In addition to the detailed limitations provided above, I would like to mention a further limitation related to my sample. Latvia has a long and sometimes proudly declared history of alcoholism, and learning about this legacy and its complicated place within Latvian society was perhaps one of the most challenging aspects about my time there. This study is limited by the loss of two very important individuals. One started the first community service organization in Latvia and worked with former offenders in his small community for years before adequate funding and support was forthcoming. In 2003 he died of liver failure, months before Probation was formally established.

Another individual is still alive, for now. Having started the first wilderness therapy camps for juvenile offenders in Latvia, this individual worked long and

hard to raise funds to bring Canadians to Latvia, to launch the first camp and training of a new generations of youth case workers, to identify youth in the Cesis correctional facility and support them to succeed in various programs which were a pre-requisite to their participation in an outdoor camp, which matched team work, trust exercises, reflection and even elements of Latvian pagan spirituality. A former offender himself, this individual sometimes struggled to complete the proper paperwork and file appropriate taxes. He also enjoyed a drink. This had caused problems with the Ministry of Justice before and these problems have reportedly increased. During my last visit to Latvia, I travelled to meet him. Staggering and far too skinny, he immediately demanded a drink and promised to tell me whatever I wanted to hear. While it was clear I could not include him in the study, the most immediate concern to me was his wife and five children. When I mentioned this to former colleagues and friends, the response was a shrug. This was common in Latvia, they suggested, and there was nothing to be done. This is a useful reminder that no matter the money, the design, or quality of technical assistance that are provided, there are structural, societal, cultural and historic forces at work, which constrain all development initiatives.

5.5 Conclusions

The findings above suggest the salience of both combined training process and training product variables. On the process side, interactive training, the study tour, and overall project delivery were all identified. On the product side, the training tools associated with the combined variables of assessment

and supervision and system reform appeared salient among research participants. The least identified individual variables were associated with the combined variable, Canadian programs, although the sharing of program manuals, specifically related to anger management and substance abuse were identified. Overall, while the utility of a practical and useable set of probation tools were identified, there appeared to be a general consensus that the variables associated with training processes were perhaps more valuable to Latvian-Canadian cooperation.

Specifically within the training process variables, these included concepts such as the value of site visits and the potential for networking and team building facilitated by the study tour; the personalities of Canadian trainers within the interactive training seminars; and the role of the pilot projects within project delivery. Within the combined training tool variable, assess/supervise, the case management approach was identified as was the development of the Probation draft that established the basis for probation and the approach the service would employ. Two important cross-cutting themes included the challenge of language, translation and interpretation and the importance of intercultural competence, humility and flexibility among those who lead legal technical assistance.

6.0 CHAPTER 6: DISCUSSION AND CONCLUSION

6.1 Chapter Overview

Countries of the FSU have undergone incredible changes since 1991. Yet, while political structures have been reformed, generations of occupation and cultural differences in assumptions and motivations have influenced the justice system and those with whom legal technical assistance projects interact. To address these challenges and the identified theoretical shortcomings within Canadian international development (Thede 2005; Perlin, 2003), models of interaction and project delivery are needed. In order to better assist researchers to capture cross-cultural currents in legal technical assistance, this study has proposed a mixed-methods approach via multiple stages of data collection. Central to this study was the use of the concept map.

This chapter reviews the main findings of this study and locates these findings within broader themes in the reviewed literature. This study contributes empirical evidence to the existing scholarship that promotes the development of specific, practical and useable legal technical tools. Of specific interest in this regard are the study's findings related to the salience of legal assistance tools such as the presentence reports, risk needs assessment, and the supervision of probation clients. In addition, the findings of this study suggest that under-identified areas of significance within legal technical assistance are processes that build individual capacities as a part of broader organizational reform. One

specific process-based approach identified was the study tour, which promoted networking, one-to-one job shadowing, and practical site visits in Canada.

In addition, this chapter considers emergent views on the role of individuals within organizational reform and presents two strategic models based on the three levels of project success advanced by Kealey et al. (2005). At the organizational level, criminological theories such as social disorganization, social learning and moral development, provide a theoretical basis for this study's empirical findings. Identified as a community-centric pilot project approach to justice reform, by investing in a network of local champions, national reforms can be based on the expertise and experience of local innovators at the community level. In addition, these theories may provide a justification for what I call an interactive training model in which personable and inter-culturally competent trainers combine practical group work with experiential restorative-justice-based exercises to personalize and facilitate discussions about law, society, and justice.

Beyond the purview of this study are the external and environmental factors upon which these models must be based. As the Latvian example suggests, the *Lavent* decision and EU succession requirements played an important catalyzing role in justice reform. Yet legal reform through occupation or external pressure is fraught with its own complications and far beyond the scope of this study. A central assumption throughout this study has been that in order to be sustainable, reform must be based on the provision of legal technical assistance projects that are voluntary, cooperative, and participatory. An important theme throughout this chapter is while legal technical assistance has a

valuable role to play in reforming legal structures, it inevitably requires an engagement on both sides about how the law can, should and does interact within different societies.

In conclusion this chapter argues that when undertaken through respectful discussion and deliberation, legal technical assistance can serve to model the sorts of values promoted by development agencies. Through participatory processes that are humble, recipient driven and facilitated in ways that acknowledge the variance between Eastern and Western expectations and assumptions, these projects can not only support the institutions of the criminal justice system, but can also model the means required to create a pro-reform environment based on democratic values.

6.2 Locating the Findings: Maps, Tours and Tools

As a means to collect data in small sample mixed methods research, the concept map instrument has proven to be a useful tool. While the findings in this study point to its value, concept maps may not be appropriate in all settings. Of some concern was the observed resistance among some participants, who appeared uncomfortable when asked to create them. Whether this resistance was related to graphically challenged individuals or an unwillingness to consider newer research methods, this limitation may impact the overall utility of maps. As a means to assist cross-cultural research, however, it should be considered a unique tool that may provide more unsolicited responses and can assist small sample research.

