

**MAKING PRISON WORK:  
PRISON LABOUR AND RESISTANCE IN CANADA**

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## ABSTRACT

This dissertation examines prisoner-worker organizing in Canada by considering three case studies in detail: first, the successful unionization of an experimental privately managed abattoir at the Guelph Correctional Centre, a provincial jail in Ontario, in 1977; second, efforts by federal prisoners to unionize, with a particular focus on the efforts by the Prisoners' Union Committee in 1975 and the Canadian Prisoners' Labour Confederation, between 2010-2015, and; third, the nation-wide federal prison strike in response to prisoner wage cuts in 2013. Through these cases, this study examines the similarities and differences between prisoner-workers and their non-incarcerated counterparts, and considers the methods and motivations of prisoner organizers, as well as the substantial legal and organizational barriers that Canadian prisoners face in their organizing efforts.

Working prisoners are one of many groups who labour on the margins of society and the economy, and who have been largely overlooked or dismissed by both scholars of work and labour and the labour movement. This study seeks to expand conventional definitions of who is a worker—and what constitutes the working class—by demonstrating ways that prisoners have asserted their rights as workers and the legitimacy of their organizations and struggles. Through these struggles, which have been conceptualized not only as economic, but also as political struggles, prisoners have contested their state of privation and laid claim to new sets of rights. At their most successful, the organizing efforts of working prisoners have resulted in not only improvements to their working lives, but also expanded rights and freedoms in relation to their incarceration.

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Finally, thank you to my partner Sarah Ovens. Your encouragement and love means the world to me.

## **DEDICATION**

This dissertation is dedicated to the memory of John McKendy, my teacher, mentor, and friend.

Without his commitment to a just world—which would necessarily be one without prisons—this dissertation would have never been written.

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## LIST OF ACRONYMS

AIM	American Indian Movement
CCA	Canadian Correctional Association
CFAW	Canadian Food and Allied Workers Union
CLC	Canadian Labour Congress
CO	Correctional Officer
CPLC	Canadian Prisoners' Labour Confederation
CSC	Correctional Service of Canada
EPIC	End the Prison Industrial Complex
FLQ	Front de libération du Québec
GCC	Guelph Correctional Centre
IC	Inmate Committee
IWOC	Incarcerated Workers Organizing Committee
IWW	Industrial Workers of the World
KP	Kingston Penitentiary
MCS	(Ontario) Ministry of Correctional Services
MP	Member of Parliament
MPP	Member of Provincial Parliament
NDP	New Democratic Party
OAI	Offender Accountability Initiative
OFL	Ontario Federation of Labour
OLRB	Ontario Labour Relations Board
OMIP	Outside Managed Industrial Program
OPLU	Ohio Prisoners' Labor Union
P4W	Prison for Women
PJD	Prisoner Justice Day
PROP	Preservation of the Rights of Prisoners
PUC	Prisoners' Union Committee
PSAC	Public Service Alliance of Canada
RCMP	Royal Canadian Mounted Police
SUTPLA	Sindicato Único de Trabajadores Privados de la Libertad Ambulatoria
TAP	Temporary Absence Program
UCCO	Union of Canadian Correctional Officers
UFCW	United Food and Commercial Workers

## INTRODUCTION

In 1899, 33 workers in a binder twine factory in Kingston, Ontario struck in protest of their working and living conditions. Two days later, workers in a local stone-shed struck in sympathy and in objection to their own conditions, followed soon after by local masonry workers, stone breakers, and blacksmiths. In the face of violent repression, the strike ultimately failed, but it nonetheless represents a significant example of an outpouring of solidarity between workers. It is that much more impressive due to the fact that these workers were also all prisoners, incarcerated in the Kingston Penitentiary at the time of their strike.<sup>1</sup> Solidarity seems at odds with the stereotypical attributes of ‘criminals.’ After all, is it not the case that there is no honour among thieves? History shows that, in fact, like their non-incarcerated counterparts, from time to time, prisoners engage in collective actions in support of their common interests. The thesis of this study follows from the basic premise laid out by the pioneering convict criminologist John Irwin:

Prisoners do not simply comply to the regimens imposed on them. They actively conspire to survive, to reduce their state of deprivation, to ease their moral condemnation, and to pursue their own self-interests. To the extent that their situation allows, they fully or partly cooperate with other prisoners and form their own social organizations with their own values and rules to achieve their goals.<sup>2</sup>

As such, when it comes to the labour regimes imposed on them, we should expect that prisoners will sometimes mangle, sabotage, and otherwise individually resist the work imposed on them. Other times prisoners will form unions, go on strike, or otherwise collectively assert their rights and interests as workers.

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<sup>1</sup> Roger Neufeld, “Cabals, Quarrels, Strikes, and Impudence: Kingston Penitentiary, 1890-1914.” *Histoire Sociale / Social History* 31:61 (1998): 104-105.

<sup>2</sup> John Irwin. *The Warehouse Prison: Disposal of the New Dangerous Class* (Los Angeles: Roxbury Publishing Company, 2005): 9.

Prison labour is a hidden feature of Canadian society. This is not accidental, as the main function of the prison is to separate and isolate people from society who have been deemed unfit for ‘normal’ participation.<sup>3</sup> Despite this, prisons are not *actually* separate from society, but rather are fully products of it. As such, prisons in liberal capitalist societies are intimately connected to work and labour.<sup>4</sup> Like other public sector institutions, prisons are full of workers—both staff and ‘offenders.’<sup>5</sup>

Prisoners in Canada face a host of issues related to work—ranging from dangerous work and mundane jobs, to unemployment and low pay. Wage freezes, pay cuts, and the rising cost of living has recently contributed to a renewed wave of agitation and protest amongst Canadian prisoners. However, prisoners in Canada also have a long history of resistance at work. This project aims to make theoretical and empirical contributions to the study of prison labour in Canada by examining various ways that prisoner-workers organize around and resist prison work. This resistance takes various forms, ranging from attempts to form prisoners’ labour unions to more-or-less ‘spontaneous’ prison work strikes.

To accomplish this, this dissertation will examine three cases in their historical and political contexts: the successful unionization of provincial prisoners working at the experimental abattoir program at the Guelph Correctional Centre in the mid-1970s; the unsuccessful attempts by Canadian prisoners to unionize with the Prisoners’ Union Committee in 1975 and the Canadian

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<sup>3</sup> I generally use the generic and broad term ‘prison’ throughout, which may include various specific types of correctional institutions such as jails, reformatories, and penitentiaries. When referring to specific forms or institutions, I use the specific terminology.

<sup>4</sup> I use the broad concept of “work and labour” here to encompass both “productive” and “unproductive”—and paid and unpaid—labour.

<sup>5</sup> I favour the term ‘prisoner’ throughout this study as it is both broad, covering multiple types of incarceration (pre-trial, post-conviction, etc), as well as to the point—emphasizing an individual’s loss of freedom. In general I will avoid both the overly clinical term ‘inmate,’ and the Correctional Services of Canada’s preferred euphemism of ‘offender,’ which has the unfortunate discursive effect of reducing imprisoned human beings to mere embodiments of their crimes. One could posit a more politically correct formulation as “people who have committed criminal offences,” however this phrase seems particularly unwieldy.

Prisoners' Labour Confederation (CPLC) between 2010-2015; and the 2013 Canadian federal prisoners' strike in response to prisoner wage cuts.

I seek to answer a number of broad questions related to prison labour and resistance in Canada: First, why do prisoners, given the myriad of issues they face (ranging from inadequate access to healthcare to violence), choose to engage in labour struggles? Relatedly, what attracts prisoners to labour unions? In the absence of formal or legally recognized unions, how do prisoners organize strikes and other job actions and what other modes of resistance do prisoner workers employ? Second, what kinds of organizing methods do prisoners employ and how do prisoners transmit their organizing experiences? Finally, given the legal barriers and organizational challenges that prisoners face, is there a path forward for prisoner-worker organizing?

In the cases that follow, I demonstrate that work is a significant part of prisoners' lives. Prisoners are compelled to work by financial need and institutional pressures. Given this fact, prisoners organize in response to similar concerns as other workers, demanding higher wages and better working conditions. However, prison labour is also understood more broadly to be a source of power, something that can be withheld to force concessions from prison administrators. Unions have been attractive for prisoners at certain times for similar reasons. They have been understood as organizations capable of countervailing the power of employers and prison administrators, as well as potentially powerful advocates for prisoners' rights in all aspects of their lives. Although unionization attempts by Canadian prisoners have been rare, work strikes and protests, such as the one profiled in Chapter 4, have been much more common in Canadian prisons.

Prisoners organize under difficult conditions. While more research on prisoner organizing is necessary to deepen and nuance the discussion in this dissertation, the case studies in the following chapters point to some common elements of prisoner organizing. When possible,

prisoners have drawn on support from outside organizations. Chapter 2 discusses the role of the Canada Food and Allied Workers Union, and Chapter 3 partially examines the history of the Prisoners' Union Committee. This outside support has, at times, been critical to establishing legitimacy for prisoners' struggles and to leverage additional resources. However, most of the time, prisoners have had to self-organize. To do this, prisoner-organizers have found ways to develop cultures and practices of solidarity. They likewise adapt existing institutional structures (like Inmate Committees) and invent new structures (like unions) and processes (like strike votes) to build unity around common demands to accomplish their goals. While the transmission of organizing skills inside prisons is largely informal, history shows how earlier waves of organizing have inspired and informed new ones.

Prisoner-workers have likewise attempted to win demands through both direct action campaigns and legal strategies, utilizing, for example, inmate grievances, courts, and labour boards. As the cases that follow demonstrate, there are substantial barriers to prisoner unionization in Canada. Likewise, for both structural and organizational reasons, prison strikes are difficult and risky for those that participate in them. They are also only sometimes successful. Given this, the path forward for prisoner-workers is difficult and unclear. For meaningful gains to be won, working prisoners will either have to successfully challenge their exclusion from labour protections, develop much more robust standing organizations, or both.

As stated, prisons are not isolated worlds unto themselves but rather institutions firmly embedded in society. This study takes up a critical institutional institutionalist approach to the study of prison. Critical institutionalism places institutions in historical context and seeks to understand institutions in terms of their concrete practices, not just their stated purposes, goals, or

values.<sup>6</sup> As will be shown, resistance to correctional policy is a key factor in shaping that very policy. Prisons—along with the criminal justice system more broadly—also have to be understood in terms of the economic, social, and political struggles ongoing in the society in which they are embedded. As such, conditions within prisons, like other institutions, are historical products of their place and time, and mutable. Although not the central focus, this dissertation also demonstrates how prison labour and prisoner-worker resistance has been a significant factor in the development of the Canadian prison system, and the character of the contemporary prison regime is partially the result of a long history of struggle over how and why prisoners work.

The remainder of this chapter will provide some important context for the discussion that follows. First, I consider how prisoners' struggles can be conceived of within a broader conceptualization of citizenship. Next, I analyze prison labour in terms of debates around “free” and “unfree” labour in capitalism, before providing an overview of historical and contemporary forms of prison labour, and justifications for prison labour in Canada. Finally, I will briefly sketch out the features and findings of the chapters that follow before discussing the methods and sources for this study.

### **Prisoners' Struggles, Rights, and Citizenship**

Citizenship is a complex and widely debated topic but, at its most basic, concerns membership and participation in society. While this membership can take a formal, legal status—citizenship in a nation-state—the ways that duties, rights, and entitlements are conceived of and claimed by individuals and groups in a particular polity is a much more complex proposition than

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<sup>6</sup> Dennis Pilon, “Critical Institutionalism: Recovering the Lost Social Core of Institutionalism.” Paper prepared for the Association for Institutional Thought at the 57th Annual Western Social Science Conference, Portland, Oregon, April 8-11, 2015. Also see Stephen Maher and Scott M. Aquanno, “Conceptualizing Neoliberalism: Foundations for an Institutional Marxist Theory of Capitalism.” *New Political Science* 40:1 (2018): 33-50.

determining who can vote or get a passport. The political scientist Richard Bellamy has described citizenship as the “right to have rights.”<sup>7</sup> Throughout the history of liberal democracies, this fundamental “right to have rights” has been continuously (although also unevenly) expanded. The history of the franchise in ‘democratic’ countries—once the exclusive privilege of male landowners—is one clear illustration of this process.<sup>8</sup> Prisoners are people in society who, by definition, have constraints and limitations placed upon them as rights holders, even if they are full legal citizens. As such, prisoners’ struggles offer important insights into the contested nature of rights and citizenship.<sup>9</sup> Of course, prisoners are not alone in this. Numerous scholars have examined the ways that, for example, low-wage workers and immigrants challenge their own marginal status by making citizenship and rights claims.<sup>10</sup>

Claims of rights are political. They involve moral persuasion, as is clearly seen in the claims of shared humanity made by marginalized and subaltern populations.<sup>11</sup> But citizenship, and determinations of who is “in” (and therefore who is “out”), is also about power. As such, excluded populations leverage power in different ways to assert their rights or their “right to have rights.” In some cases, like slave revolts or anti-colonial insurgencies, this is done by naked force and violence. However, it is also achieved through more ordinary political struggle and protest. Often

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<sup>7</sup> Richard Bellamy, *Citizenship: A Very Short Introduction* (Oxford and New York: Oxford University Press, 2008), 15.

<sup>8</sup> Political Scientist Dennis Pilon has described this as the “struggle over actually existing democracy.” Dennis Pilon, “The Struggle Over Actually Existing Democracy,” in Leo Panitch and Greg Albo (eds.), *The Socialist Register 2018: Rethinking Democracy* (London: Merlin Press, 2017):1-27.

<sup>9</sup> For discussion of incarcerated workers and citizenship struggles in the United States, see Erin Hatton, “When Work Is Punishment: Penal Subjectivities in Punitive Labor Regimes.” *Punishment and Society* 20:2 (2018), 174-191.

<sup>10</sup> Paul Johnston, “The Resurgence of Labor as Citizenship Movement in the New Labor Relations Environment.” *Critical Sociology* 26:1/2 (2000), 139-160; Hae Yeon Choo, *Decentering Citizenship: Gender, Labor, and Migrant Rights in South Korea* (Stanford: Stanford University Press, 2016).

<sup>11</sup> David Montgomery has described the historical process by which working people appropriated aspects of the dominant ideology of citizenship “for their own use.” He also notes how this rhetorical appropriation “required the infusion of collective action and mutualistic values.” David Montgomery, *Citizen Worker: The Experience of Workers in the United States with Democracy and the Free Market During the Nineteenth Century* (Cambridge: Cambridge University Press, 1993): 9.



marginal and subaltern groups challenge their exclusion by leveraging existing rights to place one set or category of rights into conflict with others. At one level this dissertation is about exactly this: the ways that prisoners assert “workers’ rights” as a means to not only improve their working lives but also to lay claim to whole other sets of rights (like, for example, freedom of association) on that basis. While, in some cases, prisoners also make rights claims on other bases, for example as human beings or members of religious or ethnic communities, claims of economic rights, as will be shown, have often proven to be powerful means for prisoners to challenge their excluded status.<sup>12</sup> This is not random.

The notion of the ‘productive’ citizen is central for capitalist democracies.<sup>13</sup> This is seen clearly in the language around rehabilitation of those who violate criminal law. ‘Rehabilitation’ aims, above all, to transform lawbreakers (or in the language of corrections, “correct offenders”) into “productive members of society.” The measures of this productivity, although not always said explicitly, are typically: 1) the cessation of law breaking, and 2) maintaining gainful employment. Given this, prisoners have recognized the symbolic power of casting their struggles in the terms of workers’ rights, but they also have recognized the potential for power—economic power—that workers can leverage. It is for this reason that work stoppages are so commonly utilized by prisoners to address all sorts of issues (both those related and unrelated to their work). Prison

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<sup>12</sup> A number of scholars of the prisoners’ rights movement in the United States have examined the role that litigation by Black Muslims asserting their religious freedoms had on the development of prisoners’ rights in that country. See Christopher E. Smith, “Black Muslims and the Development of Prisoners’ Rights,” *Journal of Black Studies* 24:2 (1993): 131-46; Ronald Berkman, *Opening the Gates: The Rise of the Prisoners’ Movement* (Lexington, Mass: Lexington Books, 1980). For an examination of prisoner organizing and claims of indigeneity see Seth Adema, “Our Destiny is Not Negotiable: Native Brotherhoods and Decolonization in Ontario’s Federal Prisons, 1970-1982” *Left History* 16:2 (Fall/Winter 2012): 35-51

<sup>13</sup> The notion that social value is primarily derived from paid employment has long been interrogated by social reproduction feminists and critical disability scholars. For example, see Nancy Fraser, “Crisis of Care? On the Social-Reproductive Contradictions of Contemporary Capitalism,” in Tithi Bhattacharya (ed.) *Social Reproduction Theory: Remapping Class, Recentering Oppression* (London: Pluto Press, 2017): 21-36; Elizabeth Tobin LeBlanc Haley. “Transinstitutionalization: A Feminist Political Economy Analysis of Ontario’s Public Mental Health Care System” (Doctoral Dissertation, York University, 2017).

administrators are more likely to negotiate with—and make concessions to—prisoners who are withholding something they need.<sup>14</sup> For this reason, the case studies that follow speak not only to the particular history and ongoing issues faced by working prisoners, but also to much larger questions about the structure and operation of power in Canadian society.

### **The Question of Free Versus Unfree Labour**

To understand prison labour in Canada, one must situate it within broader discussions of ‘unfree’ labour. While the contemporary Canadian economy is nominally premised on ‘free labour,’ severe forms of unfreedom have existed historically, and some persist to this day. In the words of Tom Brass, “Labour-power is neither always and everywhere free, nor is it always and everywhere unfree. What has to be understood is that historically there is a dynamic interaction between labour-power that is free and forms which are unfree, a dialectic informed by class struggle.”<sup>15</sup> Hence even forms of formally ‘unfree’ labour can and do exist within ‘free’ economies; for example prison labour or temporary foreign worker programs.<sup>16</sup> However, a focus on legally prescribed (as in the case of temporary foreign workers) or criminal forms of unfree labour (such as human trafficking) can obfuscate how even formally ‘free’ workers in a capitalist labour market are severely constrained by economic forces.<sup>17</sup> Most importantly, without owning means to reproduce themselves (that is, to produce all those goods and services needed to live), workers *must sell their ability to work*, their ‘labour power’ to employers. Those who will not, or

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<sup>14</sup> Of course, other disruptive tactics like riots and hostage takings also accomplish this need for leverage.

<sup>15</sup> Tom Brass, “Capitalist Unfree Labor.” *Critical Sociology* 35:6 (2009): 755.

<sup>16</sup> For a discussion of unfree labour and immigrant worker programs, see Aziz Choudry and Adrian A. Smith, *Unfree Labour? Struggles of Migrant and Immigrant Workers in Canada* (Oakland: PM Press, 2016); Todd Gordon, “Capitalism, Neoliberalism, and Unfree Labour.” *Critical Sociology* 44:6 (2018): 921-939.

<sup>17</sup> Harry Glasbeek, “Coerced and Unfree in the Private Sector,” *Critical Criminology* 26:4 (2018): 579–593; Todd Gordon, “Capitalism, Neoliberalism, and Unfree Labour,” *Critical Sociology* 44:6 (2018): 921-939.

cannot, find work—that is, sell their labour power—are free to starve and otherwise face immiseration. Thus, for Karl Marx:

The worker leaves the capitalist to whom he hires himself whenever he likes, and the capitalist discharges him whenever he thinks fit, as soon as he no longer gets any profit out of him, or not the anticipated profit. But the worker, whose sole source of livelihood is the sale of his labour-power, cannot leave the *whole class of purchasers, that is, the capitalist class*, without renouncing his whole existence. He belongs not to this or that capitalist but to the *capitalist class*, and, moreover, it is his business to dispose himself, that is to find a purchaser within this capitalist class.<sup>18</sup>

Practically, this imbalance of power between even ‘free’ workers and their employers means that workers may need to perform tasks that they would otherwise not do, or put up with conditions they would rather avoid. This is why workers sometimes work in unsafe, dangerous, or unpleasant environments, and why a simple understanding of formally free workers is analytically inadequate. The fact that some level of coercion exists in all wage relations means that, rather than existing as distinct taxonomical categories, the freedom and unfreedom of labour exists on a spectrum.<sup>19</sup> Prisoner-workers, therefore, are best understood as *less free* than other workers.<sup>20</sup>

There is a trend amongst critical scholars to take it as self-evident that prison labour is simply *unfree*. This has the unfortunate effect of collapsing much of the nuance between different forms of prison work schemes. It also serves to obscure the exact factors that make prison labour unfree—or, more accurately, less free—than other work. The typical understanding rests on certain assumptions, namely that forced labour is any system of labour where a person is forced to work under the threat of punishment, and that prison labour is a kind of forced labour. This distinction

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<sup>18</sup> Karl Marx, “Wage Labour and Capital” in Robert C. Tucker (ed.), *The Marx-Engels Reader* (Second Edition) (New York: Norton: 1978): 205.

<sup>19</sup> See Genevieve LeBaron, “Unfree Labour Beyond Binaries: Insecurity, Social Hierarchy and Labour Market Restructuring.” *International Feminist Journal of Politics* 17:1 (2013): 1-19.

<sup>20</sup> Notwithstanding this assertion, for reasons of convenience, I will sometimes use the term “free” to describe non-incarcerated workers in relation to incarcerated ones.

is especially critical for those interested in Canadian prison labour, where the spectrum of unfreedom is particularly visible. In Canada, while sentenced prisoners in most provinces are obliged to work, federal prisoners can choose not to work without sanction, at least formally.<sup>21</sup> In fact, far from formal sanctions against voluntary unemployment, federal prisoners who choose not to work, or whose conditions of incarceration make them ineligible to work, receive a basic allowance of \$1 per day.<sup>22</sup> Moreover, from a juridical perspective, prison labour under public supervision and control (as it is in Canada), is exempted from the International Labour Organization's definition of forced labour.<sup>23</sup>

Canadian prisoners who are not formally forced to work do, of course, have their freedom constrained in multiple ways. Prisoners face similar economic pressures to work as their 'free' counterparts. While they may not starve if they do not work, an income beyond a basic allowance is necessary in order to live a reasonably 'normal' life, and access communication, entertainment, and (extremely limited) luxury items.<sup>24</sup> The list of basic necessities which had previously been provided by prison administrations is becoming more limited, and these items must increasingly be purchased from prison canteens or through approved retailers by mail-order—at less-than-competitive rates.<sup>25</sup> Many prisoners, especially women with dependents, send money home.

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<sup>21</sup> For example, the *Inmate Information Guide for Adult Institutions in Ontario* states: "All sentenced inmates must work or take part in institution programs." Ontario, Minister of the Solicitor General, "Inmate Information Guide for Adult Institutions," (September 17, 2018): available: [http://mcses.jus.gov.on.ca/english/corr\\_serv/PoliciesandGuidelines/CS\\_Inmate\\_guide.html#P412\\_60903](http://mcses.jus.gov.on.ca/english/corr_serv/PoliciesandGuidelines/CS_Inmate_guide.html#P412_60903).

<sup>22</sup> Correctional Services of Canada. "Commissioner's Directive: Offender Program Assignments and Inmate Payments." *Correctional Services of Canada*, (2014). Retrieved from: <http://www.csc-scc.gc.ca/acts-and-regulations/730-cd-eng.shtml>

<sup>23</sup> International Labour Organization, Forced Labour Convention, 1930 (No. 29). Retrieved: [http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100\\_INSTRUMENT\\_ID:312174](http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_INSTRUMENT_ID:312174)

<sup>24</sup> For example, money for postage and phone calls, which may not be required for a prisoner's minimal sustenance, may in fact be necessary to achieve their freedom, by demonstrating that they are maintaining "outside" relationships.

<sup>25</sup> For one prisoner's account of the importance of prisoners' pay, see Nicole Kish, "Life in Prison." *Toronto Media Coop* (2011). Retrieved from: <http://toronto.mediacoop.ca/story/life-prison/7698>

Working prisoners must contend not only with their employers' economic power over them, but also with the power of the state that is invested in correctional systems. Prisoners face all the economic sanctions available to regular employers (for example: suspensions and firing), plus an additional range of coercive powers that goes well beyond those in the 'free' economy. Deviations from managerial prerogatives can result in punishments and sanctions related to prisoners' status as prisoners, not just as workers. Thus, a 'bad worker' in prison may be fired, but that prisoner's poor work performance could carry over to affect the conditions of their custody or their ability to get parole.<sup>26</sup> In addition, prisoner-workers face political repression as well as economic sanction when they engage in job actions, potentially facing loss of privileges or institutional charges even for peaceful and minimally disruptive protests. Imprisoned workers who wish to better their compensation or conditions risk not only their economic well-being and potential freedom—but sometimes also their bodily integrity.<sup>27</sup>

### **Productive Punishment: The Ways Prisoners Work**

Besides penal labour, there are many historical and contemporary forms of unfree labour: slavery, and the related forms of serfdom and *corvée*; indentured and bonded labour; military and civil conscription; and wage slavery, which may have specific forms such as 'truck' systems or debt bondage.<sup>28</sup> Prison labour too, can be broken down into several more or less distinct categories.

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<sup>26</sup> Federal prisoners in Canada must adhere to a compulsory "correctional plan," designed by correctional and monitored staff throughout their sentences. Failure to comply with a correctional plan could mean the revoking of privileges, change in security classification or delayed release. A typical feature of a correctional plan includes a commitment to work. Correctional plans also exist for paroled prisoners, and finding and maintaining employment is commonly included as part of the plan. See Correctional Services of Canada, "The Correctional Plan" (2012) retrieved from: <http://www.csc-scc.gc.ca/002/007/002007-0004-eng.shtml>

<sup>27</sup> There are many examples of prisoners facing violence in retaliation for collective actions. See for example Luc Gosselin, *Prisons in Canada* (Montreal: Black Rose Books, 1982): 206.

<sup>28</sup> For a comparative overview of forms of unfree labour, see Tom Brass, *Towards a Comparative Political Economy of Unfree Labour: Case Studies and Debates* (London and Portland, OR: Frank Cass Publishers, 1999); Léonic

Seven of these forms are identified in a 1955 United Nations report on global prison labour which provides a helpful overview: lease, contract, piece-price, public account, state use, public works and ways, and private pre-release.<sup>29</sup> An additional form, institutional maintenance, can be added to the UN's list. These eight categories can also be divided into two groups, those which directly involve private interests—lease, contract, piece-price, and private pre-release—and those which do not—public account, state use, public works and ways, and institutional maintenance. To better understand the development of prison labour in Canadian prisons, a consideration of each of these forms is useful.