Widely used in development, study tours offer a means to showcase a group of individuals from one country the successes and failures of another. They provide real life examples of other ways of doing things and are currently in use as part of education initiatives and coursework on human rights and justice in Iraq and Afghanistan (Shaw & Dandurand, 2006). Within criminal justice, study tours provide increased understanding about the philosophy, approach, and operation through “firsthand observation and meaningful discussion with frontline personnel in the host jurisdiction” (Dandurand et al. 2008: 60-61). However, their use is not uncontroversial. Critics frame study tours as a perk for would-be reformers and as tourism dressed up as international education (Dandurand et al. 2008). Others suggested these tours are often poorly designed with little connection between sites visited in one country and the conditions faced when those on tours return home (Griffiths et al. 2005). When study tours seek to promote imitation and not adaptation, this view may have some merit.

On the other hand, participants in this study identified study tours as the most salient aspect of Latvian-Canadian cooperation, directly assisting in the development of the Probation service. Participants referred specifically to Probation office visits and meetings and learning about presentence reports, risk-needs assessments, mediation programs and post-peritentiary assistance. Perhaps most importantly, Probation service personnel spoke about the study tour as an integral time in building networks and teambuilding among the Latvians who travelled to Canada. These networks were identified as valuable

when attempting to implement various reforms, when the Latvians returned home.

While critics raise important issues about the design of tours and how they fit within other aspects of project delivery, they appear to miss one intangible benefit of study tours. When designed as part of a larger investment strategy to develop and support community leaders to be local reform champions, study tours can play an integral role in developing the relations, networks and personal ties required on the front line of any reform movement. Thus, while tours are indeed informational, they also appear to serve an integral relational function.

The use of training tools to assist the reform of criminal justice systems has been consistently relied upon since the law and development movement of the 1960s. Defined as manuals, handbooks and toolkits, they have been described as “appropriate, effective, and efficient” delivery mechanisms of technical assistance (Dandurand et al. 2008: 63). At issue is the degree to which they can be adapted to local circumstances. Through this study a number of training tools were identified, including program manuals and specific Canadian programs on community reintegration. One set of identified training tools was the development of explicit templates to assist in the writing of presentence reports, provided by Probation officers in Latvia to Judges based on interviews and assessments of the client, their family, work or education, and potential risk to the community.

Risk-needs assessments models were another example of information sharing through the project. These models from Ontario and British Columbia

assist a Probation officer to determine the level of supervision required by a client based on an assessment of an individual's criminogenic risk factors on the one hand, and the mitigating protective factors, which if properly supported, can assist rehabilitation.

Yet another reform tool provided was the case-management system. While strategies and practices vary from one setting to another, case management generally consists of the coordination of client needs and services through one person. In Latvia, probation officers were trained to begin working with the accused during the development of a presentence report and supervise those sentenced to non-custodial terms in the community. In addition, Probation officers were also trained to facilitate post-prison release by beginning to establish relationships with inmates six (6) months before their release. Case management training templates and models were provided on very practical details such as managing files, working with other agencies and motivational interviewing techniques. Participants identified these tools as developed through the project and used everyday by Probation officers. They noted with some pride the revisions and adaptations they had made to the Canadian templates.

The findings of this study also validate two commonly used approaches. Study tours, when properly considered, designed and delivered can play both an informational and team-building role. Training tools when adaptable, relevant, and practical can sustainably impact roles, function and overall approach. Yet the identification by participants of the project delivery and interactive training

variables suggest that the success of the project may be the result of broader means of local adaption, innovation and relational participation and interaction.

6.3 Legal Technical Assistance: Organizational and Individual Models

While development often focuses on products, outputs and outcomes, the processes by which these outputs arise are rarely considered. As this study has suggested, this may be a function of the under prioritization of research in development, and the failure to provide a clear theoretical basis to the provision of legal technical assistance. The need for more participatory reform within organizations is hardly new (Lewin, 1951; MacGregor, 1960; Rogers, 1962) and more recent conceptions (Rogers, 2005) suggest more nuance may be required in considering the importance of individuals in innovation and change.

To properly situate newer contributions based on more participatory processes, it may be necessary to acknowledge that other conceptions on the role of governance and criminal justice are emerging (MacDonald, 2002). A common theme of scholars in Canada considering these matters is the acknowledgement that institutional arrangements for the management of social tasks are not of equal value and that some legal forms and processes are better suited to addressing certain types of public problems than others.

The desire for more participation within the criminal justice system has led to the growing interest in new procedural models based on restorative principles such as alternative dispute resolution, mediation, and sentencing circles (Roach, 1997). As Burtch (1992) notes, while disagreements exist about the nature of law

and the role of legal scholars and practitioners in Canada (1992:197), an emergent trend is restoring a greater sense of democracy at the community level (1992:205). What is missing is a theoretical basis to support the use of these new models and where best they may be applied. Of specific interest to this study has been models that can be applied to countries of the FSU. One way to consider these models is to examine the theoretical gaps in Canadian development policies and consider the utility of integrated theoretical approaches drawn from sociology, criminology and social psychology.

6.3.1 Integrating Theory: Social Disorganization, Social Learning and Moral Development

Despite the apparent recognition of the link between human rights and democracy promotion delivered through the human rights, good governance and democratic development, Canada's development policies and programs are not guided by a strategic understanding of this relationship. The theoretical shortcomings within Canadian international development projects based on human rights and democracy promotion (Theede, 2005; Cameron, 2006;) require new models of interaction and project delivery.

While the full development and justification of models to guide legal technical assistance in countries of the FSU is far beyond the purview of this study, it is tempting to consider how the findings of this limited study can be connected with other scholarship in this area to provide useful avenues for further investigation. One strategy might be to consider how models based around existing theories of social disorganization, social learning, and moral

development might assist the development and delivery of legal technical assistance at the organizational and individual levels.

While integration may in fact be even more complex when considering criminological theories than when considering research perspectives, as I have argued previously the need for pragmatic integrative efforts to better combine complementary theories should not trump the need to address matters of internal consistency and suitability (Wheeldon, 2007). Instead, individual theories can retain their unique characteristics while being ordered sequentially so as events and interactions increase, so too does the cumulative predictive power of an integrative theory. Instead of the construction of general models in the hope of explaining everything, specific models ought to be favoured which focus on certain types integration (Wagner, 1992:203).

6.3.1.1 Social Disorganization

Social disorganization theory is based on the concept of “anomie” first coined by Emile Durkheim in his influential work, *The Division of Labour* (1893). According to Durkheim, human nature must be regulated by the collective order of society. Social order, stability, and integration are conducive to conformity, while disorder and poor integration are conducive to crime and deviance. A social system is described as socially organized and integrated if there is an internal consensus on its norms and values, a strong cohesion exists among its members, and social interaction proceeds in an orderly way.

A system is described as disorganized or anomic if there is a disruption in its social cohesion or integration and a breakdown in social control among its

elements³⁸ (Robinson, 2004), based on the changing nature of social institutions in certain communities and/or neighbourhoods (Shaw and MacKay, 1969). In the West, one often considers high mobility, high levels of immigration, and the rise of suburbs at the expense of neighbourhoods as markers of anomie. In the countries of the FSU, one can argue that the historic focus on more communal approaches to social interaction identified by Lauristin (1997:39) were manipulated through the Sovietization of the state. Cooperation was not a free choice but a requirement of socialist ideology, which occupied Latvians resisted.

Social disorganization theorists consider that a decrease in the influence of existing social rules of behaviour on members of society and a weakening of relationships is a result of communities that do not clearly articulate values and norms. This lack of a relationship between people and within communities results in low participation in community organizations and a general weakening of social bonds (Robinson, 2004). Work by Harvard professor Robert Sampson (2004) has suggested that "collective efficacy" and "social capital" are important additions to the criminological vocabulary. Collective efficacy refers to a community's ability to maintain order in public places; social capital refers to having many informal networks such as interdependence, relying upon one another, or other ties within a community. Sampson (2004) argues that a community must first have social capital in order to have collective efficacy.

38 It should be noted that there are some important limitations to social disorganization theory including lack of numerous empirical studies in areas other than street crime. It has been argued that it may not be able to explain individual behaviour and cannot be directly measured (Einstadler and Henry, 1995:193). With these caveats, social disorganization is best seen as in combination with other community and organizational level explanations of crime.

Social disorganization may be useful to understanding how projects in the FSU might be organized, given the history of occupation, different expectations of identity, group interaction and social control exist (Hebenton, 2001). The pressures of transition and limited history of community partnerships in justice were shaped to some degree by the oppressive and centralized Soviet regime. These challenges require specific mechanisms to foster more cooperation and the willingness to try new things as well as learn from mistakes in an environment supported by social interaction and engagement (Knepper, 2005).

6.3.1.2 Social Learning

Social learning is learning that occurs as a function of observing, retaining and replicating behaviour observed in others. It is often associated with the work of Albert Bandura and Ron Akers. Taken together, these social learning theories owe a great deal to early theorists. While a major influence was Edwin Sutherland's differential association and the work of the Chicago School of Social Psychology, another earlier theorist Gabriel Tarde suggested in the 19th century that: "cognitive versions of social learning suggest that the mechanism of learning is strongly influenced by images and role models that are imitated and played out" (Einstadter & Henry, 1995:178). Thus social learning emphasizes the importance of observing and modelling the behaviours, attitudes, and emotional reactions of others.

Ron Akers' social learning theory (1998) is a further elaboration of his earlier work with Burgess known as differential-association-reinforcement theory. This theory was itself based on Sutherland's theory of differential association but

included B.F. Skinner's theory of operant conditioning (Heidt, 2003). Akers' latest theory offers a group-level explanation for social learning in which he suggests one's reference group plays an integral role in the way in which one learns social norms (Einstadter & Henry, 1995:179). These social structures affect social psychological processes in individuals. Building on Burgess and Akers' earlier work on the refinement of Sutherland's differential association, Akers states that the role of positive and negative reinforcement within social structures plays a formative role in the development of social learning (Akers, 2004).

6.3.1.3 Moral Development

Moral Development is another relevant theory of learning. Conceived by Lawrence Kohlberg, it was motivated by Jean Piaget's work on stages of development based on the observation that younger children regard rules as absolute while older children appreciate relativity (Crain, 1985). Informed by philosophical understandings of Dewey and Rousseau, Kohlberg advanced a theory of Moral Stages of Development that he argued explains the development of moral reasoning as the basis for ethical behaviour. As Kohlberg suggests each stage of moral development represents a fundamental shift in the social-moral perspective of the individual (Gibbs, 1979; Kohlberg, 1981). Kohlberg followed the development of moral judgment beyond the ages originally studied by Piaget, and argued that the process of moral development continued throughout the lifespan. While critiques exist about how moral development was initially

constructed (Colby et al. 1980; Gilligan et al. 1982), the value of understanding the moral dimension of learning is not in doubt.

Kohlberg (1981) argues that social experiences promote development by stimulating our mental processes. Discussions and debates with others often requires that one question their views and as they are challenged, individuals are motivated to come up with new, more comprehensive positions. These changes may occur by being given opportunities to consider other viewpoints and through role-taking opportunities (Crain, 1985). Through interaction with others, people learn how viewpoints differ and how to coordinate them in cooperative activities. These interactions work best when they are open and democratic and when problems can be freely considered and differences reasonably discussed (Kohlberg, 1981).