Convict leasing (also called “lease labour” or “affermage”) is notorious for its use in the American South after the abolition of slavery. This system is one in which the guarding, supervision, and management of prisoners occurs by private capital, who pay prison administrators a fixed rate per labourer per unit of time. Convict leasing typically involves prisoners working off prison grounds and may or may not involve prisoners returning to the prison at night. Administratively, convict leasing may reduce the costs related to the care of prisoners. Administrators effectively rent prisoner's' labour power, avoiding the need for capital investment in prison industry or entrepreneurial risk. Leasors benefit from labour costs far below prevailing market rates. But this comes at a steep human cost. Convict leasing is notorious for its brutality. Under contract leasing systems, many prisoners are worked to death, being easily replaced with fresh workers from the penitentiaries.<sup>30</sup> As will be discussed in the next chapter, convict leasing, along with the public account system, was outlawed relatively early in Canada's correctional

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Archer (ed). *Slavery and Other Forms of Unfree Labour* (London and New York: Routledge, 1988). For a comprehensive theoretical overview of ‘free’ and ‘unfree’ labour, see Jarius Banaji. *Theory as History Essays on Modes of Production and Exploitation* (Chicago: Haymarket Books, 2011).

<sup>29</sup> United Nations Department of Economic and Social Affairs. *Prison Labor* (New York: United Nations Publications, 1955).

<sup>30</sup> Matthew J. Mancini, *One Dies, Get Another: Convict Leasing in the American South, 1866-1928* (Columbia, SC: University of South Carolina Press, 1996): 3.

history due to significant protest from free workers and employers who decried it as unfair competition.

Under contract schemes, prisoners are hired by private entrepreneurs inside the prison. The entrepreneur supplies the prison with raw materials, machines, and tools. Typically, outside managers and supervisors are brought into the prison; however, custodial duties—importantly the hiring and supervising of guards—remain with the prison administration. Contracts may involve the entire prison population or just a portion of it. If only part, prison officials are most often involved in the selection of prisoners to be employed. In this system, minimal risk for the prison is exchanged for cheap labour for the entrepreneur. The 1955 United Nations report on prison labour warns “[f]or inmates, the principal value is the avoidance of idleness, but the pendulum has too often swung in the other direction of unremitting work under conditions of harsh supervision.”<sup>31</sup> The Guelph Abattoir Programme, which is the subject of chapter 2, was a rare experiment with a contract scheme in contemporary Canadian corrections.

Piece-price is a system of state-controlled production for private contractors. The state is responsible for all capital equipment, tools, etc. as well as supervision and management of production. Contractors typically only supply raw materials and pay a fixed rate for finished products. The state is able to retain full control over prisoners, but must take on more risk. Entrepreneurs are able to undercut market labour costs, and offload managerial responsibilities. Prisoners may experience idleness if contracts are scarce, or conversely, may be forced to complete contracts very quickly.<sup>32</sup> In 2014, CORCAN, the Canadian federal prison industry program, was

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<sup>31</sup> United Nations Department of Economic and Social Affairs (1955): 11.

<sup>32</sup> United Nations Department of Economic and Social Affairs, (1955): 11.

subcontracted by the private firm Trico Evolution to assemble Remembrance Day poppies for the Royal Canadian Legion under a piece-price scheme, however this form of prison labour is rare.<sup>33</sup>

In public account systems, prison-made goods are directly sold on the open market, either through state-owned stores or private wholesalers or retailers. Production and marketing are fully the responsibility of the state. In public account systems, the state directly competes with private producers with finished products. The state retains all profits and takes on all risk. Market pressures determine much, if not the entire production process. Thus, secondary rehabilitative considerations such as the teaching of trades or emphasis on employment skills that are particularly marketable may be subordinated due to factors of competition. Like other forms of prison labour, public account systems existed early in Canadian history. Like convict leasing, public account systems were opposed as unfair by free workers and competing manufacturers.

State use is a common system involving prison made goods and services sold exclusively to public institutions and agencies. State use developed out of opposition to limit private involvement in prison industry. Canada's federal prison industry agency, CORCAN, manufactures furniture, office equipment, textiles such as uniforms and linens, and offers services in construction, vehicle repair and refurbishing, printing, and laundry. Ontario's provincial equivalent, Trilcor, manufactures provincial license plates, uniforms and bedding and runs laundry and engraving services.<sup>34</sup> State use is common in Canada, the United States, and Europe.

State use allows for a greater diversity of employment for prisoners than many other types of prison labour arrangements and avoids direct private interests. Additionally, while the state is

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<sup>33</sup> "Prison Inmates to Make Remembrance Day Poppies," *CBC News* (October 22, 2013). Available: <https://www.cbc.ca/news/canada/manitoba/prison-inmates-to-make-remembrance-day-poppies-1.2129684>.

<sup>34</sup> Ontario. Ministry of the Solicitor General. "Correctional Services Trilcor Industries" (April 8, 2019), available: [https://www.mcscs.jus.gov.on.ca/english/corr\\_serv/OffenderProgramsServices/treat\\_prog\\_trilcor/treat\\_prog\\_trilcor.html](https://www.mcscs.jus.gov.on.ca/english/corr_serv/OffenderProgramsServices/treat_prog_trilcor/treat_prog_trilcor.html).



responsible for production and management of prison industry, continuous state demand shelters prison production from fluctuating market demand. For these reasons, state use schemes are viewed as particularly compatible with contemporary rehabilitative policy in Canada, the United States, and elsewhere.<sup>35</sup>

In public works and ways, prisoners under state supervision are employed in the construction and maintenance of public works such as roads, bridges, dams, buildings, parks, as well as the clearing and drainage of land and the maintenance of forests. Prison labour is utilized exclusively for the ‘public good.’ This form may be easily blended with state use, as in the case of CORCAN. Although perhaps most commonly associated with the “road crews” and chain gangs of yore, public works by prisoners persist today. A dramatic example of contemporary public works is California’s prisoner fire crews.<sup>36</sup> Many Canadian provinces utilize prison labour for public works projects. For example, some provincial prisoners in BC set up and maintain emergency forest fire crew camps for the BC Ministry of Forests, Lands and Natural Resources.<sup>37</sup>

Private pre-release involves private employment outside of the correctional facility by prisoners nearing the end of their sentences. Most typically, private pre-release workers work under ‘free’ conditions, and often at prevailing wages. Pre-release workers may be housed in separate facilities than their non-pre-release colleagues, but remain under administrative custody. Pre-release exists primarily as a rehabilitative program in order to foster community integration and public safety; the pecuniary interests of the prison are of secondary importance, if any.<sup>38</sup> Such

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<sup>35</sup> See Hugh Frayne, “The State-Use System,” *Journal of the American Institute of Criminal Law and Criminology* 12: 3 (November 1921): 330-338.

<sup>36</sup> See Philip Goodman, “Hero and Inmate: Work, Prisons, and Punishment in California’s Fire Camps” *WorkingUSA* 15:3 (2012): 353-376.

<sup>37</sup> British Columbia. “Work Skills” (n.d.), available: <https://www2.gov.bc.ca/gov/content/justice/criminal-justice/corrections/reducing-reoffending/work-skills>.

<sup>38</sup> Shanisse Kleuskens, “Legitimizing the ‘Fiasco’: Canadian State Justifications of CORCAN Prison Labour.” Master’s Thesis, University of Ottawa, (2015): 94.

schemes are often the product of “partnering” with outside agencies or contractors. CORCAN, for example, partners with Habitat for Humanity to provide prisoners with community volunteer work opportunities.<sup>39</sup> CORCAN also operates three “community” facilities that employ parolees and prisoners on work release.”<sup>40</sup>

Unlike the other forms of prison labour listed above, institutional maintenance does not produce goods or services for sale, even to public buyers. Instead, institutional maintenance work involves those jobs related to the day-to-day functioning and reproduction of the prison. This work is vast and varied, and includes food preparation, janitorial services, administrative and clerical duties, repair and maintenance, and service jobs. Historically, this work was unpaid in Canada. It continues to be common in many provincial systems.

### **Why do Canadian Prisoners Work?**

The justification for Canadian prison labour has evolved over time. In Canada’s early penal history, prison labour was understood to be punishment in itself, serving as a deterrent to other would-be offenders. It was also valued for its economic contribution to the budgets of carceral institutions. The goal of Canada’s early penitentiaries was to reform incarcerated individuals, significantly by “inuring them to habits of industry.”<sup>41</sup>

The Canadian state now justifies prison labour for its claimed benefit to prisoner-workers, communities, and the economy.<sup>42</sup> The benefit to prisoner-workers is in the development of employable skills, a ‘positive work ethic,’ and the experience of a ‘normal working routine.’

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<sup>39</sup> Correctional Services of Canada. “Public Safety, CSC/CORCAN and Habitat for Humanity” (n.d.).

<sup>40</sup> Correctional Services of Canada. “CORCAN Community Employment” (January 15, 2013), available: <https://www.csc-scc.gc.ca/corcan/002005-1003-en.shtml#a>.

<sup>41</sup> Cited in Neufeld, 95-96.

<sup>42</sup> Kleuskens, 62.

CORCAN claims that its programs serve as a highly cost-effective rehabilitation scheme, not only making positive contributions to prisoners, but also contributing to offsetting the costs of incarceration, sometimes remitting revenues to CSC. Likewise, CORCAN argues that it enhances public safety by reducing rates of recidivism and facilitating offender reintegration, which also reduces public spending.<sup>43</sup>

A near identical logic can be found in justification of provincial prison labour programs.

For example, Trilcor, Ontario's provincial prison industry program, explains that:

By providing inmates with the opportunity to work at meaningful jobs, the program provides cost effective, rehabilitative work experience for offenders. In the process, they learn valuable skills that will serve them well upon release. A regular work schedule teaches offenders accountability, responsibility and teamwork.<sup>44</sup>

British Columbia's Ministry of Justice likewise asserts:

We can encourage change in offenders by teaching them the value and importance of work and by helping them gain the skills they need to find it. By offering practical training and meaningful job experience, we can give offenders a better chance of earning a living and being self-sufficient.<sup>45</sup>

Despite the state's confidence in the value of prison labour, there is not strong empirical evidence that Canadian prison labour programs are effective in reducing recidivism.<sup>46</sup> In particular, a minor controversy erupted in 2013 when an internal Public Safety memo addressed to then Minister of Public Safety Vic Toews was obtained by media. The memo outlined the ineffectiveness of CORCAN prison industry programs and alleged that Canadian prison industry was not effective

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<sup>43</sup> Kleuskens, 92-93.

<sup>44</sup> Ontario. Ministry of the Solicitor General. "Correctional Services Trilcor Industries."

<sup>45</sup> British Columbia. "Work Skills" (n.d.), available: <https://www2.gov.bc.ca/gov/content/justice/criminal-justice/corrections/reducing-reoffending/work-skills>.

<sup>46</sup> See Laurence L. Motiuk Raymond L. Belcourt, *Prison Work Programs and Post-Release Outcome: A Preliminary Investigation*, Research Report N° R - 43 (Research Division, Correctional Service of Canada, January 1996), available: <https://www.csc-scc.gc.ca/research/r43e-eng.shtml>. For a personal account of employment-related challenges for formerly incarcerated people, see James Young [pseud.], "Work After Prison: One Man's Transition," in Rose Ricciardelli, Adrienne M.F. Peters (eds.), *After Prison: Navigating Employment and Reintegration* (Waterloo, ON: Wilfred Laurier University Press, 2017): pp. 23-33.

in providing prisoners with relevant job training. “Training inmates for the jobs of yesterday, or for non-existent jobs, or for jobs in already over-resourced fields in competition with non-offenders is a waste of scarce resources and counterproductive to public safety.”<sup>47</sup> This assertion of the failures of prison labour schemes is in line with many prisoners’ accounts.<sup>48</sup> It is likewise commensurate with scholarly assessments that have, for example, taken issue with lack of jobs and training for women.<sup>49</sup>

There is a trend among critical scholars and activists to single out prison labour as a particularly vile and exploitative aspect of imprisonment and advocate, implicitly or explicitly, for its abolition. Of course, there are prison labour regimes, both historically and in the contemporary period, that are cruel, useless and otherwise worthy of abolition. However, critiques of ‘prison labour’ in abstract form that fail to likewise criticize not only the Canadian justice system, but also *work and Canadian political economy* are unlikely to result in the changes needed to humanely reform prison or prison labour, let alone abolish them. As such, this study takes what I call a “workerist” approach to prison labour.<sup>50</sup> Such an approach holds, first and foremost, that working prisoners should be understood as workers and members of the working class, and that analysis of prison labour should be grounded in the actual struggles of prisoner-workers. Following from this premise, the goal of those concerned with prison labour should be the normalization of prison

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<sup>47</sup> Kim MacKrael, “Prison Work Programs Fail Inmates and the Public, Documents Show,” *The Globe and Mail*, January 7, 2013. Retrieved from: <http://www.theglobeandmail.com/news/politics/prison-work-programs-fail-inmates-and-the-public-documents-show/article6992471/>

<sup>48</sup> See J. Abbott. “Reflections of a Short Career in the Mission Prison Factory.” *Prison Journal* 6 (1987): 101-105; Peter Collins. “Education in Prison or the Applied Art of ‘Correctional’ Destructive Learning.” *Journal of Prisoners on Prisons* 17:1 (2008): 71-90.

<sup>49</sup> D. Kilroy and K. Pate, “Women are the Fastest Growing Prison Population: Why you Should Care....” *Journal of Prisoners on Prisons* 20:1 (2011): 94-97; V. Strimelle and S. Frigon. “After Prison: Experiences of Women and Employment in Québec, Canada.” *Journal of Prisoners on Prisons* 20:1 (2011): 108-137.

<sup>50</sup> While there is a well-developed body of theory that emerged out of the Italian communist movement called *operismo* or “workerism” in English, I use the term here to simply mean a focus on the capacity of working people to influence the society that relies upon their work to reproduce itself.

labour through the elimination of extra-economic forms of coercion and support for efforts to build workers' power within and outside of the prison.

### **Structure of the Argument**

Chapter 1 takes a closer look at the existing scholarship on prisons, prison labour, and prisoner resistance in Canada and beyond. First, I consider the scholarship on the development of the modern prison in the context of the emergence of industrial capitalism and review the relevant literature on theories of the function of prison in capitalist society. Then I consider the history of prison labour in Canada, before reviewing interdisciplinary debates around prisoner resistance, representation, organizing, and unionization. Finally, I consider how prisoners, conceived as workers, and prisoner organizing efforts fit into recent scholarship on unions, the labour movement, and labour movement renewal.

Chapter 2 examines the case of the successful unionization of prisoner meatcutters employed in a privately managed abattoir in the Guelph Correctional Centre, a provincial jail in Ontario, in 1977. This case represents the only example of prisoner workers unionizing into a legally recognized bargaining unit in North America. The case is interesting for several reasons. First, the abattoir at the Guelph Correctional Centre, where the prisoners worked, was an experiment in privately managed prison industry, which is rare in Canada and did not become typical. Second, and most important in terms of this study, the union drive that included prisoners was successful for the first and only time in Canadian history. The case was precedent-setting and forced the Ontario Labour Relations Board (OLRB) to adjudicate that the prisoners—in this instance—were, in fact, legally workers. As the prisoner-workers worked side by side with 'free' workers, often doing the same work, at the crux of this case is the central complaint of organized

labour which has been leveraged against prison labour: convict labour can be used to undermine wages and job security of free workers. This case represents a rare example of concrete solidarity between organized labour and prisoner workers, and the formal inclusion of prisoners into the Canadian labour movement. Moreover, this case demonstrates the potential for prisoners to expand notions of citizenship—and by extension their freedom—by claiming rights as workers. As will be seen the following chapters, this recognition of employee status has not been the norm for Canadian prisoners. The absence of employee status—and the legal rights and protections that come with it—represents one of the major barriers to prisoner-worker organizing.

In Chapter 3, I situate the unsuccessful union drive by the Canadian Prisoners' Labour Confederation (CPLC), Local 001, within a longer history of agitation and activism in support of prisoners' unions in Canada. To do this, I analyze the debates around the value of a prisoners' union in the 1970s "penal press," as well as the unsuccessful attempt by the Prisoners' Union Committee (PUC) to represent prisoners during a prison strike wave in 1975.

Partially inspired by the PUC and the CFAW Local 240, beginning in 2010, prisoners in federal prison in BC began organizing the Canadian Prisoners' Labour Confederation with the goal of winning formal trade union certification for working federal prisoners. Unlike the case of the Guelph meat cutters, the CPLC's legal bid for union status failed when the Public Service Labour Relations Board found that the federal prisoners did not meet the requirements to be considered employees under the law and denied prisoner-union organizers the right to move freely through their institutions in order to discuss the union and sign up new members. The CPLC pursued a highly legalistic strategy throughout their existence, primarily relying on a series of petitions to various courts and labour boards. The CPLC intentionally and self-consciously formed as an independent organization, rather than as a component of an established trade union. Despite a

series of appeals, the CPLC failed to certify and, after the release one of the union's main activists, the drive ended. The chapter contrasts the failures of both the direct action-based strategy of the PUC and the legal strategy of the CPLC to assess the potential for future efforts at prisoner unionization.

Chapter 4 shifts focus from prisoner-workers' attempts to organize unions to prisoners' engagement in concerted, collective action, even in the absence of unions or other formal organizations, by looking at the 2013 Canadian federal prisoners' strike against wage cuts. While unsuccessful in fighting off the cuts, the strike provides an opportunity to consider how prisoner-workers self-organize to better their conditions. Furthermore, examining the strike as a *labour* strike, and with consideration of strike strategy as put forward by labour activists and scholars, provides a rich way to evaluate the strengths and weaknesses of the strike and to think through the possibilities and limitations of prison strikes. Furthermore, the strike by federal prisoners can be considered in the context of growing agitation and action by various groups of low-wage and low-status workers, who have been typically excluded from the formal labour movement. Such an analysis allows prisoner organization to be situated in broader political and economic context and brings into relief the similarities of prisoners and other workers' struggles. Despite the creative efforts of prison strike organizers, the failure of the strike demonstrates the need for more robust forms of prisoner organization—this need for organization represents a second major barrier for future prisoner-worker organizing.

In chapter 5, I draw together the major insights from the cases and present a summary of the overall findings. In short, I argue that there is considerable analytic value in understanding prisoners to *also be workers* and consider the fundamental role of prison labour in contemporary Canadian corrections in light of the case studies. Likewise, by drawing on the evidence from the

case studies, I consider the potential benefits that accrue to prisoners when they articulate their struggles as labour struggles. By struggling as workers, prisoners create new forms of political subjectivities that allow them to challenge their marginalized status as “offenders” and some of the constraints and deprivations imposed on them. This enables prisoners to claim expanded conceptions of citizenship and leverage workers’ rights to access freedoms in ways that challenge the accepted domination of prisoners’ lives by correctional authorities. Prisoner-workers face major legal and organizational barriers and the path forward for organizers remains unclear. However, it is also clear that, given the intrinsic contradictions and pressures evident in Canadian prison labour schemes, prisoner-workers will continue to struggle to defend and advance their interests.

### **How Should One Study the Prison? A Note on Methods and Sources**

John Irwin began his academic career in an unlikely place, taking correspondence courses with the University of California, Los Angeles, while incarcerated at Soledad Prison. Originally aspiring to study marine biology, Irwin explains his own motivations for shifting his attention to the prison:

They, conventional people and even academics who studied criminals and other deviants, did not fully appreciate that the people on the other side—the deviants, “offenders,” and convicts—were mostly ordinary human beings.<sup>51</sup>

Following Irwin, I seek to study prisoners as ordinary people in society—albeit people living and working under a particular institutional and political economic regime. As such, prisons in capitalist democracies must be studied as both coercive institutions and components of the welfare states in which they exist. Understood in this way, prisons are interesting not simply as raw

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<sup>51</sup> Irwin, *The Warehouse Prison*: x.



expressions of coercive state power, but also as institutional spaces dependent on the labour and cooperation of those under their control.

As a discipline, criminology (and the subfield of penology) has historically suffered from an elite and one-sided understanding of prisoners and prisons. This elitism has ranged from the quackery of the phrenologists, to the moralizing of religious reformers—concerned more with souls than people—to the technocratic ‘corrective’ and ‘rehabilitative’ programs of the behavioralists. This elite orientation was not overcome until the development and popularization of critical criminology in the 1960s and 1970s, which turned the main course of classical criminological inquiry around: instead of asking what is defective in people that makes them criminals, critical criminology posed the question, what is wrong with society that it produces criminals? Moreover, it asks, who stands to benefit from the prevailing systems of law and order, and at whose expense?

Convict criminology, which emphasized the insights of the criminalized and the development of former prisoners into prominent scholars, further turned the old elitism upside-down. This is the basic epistemological insight of standpoint feminism—that people who have been prescribed subaltern and subordinate identities have particular insight into how power structures are constructed and how power is exercised.<sup>52</sup> Perhaps beginning with Marx’s workers’ inquiries, this basic epistemic premise has long been incorporated into labour studies.<sup>53</sup> As such, this study seeks to position itself in the best traditions of labour studies and critical criminology, by amplifying the voices and struggles of prisoners.<sup>54</sup>

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<sup>52</sup> See Dorothy Smith, *The Everyday World as Problematic: A Feminist Sociology* (Boston: Northeastern University Press, 1987).

<sup>53</sup> Karl Marx, “A Workers’ Inquiry,” (1997/1880), available: <https://www.marxists.org/archive/marx/works/1880/04/20.htm>

<sup>54</sup> For a challenge to move beyond “giving voice” to the criminalized to a position of “researcher-as-facilitator” see Justin Piché, Bob Gaucher, and Kevin Walby, “Facilitating Prisoner Ethnography: An Alternative Approach to ‘Doing Prison Research Differently,’” *Qualitative Inquiry* 20:4 (2014): 449–460.

This, however, is no easy task. Prison research is a fraught and difficult thing. The records produced by the prison system have an obvious perspective and represent certain institutional and political interests. Even when these records exist, they can be difficult to obtain.<sup>55</sup> Prisoners, on the other hand, do not tend to produce “official” material—at least not in a form that makes it easy for researchers to gather or utilize.

Interviews are one obvious way to supplement this, but it can be difficult to make contact with prisoners, and even when one is able to do that, the relationship between researcher and research subject is always mediated and monitored by the prison system. Something as simple as a phone interview can prove to be extremely difficult in practice. Lockdowns, in which prisoners are confined to their cells, are common in Canadian prisons and can be barriers to telephone access (especially at scheduled times!). Moreover, even when prisoners do reliably have access to phones, the cost of calls can also be a problem. The high cost of phone calls in provincial prison systems has recently come under fire by prisoner justice advocates, who accuse telecom companies such as Bell Canada of profiteering on incarceration and jeopardizing prisoners’ ability to reintegrate into society by limiting their ability to maintain relationships with their families and support networks.<sup>56</sup> Even modest fees for phone calls can be a barrier for a person in federal prison making

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<sup>55</sup> Justin Piché, “Accessing the State of Imprisonment in Canada: Information Barriers and Negotiation Strategies” in Mike Larsen and Kevin Walby (eds.), *Brokering Access: Power, Politics, and Freedom of Information in Canada* (Vancouver and Toronto: UBC Press, 2012): pp. 234-260.

<sup>56</sup> See Patrick White, “A Mom’s \$6,000 Phone Bill in Three Months: The Push to Rein in Ontario’s Costly Prison Phone System,” *The Globe and Mail* (January 30, 2020), available: <https://www.theglobeandmail.com/canada/article-activists-see-injustice-in-high-cost-of-phone-calls-from-ottawa-area/>.

30 cents an hour—or less.<sup>57</sup> This situation has led some researchers to describe telephone access in Canadian prisons as “a precarious privilege that is perpetually at risk of revocation by guards.”<sup>58</sup>

Prison research can become further complicated when a commitment to research ethics means that the best sources cannot be consulted or utilized because they would put research subjects at risk. Interviews with people in federal custody are especially complicated due to the control the Correctional Service of Canada has over prisoner communication and the potential for formal and informal reprisals against those who criticize CSC.<sup>59</sup> On the other hand, research ethics processes can themselves place limits on researchers by unreasonably denying agency to research subjects. While university research ethics have, at least since the Milgram and Sandford Prison Experiment scandals, emphasized the need for researchers to carefully consider the safety and security of research subjects (for good reason), these concerns must also be balanced with *the right to participate in academic research*. Without this balance, ‘research ethics’ can simply serve to protect the interests of the powerful. Indeed, criminologists have accused the Correctional Service of Canada’s research approval process of “censorship” and of prioritizing “institutional protectionism” over public interest.<sup>60</sup>

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<sup>57</sup> The Office of the Correctional Investigator has estimated that “the net payment for a typical offender employed full time in a prison industry and earning the maximum payment level amounts to about 30 cents an hour.” The Correctional Investigator of Canada. *Annual Report of the Office of the Correctional Investigator 2015-2016* (2016), available: <https://www.oci-bec.gc.ca/cnt/rpt/annrpt/annrpt20152016-eng.aspx>.

<sup>58</sup> Sarah Buhler and Amanda Dodge, “Policy, Practice and Privatized Prison Telephones in Saskatchewan,” *Canadian Journal of Human Rights* 8:1 (2019): 1.

<sup>59</sup> For a recent example, see Justin Ling, “The CSC is Censoring Whistleblower Complaints About COVID-19 in Federal Prisons.” *The National Post* (April 8, 2020), available: <https://nationalpost.com/opinion/justin-ling-the-csc-is-censoring-whistleblower-complaints-about-covid-19-in-federal-prisons>.

<sup>60</sup> See Kelly Hannah-Moffat, “Criminological Cliques: Narrowing Dialogues, Institutional Protectionism, and the Next Generation” in Mary Bosworth and Carolyn Hoyle (eds.), *What is Criminology?* (Oxford: Oxford University Press, 2011): pp. 440-455; Tara Marie Watson, “Research Access Barriers as Reputational Risk Management: A Case Study of Censorship in Corrections,” *Canadian Journal of Criminology & Criminal Justice* 57:3 (July 2015): 330-362. For these reasons, I did not approach the Correctional Service of Canada to support this project. I received ethics approval for this research though York University’s Office of Research Ethics.