6.3.2 Legal Technical Assistance: Organizational and Individual Considerations

Together, the above theories may offer a useful framework for considering how project delivery and interactive training can assist legal technical assistance. Based on the assumption that collaborative, cohesive and innovative approaches are useful to promote justice reforms at an organizational level, these theories provide a justification for what has been called a community-centric pilot project approach (Wheeldon, 2007). This approach relies upon local individual champions to assist communities to design their own community justice initiatives.

The notion individual factors are also relevant to organizational reform appears to be based on emergent models of knowledge transferability in the field of criminal justice. The role of individuals to assist reform is not new. For example, while Rogers (1962; 2005) generally focuses on organizations in other contexts, he notes the importance of a small number of 'early adopters' in creating broader social change. Given the institutional and contextual constraints inherent in any attempt to promote systematic reform (Jiao et al. 2005), some have noted that innovations are achieved by people first, and often require the development of individuals with the capacity to experiment. This view provides a justification for the clinical trial/pilot project approach or what Rogers (2005) has called 'trialability:' the capacity to test a new innovation in a localized setting.

6.3.2.1 Organizations and Project Delivery

A useful contribution by Paul Knepper (2005) focuses on two models of transferring criminological knowledge into the policy-making context. Knepper considers the evidence-based model, advocated by the Campbell Collaboration, and the reflexive model, envisioned by the Open Society Institute (OSI), and argues that the OSI reflexive model provides a useful means of engagement. Based on Karl Popper's emphasis on the social situation, this model provides a useful means of engagement that emphasizes community participation through social interaction and addresses the need for social tinkering and local innovation to promote reform. On this view, legal technical assistance must support locally based reform initiatives and identify champions who are willing to try new things

and learn from mistakes through participatory processes that include social engagement.

In Latvia, this approach promoted a “community-up” rather than “national-government-down” model for developing and extending justice reform (Bell et al. 2002). Within this framework, programs and services were designed to address community needs by supporting local people to decide which programs work best. One result of this model has been the clear identification of dedicated, committed, and enthusiastic community leaders in the youth justice community in Latvia (AUCC, 2002). This study suggests the development of local capacity through community programs provided a local example of alternative programming. This capacity, it was suggested, was demonstrated through the project provided in table 6-2 (AUCC, 2003).

Table 6-2 Pilot Projects and Local Communities in Latvia

Indicators of Community Capacity
1. Increased support from local governments evidenced by new budgets that provide administrative costs and salaries for pilot initiatives
2. Developed local committees on youth justice consisting of relevant youth justice officials, who while initially tasked with specific project co-ordination, have adopted broader mandates to oversee other youth justice initiatives locally.
3. Mobilised volunteer support from all segments of the community including churches, the student community, and various professional groups from police to social workers.
4. Received financial support from private business including corporate sponsorship for project activities, donations of materials, labour and services.

As Carothers notes, the process of national trial and error through pilot projects can be as an “essential contributor to the realization of a legitimate democratic and legal order” (2003:43) and, in Latvia, once accepted, tested, and

evaluated, the pilot projects were expanded. High-level cooperation was modelled regionally through project supported coordination councils. This demonstrated, for the first time in Latvia, according to one participant, the 'cooperation of agencies.' In an advisory report to AUCC, Bell et al. (2002) suggested that of primary importance in creating the conditions for reform was the cooperation among different segments of the justice system. Through national working groups composed of a variety of officials from communities, regions, and the Ministry of Justice, local experience was highlighted and the programs and cooperation that resulted became the basis for the National Probation Service.

6.3.2.2 Individuals and Interactive Training

At an individual level, these theories may provide justification for what I call an interactive training model. This model holds that the need to build relationships through participatory processes is integral to the development of a core team of reformers drawn from a variety of justice sectors within the host country. There is evidence that, through common experiences, study tours, social gatherings, and inclusive project coordination, this core can go on to become leaders of reform. Of specific interest is how this approach might impact legal technical assistance and training.

While training activities can transfer knowledge, build skills and provide an entry point to facilitate greater inter-institutional cooperation and collaboration in criminal justice (Protic, 2005), there is a view that training is limited and often unsustainable when based on expert-driven seminars delivered by a member of

the 'development jet set' (Griffiths et al. 2004). Criticized as often poorly researched and under-prepared (Channell, 2005), technical assistance often fails to properly engage with civil society and focuses on senior officials instead of front line officers. In addition, some suggest more focus should be placed on mentoring, job shadowing, and performance evaluation along with other alternative approaches to training (Dandurand et al. 2008: 64-65).

If indeed learning occurs through social interaction, as social learning theories suggest, and requires deliberation and debate, as suggested by moral development, the processes used through training require more investigation. As Schuck points out, "...change is produced not by simply changing management systems and structures, but involves meaningful and value laden interaction of complex individual human beings" (2000: 181). Social learning theory may be useful because it so clearly provides a basis for the view that learning is principally a social endeavour. Applied to cross-cultural training approaches (Black & Mendenhall, 1990), through modelling, interaction and positive reinforcement training and education take on a new dimension. As Beeson and Davis argue, "change process often overestimates the role of management and the central place of systems and structures without engaging the numerous actors whose behaviour is not only adaptive but also creative and contentious" (2000:180).

To do this, one may need to explicitly connect training with multiple social interactions and more participatory models of engagement, adequate question and debrief sessions, and the encouragement of teambuilding. Canadians

Hawes and Kealey (1979) have demonstrated that knowledge and expertise is not enough to ensure project success and that, without interpersonal and intercultural skill sets, technical assistance may be not effective at all (Vulpe et al. 2001:54). Another important justification for multiple interactions is the common misunderstandings of those working on reform initiatives about structural or cultural impediments to reform. These may include underestimating the role of powerful interests in developing countries, mischaracterizing the interrelation and associated constraints of legal challenges on the one hand, and the social resistance to change on the other (Chodosh, 2005: 79-82).

In the Latvian project, these theories provide a justification for locally designed training courses that included interactive and relevant group-based exercises on practical issues of identified interest. Through group work, role taking and role-playing, problem-solving strategies were considered, accepted and rejected. In addition, participants appeared to value the use of exercises drawn from the restorative justice movement including the use of circles in the openings and debriefs of every training day and ceremonial closings at the end of training modules. Through specifically planned social events based on Latvian culture, including music, libation and the sauna, trainers were given a first-hand and often uncensored experience of both the challenges and potential within the group.

Finally, the contributions of moral development provide a key insight into what areas training should target and how it might be practically delivered. Moral development, and the reformulation provided by Gibbs (1979) provide a window

into understanding how people develop internal moral and ethical standards. Palmer (2003) has identified various attempts to promote moral development through specific programming. While tested in prison environments (Arbuthnot & Gordon, 1988; Bonta & Andrews, 2003), moral development exercises can include role-playing and dialogue, and practical exercises requiring skills such as reflexive thinking (Ross et al. 1988). In the Latvian project, training groups considered how to develop pre-sentence reports and create plans for clients under supervision. By putting themselves in the place of their future clients, a striking number of participants recalled with some specificity experiential exercises drawn from the restorative justice movement and to consider more deeply the challenges associated with the concept of discretion. These exercises allowed participants to connect general principles with their own experiences, and provided specific context to more theoretical understandings.

6.3.2.3 Continuing Challenges

In this study, project delivery through pilot projects, coordination councils and working groups was found to be salient because they created new models of justice programming and pushed the reform agenda. Yet one senior Probation official also identified a challenge in this approach. While pilot project directors have played an integral role in the development of Probation, their experience and their resultant 'feelings of ownership' has created management challenges. Although more participatory and power sharing arrangements led to its establishment, Probation now exists as an institution of criminal justice, fully entrenched in the Latvian bureaucracy, answerable to a Minister, Cabinet, Prime

Minister and a President. There may not be the opportunity for the same sort of team task approach to the management of Probation as was possible during its establishment. This cuts both ways. One theme among line officers in the regions outside Riga was that Probation had become too formal, too institutionalized and too hierarchical, with a focus on reporting at the expense of clients. While shared power approaches may produce more sustainable organizational change at the outset, continued power sharing may be more complex.

While interactive training was likewise identified as salient, especially related to the personalities of the trainers, many Latvians identified the Latvian 'mentality' as an impediment to continued reform. Explained as generational or connected to Latvian and Russian societal tensions, interactive training requires a willing group that is open and flexible. While many identified the benefit of experiential learning, alternative programs, and rehabilitative approaches, some participants saw the Canadian trainers as naïve and suggested more formal, hierarchical and "get tough" approaches were required to get through to 'stupid Latvians.' While many within the training group saw relying too heavily on incarceration as problematic, the challenge represented by a history of punitive approaches to social control should not be discounted. Despite the successes in Latvia, many challenges remain.

6.4 Final Conclusions

This study has attempted to tell three stories. The first is related to Latvia's struggle to overcome the legacies of occupation and political, cultural and social domination. Of specific interest were the means employed by Latvia to bring its justice system in line with European standards and international norms. This has included a number of collaborative legal technical assistance efforts, including initiatives since 1999 funded in partnership with CIDA.

The second story considered Canada's complex relationship with the provision of international assistance. Despite pressures from the international community, national strategic and economic interests, and bureaucratic demands, this study has argued that CIDA fundamentally needs to reconsider the role of research in developing a strategic vision for the delivery of legal technical assistance. While funding to countries of the FSU will be reduced over the next decade, the lessons learned within this complex region should not be underestimated. In many ways, the abrupt transition from hierarchical to more participatory forms of governance in these countries may assist researchers and policy makers to understand other, perhaps more subtle and gradual transitions that are being attempted in many other regions of the world.

The third and final story revolved around the process by which Latvians and Canadians interacted. This study has presented justice reform as an indicator of overall governance and a precursor to other development trends. It has also argued that it might usefully be seen as the principal site of value consideration, debate, and deliberation, worthy of more research attention.

Creating a pro-reform environment grounded in respect for democratic values and human rights may be the most difficult task faced by those who engage in legal technical assistance. As Carothers (2003) argues, any kind of institutional reform is by its nature a political exercise requiring new sorts of negotiations between communities and governments to promote more participatory interaction. Fareed Zakaria (2003) suggests that pursuing a concept of democratic development that omits consideration of values is in fact an impediment to reform. Engaging institutions is simply not enough.

This study has found evidence for the emergent notion that to be relevant reform initiatives require an understanding about how common values and social networks cause people to use, bend, reinterpret rules or side step them all together (Hammergren, 1998). While explicitly connecting values to any aspect of foreign policy is hardly uncontroversial, in an examination of Western assistance programs in seven Russian regions, Lisa Sundstrom, (2006) argues that it is the norms that Western donors promote which can have the most dramatic influence on the success of democracy promotion abroad. One norm worth pursuing may be that, at the core of democracy, is the existence and use of participatory mechanisms that can balance conflicting value-claims. This requires that concepts such as stakeholder participation, increased ownership and sustainability do not simply exist as boxes to tick on a results-based management report to CIDA. Instead, these concepts must shape both the design and the delivery of legal technical assistance projects in real and meaningful ways.

As one participant put it: 'this was the right project, with the right people, at the right time.' As such, the success of this project should not be seen as evidence that either the external, organizational or even individual levels (Kealey et al. 2005) should be privileged. Even a qualified, limited success in legal technical assistance projects is difficult to reproduce. This combination of right time, right place and right people may be rare. Nevertheless, as the funding of these kinds of projects is likely to continue, new models are needed to guide project design and delivery. The findings of this study, albeit limited, suggest empirical evidence exists for emergent models of justice reform (Chodosh, 2005). At the organizational level, this may require reform through local innovation and the provision of practical and adaptable tools. At the individual level, interactive, participatory, and experiential training methods should be used to promote group-based problem solving and consider more deeply the place of law in society.