All these issues mean that a mixed-method approach seems to be the most fruitful way to piece together accounts of prisoner struggles. Media reporting, archival material, interviews, government documents, prisoners' correspondence, "joint-mags" (prison-produced newspapers and magazines) all help with constructing accounts of prison life, giving insight beyond what appears in official accounts. As such, this study is primarily a comparative case study analysis that utilizes mixed methods and a variety of sources.

A variety of government documents related to prisoner labour in Canada are publicly available through various government websites, including CORCAN annual reports, Correctional Service of Canada (CSC) audits, various research reports and reports published through CSC's *FORUM on Corrections Research*, and *Let's Talk* magazine, and I utilize these sources throughout the dissertation. I also attempted to get information related to this project through the *Access to Information Act (ATIA)*; however, after a drawn-out process, I received only a small amount of information of value (specifically data related to the number of prisoners in CORCAN programming, and some CORCAN Advisory Board meeting minutes).<sup>61</sup> In addition to government documents, I draw on information from private papers provided to me from organizers of the Canadian Prisoners' Labour Confederation in my analysis of that organization.

In addition to government documents and archival material, I have made extensive use of the Canadian prison press, the broad category of publications produced by and for prisoners and their supporters, throughout this dissertation. To do this, I have relied primarily on The Penal Press, an extensive online archive of Canadian prison newsletters.<sup>62</sup> Sometimes called "Joint

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<sup>61</sup> Other researchers have noted the difficulty of utilizing Access to Information processes to receive information on Canadian corrections. The processes are long—often taking longer than the time allowed by law, and can be costly. See Piché, "Accessing the State of Imprisonment in Canada"; Watson, "Research Access Barriers as Reputational Risk Management."

<sup>62</sup> "The Penal Press - A History of Prison From Within," *The Penal Press*. Retrieved from: <http://penalpress.com/>

Magazines,” these newsletters are most often produced by institutional inmate committees and cover topics such as social events, sports, clubs, information on policy and legislative changes, and internal institutional news. By their nature as administration-sanctioned publications, the prison press is limited. In the words of one joint magazine editor, “as long as we’re using *their* paper and *their* press we are restricted to printing only what *they* will permit us to print.”<sup>63</sup> Despite this issue, Bob Gaucher asserts that a “major lacuna in Canadian social science and historiography is the perspective and position of the criminalized underclass and carceral population. The penal press is the only comprehensive body of writing which allows us to access this ‘history from below.’”<sup>64</sup> In addition to ‘inside’ publications, Canada has a relatively rich tradition of independent, alternative and underground prison publications. Along with stories related to prison struggles, they often featured the writings of prisoners, and include prisoners’ reports and analysis of conditions and protests such as hunger strikes and work stoppages. Examples used in my research include *Open Road* and *Western Voice*, both BC-based left-wing political publications.

My discussion of the unionization of the Guelph Abattoir Programme in Chapter 2 draws heavily from material produced by the Ministry of Correctional Services and held by the Archives of Ontario. This study would have benefited from additional information available in union records. However, at the time of writing, Canadian Food and Allied Workers union materials held by Library and Archives Canada were unprocessed. As these materials become available, additional information related to the life and death of CFAW Local 240 may enrich the account given here.

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<sup>63</sup> David Greenhood, “The Editor Speaks,” *The Outlook* (August 1977): 4.

<sup>64</sup> Robert Gaucher, “Organizing Inside: Prison Justice Day (August 10th) A Non-violent Response to Penal Repression.” *Journal of Prisoners on Prisons* 3:1/2 (Spring 1991): 94.

I have also conducted several interviews with currently and formerly incarcerated prison organizers and (non-incarcerated) prison justice activists. For the reasons discussed above, my study relies on a small set of interviews with key prison organizers and activists. While broader research into the attitudes and actions of “rank and file” prisoners in relation to prisoner-worker organizing would provide extremely valuable insights on the phenomenon of prisoner organizing and struggle, this study has forgone such an approach to narrow in on the actions of organizers. In part, this is because these individuals have the most insight into the organizing that occurred in the cases in question. Additionally, those current and former prisoners who self-consciously conceive of themselves as prison justice activists were more willing to assume the risk of participating in research that could be conceived of as contrary to the interests of CSC. Many of these individuals were already publicly known as activists, advocates, and “jailhouse lawyers.”

Specifically, my discussion of the Canadian Prisoners’ Labour Confederation in Chapter 3 draws on two interviews with David Jolivet, founder and former interim President of the CPLC. My discussion of the 2013 federal prison strike in Chapter 4 relies on five interviews conducted in 2016-2017 with current and former prisoners, all of whom were actively involved in organizing the strike. All the interviewees served as members of institutional Inmate Committees (or, in one case, an elected ‘range rep’), in the lead-up to, during, or immediately after the 2013 strike. The organizers ranged in age, from early 30s to late 60s, and had different racial backgrounds—three of the prison organizers who were interviewed are white, one is black, and one is indigenous. In addition, I conducted interviews with three non-prisoner activists who were involved in fundraising, public education, and other prison strike support work in Winnipeg and Kingston. Both sets of interviewees were primarily identified as prison organizers or prisoner justice activists

through their public writing, media involvement, or through publicly available legal documents. Others were recruited through a ‘snowball’ referral technique.<sup>65</sup>

This project is also informed by the existing secondary literature on Canadian prison labour, however that literature is relatively sparse. Significantly, there is no comprehensive history of Canadian prison labour, and there are major gaps in the historical record. For example, despite the prominence of Agnes Macphail as a prison reformer, there is no significant scholarly account of her reform efforts in relation to prison labour. Similarly, despite some scattered references to prison industry’s role in Canadian war production during World War Two, very little information on the subject appears in the scholarly literature. Likewise, a lack of detailed information about contemporary prison labour schemes—especially at the provincial level—makes it impossible to estimate the exact economic significance of prison labour in Canada with any accuracy. As such, this project is partially exploratory, seeking to identify topics, cases, and issues for further study.

In terms of the scope of this study, there are many cases of prisoner-worker organization and resistance that could be included—notably the 1935 B.C. Penitentiary Riot, the 1954 and 1971 Kingston Penitentiary riots, and the 1976 Archambault strike. I have chosen to focus on, more or less, non-violent examples of prisoner-worker collective action; however, this is incidental. The primary concern of this dissertation is on cases where prisoners have conceived of themselves as workers and their struggles as *labour* struggles, as evidenced by their expressed demands. This is the case with the Guelph Abattoir Programme, the Canadian Prisoners Labour Confederation, and the 2013 Canadian federal prison strike. These three cases will allow for a number of fruitful

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<sup>65</sup> Snowball sampling is a technique for recruiting research subjects through referrals by existing subjects. Researchers benefit from introductions to potential research subjects through known and trusted peer intermediaries. This allows researchers access to hard to reach populations, such as marginalized or elite groups. See Rowland Atkinson and John Flint, “Accessing Hidden and Hard-to-Reach Populations: Snowball Research Strategies.” *Social Research Update* 33 (Summer 2001).

comparisons by providing an example of successful union certification, cases of two unsuccessful efforts at winning union recognition (one direct action-based, one primarily legal), and a case where strike action over labour issues occurred in the absence of efforts to form a union. Additionally, although not a main focus of the analysis, these cases cover two distinct historical periods and will allow for some comparative examination of prisoner labour organizing under both post-war Keynesian and neoliberal economic regimes.



## CHAPTER 1

### **PRISONER LABOUR, RESISTANCE, AND ORGANIZING: A REVIEW OF THE LITERATURE**

Prison labour in Canada, and prisoner organizing in general, are not the subjects of developed academic literatures. As such, and because this is in many ways an exploratory project, I have drawn on an extremely wide range of scholarship to situate the findings of the case studies that follow this chapter. The discussions and debates relevant to this study span a number of academic disciplines—ranging from sociology, political science, and history to criminology, socio-legal studies, and labour studies. Rather than discussing the debates pertinent to each of the disciplines that I draw from, I have instead attempted to bring relevant discussions from across disciplines to bear on several broad topics with immediate relevance to this project. First, I look at theorizations of the prison in capitalist society—with special emphasis on the academic literature that does exist in relation to prison labour and Canada. Then, I explore interdisciplinary debates around prisoner resistance, representation, and organizing. As the idea of prisoner unionization features heavily in this study, I explore the academic literature related to prisoner unions in some detail. Finally, I draw especially from recent scholarship on work, labour, and the labour movement, to consider how prisoners’ organizing can be understood in a broader context of unconventional worker organizing.

## Prison, Labour, and Canadian Capitalism

Despite a growing interest in, and concern over, incarceration in Canada,<sup>1</sup> and increasing discussions of prison labour in the United States,<sup>2</sup> prison labour in Canada remains understudied.<sup>3</sup> The purpose and function of prison labour in Canada—and the United States—is not generally well understood. Notions of prisoners toiling for private employers for little or no pay, perhaps from the inside of privately managed correctional institutions, are common in the media and seem embedded in the public consciousness.<sup>4</sup> However, the exploitation of prison labour does not drive

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<sup>1</sup> This concern is evident in media reporting and the publishing of popular books on the general subject of incarceration and prison conditions, as well as a number of controversies including the racial demographics in Canadian prisons, use of solitary confinement, and deaths in custody. For example, see Diana Zlomislic and Donovan Vincent, “Excerpt: The Life and Death of Ashley Smith,” *Toronto Star* (December 15, 2013), available: [https://www.thestar.com/news/canada/2013/12/15/excerpt\\_the\\_life\\_and\\_death\\_of\\_ashley\\_smith.html](https://www.thestar.com/news/canada/2013/12/15/excerpt_the_life_and_death_of_ashley_smith.html); Nancy Macdonald, “Canada’s Prisons are the ‘New Residential Schools,’” *Macleans* (February 18, 2016), available: <https://www.macleans.ca/news/canada/canadas-prisons-are-the-new-residential-schools/>; Paula Mallea, *Beyond Incarceration: Safety and True Criminal Justice* (Toronto: Dundurn, 2017); Raizel Robin, “The \$1-Billion Hellhole,” *Toronto Life* (February 15, 2017), available: <https://torontolife.com/city/inside-toronto-south-detention-centre-torontos-1-billion-hellhole/>; Patrick White, “Adam Capay’s 1,647 Days in Solitary: New Details Emerge as Ontario Decides Not to Appeal Stay of Murder Charge,” *The Globe and Mail* (February 25, 2019), available: <https://www.theglobeandmail.com/canada/article-ontario-will-not-appeal-decision-to-abandon-murder-charge-against-adam/>. Concern over Canada’s prison system is also evident in the Standing Senate Committee on Human Rights investigation into Canadian prisons. See, Senate of Canada, “Senate Investigates Human Rights in Canadian Prisons” Senate of Canada press release, February 9, 2017, available: <https://sencanada.ca/en/newsroom/senate-investigates-human-rights-in-canadian-prisons/>.

<sup>2</sup> Prison labour in the United States has been a major theme of a recent number of popular books and documentaries. See, for example, *13th*, directed by Ava DuVernay (2016, United States: Forward Movement/Kandoo Films); Shane Bauer, *American Prison: A Reporter’s Undercover Journey into the Business of Punishment* (New York: Penguin, 2018).

<sup>3</sup> For research on prison labour in global comparative context, see: Dirk van Zyl Smit and Frieder Dunkel (eds.), *Prison Labour: Salvation or Slavery?* (Dartmouth, UK: Ashgate, 1999); Christian De Vito and Alex Lichtenstein (eds.), *Global Convict Labour* (Leiden and Boston: Brill, 2015).

<sup>4</sup> Prison labour and private prison management, for example, are both themes in the hit HBO television show *Orange is the New Black*. Likewise, Kanye West’s song “New Slaves,” which was nominated for Best Rap Song at the 2014 Grammy Awards, contains lyrics implying collusion between the United States Drug Enforcement Agency and the Corrections Corporation of America. There have been only very limited experiences with prison privatization in Canada. The provincial Central North Correctional Centre, located in Penetanguishene, Ontario, was operated by a U.S.-based private prison firm from 2001 to 2006. The Ontario government declined to renew the contract on the basis that “in basically every single area, the outcomes were better in the publicly run facilities.” Amy Johanna Buitenhuis, “Public-Private Partnerships and Prison Expansion in Ontario: Shifts in Governance 1995 to 2012” (Master’s Thesis, University of Toronto, 2013). Earlier in the 1990s, Geo Group (then known as Wackenhut) built and operated the Miramichi Youth Detention Facility for a number of years before operations of the facility was taken over by the province of New Brunswick in 1999. Bilbo Poynter, “Private Prison Companies Look to Canada as Industry Faces Lawsuits in US” *The Guardian* (June 19, 2012), available: <https://www.theguardian.com/world/2012/jun/19/private-prison-companies-canada-lawsuits>.

the carceral state, either in the United States or Canada.<sup>5</sup> Prison labour also plays a central ideological role in relation to both the punishment and rehabilitation of prisoners. This will be discussed in more detail below. That said, prison labour does have an economic function. Prison labour subsidizes the operations of prisons or otherwise make contributions to public budgets.<sup>6</sup>

A focus on prison labour allows for considerable insight into not only the functioning of correctional institutions and the criminal justice system, but also the political economy that underpins Canadian society writ large.<sup>7</sup> Slavery, indentured servitude and convict labour were foundational elements of New France and British North America.<sup>8</sup> The persistence of prison labour (along with other contemporary forms of unfree labour) should trouble common sense assumptions about the primacy of free labour in liberal democratic Canada.<sup>9</sup>

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<sup>5</sup> As Loïc Wacquant notes, the involvement of private employers in the US is overstated: “Indeed, at peak use around 2002, fewer than 5,000 inmates were employed by private firms, amounting to *one-quarter of one per cent of the carceral population.*” Loïc Wacquant, “Prisoner Reentry as Myth and Ceremony” *Dialectical Anthropology* 34 (2010): 605-620. In Canada, only a small number of federal prisoners work on contracts for private firms. The exact number is difficult to calculate, but in the 2012-2013 fiscal year—which is the most recent year for which CORCAN has issued a detailed annual report—only 9 percent of the agency’s total revenues came from non-federal government, non-profit and private clients. CORCAN. *Annual Report For the period ending March 31, 2013* [Annual Report, 2012-2013].

<sup>6</sup> Perhaps the clearest case of prison labour subsidizing public budgets is in California where prisoner fire fighters, paid well below prevailing wages, make up 40 percent of the state’s firefighters. See Anna Doty, “Fireline, Divided: Labor Representation of Unionized and Incarcerated Firefighters in California’s Wildlands” (Master’s Thesis, Massachusetts Institute of Technology, 2017); Philip Goodman, “Hero and Inmate: Work, Prisons, and Punishment in California’s Fire Camps,” *WorkingUSA* 15:3 (2012): 353–76. Canada’s federal industries generally run at a loss, however one could argue that prisoner labour still represents a subsidy to the cost of employment programming. See Claire Brownell, “Prisoners making \$1.95 a day want a raise. Taxpayers want a break,” *The Financial Post* (August 30, 2017), available: <https://business.financialpost.com/news/court-challenge-to-inmate-pay-places-prison-labour-program-in-the-crosshairs>. Institutional maintenance programs—clerical, janitorial, maintenance and other work—likewise represent a subsidy to prison systems.

<sup>7</sup> This study is focused on prison labour; however, it should be acknowledged that there have been, and continue to be, various forms of formally unfree labour in Canada, including slavery, indentured servitude, immigrant labour programs, residential schools, internment camps, military conscriptions, labour in sheltered workshops, and psychiatric institutions.

<sup>8</sup> See H. Clare Pentland, *Labour and Capital in Canada 1650-1860* (Toronto: Lorimer, 1981); Robin Winks, *The Blacks in Canada: A History* (Second edition) (Montreal and Kingston: McGill-Queen’s University Press, 1997); Harvey Amani Whitfield, “Black Loyalists and Black Slaves in Maritime Canada” *Compass Compass* 5/6 (2007): 1980–1997.

<sup>9</sup> For example, there has been important scholarly work on migrant workers and unfree labour in Canada. See: Jeff Shantz, ““Slave-Like Conditions”: Abuse of Foreign Workers in Canada” *Employee Responsibilities and Rights Journal* 27:3 (2015): 233-239; Choudry and Smith, *Unfree Labour? Struggles of Migrant and Immigrant Workers in Canada*; Gordon, “Capitalism, Neoliberalism, and Unfree Labour.”

In order to understand organizing efforts by prisoners around issues of prison labour, the Canadian prison system must be understood in its historical context, which means understanding prisons as capitalist institutions imbued with capitalist social relations and functional to the reproduction of those relations. The emergence of the penitentiary in the context of developing industrial capitalism has been documented by a diverse set of scholars.<sup>10</sup> As Bryan Palmer has demonstrated, the establishment of the penitentiary in the immediate pre-Confederation period was a key element of Canadian state formation.<sup>11</sup> The penitentiary system was seen as an effective and necessary means to deal with the social conflict and disorder produced by increasing urbanization, industrialization, proletarianization, and colonial expansion.<sup>12</sup> In the words of Ted McCoy, “The penitentiary was, in fact, a unique hallmark of the arrival of industrial capitalism in Canada.”<sup>13</sup>

The class nature of prison in capitalist societies is at least partially revealed in the dual—and contradictory—mandate of prison: to both punish and reform. The contemporary prison emerges out of both social welfare and coercive functions of the state—the almshouse, the workhouse, and the poorhouse, as well as the ‘gaols,’ hulks, and dungeons of pre- and early

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<sup>10</sup> Gerog Rusche and Otto Kirchheimer, Michel Foucault, Michael Ignatieff, Dario Melossi and Massimo Pavarini, and Angela Davis have firmly established the centrality of prison labour and work discipline in the development of the penitentiary and modern prison. Ted McCoy has expanded this analysis to Canada. See Gerog Rusche and Otto Kirchheimer, *Punishment and Social Structure* (New York: Russell & Russell: 1968); Michel Foucault, *Discipline and Punish: The Birth of the Prison* (New York: Vintage Books, 1995); Michael Ignatieff, *A Just Measure of Pain: The Penitentiary in the Industrial Revolution 1750-1850* (New York: Pantheon, 1978); Dario Melossi and Massimo Pavarini, *The Prison and the Factory: Origins of the Penitentiary System* (40th Anniversary Edition) (London: Palgrave Macmillan UK, 2018); Angela Davis, *Are Prisons Obsolete?* (New York: Seven Stories Press, 2003); Ted McCoy, *Hard Time: Reforming the Penitentiary in Nineteenth Century Canada* (Edmonton: AU Press, 2012).

<sup>11</sup> Bryan D. Palmer, “The New Poor Laws: A Chapter in the Current Class War Waged from Above” *Labour / Le Travail* 84 (Fall 2019): 53-105.

<sup>12</sup> For a discussion of the colonial role of the penitentiary in imposing work-discipline on indigenous people, see: Ted McCoy, *Hard Time: Reforming the Penitentiary in Nineteenth Century Canada* (Edmonton: AU Press, 2012): 129-130. For a discussion of the role of the penitentiary as an aspect of colonial strategy in the aftermath of the 1885 North West Rebellion, see Ted McCoy, “Legal Ideology in the Aftermath of Rebellion: The Convicted First Nations Participants, 1885,” *Histoire sociale/Social history* 42: 83 (2009): 175-201. For a history of indigenous people and incarceration in Canada, see Seth Adema, “More than Stone and Iron: Indigenous History and Incarceration in Canada, 1834-1996” (Doctoral Dissertation, Wilfred Laurier University, 2016).

<sup>13</sup> Ted McCoy, *Four Unruly Women: Stories of Incarceration and Resistance from Canada’s Most Notorious Prison* (Vancouver and Toronto: UBC Press, 2019): 9.

capitalist England and its colonial possessions.<sup>14</sup> This is evident in Upper Canada's earliest jail statutes, which "established imprisonment as the best response to both poverty and criminality."<sup>15</sup> In 1867, immediately following Confederation, Ontario passed the *Prison and Asylum Inspection Act*, which laid out the province's responsibilities in relation to its jail and social welfare systems. As Bryan Palmer and Gaétan Héroux summarize, with the passing of this law, "Criminalization, incarceration, and relief of the indigent were not just associated as part of a common response to proletarianization but were now bureaucratically congealed in a statute that assigned responsibility for these spheres of 'correctional intervention' to a single inspector, John Woodward Langmuir."<sup>16</sup>

Prison labour was foundational to the penitentiary and there continues to be a broad ideological consensus in support of prison labour. At the dawn of the penitentiary, productive and punitive labour was understood to be key to the moral reform of convicts. Early prison labour schemes, such as oakum picking and stone breaking, were chosen less for their economic rewards and more for their laboriousness.<sup>17</sup> Others were intentionally useless; for example, the digging of ditches, only to fill them back up again, or the stitching and unstitching of garments.<sup>18</sup> Beyond instilling a Protestant work ethic, which was understood as a good in itself, "inuring" prisoners to

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<sup>14</sup> For discussion of the historical relationship between poor relief and prisons, see: E.P. Thompson, *The Making of the English Working Class* (New York: Vintage, 1966); Michael Ignatieff, *A Just Measure of Pain*; Patricia O'Brien, *The Promise of Punishment: Prisons in Nineteenth Century France* (Princeton, NJ: Princeton University Press, 1982); Ted McCoy, *Hard Time*; Dario Melossi and Massimo Pavarini, *The Prison and the Factory*; Bryan D. Palmer, "The New Poor Laws." For more discussion of forms of incarceration that were eclipsed by the penitentiary, see Norval Morris and David J. Rothman (eds.), *The Oxford History of Prison: The Practice of Punishment in Western Society* (New York and Oxford: Oxford University Press, 1995).

<sup>15</sup> McCoy, *Four Unruly Women*, 78.

<sup>16</sup> Bryan Palmer and Gaétan Héroux, *Toronto's Poor: A Rebellious History* (Toronto: Between the Lines, 2016): 35.

<sup>17</sup> Sentences of hard labour were understood to be particularly appropriate for inebriates, tramps and vagrants. See Joseph A. G. Berkovits, "'Us Poor Devils': Prison Life and Culture in Ontario: 1874-1914" (Doctoral Dissertation, University of Toronto, 2000): 25.

<sup>18</sup> These latter tasks, as one might assume, were gendered, with men digging and filling ditches and women stitching and unstitching garments. John Kidman, *The Canadian Prison: The Story of a Tragedy* (Toronto: The Ryerson Press, 1947): 66.

“habits of industry”—as the *Penitentiary Act* of 1834 described—also aimed to ensure that prisoners would be capable independent economic actors upon their release.<sup>19</sup>

Ideologically, prison labour continues to serve as a key justification for incarceration. Prisons appear to work, at least partially, by equipping prisoners with the skills they will need to reintegrate into society—even if in actual fact the emphasis is on “soft skills” and work *ethic*, and the efficacy of prison labour programs in reducing recidivism is dubious.<sup>20</sup> Likewise, prison labour easily compliments “penal populism” by directly positing work as an appropriate punishment for those perceived to be lazy criminal layabouts and evil-doers—a conception with undeniable racial overtones.<sup>21</sup> As articulated by Christian Parenti, “The right wing loves the trope of the toiling convict; it is the perfect hybrid between moral revenge and economic efficiency.”<sup>22</sup> The left, for

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<sup>19</sup> It should be acknowledged that imprisoned women and men experienced this labour discipline in very different ways. Women were, and continue to be, even less able than men to secure meaningful prison work. What work for women did exist was extremely gendered. Kelly-Hannah Moffat and others have demonstrated the gendered penal logic which has existed since the establishment of the penitentiary, and continues in various forms today, that understood women to be potential home-makers. As such, Canadian penal regimes have consistently undertaken programming for women that emphasizes social reproduction activities: cooking, cleaning, child-rearing and other aspects of the “domestic sciences.” See Kelly Hannah-Moffat, *Punishment in Disguise: Penal Governance and Federal Imprisonment of Women in Canada* (Toronto, Buffalo and London: University of Toronto Press, 2001): 94-103. For other examinations of the gendered nature of imprisonment and prison labour in Canada, see Phyllis Haslam, “The Female Prisoner,” *Canadian Journal of Corrections* 6:4 (1964): 465; Ted McCoy, *Four Unruly Women*. For other analyses of gender and contemporary prison labour schemes, see Liz Elliott and Ruth Morris, “Behind Prison Doors,” in Ellen Adelberg and Claudia Currie, eds., *Too Few to Count: Canadian Women in Conflict with the Law* (Vancouver: Press Gang Publishers, 1987), 145-162; Karlene Faith, *Unruly Women: The Politics of Confinement and Resistance* (New Edition) (New York: Seven Stories Press, 2011); Ann Hansen, *Taking the Rap: Women Doing Time for Society’s Crimes* (Toronto: Between the Lines, 2018).

<sup>20</sup> For example, CORCAN stresses skills such as “Personal management skills: how to show positive attitudes and behave appropriately; how to be responsible, adaptable, manage emotions, learn continuously and work safely” and “Teamwork skills: how to work with others and participate in projects and tasks.” CORCAN Annual Report 2005-06. See also See Laurence L. Motiuk Raymond L. Belcourt, *Prison Work Programs and Post-Release Outcome: A Preliminary Investigation*, Research Report N° R - 43 (Research Division, Correctional Service of Canada, January 1996).

<sup>21</sup> For a discussion of penal populism in Canada, see Philip Goodman and Meghan Dawe, “Prisoners, Cows, and Abattoirs: The Closing of Canada’s Prison Farms as a Political Penal Drama,” *British Journal of Criminology* 56:4 (July 2016): 793-812. Evidently, such racial tropes are also found amongst those involved in Canadian prison labour programming. In 2016, there was controversy after an employee of the Conference Board of Canada alleged that employment programming that the Conference Board of Canada developed for the CSC for indigenous prisoners relied on racial stereotypes and “tokenism.” Jorge Barreta, “Top think tank VP facing probe over ‘racially prejudiced’ remarks about Indigenous peoples, Asians,” *APTN News* (November 11, 2016), available: <https://aptnnews.ca/2016/11/11/top-think-tank-vp-facing-probe-over-racially-prejudiced-remarks-about-indigenous-peoples-asians/>.