While Canada has had some useful experience in the FSU since 1991, more research is needed to catalogue these lessons. Historically focused on formal tools and top-down, hierarchical approaches, sustainable justice reform in transition countries may require more process-driven initiatives and investment in people within supportive organizational structures. If these limited findings can be validated and further explored, policymakers and practitioners can better deliver legal technical assistance by understanding how the need for organizational support can be best complemented by the innovation and energy of individuals. It may be that legal technical assistance and training can be a means not only to

transfer knowledge, but to model behaviour by serving as a unique site for debate, deliberation, and democratic development.

APPENDICES

Appendix A

Informed Consent Form

Mapping International Knowledge Transfer: Latvian-Canadian Cooperation in Criminal Justice Reform

RESEARCH PROCEDURES

This research is being conducted as part of the doctoral program at Simon Fraser University and has been approved by SFU's Office of Research Ethics. If you agree to participate, you will be asked to complete a concept map and participate in a follow up interview on your experience of the Canadian training provided through the Latvian Legal Reform Program.

RISKS

There are no foreseeable risks for participating in this research and it has been classified as "minimal risk"

BENEFITS

There are no material benefits to your participation. You will be assisting research into international justice reform policy and practice.

CONFIDENTIALITY

The data in this study will be confidential. No names will kept on any research data. Other information may be kept with a code placed on the collected data that will be known only to the researcher, Johannes Wheeldon. As per SFU requirements, this form will be retained a period of 1 year.

PARTICIPATION

Your participation is voluntary, and you may withdraw from the study at any time and for any reason. If you decide not to participate or if you withdraw from the study, there is no penalty or loss of benefit. There are no costs to you or any other party

CONTACT

This research is being conducted by Johannes Wheeldon of Simon Fraser Univeristy. He may be reached at jwheeldo@sfu.ca for questions or to report a research-related problem. You may contact the SFU Office of Research Ethics at dore@sfu.ca and direct any concerns to Dr. Hal Weinberg, Director, Office of Research Ethics.

CONSENT

I have read this form and agree to participate in this study

Name

Date of Signature

Appendix B

Piekrišanas forma

Starptautiskās pieredzes apmaiņa: Latvijas un Kanādas kopēja sadarbība kriminālās tieslietu sistēmas reformā.

Pētnieciskais process:

Pētījums tiek veikts kā daļa no Simona Frazera Universitātes doktorantūras programmas un ir apstiprināts ar SFU Pētnieciskās ētikas departamentu. Ja Jūs piekrītat iesaistīties projektā, ir nepieciešams 'koncept karte' un piedalīties intervijā par pieredzi, ko Jūs esat ieguvis, pateicoties kanādiešu apmācībām, kas tika organizētas ar Latvijas tiesu sistēmas reformas programmu palīdzību.

Risks:

Pētījuma ietvaros nav paredzami riski Jūsu piedalīšanās sakarā, un pēc projektu klasifikatora tas atbilsts „minimālai riska” kategorijai.

leguvumi:

Projekts neparedz nekādas materiālas atlīdzības. Jūsu piedalīšanās palīdzēs Jums uzlabot starptautiskās tiesu sistēmas reformas politiku un praksi.

Konfidencialitāte:

Visa informācija pētījuma ietvaros ir konfidenciāla, personīgā informācija netiks atklāta. Cita informācija tiks saglabāta informācijas glabātājā, kā kods būs zināms tikai un vienīgi pētniekam – Johannesam Vīldonam (Johannes Wheeldon). Pēc SFU prasībām šī forma tiks saglabāta arhīvā uz 1 (vienu) gadu.

Piedalīšanās:

Jūsu piedalīšanās ir brīvprātīga, Jums ir tiesības pamest pētījumu jebkurā laikā un jebkāda iemesla dēļ. Ja Jūs nolemjat nepiedalīties vai pamest pētījumu, šajā gadījumā nav paredzams sods vai kāda labuma zaudēšana. Šis projekts neparedz Jūsu vai kādu citu personu izdevumus.

Kontakti:

Šī pētījuma vadītājs ir Johannes Wheeldon no Simona Frasers Universitātes. Ar viņu ir iespējams kontaktēties pa e-pastu jwheeldon@sfu.ca jebkādu jautājumu vai komentāru sakarā ar šo pētījumu. Jums ir iespēja kontaktēties arī ar SFU Pētnieciskās ētikas departamentu pa e-pastu dore@sfu.ca un adresēt jautājumus SFU Pētnieciskās ētikas departamenta direktoram Halam Veinbergam (Dr. Hal Weinberg).

Piekrišana:

Es izlasīju šo formu un piekrītu piedalīties šajā pētījumā.

Vārds, Uzvārds

Datums

Appendix C

Mapping International Knowledge Transfer: Latvian-Canadian Cooperation in Criminal Justice Reform

Name:

Position:

Region:

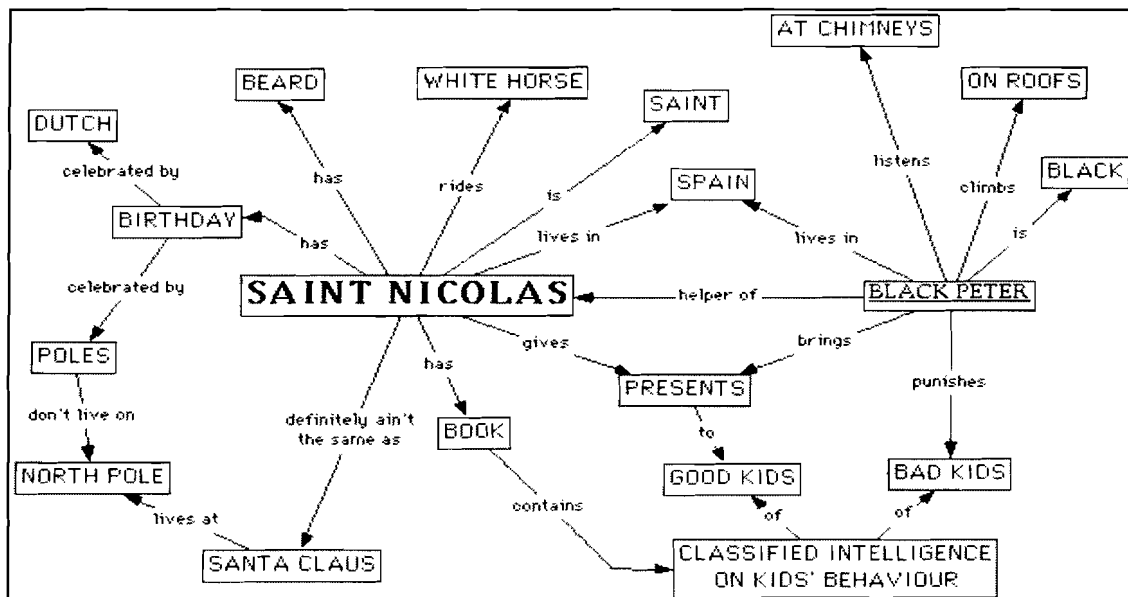
Gender:

Job held before Probation:

Please complete a concept map based on your experience of Latvian Canadian cooperation on justice reform through the Latvian Legal Reform Project (2002). Concept maps demonstrate how people visualize relationships between various concepts.

1. Concept maps do not require complete comprehensiveness.
2. Your map should reflect key experiences and perceptions related to your role;
3. You are encouraged to include both challenges and successes (where applicable) in the creation of your concept maps;
4. Please limit your concept map to one page (A4)

Example of a concept map:



Appendix D

Starptautiskās pieredzes apmaiņa:
Latvijas un Kanādas kopēja sadarbība kriminālās tieslietu sistēmas reformā.

Vārds:

Pašreizējā darba vieta:

Rajons:

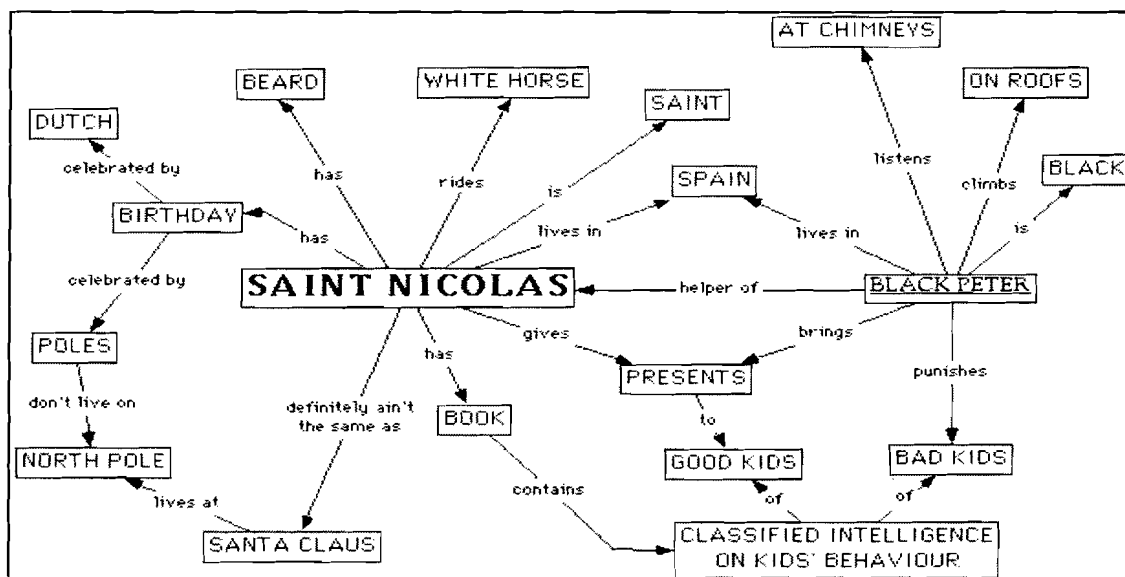
Dzimums:

Pēdējā darba vieta pirms probācijas:

Lūdzu aizpildiet konceptu karti saistībā ar Jūsu pieredzi attiecībā uz kanādiešu vadītajām apmācībām Latvijā. Konceptu kartes demonstrē, kā cilvēki vizualizē sakarības starp dažādiem konceptiem.

1. Konceptu kartēm nav jābūt pilnībā aizpildītām.
2. Kartei jāatspoguļo galvenie pieredzes un izpratnes momenti attiecībā uz minētajām apmācībām.
3. Sastādot Jūsu konceptu karti, lūdzu, iekļaujiet gan grūtības, gan panākumus (kur nepieciešams).
4. Lūdzu, saīsiniet konceptu karti līdz vienai lapai (A4).