<sup>22</sup> Christian Parenti, *Lockdown America: Police and Prisons in the Age of Crisis* (New York: Verso, 2000): 237.

its part, has long supported prison labour programs as more humane than forced idleness and a key component of rehabilitation.<sup>23</sup>

There are also a number of practical economic concerns that have ensured the central place of prison labour in the history of Canadian corrections. Much of Canada's prison system was built and further subsidized by prisoner labour.<sup>24</sup> However, even after the abolition of sentences to hard labour, convict leasing, and formal mandatory work requirements, work and labour continue to exist at the centre of the Canadian prison system—as it does in other liberal capitalist countries.<sup>25</sup> Prisoners work any number of jobs that allow the contemporary prison to run. If not for prison labour, many maintenance, clerical, janitorial and other tasks would have to be performed by CSC workers or subcontractors who would be paid regular—not prisoner—wages.

The Canadian prison, though, is not simply a modern workhouse—as persistent issues of prisoner unemployment and underemployment demonstrate.<sup>26</sup> Following the analysis of Rusche and Kirchheimer, who sought to link particular modes of punishment to the economic needs of particular modes of production, there has been some interest in exploring the role of prisons in labour market regulation, although it has been difficult to prove a direct empirical relationship

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<sup>23</sup> This left-wing support for prison labour program is evident in the prison reform efforts led by Agnes Macphail in the 1920s, and in contemporary debates around the merits of Canada's prison farms. See Terry Crowley, *Agnes Macphail and the Politics of Equality* (Toronto: James Lorimer & Company, 2000); Goodman and Dawe, "Prisoners, Cows, and Abattoirs." The use of convict labour in the Soviet Union and other state socialist countries is well known. For a discussion of the ideology of convict labour in the Soviet Union, see Laura Francesca Piacentini, "Work to Live: The Function of Prison Labour in the Russian Prison System" (Doctoral Thesis, University of Wales, 2002).

<sup>24</sup> McCoy, *Hard Time*; Neufeld, "Cabals, Quarrels, Strikes, and Impudence."

<sup>25</sup> See "The Canadian Penitentiary Service," *Canadian Journal of Corrections* 7:3 (1964-1965): 254-267.

<sup>26</sup> See Senate of Canada, "Interim Report – Study on the Human Rights of Federally-Sentenced Persons: The Most Basic Human Right is to be Treated as a Human Being (1 February 2017-26 March 2018)," available: [https://sencanada.ca/content/sen/committee/421/RIDR/Reports/RIDR\\_Report\\_Prisoners\\_e.pdf](https://sencanada.ca/content/sen/committee/421/RIDR/Reports/RIDR_Report_Prisoners_e.pdf). For an exploration of sick and disabled prisoners in the early Canadian penitentiary, see Ted McCoy, "The Unproductive Prisoner: Labor and Medicine in Canadian Penitentiaries, 1867–1900," *Labor: Studies in Working-Class History of the Americas* 6:4 (2010): 95-112.

between, for example, unemployment and rates of crime or incarceration.<sup>27</sup> While the direct impact of prison labour on free wages and unemployment has been contested by some economists, there is no doubt that imprisonment has a prominent role in regulating the bottom rungs of the labour market.<sup>28</sup> The role of prisons in managing what sociologist Steven Spitzer has called “social junk”—those who fail, are unable, or refuse to participate in “roles supportive of capitalist society”—is nearly universally accepted.<sup>29</sup> As the Office of the Correctional Investigator, Canada’s federal prison watchdog, reported in 2015, “Federal prisons now house some of the largest concentrations of people with mental health conditions in the country.”<sup>30</sup> A 2010 study by the John Howard Society of provincial prisoners in the Greater Toronto Area found that 1 in 5 were homeless at the times of their incarceration.<sup>31</sup>

Finally, at a macro-level, prisons play a role in reproducing the existing capitalist social order by managing “social dynamite”—revolutionary elements interested in, and capable of, social, political, and economic system-change.<sup>32</sup> The history of imprisonment as a means to incapacitate and deter political dissidents is clear and well established: Canada has a long history

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<sup>27</sup> The origins of this analysis lie in the work of Rusche and Kirchheimer, *Punishment and Social Structure*. Most subsequent work focuses on the United States. Also see Ivan Jankovic, “Labor Market and Imprisonment” *Crime and Social Justice* 8 (Fall-Winter 1977): 17-31; E H Warren, Jr., “The Economic Approach to Crime,” *Canadian Journal of Criminology* 20: 4 (1978): 437-449; Bruce Western and Katherine Beckett, “How Unregulated Is the U.S. Labor Market? The Penal System as a Labor Market Institution” *American Journal of Sociology* 104: 4 (January 1999): 1030-1060; Shimshon Bichler and Jonathan Nitzan, “No Way Out: Crime, Punishment and the Capitalization of Power,” *Crime Law and Social Change* 61:3 (2014): 251-271.

<sup>28</sup> Frederick W. Derrick, Charles E. Scott and Thomas Hutson, “Prison Labor Effects on the Unskilled Labor Market” *The American Economist* 48: 2 (Fall, 2004): 74-81.

<sup>29</sup> It should be said that social junk are not less than human, but rather “junk” from the view of capital as they do not play a productive role in the economy. Steven Spitzer, “Toward a Marxian Theory of Deviance,” *Social Problems* 22:5 (1975): 638-651.

<sup>30</sup> The Correctional Investigator of Canada. *Annual Report of the Office of the Correctional Investigator 2014-2015* (2015), available: <https://www.oci-bec.gc.ca/cnt/rpt/pdf/annrpt/annrpt20142015-eng.pdf>,

<sup>31</sup> The John Howard Society of Toronto, “Homeless and Jailed: Jailed and Homeless (August 2010), available: <http://www.antipovertyministry.ca/media/John%20Howard%20Homelessness%20Report.pdf>.

<sup>32</sup> Spitzer, “Toward a Marxian Theory of Deviance.” For other examples of this analysis, see Gosselin, *Prisons in Canada*; Dan Berger, *Captive Nation: Black Prison Organizing in the Civil Rights Era* (Chapel Hill, NC: University of North Carolina Press, 2014); Jordan Camp, *Incarcerating the Crisis: Freedom Struggles and the Rise of the Neoliberal State* (Oakland: University of California Press, 2016).



of imprisoning and interning indigenous rebels and political undesirables, particularly anarchists, communists, socialists, and oppositional labour and social movement leaders.<sup>33</sup>

### **Canadian Prison Labour: From Confederation to CORCAN**

A considerable amount of the scholarship on prison and convict labour, in Canada and beyond, is concerned with the effective implementation and management of prison labour given the constraints imposed upon it.<sup>34</sup> These constraints were the outcome of protracted campaigns by both labour and capital, who saw competition with prison-produced goods as detrimental to their interests, as well as bureaucratic and administrative hurdles related to political will, financing, and other institutional concerns, such as safety and security. In the Canadian context, these pressures resulted in the abolition of public account systems and convict leasing and their replacement by a system of production for “state use” by the turn of the twentieth century.<sup>35</sup>

Among the most significant accounts of the conflict between free labour and prison labour is Bryan Palmer’s study of the labour movement’s opposition to prison labour at Kingston

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<sup>33</sup> Reg Whitaker, “Official Repression of Communism During World War II,” *Labour / Le Travail* 17 (1986): 135-166; J. Petryshyn, “Class Conflict and Civil Liberties: The Origins and Activities of the Canadian Labour Defense League, 1925 – 1940,” *Labour / Le Travail* 10 (1982): 39-63; Ted McCoy, “Legal Ideology in the Aftermath of Rebellion.”

<sup>34</sup> H. M. Hooper, “The Modernization of Canada’s Jails,” *Canadian Journal of Corrections* 6:4 (1964): 453-462; Alan L. Saipe, “Federal Prison Industries: A Survey of Private Senior Executives’ Attitudes,” *Canadian Journal of Criminology and Corrections* 15:1 (1973): 74-82; Tadeusz Grygier, “Correlates of Trust in Correctional Workshops,” *Canadian Journal of Criminology and Corrections* 17:1 (1975): 99-107. This perspective is often found within broader discussions of prison management. For instance, see See Jim Vantour, *Our Story: Organizational Renewal in Federal Corrections* (Canadian Centre for Management Development, 1991); Ole Ingstrup, *Only Those Who Believe Can Stay the Course in Turbulent Times: A Value-based, Strategic Approach to the Development of Corrections* (Canadian Centre for Management Development, 1995); Public Works and Government Services Canada, *Reflections of a Canadian Prison Warden - The Visionary Legacy of Ron Wiebe: An Unfinished Conversation* (Correctional Service of Canada, 2000); Margaret Jackson, Sherry A. Mumford, and Monica Jobe-Armstrong (Eds), *Management Challenges in Canadian Federal Corrections* (Burnaby: SFU Publications, 2009). A major theme of this literature is the need for incentives and aid in transitioning to free work. For example, in 1959, Minister of Justice and Attorney General Davie Fulton supported prisoners being covered by unemployment insurance as a means to “assist them in their re-establishment in useful employment.” Davie Fulton, “Recent and Proposed Developments in Federal Corrections in Canada,” *Canadian Journal of Corrections* 2:1 (1959): 2-13.

<sup>35</sup> Kidman, *The Canadian Prison*, 67.

Penitentiary in the decades leading up to Canadian confederation.<sup>36</sup> As Palmer explains, skilled workers argued that the teaching of trades to prisoners undermined their craft and material well-being:

Pointing to the experience of their fellow craftsmen in upstate New York, where the Auburn prison had virtually destroyed the shoemaking trade, these Kingston mechanics vehemently denounced the establishment of a penitentiary in their midst. As one of the first organized efforts of Canadian workingmen, opposition to the prison and convict labour is an intrinsically important, albeit complex, chapter in early working-class history.<sup>37</sup>

This the campaign against prison labour and the teaching of trades to prisoners, waged in the 1830s by a coalition of labourers, journeymen, master craftsmen, and liberal reformers largely failed in its immediate aims. However, the struggle won some concessions and set the stage for opposition to be taken up by the developing labour movement in early Canada, where it would remain a central issue.<sup>38</sup>

In addition to opposition to prison labour by labour and capital, a major theme in discussions of the implementation of prison labour schemes relates to the question of compensation for work. Although there is some diversity in views, prison administrators, reformers, and scholars have largely favoured payment for prison work as a means to incentivize incarcerated workers. Prisoners, as might be expected, have been consistently in favour of wages for work, as have a number of government reports and inquires. Politicians, for the most part, along with much of the media and the public, have consistently balked at the notion that prisoners should be paid—or paid

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<sup>36</sup> Histories of the Canadian labour movement often make reference to opposition to prison labour by the early labour movement. This discussion typically ends by the 1930s, when limits were placed on prison labour to reduce its impact on free workers. See for example H. Clare Pentland, *Labour and Capital in Canada 1650-1860* (Toronto: Lorimer, 1981). Histories of Canadian crime and punishment likewise tend to focus their discussions on prison labour in this period. For example, see D. Owen Carrigan, *Crime and Punishment in Canada: A History* (Toronto: McClelland & Stewart, 1991).

<sup>37</sup> Bryan D. Palmer, "Kingston Mechanics and the Rise of the Penitentiary, 1833-1836," *Histoire sociale/Social History* XIII: 25 (1980): 9.

<sup>38</sup> Pentland, *Labour and Capital in Canada 1650-1860*, 21.

at rates commensurate to free workers. These concerns range from the ideological—the issue of “making crime pay”—to the practical—the need to find money in the public purse to pay prisoners’ wages or to make prison labour schemes financially viable as a means to pay wages. The debate over incentives and pay for prison labour remains unsettled to this day, and is discussed in more detail in Chapter 4.

By the 1920s, reformers, prison administrators, and academics emphasized productive labour for state use as the best system of prison labour. These advocates had renewed hope for a “self-sustaining” prison—run as cost-neutral to taxpayers, or as some had hoped, even making small contributions to the public purse. They also promoted a shift in correctional policy that sought to combat the “danger” of idleness in the face of restricted prison labour schemes.<sup>39</sup> In Canada, left-wing politicians led by Agnes Macphail championed a plan to overhaul and expand prison labour and industry and institute wages for prisoners.<sup>40</sup> The plan culminated in the introduction of a bill into the House of Commons that would ultimately fail to pass in 1925.<sup>41</sup> Despite this failed reform, prison farms in both the federal and provincial systems were established and expanded, and a new emphasis was placed on prison industries during this period.<sup>42</sup> The onset of the Great Depression, however, soon challenged the state-use consensus. In the context of rising unemployment, demand for government contracts to be fulfilled by the private sector rather than

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<sup>39</sup> C.W. Topping, *Canadian Penal Institutions* (Revised Edition) (Toronto: The Ryerson Press, 1943); Kidman, *The Canadian Prison*, 69.

<sup>40</sup> Macphail was the first woman elected to the House of Commons. Although her party affiliation would change several times, she was one of the most prominent social democratic elected officials in Canada throughout her career. First elected as a member of the Progressive Party, Macphail played a key role in the “Ginger Group,” a multiparty grouping of socialist Members of Parliament in the 1920s, and in the founding of the Cooperative Commonwealth Federation. For more discussion of Macphail’s sometimes tense relationship with the Communist Party of Canada, see C. Scott Eaton, “‘A Sharp Offensive in all Directions’: The Canadian Labour Defense League and the Fight against Section 98, 1931-1936,” *Labour / Le Travail* 82 (Fall 2018): 41-80.

<sup>41</sup> There is a dearth of information on the Macphail-led prison labour reform efforts, but see Crowley, *Agnes Macphail and the Politics of Equality*.

<sup>42</sup> Topping, *Canadian Penal Institutions*. Prison farms have existed in Canada since at least the 1890s. See Neufeld, “Cabals, Quarrels, Strikes, and Impudence,” 95–125.

the prison system limited the expansion of industries and the availability of productive work for prisoners.<sup>43</sup>

A relatively larger amount of scholarly literature exists examining forced labour and internment, of both civilians and prisoners of war, during the two World Wars.<sup>44</sup> Despite this relatively rich literature of internment, there is no in-depth study of prison labour and prison industry during World War Two, and only scant references in criminological literature to the role that prison industry and agricultural production played in the war effort. As described by the Correctional Services of Canada (CSC), during the war, “Correctional officers and offenders were allowed to enlist in the army; the penitentiary farms produced thousands of tonnes of vegetables to feed the armed forces, and offenders manufactured millions of necessities.”<sup>45</sup> John Kidman likewise notes, “In the late war the penitentiaries went far beyond their ordinary production of clothes and shoes for their own inmates, and filled contracts for war clothing, leather goods and equally in the matter of farm produce. But the urgency of the situation made it easier for them to figure without disturbing the open labour market.”<sup>46</sup> Due to these factors, during the war, most institutions “had a surplus of work.”<sup>47</sup> By the late 1940s, Kidman explains:

the ‘industrial shop’ has now become an integral part of any big penal institution. The smithy, the carpentry, the bakery, the laundry, the leather goods, the mail-bag,

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<sup>43</sup> Kidman, *The Canadian Prison*, 70.

<sup>44</sup> For example, see Martin F Auger, *Prisoners on the Home Front: German POWs and “Enemy Aliens” in Southern Quebec, 1940-46* (Vancouver: UBC Press, 2005); Franca Iacovetta, Roberto Perin, and Angelo Principe (eds.), *Enemies Within: Italians and Other Internees in Canada and Abroad* (Toronto, Buffalo, and London: University of Toronto Press, 2000); Reg Whitaker, “Official Repression of Communism During World War II,” *Labour / Le Travail* 17 (1986): 135-166; Rhonda L. Hinder, *Perogies and Politics: Canada’s Ukrainian Left, 1891-1991* (Toronto, Buffalo, and London: University of Toronto Press, 2018); Kassandra Luciuk, “Thinking about Labour and the Carceral State in Canada,” *Active History*, (blog), February 12, 2019, available: <http://activehistory.ca/2019/02/thinking-about-labour-and-the-carceral-state-in-canada/>.

<sup>45</sup> Correctional Service of Canada, “History of the Canadian Correctional System,” (n.d.), available: <https://www.csc-scc.gc.ca/educational-resources/092/ha-student-etudiant-eng.pdf>.

<sup>46</sup> Kidman, *The Canadian Prison*, 68.

<sup>47</sup> John Edwards, “Industry in Canadian Federal Prisons: Glimpses into History,” *Forum on Corrections Research* 8:1 (January 1996): 6.

the shoe and clothing shop mostly have their place, and it is now one of the puzzles of the warden and his classification board how to fit their men into these shops.<sup>48</sup>

Following World War Two, developments in human rights and international law, as well as increased social movement activity, posed new challenges for prison labour schemes that resulted in changes to how prison labour was justified and managed.<sup>49</sup> In the post-war period, an increasingly international consensus emerged concerning the rights of prisoners, including limits on forced labour and a penological shift toward a “treatment model,” considerably impacted Canadian correctional policy.<sup>50</sup> For these reasons, prison labour was increasingly understood to be beneficial primarily for its rehabilitative rather than punitive value.<sup>51</sup>

By the early 1960s, industrial programs were “given precedence over vocational training”<sup>52</sup> and debates were renewed concerning reasonable remuneration and the degree to which prisoners and ex-prisoners should be covered by social welfare schemes such as unemployment insurance.<sup>53</sup> Likewise, scholars and professionals in the field noted the difficulties in reintegration in terms of discrimination and stigma in employment as well as the challenges for prisoners to find housing

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<sup>48</sup> Kidman, *The Canadian Prison*, 66.

<sup>49</sup> See Bruno M. Cormier, “Some Rights, Duties and Responsibilities in Penology and Suggested Changes,” *Canadian Journal of Corrections* 1:4 (1959): 70-79; Paul Cornil, “Prison Industry and Labour,” *Canadian Journal of Corrections* 3:3 (1961): 238-249; Phyllis Haslam, “The Female Prisoner”; A. M. Kirkpatrick, “Prisons and Their Products,” *Canadian Journal of Corrections* 4:3 (1961): 160-178; Kleuskens, “Legitimizing the ‘fiasco’”.

<sup>50</sup> For a scholarly discussion of prison model typology, see John Irwin, *Prisons in Turmoil* (Boston and Toronto: Little, Brown and Company, 1980). For some discussion of prison labour in relation to these changes, see H.M. Hooper, “The Modernization of Canada’s Jails”; Canadian Corrections Association, “Criteria for Treatment and Training Programs in Prison,” *Canadian Journal of Corrections* 8:1 (1965): 28-41. For an overview of prison labour in the context of emerging international human rights law, see Manuel Lopez-Rey, “The First U. N. Congress on the Prevention of Crime and the Treatment of Offenders,” *Journal of Criminal Law and Criminology* 47:5 (1957): 526-538.

<sup>51</sup> Bruno M. Cormier, “Some Rights, Duties and Responsibilities in Penology and Suggested Changes,” 74.

<sup>52</sup> John Edwards, “Industry in Canadian Federal Prisons: Glimpses into History,” 6. For a discussion of the adoption of a treatment orientation in Ontario and vocational training, see H.M. Hooper., Scott Keane, A.S. Agar, and R. Brayshaw, “The Brampton Story,” *Canadian Journal of Corrections* 4:4 (1962): 221-246. Other examples of the ways that prison labour was integrated into a treatment framework include Dorothy Coutts, “The Oakalla Prison Farm Program for Treatment of Narcotic Addicts,” *Canadian Journal of Corrections* 6:1 (1963): 14-20.

<sup>53</sup> Paul Cornil, “Prison Industry and Labour”; Davie Fulton, “Recent and Proposed Developments in Federal Corrections in Canada,” 2-13.

and employment without sufficient resources to do so.<sup>54</sup> Relatedly, there is some descriptive literature on prison labour programs in Canada during this time. These program descriptions typically laude the potential of new programs, and lament the barriers—political, bureaucratic, and otherwise—to larger scale modernization of prison industry and labour programs.<sup>55</sup>

With the onset of the neoliberal period, beginning in the late 1970s, a number of commentators advocated for the liberalization of prison labour programs and prison management in Canada and elsewhere.<sup>56</sup> Echoing arguments from half a century earlier, advocates claimed that privatized management of prison industries could reduce institutional costs, and renewed emphasis on productive work would provide meaningful rehabilitative opportunities.<sup>57</sup> These calls, which continue to be found today, are largely premised on the prevailing economic common sense of the neoliberal era—that the private sector is inherently more efficient than the public sector and that social safety nets, rather than helping those who utilize them, actually trap people in webs of

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<sup>54</sup> A.M. Kirkpatrick, “Prisons and Their Products”; The difficulty for prisoners to gainful employment upon release, remains a problem. See Rose Ricciardelli, Adrienne M.F. Peters (eds.), *After Prison: Navigating Employment and Reintegration* (Waterloo, ON: Wilfrid Laurier University Press, 2017).

<sup>55</sup> C.W. Topping, *Canadian Penal Institutions*; Charles Schille, “Provincial Jail Project at Fort a la Corne,” *Canadian Journal of Corrections* 2:3 (1959-1960): 292-294; R. A. Cook, “Organization and Function of Business Division in Modern Correctional Institution,” *Canadian Journal of Corrections* 2:1 (1959): 66-67; H. M. Hooper; S. Keane; A. S. Agar; R. Brayshaw, “The Brampton Story,” *Canadian Journal of Corrections* 4:4 (1962): 221-246; Coutts, “The Oakalla Prison Farm Program for Treatment of Narcotic Addicts”; A. M. Kirkpatrick, “Jails in Historical Perspective,” *Canadian Journal of Corrections* 6:4 (1964): 405-418; S. Rocksborough Smith, “British Columbia,” *Canadian Journal of Corrections* 7:3 (1964-1965): 297-306; “Ontario,” *Canadian Journal of Corrections* 7:3 (1964-1965): 322-340; John A. MacDonald, “Towards Work Release Legislation in Canada,” *Canadian Journal of Corrections* 10:3 (1968): 505-513; Sydney Shoom, “The Upper Canada Reformatory, Penetanguishene: The Dawn of Prison Reform in Canada,” *Canadian Journal of Criminology and Corrections* 14:3 (1972): 260-267; P. A. Faguy, “The Canadian Penal System of the Seventies,” *Canadian Journal of Criminology and Corrections* 15:1 (1973): 7-12; J. T. L. James, “Gaols and their Goals in Manitoba 1870-1970,” *Canadian Journal of Criminology* 20:1 (1978): 34-42; William R. T. Palmer, “Programming for Long-Term Inmates: A New Perspective,” *Canadian Journal of Criminology* 26:4 (1984): 439-458.

<sup>56</sup> Ernie S. Lightman, “The Private Employer and The Prison Industry,” *The British Journal of Criminology*, 22:1 (January 1982): 36-48; Ronald Gordon Lennox, “Self-Sufficient Federal Prison Industry in Canada: A Case Study in Applied Implementation Analysis” (Master’s Thesis, Carleton University, 1983); Richard V. Ericson, Maeve W. McMahon, and Donald G. Evans, “Punishing for Profit: Reflections on the Revival of Privatization in Corrections,” *Canadian Journal of Criminology* 29:4 (October 1987): 355-388; Charles C. Cox and Roger E. Meiners, “Private Employment of Prison Labor,” *Journal of Private Enterprise* 17:1 (2001): 1-51.

<sup>57</sup> John Gandy and Lorna Hurl, “Private Sector Involvement in Prison Industries: Options and Issues,” *Canadian Journal of Criminology* 29:2 (April 1987): 185-204.

dependency. These webs of dependency prevent individuals—including prisoners—from upward social mobility and serve as a drag on the economy as a whole. Some of these calls advocated for the normalization of prison labour, arguing that prisoners should more or less be covered by normal employment standards, health and safety, and labour laws.<sup>58</sup> Others, however, justified substandard wages on the basis that, so long as prisoners were formally free to choose not to work, a sort of “free market” for prisoner wages could ensure fairness.<sup>59</sup> Positions such as these assume policies that allow prisoners to decline to work, as well as ignore the informal or semi-formal pressures to ‘freely’ agree to work in order to become eligible for early release which are common in correctional plans. The notion of a free market for prison labour likewise fails to consider the economic imperatives that all workers face to earn wages to reproduce themselves.<sup>60</sup> As previously mentioned, even in prison any number of basic necessities—hygiene products, medicine, the means to communicate with friends and family, and more—require money to purchase. To satisfy these needs, prisoners may take work that is dangerous or otherwise undesirable. Furthermore, chronic issues with a lack of meaningful work ensures a “reserve army” of prison labour that could easily degrade wages in a prison labour market.

In Canada, despite some experiments in prison industry privatization, such as of the abattoir at the Guelph Correctional Centre (GCC), which is the subject of the next chapter, private incursions into prison industry and private prison management have been relatively minimal. Instead, since the end of World War Two, correctional officials made increasing efforts to retool prison industry to “mimic private sector standards.”<sup>61</sup> At the same time, there were a number of

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<sup>58</sup> For example, see Gennaro F. Vito, “Putting Prisoners to Work,” *Journal of Offender Counseling Services Rehabilitation*, 9:3 (1985): 21-34; Sheri D. Price, “Working Behind Bars: Prison Labour and Minimum Standards Protections in Canada” (Master’s Thesis, University of Toronto, 1997).

<sup>59</sup> Stephen P. Garvey, “Freeing Prisoners’ Labor,” *Stanford Law Review* 50:2 (1998): 339-398.

<sup>60</sup> Glasbeek, “Coerced and Unfree in the Private Sector”.

<sup>61</sup> Correctional Service of Canada, “CORCAN: Overview,” (November 13, 2018), available: <https://www.csc-scc.gc.ca/corcan/002005-0001-eng.shtml>.

limited experiments with prisoners' sole-proprietor businesses and co-ops, such as the Native-owned Native Extraordinary Line of Furniture co-op, which produced artisan crafts such as candles, furniture, and leather goods in both federal and some provincial prisons.<sup>62</sup>

In 1979, CSC patented CORCAN as a trademark to market prison-made goods and began implementing a series of program changes that would lead to the establishment of a single, nationally coordinated federal prison industry program.<sup>63</sup> As a result, CORCAN was established as a special operating agency within the CSC in 1992 and tasked with managing federal prison industries. This ushered in the contemporary era of prison industry in federal prisons. Prison industry, it should be noted, varies dramatically in provincial systems. Institutional maintenance prison work programs that do not involve prison industries also exist in both the federal and provincial systems. CORCAN, provincial prison industries, and non-industrial prison labour program are all understudied, especially when compared to similar programs in the United States.<sup>64</sup>

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<sup>62</sup> See "Earl Fox Heads New Division at Inmate Employment Branch," *Let's Talk* 5:18 (September 30, 1980): 4; W. Clifford, John Braithwaite, and Jack Sandry (eds). *Regional Developments in Corrections: Proceedings of the Second Asian and Pacific Conference of Correctional Administrators, Bangkok, July 6-10, 1981* (Canberra: Australian Institute of Criminology, 1982): 214-218. There is no significant scholarly research on the history of prisoners' co-ops in Canada, however, the idea has recently been resuscitated by commentators on the basis that co-ops could ameliorate some of the worst injustices of existing prison labour schemes and would be "consistent with the precepts of democratic administration [...] even within the most coercive branches of the capitalist state." Greg McElligott, "Beyond Service, Beyond Coercion? Prisoner Co-ops and the Path to Democratic Administration," in Paul Christopher Gray (ed.), *From the Streets to the State: Changing the World by Taking Power* (Albany, NY: State University of New York Press, 2018): 244-245. Also see John Howard Society of Canada, *Prisoner-Based Cooperatives: Working It Out in Canada* (submitted to the Department of Public Safety) (Ottawa: John Howard Society, 2013).

<sup>63</sup> For a partial history of Canadian federal prison industry, see Lennox, "Self-Sufficient Federal Prison Industry in Canada."

<sup>64</sup> For some research on contemporary prison labour in the United States, see Frederic L. Pryor, "Industries Behind Bars: An Economic Perspective on the Production of Goods and Services by U.S. Prison Industries," *Review of Industrial Organization* 27 (2005): 1-16; Charles E Scott and Frederick W Derrick, "Prison Labor: The Local Effects of Ohio Prison Industries," *International Advances in Economic Research* 12:4 (2006): 540-550; Asatar P. Bair, *Prison Labor in the United States: An Economic Analysis* (New York and London: Routledge, 2008); Genevieve LeBaron, "Captive labour and the Free Market: Prisoners and Production in the USA," *Capital & Class* 32:2 (2008): 59-81; Philip Goodman, "Hero and Inmate: Work, Prisons, and Punishment in California's Fire Camps," *WorkingUSA* 15:3 (2012): 353-76; Michael C. Groh, "FAR (8.602) Gone: A Proposal to Maintain the Benefits of Prison Work Programs Despite the Restructuring of Federal Prison Industries Mandatory Source Status," *Public Contract Law Journal* 42:2 (Winter 2013): 391-410; Gottschalk, *Caught*: 59-64; Christoph Scherrer and Anil Shah, "The Political Economy of Prison Labour: From Penal Welfarism to the Penal State," *Global Labour Journal* 8:1 (2017): 32-48.



There is a small amount of scholarly work concerned with CORCAN and other contemporary prison labour schemes in Canada. Some of this scholarship examines the justification and rhetoric deployed by CORCAN in order to highlight its rehabilitation goals and stave off criticism that CSC is exploiting unfree labour.<sup>65</sup> Another set of literature, which tends to be produced by CSC itself or academics adjacent to it, is aimed at evaluating the efficacy of CORCAN and other employment training programming.<sup>66</sup> Despite this, there is a lack of detailed research on CORCAN and the experience of CORCAN prisoner-workers.

One of the few examinations of CORCAN's product lines that does exist is Jean-Philip Crete's very valuable analysis of CORCAN's Fur and Shearling program.<sup>67</sup> The Fur and Shearling program hires indigenous prisoners to produce a variety of native handicrafts, such as drums, moccasins, and dream catchers. Unlike most CORCAN products, the goods are sold directly to customers through a website and a select number of retailers. Goods are marketed as "handcrafted by Canada's First Nations, Inuit and Metis people."<sup>68</sup> Crete situates the Fur and Shearling program within CSC's broader focus on Aboriginal correctional programming, finding that "the commodification of indigenous culture into material objects by the prison has notably obscured the realities of imprisonment though a discourse of healing and 'Aboriginality'."<sup>69</sup> Crete's research demonstrates how scholarly focus on prison labour can provide a potentially powerful lens to

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<sup>65</sup> Deena Rymhs, "'Docile bodies shuffling in unison': The Prisoner as Worker in Canadian Prison Writing," *Life Writing* 6:3 (December 2009): 313-327; Kleuskens, "Legitimizing the 'Fiasco.'"

<sup>66</sup> Correctional Service of Canada. *File 394-2-83 Evaluation Report: National Employability Skills Program* (Evaluation Branch Policy Sector, May 2010), available: <https://www.csc-scc.gc.ca/text/pa/ev-nesp-394-2-83/nesp-394-2-83-eng.pdf>.

<sup>67</sup> Jean-Philippe Crete, "Punitive Healing and Penal Relics: Indigenous Prison Labour and the (Re)production of Cultural Artefacts," in Jacqueline Z. Wilson, Sarah Hodgkinson, Justin Piché, and Kevin Walby (eds.), *The Palgrave Handbook of Prison Tourism* (London: Palgrave MacMillan, 2017): 969-988.

<sup>68</sup> Jorge Barrera, "Federal Prison Corporation's Selling of Moccasins, Drums for Revenue 'Exploitative,' Says Cree-Metis Artist," *APTN* (November 16, 2016), available: <https://aptnnews.ca/2016/11/16/federal-prison-corporations-selling-of-moccasins-drums-for-revenue-exploitative-says-cree-metis-artist/>.

<sup>69</sup> Crete, "Punitive Healing and Penal Relics," 985.

reveal different ways that structural oppression manifests in the prison context. More than just revealing issues of class inequality, the study of prison labour can add to our understanding of the racial and gendered dynamics of incarceration. While a number of commentators have highlighted the issue of disparities in opportunities for prison work for women and black prisoners, and the significantly gendered nature of many prison labour programs, more research in this area is needed.

The most recent prison labour controversy in Canada to receive any significant public attention was in response to the Harper government's decision to close prison farms in 2010. As Philip Goodman and Megan Dawe have demonstrated, despite its appearance, the public debate around the prison farm closures had less to do with prisoners and prison labour, and more to do with the articulation of conservative and progressive political and social values for most of the major players—being tough on crime on the one hand, and being anti-Harper Conservative and pro-farming, on the other.<sup>70</sup>

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<sup>70</sup> Goodman and Dawe, "Prisoners, Cows, and Abattoirs."

## Prisoner Resistance

There has recently been renewed scholarly interest in collective resistance by prisoners.<sup>71</sup> Undoubtedly, this is—at least in part—in response to an upsurge in prison protest in the United States over the past decade.<sup>72</sup> While dramatic protests in the United States, ranging from hunger strikes to work stoppages to riots, have received the bulk of the attention of scholars and the media, prisoners in other capitalist democracies have also been engaging in renewed and reinvigorated activism. This has taken the form of the emergence of a number of organizations, countless lawsuits and legal challenges and, from time to time, protest action of various kinds.

The return to analysis of prisoners' collective action, which has not received a significant amount of attention since the 1980s, is a welcome one.<sup>73</sup> Prisoner collective action has the potential to dramatically impact the character of correctional systems and make critical contributions to

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<sup>71</sup> For example, see Alan Eladio Gómez, “Resisting Living Death at Marion Federal Penitentiary, 1972,” *Radical History Review* 96 (Fall 2006): 58–86; Jeremiah Chin, “‘Lockdown for Liberty!’ Black Masculinities, Mass Incarceration and Labor in the Georgia Prisoners Strike,” *Law Journal for Social Justice* 4 (Fall 2013): 54–75; Dan Berger, *The Struggle Within: Prisons, Political Prisoners, and Mass Movements in the United States* (Oakland and Montreal: PM Press and Kersplebedeb Publishing, 2014); Berger, *Captive Nation*; Keramet Reiter, “The Pelican Bay Hunger Strike: Resistance within the Structural Constraints of a US Supermax Prison,” *The South Atlantic Quarterly* 113:3 (Summer 2014): 579–611; Heather Ann Thompson, *Blood in the Water: The Attica Prison Uprising of 1971 and Its Legacy* (Pantheon: New York, 2016); Dan Berger and Toussaint Losier, *Rethinking the American Prison Movement* (Routledge: New York and London, 2018); Orisanmi Burton, “Organized Disorder: The New York City Jail Rebellion of 1970,” *The Black Scholar*, 48:4 (2018): 28–42.

<sup>72</sup> This renewed interest in prisoner collective action is also influenced by increasing scholarly and political debate over issues of the prison industrial complex, mass incarceration and the racial dynamics of incarceration. Some of the most significant works to touch on these issues in recent years include: Parenti, *Lockdown America*; Davis, *Are Prisons Obsolete?* Irwin, *The Warehouse Prison*; Marie Gottschalk, *The Prison and the Gallows: The Politics of Mass Incarceration in America* (Cambridge: Cambridge University Press, 2006); Ruth Wilson Gilmore, *Golden Gulag: Prisons, Surplus, Crisis, and Opposition in Globalizing California* (Berkeley and Los Angeles: University of California Press, 2007); Loïc Wacquant, *Punishing the Poor: The Neoliberal Government of Social Insecurity* (Durham and London: Duke University Press, 2009); Michelle Alexander, *The New Jim Crow: Mass Incarceration and the Age of Colorblindness* (New York: The New Press, 2012); Gottschalk, *Caught*; James Forman Jr., *Locking Up Our Own: Crime and Punishment in Black America* (New York: Farrar, Straus, and Giroux, 2017); Shane Bauer, *American Prison: A Reporter's Journey into the Business of Punishment* (New York, Penguin Press, 2018).

<sup>73</sup> A number of studies in the 1970s were concerned with prisoner collective action in both violent and non-violent forms. These were often related to more general sociological studies, typically in the form of prison ethnographies, that attempted to map prisoner social organization. For example, see John Irwin, *The Felon* (Englewood Cliffs, N.J.: Prentice-Hall, 1970); Irwin, *Prisons in Turmoil*; James B. Jacobs, *Statesville: The Penitentiary in Mass Society* (Chicago and London: The University of Chicago Press, 1977). On the decline of the popularity of ethnography as a method of prison scholarship, see Loïc Wacquant, “The Curious Eclipse of Prison Ethnography in the Age of Mass Incarceration,” *Ethnography* 3:4 (December 2002): 371–397.

struggles for social justice within and beyond prison walls. Additionally, a focus on collective action by prisoners may reveal insights which prove to be more broadly applicable. For example, in the context of increasing state intervention in labour disputes, as well as more restrictive and exclusionary labour law, the prisoner-worker organizing methods and tactics developed in hyper-repressive environments such as prisons may prove applicable in the organization of free labour outside of conventional employment relations as well.<sup>74</sup>

Penology in the nineteenth and early twentieth century focused most of its concern on the ideas and actions of politicians, intellectuals, administrators, and elite prison reformers. With the development of radical and convict criminology in the 1960s, it is now normal to emphasize prisoners' self-activity, experience, and agency as central to understanding the functioning and effects of imprisonment.<sup>75</sup> While some conceptualize prisoner resistance as primarily a response to prison discipline, others have more correctly asserted that understanding prisoner resistance is actually critical to understanding the development and broader dynamics of correctional systems. Prison policy and prisoner resistance interact in dynamic and complex ways to produce the facts on the ground of prison life in Canada and beyond.<sup>76</sup> For example, Dan Berger and Toussaint Losier have stressed that prisoners develop different strategies of resistance appropriate to their circumstances under different forms of penal management. "Workhouse prisons" premised on large-scale prisoner labour produced prisoner work stoppages, "Big House prisons" that promoted rehabilitative programming became the target of prisoner lawsuits and exposés, and "warehouse prisons" that simply and austere emphasize the separation of prisoners from society have been

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<sup>74</sup> For a discussion of the coercive turn in labour relations, see Leo Panitch and Donald Swartz, *From Consent to Coercion: The Assault on Trade Union Freedoms* (3rd edition) (Aurora, ON: Garamond Press, 2003).

<sup>75</sup> Indeed, it is not only scholars who have relied on elite sources to understand the issues at hand in various prison systems, activists and reformers for much of the history of the modern penitentiary and correctional institution have done the same. See, for example, Joan Sangster, "Reforming Women's Reformatories: Elizabeth Fry, Penal Reform, and the State, 1950-1970," *The Canadian Historical Review* 85: 2 (2004): 1-15.

<sup>76</sup> McCoy, *Four Unruly Women*.

the targets of hunger strikes.<sup>77</sup> The fact that protest strategies correspond to forms of penal managerialism of course makes sense. The efficacy of a work stoppage, for example, depends on a number of factors, including how critical the work is to the running of the institution. It is also important to acknowledge that the relationship between prison management and prisoner protest is a dynamic one. Ted McCoy describes this relationship in the early modern Canadian penitentiary, “when prisoners called upon customary rights to champion their self-determination behind bars and govern the shape of their incarceration.”<sup>78</sup> These customary rights preceded the invention of the penitentiary and included things like right to visitation with family and rest on Sundays. Rather than extinguishing these customary rights outright, administrators of the penitentiary and modern correctional institutions found themselves in protracted struggles around them—even when prison discipline seemed to have won the day, years or decades later these claims might reappear, along with assertions of whole new categories of rights. In the post-war period, the critical role of resistance on the structure of incarceration—even at the level of architecture—is demonstrated in the case of the Mountain Institution in BC. Mountain was built as fireproof and without workshops to house Doukhobor prisoners who engaged in work refusals and arsons in other Canadian prisons.<sup>79</sup> As put succinctly by Philip Goodman, Joshua Page, and Michelle Phelps, “struggle is the motor of penal change.”<sup>80</sup> Of course, it must also be acknowledged that the shape and character of prison systems is not simply the outcome of the

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<sup>77</sup> Berger and Losier, *Rethinking the American Prison Movement*.

<sup>78</sup> McCoy, *Four Unruly Women*, 18.

<sup>79</sup> Michaela Ludwig, “Riots & Hostage-Taking: British Columbia Penitentiary’s Bloody History,” *British Columbia Magazine* (March 31, 2015), available: <https://www.bcmag.ca/riots-hostage-taking-british-columbia-penitentiarys-bloody-history/>. Also see George Woodcock and Ivan Avakumovic, *The Doukhobors* (McClelland and Stewart Limited: Toronto, 1977), 353.

<sup>80</sup> Philip Goodman, Joshua Page, and Michelle Phelps, *Breaking the Pendulum: The Long Struggle Over Criminal Justice* (New York: Oxford University Press, 2017), 3.

struggle between prisoners and prison administrators. These struggles occur within the context of broader social, political, and economic conflict.

Prisoner resistance takes many forms, some collective and some individual. Prisoners engage in protests, work stoppages, hunger strikes, and riots. They write exposés, file lawsuits, engage in black market economies, escape, malingering, and otherwise shirk duties and engage in non-compliance with rules and regulations. In his pioneering work *Discipline and Punish*, Michel Foucault articulated a broad conception of power as present in all social interactions and constantly reproducing itself.<sup>81</sup> This means that beyond the use or direct threat of force, power also operates through disciplinary processes which “subject our bodies, govern our gestures, dictate our behaviors.”<sup>82</sup> Following the publication of *Discipline and Punish*, increasing attention has been paid to these individual, personal, ‘backstage’ or ‘micro-level’ forms of prisoner resistance.<sup>83</sup> Some of the work inspired by Foucault has produced extremely valuable insights into the lived experiences of prisoners and dramatically expanded scholarly and activist knowledge of the “pains of imprisonment.”<sup>84</sup> The Foucauldian tradition has also produced very important insights in penal authority and discipline by emphasizing the ways that discursive forms of power shape the prison experience and popular notions of crime and punishment.<sup>85</sup>

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<sup>81</sup> Foucault, *Discipline and Punish*.

<sup>82</sup> Quoted in David Courpasson and Steven Vallas, “Resistance Studies: A Critical Introduction” in David Courpasson and Steven Vallas (eds.), *The SAGE Handbook of Resistance* (Los Angeles, London, New Delhi, Singapore, Washington DC, and Melbourne: Sage, 2016): 6.

<sup>83</sup> Courpasson and Vallas, “Resistance Studies,” 5-9.

<sup>84</sup> In his classic prison ethnography of the New Jersey State Prison, Gresham M. Sykes identifies five forms of deprivation—the deprivation of liberty, goods and services, heterosexual relationships, autonomy, and security—that taken together amount to “the modern pains of imprisonment.” Gresham M. Sykes, *The Society of Captives: A Study of the Maximum Security Prison* (Princeton: Princeton University Press, 1958): Chapter Four.

<sup>85</sup> For one very insightful example of this tradition in relation to Canadian prisons, see by Jean-Philippe Crete, “A Disciplined Healing: The New Language of Indigenous Imprisonment in Canada” (MA Thesis, Carleton University, 2013).

Other scholarly work in this tradition, however, stretches the definition of ‘resistance’ to the point that it loses analytical utility.<sup>86</sup> Such approaches have led to studies that consider eating noodles purchased from the prison commissary,<sup>87</sup> making a “really good cup of coffee,”<sup>88</sup> and seeking “sexual gratification” as forms of resistance, rather than as coping or psychological survival strategies.<sup>89</sup> Although it is not necessary to draw too sharp of a line between resistance and coping, resistance implies “consciously disruptive, intentionally political actions.”<sup>90</sup> While it is possible that certain forms of coping, especially when carried out in concert with others, can create “cultures of solidarity” that are a necessary precondition for collective resistance, it is not the case that all forms of micro-resistance have this effect.<sup>91</sup>

At their least useful, analyses of “micro-resistance” and “infrapolitics” fall into voluntarism and risk “simply celebrating the ability of the confined to resist.”<sup>92</sup> In addition, an overemphasis

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<sup>86</sup> There is some debate, even among Foucauldians, around where to draw the line between resistance and coping. For some additional discussion, see Ben Crewe, “Power, Adaptation and Resistance in a Late-Modern Men’s Prison,” *British Journal of Criminology* 47 (2007): 256–275; Thomas Ugelvik, *Power and Resistance in Prison: Doing Time, Doing Freedom* (Houndmills, Basingstoke, Hampshire: Palgrave Macmillan, 2014).

<sup>87</sup> Amy B. Smoyer, “Making Fatty Girl Cakes: Food and Resistance in a Women’s Prison,” *The Prison Journal* 96:2 (2016): 191–209.

<sup>88</sup> Ugelvik, *Power and Resistance in Prison*, 153.

<sup>89</sup> Gillian Balfour, “Searching Prison Cells and Prisoner Bodies: Redacting Carceral Power and Glimpsing Gendered Resistance in Women’s Prisons,” *Criminology and Criminal Justice* 18:2 (2018): 139–55. Some scholars use “resistance” and “coping” in conjunction or nearly interchangeably. For example, see Jeffrey Ian Ross, “Resisting the Carceral State: Prisoner Resistance from the Bottom Up,” *Social Justice* 36:3 (2009-2010): 28-45.

<sup>90</sup> Ashley T. Rubin, “Resistance or friction: Understanding the significance of prisoners’ secondary adjustments,” *Theoretical Criminology* 19:1 (2015): 23–42. Rubin has suggested that ‘friction’ is a more appropriate term for those actions that may defy prison discipline but may not constitute resistance.

<sup>91</sup> Rick Fantasia, *Cultures of Solidarity: Consciousness, Action, and Contemporary American Workers* (Berkeley, Los Angeles and London: University of California Press, 1988).

<sup>92</sup> Mary Bosworth and Eamonn Carrabine, “Reassessing Resistance: Race, Gender, and Sexuality in Prison,” *Punishment and Society* 3:4 (2001): 502. Also see Lila Abu-Lughod, “The Romance of Resistance: Tracing Transformations of Power through Bedouin Women,” *American Ethnologist* 17 (1990): 41–55. Thomas Ugelvik goes so far as to assert that prisoners can make themselves “free” by engaging in minor, personal, non-disruptive coping activities, such putting spice on their food or conceiving of oneself as ethical: “The prisoners *take* liberties, *do* resistance and *become* free. If freedom can, thus, be understood as a performative variable, the person taking liberties becomes free. And a person who is free is, in some sense, not really a prisoner at all. Understood like this, freedom is the practical outcome of successful forms of resistance.” Ugelvik, *Power and Resistance in Prison*, 6. For a defence of the value of the concept of “infrapolitics,” see Guillaume Marche, “Why Infrapolitics Matters,” *Revue française d’études américaines* 1:131 (2012): 3-18.

on non-compliance as “resistance” may serve to obscure the ways that some forms of micro-resistance may, in some cases, benefit prison administrators.<sup>93</sup>

Moreover, these approaches, in their microscopic analysis, sometimes paint a profoundly apolitical picture. Prisoners do, of course, resist in individual and everyday ways, but they do so from within a particular institution in a particular society. The terrain upon which prison resistance plays out on is determined by the broader economic, social, and political struggles that have been waged by working-class, feminist, queer, anti-racist, humanist, socialist and civil libertarian organizations and movements.<sup>94</sup> It is also shaped by the everyday and mundane forces of bureaucratic self-interest, partisan politics, economic imperatives, and labour relations internal to correctional systems.<sup>95</sup> Penal policy and conditions of imprisonment, in actual practice, are the result of these conflicts or “antagonisms” both inside and outside of the prison.<sup>96</sup>

## **Prisoner Organizing**

Despite the fact that, in recent years, greater scholarly emphasis has been placed on prisoners’ collective resistance, even accounts that centre prisoners’ agency and activity have tended to gloss over questions of *how* resistance is organized. As Sam Luebke and Jennifer Luff note in relation to labour history:

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<sup>93</sup> Ashley T. Rubin, “The Consequences of Prisoners’ Micro-Resistance,” *Law and Social Inquiry* 42:1 (Winter 2017): 138-162. The sociologist Michael Burroway makes a similar observation in relation to the “games” that factory workers play as a means to ward off tedium. While these games may not be authorized by management, games that increase productively are often condoned and encouraged. The “day-to-day adaptations of workers create their own ideological effects that become focal elements in the operations of capitalist control.” Michael Burroway, *The Politics of Production: Factory Regimes Under Capitalism and Socialism* (London: Verso, 1985): 39.

<sup>94</sup> Of course, efforts to humanize, improve and reform the prison have been limited and, at their worst, had negative unintended consequences. See Thomas Mathiesen, *The Politics of Abolition* (London: Martin Robertson and Company, 1974).

<sup>95</sup> Joshua Page, “Politically Realistic Unionism: The California Prison Officers Association and the Struggle Over the Public ‘Good’,” *WorkingUSA* 15 (September 2012), 377-396; Justin Piche, “Playing the ‘Treasury Card’ to Contest Prison Expansion: Lessons from a Public Criminology Campaign,” *Social Justice* 41:3 (2015): 145-167; Greg McElligott, “Invested in Prisons,” 86-112.

<sup>96</sup> Goodman, Page, and Phelps, *Breaking the Pendulum*.



labour history offers surprisingly few studies of union organizing tactics, methods, and theories, and labour historians often slip into passive voice when discussing the origins of workers' organizations—unions were formed, workers came together, but just how that happened remains somewhat of a mystery. How did unions hire and train staff? How did unions pay for campaigns? Perhaps most importantly, how did organizers “organize.”<sup>97</sup>

Prisoners have an even more hidden history of worker organizing, along with others whose labour falls outside the bounds of ‘normal work.’ Organizing by workers in unusual or ‘unimportant’ industries, who do not create formal organizations, who form organizations structured unlike trade unions, or, critically, who are not generally understood to be ‘real’ workers, is even less likely to be studied. This, of course, cuts across social axes of inequality, where those who face marginalization—immigrant workers, women workers, sex workers, and many others—experience further erasure even in their exercises of power and acts of resistance. This is also, of course, true in the case of prisoners—working or not—who, having been labelled as wrongdoers and physically separated from society, are an even less sympathetic and accessible group for scholars than others who face marginalization.

Prisoner organizing is not only understudied due to a lack of interest on the part of researchers. As Frederick J. Desroches has noted in relation to prison riots:

Studies on institutional riots however, are relatively uncommon. This may, in part, be due to the fact that detailed, reliable information is unavailable or difficult to obtain through the use of standard research techniques. [...] Prison riots are political events, and government authorities commonly restrict or prevent the mass media and other interested parties from researching them in order to ensure that sensitive and potentially damaging information will not come to light. Instead, official investigations are commissioned. Official reports tend to be political documents, however, and are often unavailable to the public. Even when they are released they may be unsuitable for scholarly purposes because they offer administrative justification for policies and actions; they lack detail; or they focus on material irrelevant to the researcher.<sup>98</sup>

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<sup>97</sup> Sam Luekbe and Jennifer Luff, “Organizing: A Secret History,” *Labor History* 44:4 (2003): 421.

<sup>98</sup> Frederick J. Desroches, “Anomie: Two Theories of Prison Riots,” *Canadian Journal of Criminology* 25:2 (April 1983): 173.

Non-violent forms of prisoner organizing and protest, even in instances involving violent suppression by authorities, are even less likely to be the subject of reports of the kind noted by Desroches. Researchers therefore have an even greater challenge in piecing together organizing efforts through the sources they can find. As such, studies of this kind must utilize not only official and legal records and media reporting, but also prisoner-produced knowledge in various forms—letters, journals, testimonials and oral history.<sup>99</sup>

Despite these difficulties, this study seeks to take up the challenge issued by Luebke and Luff to change the passive voice of scholarly accounts of organizing to an active one by exploring in detail the means by which prisoners have struck, sought to form unions, protested, and otherwise engaged in collective action in response to prison labour within the confines of correctional institutions in Canada. It therefore seeks to shine a light on a group of workers that has typically been left out of labour studies altogether, the men and women who work in this country's jails and prisons, not as guards, administrators, or social workers, but as a consequence of their incarceration. This approach has implications for penology and criminal justice studies, as well as for labour studies. As Luebke and Luff assert, "These histories are important because by examining how organizers of the past adapted to and exploited various situations, organizers can better analyze their own historical situation."<sup>100</sup> While it is true that the contemporary prison justice movement places great importance on prisoner agency—perhaps even to the point of exaggerating prisoners' potential to fundamentally alter their situations—there is relatively little scholarly research on exactly *how* prisoners organize collectively, and this gap in understanding undoubtedly colours not only accounts of spectacular moments of prison protest, but also much more mundane

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<sup>99</sup> An excellent example of prison research utilizing a broad array of sources is Thompson, *Blood in the Water*.