Attēls konceptu karte:



Appendix E

Individual Process and Product Variables Counts

Individual Process Variables Counts

ID	SV	JS	NET	PER	RP	RJ	PP	CC	WG
1	3	1	1	0	3	0	1	1	1
2	0	0	1	2	1	0	0	1	0
3	3	0	2	2	3	1	1	1	1
4	2	1	1	2	2	2	2	1	1
5	2	0	2	2	2	1	1	0	1
6	1	0	1	1	1	0	0	3	2
7	0	0	1	0	3	0	0	0	0
8	2	1	3	2	2	2	2	1	1
9	1	0	1	2	1	0	0	0	0
10	2	0	1	0	0	1	1	0	1
11	2	1	1	1	3	2	2	1	0
12	1	1	2	2	1	0	1	2	1
13	0	0	2	1	3	2	2	0	0
14	2	0	1	1	2	1	2	0	1
TOT	21	5	20	18	27	12	15	11	10

Individual Product Variables Counts

ID	PSR	RNA	CMS	PIA	CRP	PRG	PRO	LEG	POL
1	3	3	1	0	0	2	1	1	1
2	0	0	1	0	0	0	0	0	0
3	2	2	1	0	1	2	0	0	0
4	1	1	1	0	0	0	2	0	1
5	1	0	2	0	0	1	1	0	0
6	1	1	1	2	0	1	0	0	0
7	0	0	0	0	0	0	1	0	0
8	1	1	1	1	1	2	3	1	1
9	0	1	0	1	0	0	3	1	2
10	0	1	1	1	0	1	0	0	0
11	1	1	1	0	0	0	1	1	0
12	0	0	1	1	0	2	2	0	0
13	0	0	1	1	0	0	0	0	0
14	0	0	0	0	0	0	3	0	0
TOT	10	11	12	7	2	11	17	4	5

Legend

SV	Site Visits	PP	Pilot Projects	PIA	Prison Intake Assessment
JS	Job Shadow	CC	Coordination Councils	CRP	Comm. Reintegration Plan
NET	Networking	WG	Working Groups	PRG	Program Manuals
PER	Personalities	PSR	Pre Sentence Report	PRO	Probation Draft
RP	Role Plays	RNA	Risk Needs Assessment	LEG	Legislative Reform
RJ	Restor. Justice	CMS	Case Management	POL	Police Reform

Appendix F

Individual Process and Product Variables and Salience Scores

Demographic Groups and Individual Process Variables Salience Scores

ID	GN	RE	RO	SV	JS	NET	PER	RP	RJ	PP	CC	WG
1	1	0	0	9	3	3	9	0	0	4	3	9
2	1	1	0	0	0	4	3	7	0	0	4	0
3	0	0	0	9	0	6	9	7	3	3	4	9
4	0	0	0	7	2	3	5	5	5	5	4	7
5	0	1	1	6	0	6	6	6	3	2	0	6
6	0	1	0	3	0	4	4	3	0	0	9	3
7	0	1	0	0	0	4	9	0	0	0	0	0
8	0	1	1	7	3	9	5	5	7	7	4	7
9	0	1	0	3	0	4	4	7	0	0	0	3
10	0	0	0	7	0	3	0	0	4	4	0	7
11	1	0	0	7	4	4	9	3	5	7	4	7
12	0	0	0	3	3	7	3	5	0	4	7	3
13	0	0	0	0	0	6	1	3	5	7	0	0
14	0	0	0	7	0	3	5	4	4	5	0	7

Demographic Groups and Individual Product Variables and Salience Scores

ID	GN	RE	RO	PSR	RNA	CMS	PIA	CRP	PRG	PRO	LEG	POL
1	1	0	0	9	9	3	0	0	9	0	7	9
2	1	1	0	0	0	4	0	0	0	0	0	0
3	0	0	0	7	7	3	0	3	7	0	0	7
4	0	0	0	4	4	3	0	0	0	4	4	4
5	0	1	1	3	0	7	0	0	4	4	0	3
6	0	1	0	4	4	4	7	0	4	0	0	4
7	0	1	0	0	0	0	0	0	0	4	0	0
8	0	1	1	4	4	4	4	4	7	7	7	4
9	0	1	0	0	4	0	4	0	0	7	7	0
10	0	0	0	0	4	4	4	0	4	0	0	0
11	1	0	0	3	3	4	0	0	0	3	3	3
12	0	0	0	0	0	4	4	0	7	3	4	0
13	0	0	0	0	0	4	4	0	0	0	0	0
14	0	0	0	0	0	0	0	0	0	7	4	0

Legend

ID	Identification number
GN	Gender (0-F, 1-M)
RE	Region (0- XRiga, 1-Riga)
RO	Role (0-PO, 1-HQ)

SV	Site Visits	PP	Pilot Projects	PIA	Prison Intake Assessment
JS	Job Shadow	CC	Coordination Councils	CRP	Comm. Reintegration Plan
NET	Networking	WG	Working Groups	PRG	Program Manuals
PER	Personalities	PSR	Pre Sentence Report	PRO	Probation Draft
RP	Role Plays	RNA	Risk Needs Assessment	LEG	Legislative Reform
RJ	Restor. Justice	CMS	Case Management	POL	Police Reform

Appendix G

Combined Process and Product Variables and Salience Scores

Combined Variable Data

ID	GE	RE	RO	ST	IT	DEL	A/S	PRO	SYS
1	1	0	0	15	9	11	21	7	10
2	1	1	0	4	10	4	4	0	0
3	0	0	0	15	19	11	17	10	0
4	0	0	0	12	15	13	11	0	10
5	0	1	1	12	15	6	10	4	4
6	0	1	0	7	7	16	12	11	0
7	0	1	0	4	9	0	0	0	4
8	0	1	1	19	17	14	12	15	17
9	0	1	0	7	11	0	4	4	20
10	0	0	0	10	4	7	8	8	0
11	1	0	0	15	17	11	10	0	7
12	0	0	0	13	7	14	4	11	5
13	0	0	0	6	17	7	4	4	0
14	0	0	0	10	13	8	0	0	9

Legend

ID	Identification number
GE	Gender (0-F, 1-M)
RE	Region (0- XRiga, 1-Riga)
RO	Role (0-PO, 1-HQ)

ST	Study Tour (SV+JS+NET)
IT	Interactive Training (RP+ RJ+ PER)
DEL	Project Delivery (PP+CC+WG)
A/S	Assessment and Supervision (PRS+RNA+ CMS)
PRO	Canadian Programs (PIA + CRP+ PRG)
SYS	System Reform (PRO + LEG + POL)

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