<sup>100</sup> Luebke and Luff, "Organizing: A Secret History," 432.

understandings of the regular and day-to-day functioning of correctional institutions.<sup>101</sup> The literature that does exist on prisoner organizing generally covers several forms of organizing: riots, non-violent protest (strikes and protests, political organizing), party building, and union organizing.

There is a small scholarly literature concerning Canadian prison riots, mostly concerned with the riot at the Prison for Women (P4W) in 1994 and those that occurred earlier.<sup>102</sup> More recent Canadian prison riots have not garnered much scholarly attention. Much of this literature is concerned with precipitating causes, administrative responses, and the consequences of prison riots—either as individual case studies or in comparative context. As scholars such as Frederick Desroches, have argued, prison riots occur for a variety of reasons, and take a variety of forms—from the spontaneous to the planned.<sup>103</sup> The “powder keg” and “grievance” theories of prison riots hold that riots manifest as a result of oppressive conditions and unmet prisoner demands. Alternatively, the “anomie” theory holds that “administrative changes that result in the curtailment of inmate rights and privileges” are the main cause of prison riots.<sup>104</sup> Still others have posited that

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<sup>101</sup> For a critique of overemphasis of prisoners’ agency at the expense of structural analysis, see Ashley T. Rubin, “Resistance as Agency? Incorporating the Structural Determinants of Prisoner Behaviour,” *British Journal of Criminology* 57:3 (2017): 644-663.

<sup>102</sup> Frederick Desroches, “Patterns in Prison Riots,” *Canadian Journal of Criminology and Corrections* 16:4 (1974): 332-351; Frederick J. Desroches, “The Treatment of Hostages in Prison Riots: Some Hypotheses,” *Canadian Journal of Criminology* 23:4 (October 1981): 439-458; Desroches, “Anomie: Two Theories of Prison Riots”; Charles E.M. Kole, “The Riot and Deaths at Archambault Penitentiary, Sainte-Anne-des-Plaines, Canada, on July 25, 1982—A Report to the International Human Rights Law Group,” *New England Journal on Criminal and Civil Confinement* 9:1 (Winter 1983): 125-144; John Lowman and Brian MacLean, “Prisons and Protest in Canada,” *Social Justice* 18:3 (Fall 1991): 130-154; Margaret Shaw, “‘Knowledge Without Acknowledgement’: Violent Women, the Prison and the Cottage,” *The Howard Journal* 38:3 (August 1999): 252-266; Kelly Hannah-Moffat, *Punishment in Disguise*. There is an expansive scholarly literature concerned with prison riots in the United States. For other general theories of prison riots, see Vernon Fox, “Why Prisoners Riot,” *Federal Probation* 35:1 (March 1971): 9-14; Bert Useem and Peter Kimball, *States of Siege: U.S. Prison Riots, 1971-1986* (New York: Oxford University Press, 1991); Robert Adams, *Prison Riots in Britain and the USA* (Second Edition) (Houndmills, Basingstoke, Hampshire: MacMillan, 1994); Eamonn Carrabine, *Power, Discourse and Resistance: A Genealogy of the Strangeways Prison Riot* (Aldershot: Ashgate, 2004); Eamonn Carrabine, Prison Riots, “Social Order and The Problem of Legitimacy Source,” *The British Journal of Criminology* 45: 6 (November 2005): 896-913.

<sup>103</sup> Desroches, “Patterns in Prison Riots,” 332.

<sup>104</sup> Desroches, “Anomie: Two Theories of Prison Riots,” 181.

it is inconsistent application of prison rules that provokes riots.<sup>105</sup> While the causes of riots are worthy of consideration, most studies of prison riots acknowledge that riots are usually preceded, if not precipitated by, other forms of organized and peaceful protest—petitions, sit-downs, work-stoppages, and the like.<sup>106</sup> Despite this, relatively recently attention has been paid to these forms of non-violent prisoner collective action and the consequences of their success or failure.

Prisoner organizing efforts can be situated within a broader theoretical and programmatic debate within the prison justice movement concerning whether prisons should be abolished or democratized.<sup>107</sup> In the United States in the 1970s, some radical organizations connected to the Black Power movement and New Left, both inside and outside of the prison, increasingly sought the immediate abolition of the prison—a clear and dramatic example of the “smashing” of the capitalist state that would occur as part of a broader socialist revolution.<sup>108</sup> As R.S. Ratner and Barry Cartwright have pointed out, despite considerable prison turmoil in Canada in the 1970s, which sometimes drew direct inspiration from the ‘revolutionary’ prisoners movement in the US, the prison “revolt in Canada was not nearly as incendiary as the situation in the United States— [with] only a few FLQ [Front de libération du Québec] operatives in Quebec, scattered Native

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<sup>105</sup> Catherine Douglas, Joan Drummond, and C. H. S. Jayewardene, “Administrative Contributions to Prison Disturbances,” *Canadian Journal of Criminology* 22:2 (1980): 197-205.

<sup>106</sup> Many of the official accounts of prison riots tend to understand riots as relatively discrete and spontaneous events with a determinable number of causes. For example, in 2018, federal Correctional Investigator Ivan Zinger criticized the National Board of Investigation’s report on the deadly 2016 riot at Saskatchewan Penitentiary, which suggested that the riot was spontaneous and its causes unknowable. In contrast, the Office of the Correctional Investigator blamed the riot on well-known and long-standing grievances related to food and mistreatment of prisoner kitchen workers. See Office of the Correctional Investigator, *Office of the Correctional Investigator Annual Report 2017-2018* (June 29, 2018), available: <https://www.oci-bec.gc.ca/cnt/rpt/annrpt/annrpt20172018-eng.aspx#s5>.

<sup>107</sup> The term “prison abolition” can be used to cover nearly any number of prison justice approaches and activities. Abolition is often referred to in contrast with prison reform, however it is not always clear what the distinction is. Sometimes abolition is referred to as a perspective on prison reform, other times it is concretized in practices.

<sup>108</sup> This position is most closely associated with the celebrated prison rebel George Jackson. See George Jackson, *Soledad Brother: The Prison Letters of George Jackson* (New York: Coward-McCann, 1970); George Jackson, *Blood in My Eye* (New York: Random House, 1972). The inclusion of prisoners in political organization and parties and the organization of prisoners into political organizations has received some scholarly attention. See Eric Cummins, *The Rise and Fall of California’s Radical Prison Movement* (Stanford: Stanford University Press, 1994); Berger, *Captive Nation*.

Indian prisoners, and a few small groups such as the Squamish Five in British Columbia taking on the political prisoner hue.”<sup>109</sup>

Others in the prison justice movement sought the *democratization* of the prison.<sup>110</sup> This reformist and incrementalist approach and attitude is found in some of the most spectacular and infamous manifestations of prisoner protest, for example in the demands of the strikers at California’s Folsom Prison in 1970 and the Attica prison rebels in New York State in 1971. The demands by these groups of prisoners were far reaching and indeed radical. However, neither called for the abolition of American prisons. Instead, the demands demonstrate an implicit understanding that prisons would continue to exist and that these prisons should be more humane, accountable, and democratic. For example, at both Folsom and Attica, prisoners called for increased access to legal representation, reduced prison censorship, the establishment of elected parole boards, the end to various forms of racial discrimination, and more. In relation to prison labour, prisoners demanded the *increased involvement of private employers*, the right to join and form unions, the normalization of employment standards and other employment law for prisoners, and compensation at rates commensurate with those in industry outside the prison.<sup>111</sup>

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<sup>109</sup> R.S. Ratner and Barry Cartwright, “Politicized Prisoners: From Class Warriors to Faded Rhetoric,” *Journal of Human Justice* 2:1 (Autumn 1990): 75-92. This assertion, however, has been challenged by some. See Robert Gaucher, “Organizing Inside: Prison Justice Day (August 10th) A Non-Violent Response to Penal Repression,” *Journal of Prisoners on Prisons* 3:1/2 (1991): 93-110; Robert Gaucher, “Too Many Chiefs,” *Journal of Prisoners on Prison* 4:2 (1993): 1-3). For Ratner’s response, see R.S. Ratner, “Response to Robert Gaucher,” *Journal of Prisoners on Prisons* 4:2 (1993): 133-134.

<sup>110</sup> Perhaps the earliest and most radical articulation of this position was made by socialist political and industrial unionist Eugene Debs, who advocated both for increased “treatment” of criminals and for a syndicalist approach to incarceration that would place much of the control of the prison in the hands of the prisoners. Eugene V. Debs, *Walls and Bars: Prisons & Prison Life in the “Land of the Free”* (New York: Charles H. Kerr, 1927/2000).

<sup>111</sup> *The Folsom Prisoners Manifesto of Demands and Anti-Oppression Platform (Folsom Manifesto)* available: [http://www.freedomarchives.org/Documents/Finder/DOC510\\_scans/Folsom\\_Manifesto/510.folsom.manifesto.11.3.1970.pdf](http://www.freedomarchives.org/Documents/Finder/DOC510_scans/Folsom_Manifesto/510.folsom.manifesto.11.3.1970.pdf). The demands of the Attica rebels can be found in Samuel Melville, *Letters from Attica* (New York: William Morrow and Company, 1972): 175-181.

In Canada, demands similar to the strikers at Folsom and rebels at Attica were made by the prisoners at Archambault Institution in Quebec in 1976.<sup>112</sup> The strike lasted 110 days and saw considerable violence. Prisoners were beaten by guards and prisoner-strikebreakers and, later in the strike, two guards were assaulted by prisoners. Most spectacularly, a month after the strike began, two former St. Vincent de Paul prisoners blew themselves up in an attempted bombing of a bus station in support of the Archambault strikers. On May 6, 1976, the prisoners ended the strike after several demands were met, including recognition of the prisoners' committee. The next year, the prisoners' key demand—the right to physical contact with visitors—was made policy by prison officials. The Archambault strikers also made several concrete demands about work and labour, including the end of menial and meaningless “make work” jobs and the establishment of a trades training and apprenticeship program developed with prisoner input.<sup>113</sup>

The most well-studied prisoner organizing in Canada relates to Prisoner Justice Day, an annual day of non-violent protest and remembrance of those who have died while incarcerated which is semi-recognized by the CSC.<sup>114</sup> Robert Gaucher's account of the origins of Prisoners' Justice Day provides valuable insight into the organizing practices of prisoners, who, in addition to work stoppages and hunger strikes, developed relationships with outside supporters, disseminated information of prison conditions to the public, and published prison newspapers. Significantly, Gaucher traces the contribution of the Odyssey Group at Millhaven to the national movement for Prisoners' Justice Day (PJD).<sup>115</sup> Prisoners in the Odyssey Group were able to receive formal club status and utilize club meetings and resources, such as the Odyssey newspaper, to build support inside and outside of the prison for Prisoners' Justice Day mobilizations and

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<sup>112</sup> Gosselin, *Prisons in Canada*, 185-203.

<sup>113</sup> Gosselin, *Prisons in Canada*, 197.

<sup>114</sup> Gaucher, “Organizing Inside.”

<sup>115</sup> Gaucher, “Organizing Inside,” 93-110.

actions. The establishment of PJD is further discussed in Chapter 3 in relation to efforts by Canadian prisoners to win union recognition in 1975.

### **Prisoner Representation**

Issues of prisoner organizing are closely related to broader issues of prisoner representation. Despite popular conceptions, prisons are not simply “total institutions” where administrators and staff wield absolute authoritarian control over every aspect of prisoners’ lives.<sup>116</sup> As discussed, prisoners resist this power in a multitude of ways and routinely engage in forms of informal bargaining with prison staff and administrators. Some of this resistance has been institutionalized in structures of prisoner representation.

Prisoners in Canada have demanded the right to have a formal say in prison administration since at least the 1930s.<sup>117</sup> At times, prisoners have ostentatiously demonstrated their desire to have more input into prison management. In 1971, during a deadly riot at Kingston Penitentiary, prisoners hung a banner out of the prison’s windows declaring that the prison was “under new management.”<sup>118</sup> The slogan appeared again on banners hanging from BC Pen during a riot there in 1976.<sup>119</sup>

While prison administrators have generally been hostile to the notion of “the inmates running the asylum,” as the saying goes, there have been a number of experiments with forms of

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<sup>116</sup> Goodman, Page, and Phelps, *Breaking the Pendulum*, 9.

<sup>117</sup> Jordan House, “The 1934 British Columbia Penitentiary Strike and Prisoners’ Wages in Canada,” *Active History* (April 26, 2019), available: <http://activehistory.ca/2019/04/the-1934-british-columbia-penitentiary-strike-and-prisoners-wages-in-canada/>.

<sup>118</sup> See Jim Coyle, “Kingston Penitentiary: A Piece of Canadian History with a Long Record of Brutality,” *Toronto Star* (April 19, 2012), available: [https://www.thestar.com/news/canada/2012/04/19/kingston\\_penitentiary\\_a\\_piece\\_of\\_canadian\\_history\\_with\\_a\\_long\\_record\\_of\\_brutality.html](https://www.thestar.com/news/canada/2012/04/19/kingston_penitentiary_a_piece_of_canadian_history_with_a_long_record_of_brutality.html); “Bloc Party: Our Neighbors To The North,” *northshore.info* (March 11, 2018), available: <https://north-shore.info/2018/03/11/under-new-management-resistance-to-prisons-in-ontario-quebec/>.

<sup>119</sup> Claire Culhane, *Still Barred from Prison: Social Injustice in Canada* (Montreal: Black Rose Books, 1985): 38.

'prison democracy' over the past century, and at times prison administrators have supported such efforts due to perceived correctional and managerial benefits.<sup>120</sup> On the other hand, prisoner democracy has also been supported by prisoners and their advocates, primarily on the basis of rights and citizenship. As Peter Scharf explains, "If we expect inmates to become politically involved citizens we must provide at least some experiences in democratic life. Unless we do this, we probably shall be unable to change prisons or alter criminal lives."<sup>121</sup> Over the course of the 1970s and 1980s, due to both agitation by the prison justice movement and the support of at least some prison administrators, participatory structures for prisoners were normalized in federal correctional institutions in Canada, especially in the form of Inmate Committees and inmate grievance procedures.

In an excellent overview of issues in prison democracy, Scharf has provided a very helpful typology of forms of prisoner representation, describing three main categories of prisoner participation: advisory, representative, and direct. Each of these, Scharf argues, can be further categorized into either "centralized" or "decentralized" models. Thus, the six types of prisoner participation for Scharf are: decentralized advisory (e.g.: unit advisory board), decentralized representative (unit representative council), decentralized direct (unit direct democracy), centralized advisory (prison advisory board), centralized representative (prison representative board), and centralized direct (prison direct democracy). These types range from modest and possibly perfunctory bodies, such as an appointed range or shop advisory body, to extremely

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<sup>120</sup> Bradley B. Falkof, "Prisoner Representative Organizations, Prison Reform, and Jones v. North Carolina Prisoners' Labor Union: An Argument for Increased Court Intervention in Prison Administration," *The Journal of Criminal Law and Criminology* 70:1 (1979): 42-56; Tom Murton, "Shared Decision Making as a Treatment Technique in Prison Management," *Offender Rehabilitation* 1:1 (1976): 17-31; Steven C. Bennett, "The Privacy and Procedural Due Process Rights of Hunger Striking Prisoners," *New York University Law Review* 58:5 (November 1983): 1157-1230; Hans Toch, "Democratizing Prisons" *The Prison Journal* 73:1: (1994): 62-72.

<sup>121</sup> Peter Scharf, "Democracy and Prison Reform: A Theory of Democratic Participation in Prison," *The Prison Journal* 55:2 (1975): 32.



radical democratic councils—a form of representation that is rare even outside of prison walls.<sup>122</sup> The experiment in prison management closest to this latter form is likely the peaceful prisoner takeover of the maximum-security Walpole prison in Massachusetts in 1973. When guards went on strike, the prisoners organized into the National Prisoners Reform Association and took over the day-to-day operations of the prison.<sup>123</sup> However, all of these other forms of prisoner representation have been experimented with at different times and in different places in the United States and Canada.<sup>124</sup> While Scharf's categorization is helpful, prisoner representative organizations, such as prisoner unions, which are independent from prison administrations, fall outside of this typology. Moreover, examples of prisoner representation should also be examined in their concrete manifestations to determine their actual amount of power and influence.

Inmate committees (ICs), a form of centralized representation, were instituted across the Canadian federal prison system by 1978.<sup>125</sup> This was viewed as a major victory for prisoners who had agitated for their implementation for decades. However, the limits of inmate committees soon made themselves apparent. Administrators had, and continue to have, considerable influence over who can serve on an IC, and ICs were limited in their mandates. As Ann Hansen, a former Canadian federal prisoner in the 1980s, explains:

As a political organization, the Inmate Committee had no power and was undemocratic, despite being elected by the prison population. Anyone with

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<sup>122</sup> Scharf notes that even the prison rebels at Attica, who controlled much of the prison for days, established a representative rather than directly democratic decision-making structure. Scharf, "Democracy and Prison Reform," 23.

<sup>123</sup> See Jamie Bissonette, *When the Prisoners Ran Walpole: A True Story in the Movement for Prison Abolition* (Cambridge, MA: South End Press, 2008).

<sup>124</sup> For example, the Brampton Adult Training Centre in Ontario, which closed in 1979, had a "Student Representative Council" for at least some of its history. The council was made up of "a president, secretary, and a representative from each of the seven residences. [...] All members are elected by their respective hall mates by secret ballot every three months." The council ran according to a constitution and met weekly with senior staff to discuss issues "regarding quality, quantity and preparation of food, student and staff relations, program, maintenance and many other vital matters." William T. Little, "Some Dynamics in open Type Correctional Institutions," *Canadian Journal of Corrections* 1:2 (1958): 27-28.

<sup>125</sup> Correctional Staff College (Atlantic), "History of Prisons in Canada," (1978), available: <https://www.publicsafety.gc.ca/lbrr/archives/hv%209308%20h595%201978-eng.pdf>.

outstanding charges couldn't run, and of those left, the wardens could veto anyone from running that they didn't like. It was a puppet government at best. For all intents and purposes it was really designed to be a social committee to organize Family Days and such. The wardens had also been known to use the Inmate Committee to help them implement unpopular policies.<sup>126</sup>

Due to these limitations, there has been debate amongst prisoners, prison justice activists, and scholars as to ICs' utility for advancing prisoners' interests. Chapter 4 considers the role of ICs in detail in relation to the organization and execution of the Canadian federal prison strike of 2013. The key role played by the ICs in this strike, as well as other prison protests, shows that ICs in Canadian federal prisons should not be dismissed out of hand as ineffective vehicles to advance prisoner struggle.<sup>127</sup>

Even if more robust representative structures for prison democracy were established, they too would face potential limits. Scharf notes that prison democracy faces all the challenges that democratic efforts grapple with in other contexts, such as the "iron law of oligarchy," which holds that democratic organizations tend towards domination by elite groups.<sup>128</sup> Indeed, this general tendency may be accentuated by the dynamics of prison, in which rigid social hierarchies produce various elite groups among prisoners, staff, and administrators.<sup>129</sup>

The role of guards and other correctional staff—and their unions—who struggle to pursue their own interests adds further complications to efforts to democratize the prison.<sup>130</sup> With the

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<sup>126</sup> Hansen, *Taking the Rap*, 116.

<sup>127</sup> For a discussion of the key role played by inmate committees in a period of intense prisoner struggle in British Columbia in 1975-1976, see Culhane, *Still Barred from Prison*.

<sup>128</sup> Scharf, "Democracy and Prison Reform," 32.

<sup>129</sup> There are many studies of prisoner subculture and prison. See Sykes, *The Captive Society*; Jacobs, *Statesville*; Irwin, *The Felon*; Irwin, *Prisons in Turmoil*. For similar analysis applied to Canadian prisons, see W.E. Mann, *Society Behind Bars: A Sociological Scrutiny of Guelph Reformatory* (Toronto: Social Science Publishers, 1967); Rose Ricciardelli, "An Examination of the Inmate Code in Canadian Penitentiaries," *Journal of Crime and Justice* 37:2 (2014): 234-55; Michael Weinrath, *Behind the Walls: Inmates and Correctional Officers on the State of Canadian Prisons* (Vancouver and Toronto: UBC Press, 2016).

<sup>130</sup> In prisons with prisoner representative councils, prison staff have, at times, complained that prisoners can meet directly and regularly with management, while they do not. See Toch, "Democratizing Prisons."

proliferation of public sector unionism in the 1960s, guards' unions became increasingly powerful.<sup>131</sup> Guards and their unions have frequently opposed prisoners' rights and representation as undermining their own power.<sup>132</sup> Likewise, prisoners often complain that guards and their unions, not management, actually control the operations of correctional centres. While occasionally supporting progressive prison reforms, guards' unions have often been extremely hostile to prisoner-worker organizing and increased prisoner representation.<sup>133</sup>

Finally, experiments in prison democracy must grapple with a host of external pressures and influences. Efforts to democratize prisons face political interference by politicians and exist in tension with public opinion on punishment and criminal justice. But it is not only objections from the political right that endanger democratizing efforts. Elements of the left—especially the radical left, and well as elements of the prisoners' justice movement—have also argued against efforts to democratize prisons on the basis that reformist struggles to increase democracy co-opt prisoner struggle and obscure prisoners' relationships to their exploiters.<sup>134</sup>

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<sup>131</sup> Gaucher, "Organizing Inside." For a discussion of guard union power in the case of the US, see Joshua Page, *The Toughest Beat: Politics, Punishment, and the Prison Officers Union in California* (Oxford and New York: Oxford University Press, 2011); Page, "Politically Realistic Unionism."

<sup>132</sup> See Irwin, *Prisons in Turmoil*; Heather Ann Thompson, "Rethinking Working-Class Struggle through the Lens of the Carceral State: Toward a Labour History of Inmates and Guards," *Labor: Studies in Working-Class History of the Americas* 8:3 (2011): 15-45; Berger, *Captive Nation*.

<sup>133</sup> See UCCO-SACC, "Towards a Policy for Canada's Penitentiaries: The Evolution of Canada's Prison System and the Transformation of the Correctional Officer's Role (1950 - 2002)" (n.d.). For research on prison guards and frontline prison workers in Canada, see Terence C. Willett, "The 'Fish Screw' in the Canadian Penitentiary Service," *Queen's Law Journal* 3:3 (1977): 424-49; Edgar Z. Friedenberg, "The Punishment Industry in Canada," *The Canadian Journal of Sociology / Cahiers canadiens de sociologie* 5:3 (Summer 1980): 273-283; T.C. Willet, "Prison Guards in Private," *Canadian Journal of Criminology* 25:1 (1983):1-18; Christian J.R. Stansfield, "Turnkey to Case Manager: The Professionalisation of the Correctional Officer Headingley Correctional Institution, Manitoba, 1930-1996" (Master's Thesis, University of Manitoba, 2001); Greg McElligott, "Bearing the Neoconservative Burden? Frontline Work in Prisons," *Social Justice* 34:3-4 (2007-2008): 78-97; Weinrath, *Behind the Walls*; Rose Ricciardelli, Nicole Power, and Daniella Simas Medeiros, "Correctional Officers in Canada: Interpreting Workplace Violence," *Criminal Justice Review* 43:4 (2018): 458-476. There is a significant gap in research on prison guards' unions in Canada. See Gillian Balfour, "It's Your Job to Save Me: The Union of Canadian Correctional Officers and the Death of Ashley Smith," *Canadian Journal of Law and Society / Revue Canadienne Droit et Société* 3:2 (2017): 209-28; Emma Mistry, "Correctional Officers 'Through the Looking Glass': Understanding Perceptions and their Impact on Personal and Professional Identity" (Master's Thesis, Wilfrid Laurier University, 2017).

<sup>134</sup> Scharf, "Democracy And Prison Reform," 21; Renee Goldsmith Kasinsky, "A Critique On Sharing Power In The Total 'Institution'," *The Prison Journal* 57: 2 (October 1977): 56-62.

## Prisoner Unions

At various times, prisoners have attempted—and sometimes succeeded in—forming standing organizations independent of prison authorities to represent their interests. Often these organizations are referred to as ‘prisoners’ unions.’ As Donald Tibbs explains, even in the case of the United States, which has a significant history of prisoner union activity, there is only a scant scholarly literature concerned with prisoners’ unions: “What do we know about the Prisoner Union Movement? Practically nothing. Prisoners’ rights activists and sociologists ceased writing about it during the late 1970s, and historians, particularly legal-historians, have failed to adequately resurrect its memory.”<sup>135</sup>

Organizations that have been called prisoners’ unions vary considerably in their organizational form, ideological orientations, strategies and tactical repertoires. Indeed, they even vary greatly in their representational claims, and a basic division can be made between those who seek to represent prisoners as *prisoners* in relation to *prison administrations* and those who wish to represent *working* prisoners in relation to their “*employers*” (who are often also the prison administration).<sup>136</sup> That said, it can be somewhat difficult to easily parse these forms of organization—after all, the differentiation between work and other aspects of life is often extremely blurred in prison. As such, ‘political’ or ‘status’<sup>137</sup> prisoner unions were often concerned

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<sup>135</sup> Donald F. Tibbs, *From Black Power to Prison Power: The Making of Jones v. North Carolina Prisoners’ Labor Union* (New York: Palgrave Macmillan, 2012): xi.

<sup>136</sup> For a discussion of the tensions between emphases on labour and political organizing, see Berger, *Captive Nation*, 185-192. Berger argues that, at least in California, disputes between those who emphasized prisoners as *workers* versus those who considered prisoners to be *slaves* represented a significant racial cleavage in the prisoners’ movement. Although it should be noted that this was not true everywhere—many prisoner labour unions in the US were black-majority and/or black-led. For an example of a political organizations operating in the California prison system around the same time, see Marion Political Collective, “Notes of a Prison Collective,” *Crime and Social Justice* 5 (1976): 50-53. Also see Cummins, *The Rise and Fall of California’s Radical Prison Movement*.

<sup>137</sup> Some, such as Renee Goldsmith Kasinsky, prefer the terms “status union” and “labor union.” Kasinsky, “A Critique On Sharing Power In The Total ‘Institution,’” 56–62.

with issues of prison labour and engaged in work strikes to pressure administrators. Likewise, just as labour unions outside of prisons may take up broader social issues than those strictly related to the workplace, so too may a prisoners' labour union. I will distinguish these forms of organizations by using the term *prisoner union* to describe associations of prisoners organized to broadly pursue their collective interests, and *prisoner labour union* to refer to associations of prisoners primarily organized as incarcerated workers, who focus primarily on issues of prison labour, conceive of themselves as part of the trade union movement, and/or seek certified trade union status through labour relations boards.

A second consideration for categorizing prisoners' unions relates to their organizational makeup. Mike Fitzgerald delineates between “[t]hose which attempt to unite inmates within a particular institution, with little or no outside contact; and those which have attempted to unite prisoners across institutions, and across the walls, i.e., with strong cohesive and active help and co-operation.”<sup>138</sup> Or put slightly differently, “those which are based on the inside; those which are based on the inside, but which seek also to establish themselves on the outside; and those which are based on the outside but which seek collectivised inside support and co-operation.”<sup>139</sup>

The first prisoners' unions began in Scandinavia. Organized in the late 1960s, KROM (Norway), KRIM (Denmark), and KRUM (Sweden) established themselves as influential reform organizations made up of a collection of academics, criminal justice professionals, and later,

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<sup>138</sup> Mike Fitzgerald, *Prisoners in Revolt* (London: Penguin, 1977): 237; Also see Clarence Ronald Huff, “Unionization Behind the Walls: An Analytic Study of the Ohio’s Prisoners’ Labor Union Movement” (Doctoral Dissertation, Ohio State University, 1974): 95-96.

<sup>139</sup> Fitzgerald, *Prisoners in Revolt*: 252. For additional discussion of the significance of ‘inside-based’ and ‘outside-based’ prisoners’ unions, see Huff, “Unionization Behind the Walls: An Analytic Study.”

prisoners and ex-prisoners.<sup>140</sup> The Norwegian KROM in particular was critical in developing and promoting a theory and program of prison abolitionism.<sup>141</sup>

Prisoners' unions then emerged in the United States, beginning in California in the aftermath of the 1970 Folsom prison strike and spreading across the country in the wake of the 1971 Attica rebellion. There were some efforts to organize a national prisoners' union movement, however most of the prisoners' unions that formed in the United States in the 1970s were organized on a state-by-state basis.<sup>142</sup> In addition to California, the most well-documented prisoners' unions were in New York, North Carolina, Ohio, Massachusetts, and Washington, and Maine.<sup>143</sup> Prisoners' unions in Washington and Massachusetts succeeded in winning some form of official recognition from prison staff, and others, such as the California Prisoners' Union, managed to set

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<sup>140</sup> David A. Ward, "Inmate Rights and Prison Reform in Sweden and Denmark," *Journal of Criminal Law and Criminology* 63:2 (1972): 240-255; Thomas Mathiesen, "The Prison Movement in Scandinavia," *Crime and Social Justice* 1 (1974): 45-50; Ronald Huff, "The Development and Diffusion of Prisoners' Movements," *The Prison Journal* 55:2 (October 1975): 4-20.

<sup>141</sup> See Mathiesen, *The Politics of Abolition*; Thomas Mathiesen, "The Politics of Abolition," *Contemporary Crises* 10:1 (1986): 81-94.

<sup>142</sup> Frank Browning, "Organizing Behind Bars," in Burton A. Atkins & Henry R. Glick (eds.), *Prisons, Protests, and Politics* (Englewood Cliffs, NJ: Prentice-Hall, 1972), 132-139.

<sup>143</sup> Huff, "Unionization Behind the Walls: An Analytic Study"; C. Ronald Huff, "Unionization Behind the Walls," *Criminology* 12:4 (August 1974): 175-194; Ronald Huff, "The Prisoners' Union: A Challenge for State Corrections," *State Government* (Summer 1975): 145; Irwin, *Prisons in Turmoil*; Cummins, *The Rise and Fall of California's Radical Prison Movement*; Juanita Diaz-Cotto, *Gender, Ethnicity and the State: Latina and Latin Prison Politics* (Albany, NY: State University of New York Press, 1996); Susan Blankenship, "Revisiting the Democratic Promise of Prisoners' Labor Unions," in Austin Sarat (ed.), *Crime and Punishment: Perspectives from the Humanities (Studies in Law, Politics, and Society, Vol. 37)* (Bingley: Emerald Group Publishing Limited, 2005): 241-269; Bissonette, *When the Prisoners Ran Wapole*; Daniel Burton-Rose, *Guerrilla USA: The George Jackson Brigade and the Anticapitalist Underground of the 1970s* (Berkeley, Los Angeles, and London: University of California Press, 2010); Daniel S. Chard. "SCAR'd Times: Maine's Prisoners' Rights Movement, 1971-1976" (Master's Thesis, University of Massachusetts-Amherst, 2011); Tibbs, *From Black Power to Prison Power*; Berger, *Captive Nation*; Ed Mead, *Lumpen: The Autobiography of Ed Mead* (Oakland and Montreal: AK Press and Kersplebedeb, 2015); Justin M. Smith, "The 'Politics' of Incarceration: Representation, Riots, Hierarchy, and Hunger Strikes in the California Penal System—a History of Inmate Organizing" (Master's Thesis, University of Idaho, 2015); Amanda Bell Hughett, "Silencing the Cell Block: The Making of Modern Prison Policy in North Carolina and the Nation" (Doctoral Dissertation, Duke University, 2017). There is a need for more comparative studies of prisoner unions. The most comprehensive comparative studies are Ronald Huff, "The Development and Diffusion of Prisoners' Movements," *The Prison Journal* 55:2 (October 1975): 4-20; Fitzgerald, *Prisoners in Revolt*.

up ad hoc negotiations which they had hoped to formalize.<sup>144</sup> According to one survey of 209 prisons in the United States, by 1973, prisoners in at least forty-four institutions in a total of twenty states had attempted to or successfully formed a union.<sup>145</sup>

Inspired by both the activity in Scandinavia and the United States, the Preservation of the Rights of Prisoners (PROP) launched as a prisoners' union in the United Kingdom in 1972.<sup>146</sup> In the summer of 1975, following a wave of prison strikes in British Columbia and Ontario, the Prisoners' Union Committee (PUC) briefly attempted to organize provincial prisoners in BC and federal prisoners across Canada.<sup>147</sup> The efforts of the PUC are examined in more detail in Chapter 3. In 1976, prisoners and activists in Quebec formed the Organisation de Soutien à la Lutte des Prisonniers.<sup>148</sup> In 1977, the prison union movement in the United States suffered a major blow when the United States Supreme Court ruled that prisoners did not have constitutional rights to form or join labour unions, leaving prison administrators free to enact regulations to ban or limit

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<sup>144</sup> Hughett, "Silencing the Cell Block," 120; Irwin, *Prisons in Turmoil*: 242-244; Fitzgerald notes the critical difference between "talks" and "negotiations" with prison authorities. See Fitzgerald, *Prisoners in Revolt*: 187.

<sup>145</sup> Virginia McArthur, "Inmate Grievance Mechanisms: A Survey of 209 American Prisons," *Federal Probation* 38: 4 (December 1974): 44.

<sup>146</sup> Fitzgerald, *Prisoners in Revolt*; Mike Fitzgerald, "'Prisoners in Revolt': The Origin and Development of the Preservation of the Rights of Prisoners (PROP), The British Prisoners Union" (Doctoral Dissertation, University of Leicester, 1976); Huff, "The Development and Diffusion of Prisoners' Movements," 4-20.

<sup>147</sup> John Clarke, "Why Prison Union May Not Wither," *Globe and Mail* (August 2, 1975): 8; Pat Brennan, "Millhaven Prisoners Miss Holiday to Strike," *Toronto Star* (August 8, 1975): A6.

<sup>148</sup> "Quebec Prisoners Organize," *Labor Challenge* (March 29, 1976): 2.

prisoner unions.<sup>149</sup> Despite the decision, throughout the 1980s, smaller scale efforts to establish prisoners' unions continued to occur in the US and Canada.<sup>150</sup>

After a lull in organizing efforts lasting several decades, new experiments in prisoners' unions have emerged over the past decade.<sup>151</sup> In 2012, prisoners in Argentina founded the Sindicato Único de Trabajadores Privados de la Libertad Ambulatoria (SUTPLA), an affiliate of the Central de Trabajadores de la Argentina trade union federation, which won recognition from the Federal Penitentiary Service.<sup>152</sup> In the United States, the Industrial Workers of the World (IWW) founded a new prisoners' union, the Incarcerated Workers' Organizing Committee (IWOC), in 2013. IWOC has grown rapidly, supported a number of prisoners' strikes in the US, and spread into the UK.<sup>153</sup> In 2014, the Gefangenengewerkschaft/Bundesweite Organisation

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<sup>149</sup> There was some hope that legal recognition for prisoners' labour unions was obtainable before the *Jones v. North Carolina Prisoners' Labor Union, Inc.*, 433 U.S. 119 (1977) Supreme Court decision. See Paul R. Comeau, "Labor Unions for Prison Inmates: An Analysis of a Recent Proposal for the Organization of Inmate Labor," *Buffalo Law Review* 21:3 (1972): 963-985; The *Jones v. North Carolina* decision has provoked a number of critical analyses and responses. See Regina Montoya and Paul Coggins, "The Future of Prisoners' Unions: Jones v. North Carolina Prisoners' Labor Union," *Harvard Civil Rights—Civil Liberties Law Review* 13:3 (1978): 799-826; Sidney Zonn, "Inmate Unions: An Appraisal of Prisoner Rights and Labor Implications," *University of Miami Law Review* 32:3 (1978): 613-635; Falkof, "Prisoner Representative Organizations, Prison Reform, and Jones v. North Carolina Prisoners' Labor Union"; Steven C. Bennett, "The Privacy and Procedural Due Process Rights of Hunger Striking Prisoners," *New York University Law Review* 58:5 (November 1983): 1157-1230; Blankenship, "Revisiting the Democratic Promise of Prisoners' Labor Unions"; Tibbs, *From Black Power to Prison Power*; Hughett, "Silencing the Cell Block."

<sup>150</sup> For example, the Industrial Workers of the World (IWW) initiated a 'Prison Organizing Project' in 1985 and attempted to represent prisoners at the Southern Ohio Correctional Facility. See John Silvano, "Introduction: A Summary of IWW Organizing 1971-1992" in John Silvano, *Nothing in Common: An Oral History of IWW Strikes, 1971-1992* (Cedar Rapids, IA: Cedar Publishing, 1999), 11-37.

<sup>151</sup> Despite this, there has not been much scholarly analysis of these efforts. However, there has been some renewed interest in the legal possibilities for prisoner unionization in the US and Canada. See Eric M. Fink, "Union Organizing & Collective Bargaining for Incarcerated Workers," *Idaho Law Review* 52 (2016): 953-973; Kara Goad, "Columbia University and Incarcerated Worker Labor Unions under the National Labor Relations Act," *Cornell Law Review* 103:1 (November 2017): 177-204; Asaf Rashid, "Unionization of Inmate Workers," [arashidlaw.ca](http://arashidlaw.ca) (October 21, 2018), available [http://arashidlaw.ca/unionization-for-inmate-workers/?fbclid=IwAR2ziq14d\\_dKo5ab8wfsrMHFuxPEdq3S9F1EW1AS6x9fJCdYZtyiK2VBzIY](http://arashidlaw.ca/unionization-for-inmate-workers/?fbclid=IwAR2ziq14d_dKo5ab8wfsrMHFuxPEdq3S9F1EW1AS6x9fJCdYZtyiK2VBzIY); Keith Armstrong, "'You May Be Down and Out, but You Ain't Beaten': Collective Bargaining for Incarcerated Workers," *Journal of Criminal Law and Criminology* 110:3 (2020): 593-622.

<sup>152</sup> Marcela Valente, "First Prisoners' Trade Union Defends Rights in Argentina," *IPS News* (June 7, 2013), available: <http://www.ipsnews.net/2013/06/first-prisoners-trade-union-defends-rights-in-argentina/>.

<sup>153</sup> Mike Elk, "The Next Step for Organized Labor? People in Prison," *The Nation* (July 11, 2016), available: <https://www.thenation.com/article/the-next-step-for-organized-labor-people-in-prison/>; Incarcerated Workers Organising Committee, "One Big Union, Inside and Out," *Socialist Lawyer* 82 (June 2019): 26-29.



(GG/BO) prisoners' union was founded in Berlin-Tegel prison in Germany. The union expanded into Austria in 2015 and has engaged in a number of protests and job actions.<sup>154</sup> An attempt by Canadian prisoners, organized into the Canadian Prisoners' Labour Confederation, to win labour board recognition beginning in 2010 is the subject of Chapter 3.

Much of what scholarly literature exists on prisoner unions is concerned with a similar set of questions: Why do prisoners join and form unions? What ideology motivates prisoners' unions? What is the impact of prisoners' unions on prison operations? How do prison administrators respond to prisoners' unionization efforts? What strategies and tactics do prisoner unions utilize to advance their interests?

Most scholars identify two main factors as the impetus for prisoner unionization in the United States in the 1970s: first, increased politicization inside and outside of the prison, and second, widespread union militancy and growing public sector unionism.<sup>155</sup> As described by Stephen Woolpert, the development of prisoners' unions represented the "perplexities of both inmate politicization and inmate legal activism."<sup>156</sup> At a time of high levels of agitation among prisoners, who were increasingly motivated to act on their discontent, both prisoners and prison administrators across the United States feared a repeat of the tremendous violence that had occurred at Attica. While other forms of prisoner representation were being implemented—too slowly in the eyes of many prisoners—the limits of those forms of representation were likewise becoming clear. Unlike inmate committees or other forms of prisoner representation, "Prisoners' unions confront the conflict implicit in the correctional system between inmates as a class and

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<sup>154</sup> Jörg Nowak, "Interview with German prisoners union GG/BO about the recent prison strike in December 2015," *Global Labour Column* 224 (January 2016), available: [http://www.global-labour-university.org/fileadmin/GLU\\_Column/papers/no\\_224\\_Nowak.pdf](http://www.global-labour-university.org/fileadmin/GLU_Column/papers/no_224_Nowak.pdf).

<sup>155</sup> Huff, "Unionization Behind the Walls: An Analytic Study," 104-107; Berger, *Captive Nation*, 185; Hughett, "Silencing the Cell Block," 15.

<sup>156</sup> Stephen Woolpert, "Prisoners' Unions, Inmate Militancy, and Correctional Policymaking," *Federal Probation* 42 (1978): 40-45.

management as a class. Unlike advisory councils they do not have as their function the smooth running of a prison. Rather they are in an oppositional relationship to the correctional system as a whole.”<sup>157</sup> The degree to which the relationship between administrators and prisoners’ unions is fundamentally oppositional, of course, depends on a number of factors, especially the ideology motivating the unions. In fact, many supporters of prisoners’ unions argue that participation in prisoners’ unions could further correctional and rehabilitative goals, through things like better job training and support and de-alienation.<sup>158</sup>

Prisoners’ *labour* unions had other advantages over competing organizational forms. Unions who sought to “bargain” with administrators as prisoners had to rely on disruptive tactics such as strikes and political pressure, the latter of which mostly had to come from outside the prison to have any influence. In contrast, prisoners’ labour unions attempted to claim moral and legal status by defining themselves as workers and claiming rights through labour law, which had the potential to upset the near-unilateral right of administrators to run the prisons as they saw fit.

These various forms of self-conceptualization were significantly influenced by larger political assumptions and ideologies. The ideology motivating prisoner union organizers in the 1970s ranged from revolutionary socialist to fairly mainstream labour-liberalism.<sup>159</sup> Mike Fitzgerald, who served as the press officer for PROP, posits that the US prisoners’ union movement took a more radical posture compared to prisoners in the UK due to the greater overlap between social movements and prison movements there—in particular, the US movement featured a number of Black Power and New Left leaders who came out of prisons or ended up going into them.<sup>160</sup>

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<sup>157</sup> Kasinsky, “A Critique On Sharing Power In The Total ‘Institution,’” 60.

<sup>158</sup> Montoya and Coggins, “The Future of Prisoners’ Unions,” 808.

<sup>159</sup> Berger, *Captive Nation*, Chapter 5; Diaz-Cotto, *Gender, Ethnicity and the State*, Chapter 11.

<sup>160</sup> Fitzgerald, *Prisoners in Revolt*, Chapter 6.

In general, prisoner unionization emphasized prisoners as political subjects with shared experiences and interests that were oppositional to those of prison administrators. This shared assumption, however, manifested in different ways, depending on broader analyses of the prison in society. Some prisoners' unions conceived of themselves as "slaves of the state," members of a revolutionary lumpenproletariat, or "convict class." Still others conceived of themselves and their organizations as simply working class.<sup>161</sup> These theorizations of the class position of prisoners in society were laden with assumptions about the structure and function of power in society, and had significant programmatic consequences.<sup>162</sup> Political commitments and strategy—such as the pursuit of formal trade union status—had a decisive influence on the kind of relationships prisoners attempted to forge with organizations and movements outside of the prison. While some prisoners' unions actively sought to position themselves within the labour movement, others, such as the United Prisoners Union (a split from the California Prisoners' Union), organized within an insurrectionary socialist milieu and linked themselves to leftist armed-struggle organizations such as the Weather Underground Organization and the Symbionese Liberation Army.<sup>163</sup>

Stephen Woolpert, who does not distinguish between prisoners' political and labour unions, argues that "Unionization activities within prison walls occur in a social and political context which has little in common with most other union movements."<sup>164</sup> However, even if the conditions that prisoners were organizing in were relatively unique, this did not stop prison

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<sup>161</sup> Fitzgerald identifies rhetoric of a "convict class" as detrimental to prisoner unions forging strong relationships with other segments of the working class. Fitzgerald, *Prisoners in Revolt*, 259. For a discussion of the application of the Black Panther Party's theory of the lumpenproletariat as vanguard in the prison context, see Jackson, *Blood in My Eye*; Burton-Rose, *Guerrilla USA*, 31. The favoured terminology amongst recent prisoner unionization efforts is generally "incarcerated workers," which is explicitly meant to assert that prisoners are part of the working class. For more on theorizations of the working class that explicitly includes prisoners, see James Kilgore, "Mass Incarceration and Working Class Interests: Which Side Are the Unions On?" *Labor Studies Journal* 37:4 (2013): 356–372.

<sup>162</sup> Berger, *Captive Nation*, 185.

<sup>163</sup> Cummins, *The Rise and Fall of California's Radical Prison Movement*, 243; Burton-Rose, *Guerrilla USA*, 75.

<sup>164</sup> Woolpert, "Prisoners' Unions," 40.

organizers from attempting to link their struggles to the broader labour movement. The most direct support from organized labour for prisoner organizing in the US came from District 65 of the Distributive Workers of America, who affiliated with the Prisoners' Labor Union at Greenhaven, in New York State.<sup>165</sup> The North Carolina Prisoners' Labor Union likewise received support from the state-level AFL-CIO.<sup>166</sup> Other organizations attempted, with varying degrees of success, to forge alliances with the labour movement.<sup>167</sup> For example, before its collapse, the Ohio Prisoners' Labor Union (OPLU) attempted to bring Jimmy Hoffa on an investigative tour of Lucasville Penitentiary and discussed affiliation with the IWW.<sup>168</sup>

With the proliferation of prisoners' unions in the 1970s, criminologists, legal scholars, and political scientists debated the extent to which prisoners' unions and other forms of prisoner representation would be a barrier to effective correctional policy and criminal justice.<sup>169</sup> Prison administrations, for their part, generally responded to prisoner unionization efforts with hostility.<sup>170</sup> Government and prison officials used a number of strategies and tactics to restrain and repress prisoners' unions. These strategies and tactics included segregation, administrative discipline, forced transfers of organizers, red-baiting, legal challenges, organizing police infiltration of prisoner support groups, and more.<sup>171</sup> As Susan Blankenship explains, "Administrative and staff antagonism took a variety of forms: locking out organizers in California and Minnesota, declaring organizing illegal in Wisconsin and harassment of union members in

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<sup>165</sup> Diaz-Cotto, *Gender, Ethnicity and the State*, 162.

<sup>166</sup> Huff, "Unionization Behind the Walls: An Analytic Study," 94; Hughett, "Silencing the Cell Block," 83, 118.

<sup>167</sup> Fitzgerald, *Prisoners in Revolt*, 191-192.

<sup>168</sup> Huff, "Unionization Behind the Walls: An Analytic Study," 114; 128.

<sup>169</sup> See James Q. Wilson on barriers to justice (ref. in Woolpert, "Prisoners' Unions," 40); Huff, "The Prisoners' Union: A Challenge for State Corrections," 145-149.

<sup>170</sup> Huff, "Unionization Behind the Walls: An Analytic Study," 159; Huff, "Unionization Behind the Walls," 175-194. Also see Fitzgerald, *Prisoners in Revolt*, 254.

<sup>171</sup> Fitzgerald, *Prisoners in Revolt*, 150, 230-240; Cummins, *The Rise and Fall of California's Radical Prison Movement*, 230; Huff, "Unionization Behind the Walls: An Analytic Study," 112-113.

Ohio, New York and Michigan.”<sup>172</sup> In addition to repression from prison administrators, prisoners’ unions faced opposition directly from guards and their unions.<sup>173</sup>

Prisoners’ unions also deployed a range of strategies and tactics. Prisoners’ unions relied on litigation, the publishing of newspapers, work strikes, hunger strikes, and support rallies to organize new members, build public support, and apply pressure on administrators. As Fitzgerald and Huff have noted, work stoppages have proven to be costly actions for many prisoners’ unions, often provoking strong responses by prison authorities. PROP struggled to develop a tactical repertoire that overcame the limits of reliance on increasingly intense prison strikes and peaceful protests, and Ronald Huff details the collapse of the Ohio Prisoners’ Labor Union (OPLU) after a failed strike.<sup>174</sup>

Scholars have identified other internal weaknesses of prisoners’ unions. Eric Cummins, for example, has noted the tendency for outside members, supporters, and staff of prisoners’ unions and the radical prison movement more generally to tend toward a “cult of the prisoner,” which made organizations and activists susceptible to faux-radical criminal opportunists.<sup>175</sup> Likewise, a willingness to sympathize with acts of political violence by some prisoners’ unions and organizers alienated potential supporters, even among the radical left.<sup>176</sup> Some prisoners’ unions—such as the California Prisoners’ Union—were hindered by internal disagreements over focusing on immediate work versus pursuing long-term political goals.<sup>177</sup> Many prisoners’ unions also

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<sup>172</sup> Blankenship, “Revisiting the Democratic Promise of Prisoners’ Labor Unions,” 245.

<sup>173</sup> Fitzgerald, *Prisoners in Revolt*, 161-163; Irwin, *Prisons in Turmoil*, 243-244; Bissonette, *When the Prisoners Ran Walpole*, 78-83.

<sup>174</sup> Huff, “Unionization Behind the Walls: An Analytic Study,” 113; Fitzgerald, *Prisoners in Revolt*. Also see Irwin, *Prisons in Turmoil*, 118-121.

<sup>175</sup> Cummins, *The Rise and Fall of California’s Radical Prison Movement*, Chapter 8; Irwin, *Prisons in Turmoil*, 118-121.

<sup>176</sup> Fitzgerald, *Prisoners in Revolt*, 251; Cummins, *The Rise and Fall of California’s Radical Prison Movement*, 243; Burton-Rose, *Guerrilla USA*, 75.

<sup>177</sup> Fitzgerald, *Prisoners in Revolt*, 245; Huff, “Unionization Behind the Walls: An Analytic Study,” 116.

struggled with internal disorganization and inadequate internal democracy. This was an issue that administrators—and the courts—feared, claiming that prisoners’ unions, far from democratizing the prison, would in fact give undue influence to small elite groups of prisoners, and prisoners’ unions would be susceptible to takeover by criminal opportunists.<sup>178</sup> Even outside of the pressures of prison, union democracy is a highly debated subject within labour studies.<sup>179</sup> Prisoners’ unions likewise struggled with other issues common to labour unions such as the difficulties of balancing servicing, through union social welfare and legal service programs, and organizing.<sup>180</sup> Finally, while the sources of funds for the prisoners’ unions of the 1970s varied, many struggled with a lack of resources. In the case of the OPLU, staff went so far as to sell their blood to raise funds for the union.<sup>181</sup> Despite their limited success in North America, prisoners’ unions have remained attractive to Canadian prisoners; however, questions of organizational form and strategy remain outstanding.

### **Unconventional Workers and Non-Standard Employment Relations**

This study is also situated within a growing academic literature focused on workers on the margins of society and the economy, and who have traditionally been overlooked by both unions and scholars. Prisoner-workers face particular challenges that are unlike those of most conventional workers. However, many of their challenges, such as marginalization, stigma, criminalization, and formal legal constraints and exclusions, are also faced by other groups of

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<sup>178</sup> See Luis Jorge DeGraffe, “Prisoners’ Unions: A Potential Contribution to the Rehabilitation of the Incarcerated,” *New England Journal on Criminal and Civil Confinement* 16:2 (1990): 221-240.

<sup>179</sup> Seymour Martin Lipset, James S. Coleman, and Martin A. Trow, *Union Democracy: The Internal Politics of the International Typographical Union* (New York: Anchor Books, 1962); Stephanie Ross, “The Making of CUPE: Structure, Democracy, and Class Formation” (Doctoral Dissertation, York University, 2005); Stephanie Ross, “Social Unionism and Membership Participation: What Role for Union Democracy?” *Studies in Political Economy* 81:1 (2008): 129-157.

<sup>180</sup> Fitzgerald, *Prisoners in Revolt*, 185.

<sup>181</sup> Huff, “Unionization Behind the Walls: An Analytic Study,” 135.

workers in Canada. New experiments in worker activism and new scholarly attention to other groups of ‘unconventional’ workers help bring into focus the unique challenges faced by prisoner-workers, but also highlight the commonalities between prisoners and other groups of workers. In addition to prisoner-workers, sex workers, immigrant workers,<sup>182</sup> and gig economy and other precarious workers face many of these issues in ways that are both similar, but also unique to their particular situations. Of course, it should be noted that these categories of workers are not discrete and at times significantly overlap. Unconventional status has contributed to the relegation of groups of workers to a second-class status, unable to assert normal rights and seek legal protections on the one hand, and precluded from the most typical form of worker organization, trade unions, on the other. As labour activists and scholars such as Janice Foley have asserted, increased inclusion and commitment to equity is necessary for the revitalization and strengthening of organized labour: “To renew union strength, a new model of unionization is required that is inclusive, truly democratic, responsive to the needs of all members, and *committed to improving the lot of workers everywhere.*”<sup>183</sup> Understanding the dynamics at play in the struggles of these groups of unconventional workers creates potential for increased working-class solidarity and common cause.

As scholars such as Judy Fudge and Leah Vosko have noted, existing labour-related law and policy takes “the notion of a standard employment relationship as its starting point, with the result that the greater divergence between the standard employment relationship and the actual employment relationship, the less likely that the worker will be able to benefit from labour-related

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<sup>182</sup> It should be acknowledged the category of “immigrant worker” itself includes a tremendously diverse number of workers, ranging from high status and highly paid workers, to those on different forms of restricted visas (such as Canada’s Temporary Foreign Worker Program), and undocumented workers. My discussion here relates much more to those workers in the latter categories.

<sup>183</sup> Janice Foley, “Introduction,” in Janice Foley and Patricia L. Baker (eds.). *Unions, Equity and the Path to Renewal* (Vancouver and Toronto: UBC Press, 2009): 1. Emphasis added.

law, legislation and policy.”<sup>184</sup> This standard employment relationship is premised on the idea of a permanent, full-time worker with a single employer. Historically, women and racialized workers disproportionately fell outside of this standard employment relationship. While this continues to be the case, the “restructuring of the labour market in Canada has led to the disintegration of the standard employment relationship and the ‘feminization’ of employment relationships,”<sup>185</sup> meaning more and more workers find themselves in “precarious” employment and without the benefits, rights, and protections—including unionization—that the standard employment relationship entails.<sup>186</sup> The rise of the so-called “gig economy” has made this fact abundantly clear. The ‘innovations’ of the gig economy have as much to do with the creation of contingent workforces as they do with technological innovation. These contingent workers are typically poorly paid and classified, and in many cases misclassified, as “independent contractors.” These independent contractors are precluded from labour protections, and contestation over employee status has been a key component of gig worker organizing. Similarly, prisoner-workers are typically understood to be participants in rehabilitation programs rather than “employees” under the law. As is discussed in the cases that follow, this distinction is a key strategic point for prisoners seeking unionization or access to other rights and protection under labour and employment law.

It is not only legal-judicial distinctions that segment workers into standard and non-standard categories. In addition to formal legal preclusions, many unconventional workers face moral discursive claims that disparage their work as ‘unreal,’ or otherwise denies their moral status as “real workers.” As such, normative claims that “work is work” and “workers are workers” is central to the struggles of unconventional workers. Prisoners, along with many other

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<sup>184</sup> Judy Fudge and Leah F. Vosko, “Gender, Segmentation, and the Standard Employment Relationship in Canadian Labour Law, Legislation, and Policy,” *Economic and Industrial Democracy* 22:2 (2001): 271-272.

<sup>185</sup> Fudge and Vosko, “Gender, Segmentation, and the Standard Employment Relationship,” 272.

<sup>186</sup> Fudge and Vosko, “Gender, Segmentation, and the Standard Employment Relationship,” 272.



unconventional workers, make their own discursive efforts to assert that they are “real” workers who engage in “real work.” Moreover, some groups of unconventional workers, such as prisoners, sex workers, and some immigrant workers, must contend with various forms of dehumanizing stigma that dismiss them as criminal, immoral, or otherwise undeserving of legal protections and social benefits such as employment insurance or Medicare. That these demarcations between “real” and “unreal” work or “deserving” and “undeserving” workers are also motivated by racism, sexism, homophobia, and transphobia must be acknowledged.

In the case of sex work, Gregor Gall has noted the critical role of sex worker unionization in the broader sex workers’ rights movement, especially in relation to the legitimation of sex workers’ labour as ‘real work.’<sup>187</sup> The very process of forming a *workers’ organization* and claiming space within the labour movement is one of the ways sex workers have attempted to legitimate their work. Prisoners have made similar efforts through their own attempts at unionization. Likewise, just as sex workers have struggled over the labels used to describe them and their work by asserting that they are sex *workers* rather than, for example, ‘prostitutes,’ prisoners at various times have labelled themselves as “slaves of the state,” “incarcerated workers,” and a “convict class.”<sup>188</sup> As Dan Berger has explained, in the United States, the choice between such labels has been used to highlight different aspects of the institution and function of imprisonment and brought with them certain implications around questions of strategy, tactics, and organizations. At times, in the United States, tension arose amongst prison organizers over the primacy of race-first or class-first organizing, which rhetorically tended to invoke slavery and trade

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<sup>187</sup> Gregor Gall, “Sex Worker Unionisation: An Exploratory Study of Emerging Collective Organisation,” *Industrial Relations Journal* 38:1 (2007): 70-88. Also see Gregor Gall, *Sex Worker Unionization: Global Developments, Challenges and Possibilities* (New York: Palgrave Macmillan, 2016).

<sup>188</sup> Berger, *Captive Nation*, Chapter 5.

unionism respectively.<sup>189</sup> These same tensions are not as evident—although they are also not altogether absent—in the history of Canadian prisoner struggle. The case studies that follow overview episodes where more-or-less multiracial groups of prisoners have explicitly *self-identified* as workers to pursue not only their narrow economic interests, but also broader concerns related to their lives and imprisoned status.

Beyond formal and informal exclusion from legal protections and unionization, some unconventional workers face additional challenges in terms of other forms of law or regulation specific to them. This is clearly the case with prisoners and sex workers who have to contend with the criminal law and criminal justice systems in ways most workers do not, as well as immigrant workers who, depending on their particular status, must contend with aspects of immigration law and regulatory policies. In the cases of prisoners and some immigrant workers, these laws and regulations place specific limits on freedoms, such as freedom of movement and association, that most other workers take for granted. Moreover, such laws and regulations also make workers less free by imposing certain political and legal forms of “extraeconomic” compulsion on workers. These forms of extraeconomic compulsion create the conditions for “super- or hyper-exploitation” of the workers subject to it, and serve as a means to pacify worker resistance.<sup>190</sup> The threat of deportation serves such a purpose for many migrant workers. For prisoners, the potential denial of early release does the same.

Given these factors, struggles against extraeconomic compulsion and for mobility and association rights are central for both immigrant worker and prison organizers. Immigrant workers struggle to move freely across borders, against programs that tie them to single employers, and for

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<sup>189</sup> Berger, *Captive Nation*, 186;

<sup>190</sup> See Aziz Choudry and Adrian A. Smith, “Introduction: Struggling Against Unfree Labour,” in Aziz Choudry and Adrian A. Smith (eds.), *Unfree Labour?: Struggles of Migrant and Immigrant Workers in Canada* (Oakland: PM Press, 2016): 8.

paths to permanent status.<sup>191</sup> Such restrictions are in many ways similar to those imposed by imprisonment. Not only are prisoners not free to leave prisons, they are typically restricted in their ability to move throughout the institution and in their ability to freely associate with staff, other prisoners, and visitors. They are also typically “tied” to a single employer in the form of the prison system itself. The following case studies highlight examples of prisoner struggles for expanded freedom of mobility and association. Chapter 2 describes how prisoners, through legally certified unionization and collective bargaining with a private employer, were able to win the right to temporary passes to leave the prison to attend union meetings. Government officials explicitly feared that provisions in Ontario labour law designed to protect workers from employer-imposed restrictions on their mobility and ability to freely associate could be leveraged by prisoners to undermine the authority of the correctional system. In Chapter 3, organizers with the Canadian Prisoners’ Labour Confederation launched a legal challenge when guards and prison officials refused to allow them to move through the Mountain Institution where they were confined for the purposes of union organizing.

Unconventional workers do not just have to contend with the state, but also the organized labour movement itself. Canadian unions have had at best a mixed record in relation to unconventional workers. Along with other, more conventional workers, for example those in retail, unconventional workers are (at minimum) considered “difficult” to organize, for many of the

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<sup>191</sup> For some discussion of these struggles in relation to Canada’s Live-in Caregiver Program, see Jah-Hon Koo and Jill Hanley, “Migrant Live-in Caregivers: Control, Consensus, and Resistance in the Workplace and Community,” in Aziz Choudry and Adrian A. Smith (eds.), *Unfree Labour?: Struggles of Migrant and Immigrant Workers in Canada* (Oakland: PM Press, 2016), 37-53; Ethel Tungohan, “Canada’s Caregiver Program: ‘Excessive Demand’, Caregiver Deportations, and Labour Abuse,” in Mark P. Thomas, Jordan House, and Loren March (eds.), *Symposium Proceedings: GLRC Graduate Student Symposium 2016* (Toronto: Global Labour Research Centre, York University, 2017), 1-20, available: <https://glrc.apps01.yorku.ca/wp-content/uploads/2018/09/GLRC-Graduate-Symposium-Proceedings-2017.pdf>.

reasons listed above.<sup>192</sup> However, it is not simply the case that unions would like to organize unconventional workers but have been unable to. In many cases, it is also a matter of deliberate exclusion. Although not uncontested, the Canadian labour movement has, at certain moments in history, been characterized by nativism and racism.<sup>193</sup> As Aziz Chaudry and Adrian A. Smith explain:

While some unions have proactively supported migrant and immigrant worker organizing, others have been hostile or indifferent to migrant workers, including refraining from supporting struggles for decent work, respect, and immigrant justice. Alternative forms of organizing have proven essential to advancing migrant workers' rights, often outside of, and sometimes in tension with, established unions.<sup>194</sup>

Sex workers have likewise had a mixed relationship with organized labour. In recent years, the Canadian Labour Congress and some Canadian unions have “acknowledged the harms of criminalization on sex workers.”<sup>195</sup> A few, such as CUPE, have gone further to call for the decriminalization of sex work. However, such advocacy largely occurred in the early 2000s. During recent debates about changes to Canada’s sex work laws, organized labour has been largely absent.<sup>196</sup> Gig economy and other similar precarious workers have perhaps received the most attention and support from unions, in the forms of political campaigns (such as minimum wage campaigns), union-supported community-based advocacy organizations (such as workers centres and groups like OUR Walmart), and unionization efforts (most notably Justice for Janitors),

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<sup>192</sup> For a discussion of barriers to unionization in Canada, see Stephanie Ross, Larry Savage, Errol Black and Jim Silver, *Building a Better World: An Introduction to the Labour Movement in Canada* (Third Edition) (Halifax and Winnipeg, Fernwood Press, 2015), 155-162.

<sup>193</sup> For some of this history, see Franca Iacovetta, Michael Quinlan and Ian Radforth, “Immigration and Labour: Australia and Canada Compared,” *Labour / Le Travail* 38 (Fall 1996): 90-115; Tania Das Gupta, “Racism/Anti-racism, Precarious Employment, and Unions,” in Leah F. Vosko (ed.), *Precarious Employment: Understanding Labour Market Insecurity in Canada* (Montreal and Toronto: McGill-Queen’s University Press, 2006), 318-334.

<sup>194</sup> See Choudry and Smith, “Introduction,” 3.

<sup>195</sup> Jenn Clamen and Kara Gillies, “Will the Real Supporters of Workers’ Rights Please Stand Up? Union Engagement with Sex Work in Canada,” in Elya M. Durisin, Emily van der Meulen, and Chris Bruckert (eds.), *Red Light Labour: Sex Work Regulation, Agency, And Resistance* (Vancouver: UBC Press, 2018), 307.

<sup>196</sup> Clamen and Gillies, “Will the Real Supporters of Workers’ Rights Please Stand Up?” 307.

however these efforts have thus far had limited success.<sup>197</sup> The mixed (at best) relationship between organized labour and prisoner-workers has been touched upon, and will be discussed in more detail throughout the case studies that follow. The labour movement has largely ignored prison labour. When it has been interested in prison labour, it was primarily out of concern over competition with prisoner workers and only rarely over humanitarian concerns. In a few rare instances, such as the case of CFAW local 240, unions and the broader labour movement have supported the struggles of prisoner-workers.

### **Unconventional Worker Organizing**

Unconventional workers are not passive in the face of these challenges, and have innovated new strategies and organizational forms to advance their interests. Labour Studies scholar Janice Fine argues that, unlike the traditional industrial working class who are (or at least were) positioned in key linchpins in the economy and could wield enormous economic power through their refusal to work, precarious workers, such as those in the low-skilled service sector, have more power as moral and political agents, that is, as ‘citizens.’<sup>198</sup> This is because these workers tend to be eminently replaceable and do not have a monopoly over a skill or service that an employer or the public is dependent on. Nevertheless, even workers without significant economic power can (at least in most cases) vote and participate in other forms of political organizing and activism. Given their constrained status as limited rights holders and their marginal position in the economy, what forms of power can prisoners effectively wield? What is their best source of leverage?

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<sup>197</sup> See Jonathan Rosenblum, *Beyond \$15: Immigrant Workers, Faith Activists, and the Revival of the Labor Movement* (Boston: Beacon Press, 2017); Brett Caraway, “OUR Walmart: A Case Study of Connective Action,” *Information, Communication & Society* 19:7 (2016): 907-920; Luis L.M. Aguiar and Shaun Ryan, “The Geographies of the Justice for Janitors,” *Geoforum* 40:6 (2009): 949-958.

<sup>198</sup> Janice Fine, *Worker Centers: Organizing Communities on the Edge of the Dream* (Ithaca, NY: ILR Press, 2006).

Prisoners' work may or may not be that economically significant for prison administrators, depending on what form of prison labour scheme exists. Even in systems with highly developed and economically viable prison industries, loss of production for a period of time may have very little effect on the prison as a whole or the budgets of administrators. As such, the leverage of prison strikes is generally premised more on the ability to *disrupt* the day-to-day operations of the prison than on causing economic harm to their employers. Prisoners may or may not work. Even if they do, they may also participate in institutional programming. As Frances Fox Piven and Richard Cloward explain in their seminal work *Poor People's Movements*, institutional disruption occurs when "people cease to conform to accustomed institutional roles; they withhold their accustomed cooperation."<sup>199</sup> In the prison setting, most strikes by prisoners involve not only work refusals but also refusals to engage in correctional, educational, or social programming, canteen boycotts, or hunger strikes. Prisoners' collective cooperation is necessary for the functioning of the prison. The potential withdrawal of this cooperation (by strike, riot, or other means) forms a clear basis to leverage power.

Prisoners, then, like other workers and subaltern groups, attempt to disrupt institutions and exercise economic, moral, and political power in ways appropriate to their situation. The cases that follow highlight the some of the gains prisoners have made, but also the difficulties for prisoner-workers on a variety of fronts, including the limits on their exercises of power in all the ways discussed above.

A number of scholars have examined "new forms" of workers' organization developed by traditional and unconventional workers as a means to defend themselves and advance their collective interests. Some, such as Immanuel Ness, have argued that the decline of union power in

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<sup>199</sup> Frances Fox Piven and Richard Cloward, *Poor Peoples' Movements: Why They Succeed, How They Fail* (New York: Vintage, 1979), 24.

the contemporary period is not necessarily an indication of an objective decrease in workers' power in society, but rather a decline of a particular model of labour organization, namely the legally recognized trade union.<sup>200</sup> In the context of a labour movement constrained by restricted labour law, and which is seemingly “incapable of mobilizing mass rank-and-file militancy to resist the ongoing deterioration in workplace conditions and the systematic erosion of workers' power,”<sup>201</sup> workers have organized to “evade the structures that prevent unionization” and have pioneered new forms of organizational structure and developed new methods better suited to their needs and struggles.<sup>202</sup> It is this framework which may help answer the question of why prisoners seem to be returning to labour activism and unionization at a time when the union movement as a whole is in decline, if not in outright crisis.<sup>203</sup> In particular, research on “community unions,” “solidarity unionism,” and “poor workers' unions,” helps elucidate the organizational dynamics of prisoner-worker organizing.

Community unionism is a term used within the labour movement in two distinct ways. Labour Studies scholar Simon Black has defined these two uses as follows: “community unionism as a process and community unionism as an organizational model that stands independent of traditional trade unionism.”<sup>204</sup> When describing “community unionism as a process,” the term illustrates efforts by unions and non-union community organizations (for example, anti-poverty,

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<sup>200</sup> See Immanuel Ness, “Introduction: New Forms of Worker Organization” in Immanuel Ness (ed.), *New Forms of Worker Organization: The Syndicalist and Autonomist Restoration of Class-Struggle Unionism* (Oakland: PM Press, 2014).

<sup>201</sup> Ness, “Introduction,” 1.

<sup>202</sup> Ness, “Introduction,” 4.

<sup>203</sup> There is an expansive literature concerned with the decline of the labour movement and strategies for its renewal. For some discussion of these issues related specifically to Canada, see Pradeep Kumar and Christopher Schenk (eds.), *Paths to Union Renewal: Canadian Experiences* (Peterborough, ON: Broadview Press; Aurora, ON: Garamond Press; Ottawa: Canadian Centre for Policy Alternatives, 2006); David Camfield, *Canadian Labour in Crisis: Reinventing the Workers' Movement* (Halifax and Winnipeg: Fernwood Publishing, 2011).

<sup>204</sup> Simon Black, “Community Unionism: A Strategy for Organizing in the New Economy,” *New Labor Forum* 14:3 (Fall 2005): 25.

immigrant rights, or environmental groups) to forge alliances, share resources and coordinate campaigns. There are many examples of such forms of community unionism in Canada, however, prisoners and prison justice organizations have not typically been beneficiaries of union support in this way.

In the second meaning, community unionism describes “autonomous community-based labor” groups, union-like organizations of workers or working-class people who lack formal access or otherwise face barriers to conventional and legally prescribed unionization. Community unions themselves range in form. Workers’ centres are one common form of community union, which are typically organized on a geographical basis and often cater to specific groups of workers (for example, warehouse workers, or Spanish-speaking workers).<sup>205</sup> Community unions also vary in strategic and tactical repertoires, engaging in political lobbying, legal challenges, and direct actions.<sup>206</sup> Community unions may focus on employment issues or take a broader approach to dealing with the challenges that working-class people face by taking up issues of housing, public services, immigrant rights, and more. In many ways, prisoner service organizations, such as Toronto’s PASAN or the Canadian Association of Elizabeth Fry Societies, function in similar ways to community unions, although issues of work tend to be less central for these organizations. As touched upon in the discussion of prisoners’ unions, there has been much debate over the character of “inside-based” versus “outside-based” prisoners’ organizations. The cases that follow discuss two outside-based organization, the Canadian Food and Allied Workers in Chapter 2 and the Prisoners Union Committee in Chapter 3, and one inside-based one, the Canadian Prisoners

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<sup>205</sup> Steven Tufts, “Community Unionism in Canada and Labor’s (Re)organization of Space,” *Antipode* 30:3 (1998): 227-250; Fine, *Workers’ Centers*.

<sup>206</sup> Black, “Community Unionism: A Strategy”; also see Matthew Corbeil and Jordan House, “Does Direct Action Get the Goods? The Possibilities and Limits of Solidarity Networks,” in William K. Carroll and Kanchan Sarker (eds.), *A World to Win: Contemporary Social Movements & Counterhegemony* (Winnipeg: ARP Books, 2016), 312-326.



Labour Confederation (also in Chapter 3). The third case study, which concerns the 2013 federal prison strike, while inside-based, is difficult to characterize as “an organization” as the strike was carried out by loosely networked autonomous organizing committees on an institution by institution basis.

It is here that Stan Weir’s concept of the ‘informal work group’ and Staughton Lynd’s concept of ‘solidarity unionism,’ in which workers’ direct self-activity outside of legally enforced collective bargaining processes, have special explanatory value.<sup>207</sup> Given the legal limitations on prisoner unionization and the inability for most prisoners to rely on recourse through employment-related laws, analysis of worker collective action independent of the state is informative. For Weir and Lynd, legal recognition and regulation are not necessary for groups of workers to build and exercise power in the workplace. They further argue that in many circumstances legal structures, even those which appear to be ‘rights’ (such as the right to third party arbitration), actually impede effective labour action. Moreover, such structures can serve as mechanisms to diffuse working-class power and impede working-class challenges to the capitalist system.

Experiments in solidarity unionism have typically been motivated by one of two factors. In the first instance, a solidarity unionist approach may be taken up by workers who explicitly and formally lack access to traditional unionization and collective bargaining. As such, these workers engage in forms of collective action and informal bargaining primarily because they have no other recourse. However, as scholars such as Immanuel Ness have highlighted, since at least the 1970s, workers have also organized new forms of organization, not just out of necessity but also out of explicit political conviction. These organizations “seek to counter the growth of precarious labor

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<sup>207</sup> See Stan Weir, *Singlejack Solidarity* (Minneapolis and London: University of Minnesota Press, 2004); Staughton Lynd, *Solidarity Unionism: Rebuilding the Labor Movement From Below* (Chicago: Charles H. Kerr, 1992); Staughton Lynd and Daniel Gross, “Solidarity Unionism At Starbucks: The IWW Uses Section 7,” *WorkingUSA* 10:3 (2007): 347-356.

and reformist labor relations by cultivating democratic structures at the point of production, and they envision a society free of capitalism.”<sup>208</sup> As has been discussed, prisoners’ unions have likewise been regarded as both reformist and revolutionary. As the following chapters will show, Canadian prisoners’ unions have tended to envision themselves as primarily “bread and butter” organizations aimed at bettering prisoners’ conditions in work and life, and serving as vehicles to fight for the voice and dignity of imprisoned people.

Despite the limitations of both prisoner-worker organizing that has sought legal standing and that which has not, the framework of solidarity unionism is especially helpful in pointing to the ways that workers organize on a near-constant basis, despite repressive conditions or a lack of access to formal channels. It is this mundane and everyday organizing that creates the conditions for outbreaks of what is often labelled “spontaneous” collective action. This is the case in the 2013 federal prison strike discussed in Chapter 4. The strike was spontaneous in that it was not called for by a central authority and was organized on an ad hoc basis in institutions across the country. However, as the chapter will detail, a tremendous amount of deliberate organizing was required to produce a “spontaneous” strike.

Finally, prisoners’ unions can be, at least partially, understood through the lens of ‘poor workers’ unions.’<sup>209</sup> In describing the origins of poor workers’ unions, Vanessa Tait explains that in the 1970s, social movement “activists formed independent unions representing workers in health care, manufacturing, and restaurant work, as well as Native American workers on reservations, gay, lesbian, bisexual, transgender, and queer workers, and *prison laborers*.”<sup>210</sup> Due to their unconventional membership, these poor workers’ unions take on particular characteristics. They

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<sup>208</sup> Ness, “Introduction,” 1.

<sup>209</sup> Vanessa Tait, *Poor Workers’ Unions: Rebuilding Labor From Below* (Cambridge, MA: South End Press, 2005).

<sup>210</sup> Tait, *Poor Workers’ Unions*, 144, emphasis added.

are often made up disproportionately of racialized workers, and are often gender segregated organizations. As such, they tend to be “rooted in struggles for racial, ethnic, and gender justice and [exist] largely outside the gates of conventional trade unions.”<sup>211</sup> Since they are likely to interact with government agencies to access benefits and entitlements, by their nature, poor workers’ unions are highly concerned with issues and demands beyond their immediate workplaces. More research on Canadian prisoners’ unions is needed to make in-depth comparisons to the organizations that Tait describes, however, in the cases that follow, my research shows some important differences in the Canadian context. Despite the diverse racial make-up of the Canadian prisoner population, Canadian prisoner unions and worker organizing efforts do not seem to have these same racial politics, and tend towards a class-first position. It is only in the case of the PUC—an outside-based organization made up largely of non-prisoner activists—discussed in Chapter 3, that racial justice is explicitly linked to the class demands of prisoners. Furthermore, prisoner organizers in Canada have tended to limit demands to immediate workplace issues. This more narrow focus is largely articulated as a strategic means to leverage economic power and labour law as means to develop structures that would allow prisoners a countervailing force to that of guards and prison administrators.

The empirical research that makes up the following case studies is informed by the broad themes of prison and criminal justice, and work and employment, that have been discussed in this chapter. As has been demonstrated, imprisonment—and prison labour—do not exist in Canadian society by chance. They are not merely bad ideas that have survived because there are no suitable alternatives. Rather, imprisonment and prison labour play important material and ideological functions in the context of Canadian capitalism. As such, despite their specificities, the case studies

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<sup>211</sup> Tait, *Poor Workers’ Unions*, 2.

that make up the next three chapters should be understood to concern not only prisoners or their relations. Rather, the struggles of prisoners over issues of work and labour reveal a great deal about Canadian society in general.

## CHAPTER 2

### THE CANADIAN FOOD AND ALLIED WORKERS UNION LOCAL 240<sup>1</sup>

Into this wild-beast tangle these men had been born without their consent, they had taken part in it because they could not help it; that they were in jail was no disgrace to them, for the game had never been fair, the dice were loaded. They were swindlers and thieves of pennies and dimes, and they had been trapped and put out of the way by the swindlers and thieves of millions of dollars.

— Upton Sinclair, *The Jungle*<sup>2</sup>

Despite the union movement's ambivalence towards them, throughout the 1960s and 1970s, prisoner-workers asserted that they were both “real” workers and a part of the broader labour movement. This manifested itself most famously in the United States in the demands of the Folsom prison strikers and Attica prison rebels, who included amongst their grievances the right to freely join and form labour unions.<sup>3</sup> In Scandinavia, the US, UK, and Canada, prisoners formed—or attempted to form—prisoners' unions and prisoners' labour unions. It is somewhat difficult to judge the successes and failures of these disparate movements and organizations. However, one such attempt—the 1977 formation of the Canadian Food and Allied Workers Union, Local 240, in Guelph, Ontario—is set apart by its achievement of formal legal recognition as a union, and of successfully bargaining collective agreements that covered a group of prisoners who lived and worked together. This achievement is especially notable when contrasted with the devastating blow that the US prisoners' union movement received in that same year in the form of the US Supreme Court decision *Jones v. North Carolina Prisoners' Labor Union*, which

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<sup>1</sup> A version of this chapter has been published as Jordan House, “When Prisoners Had a Union: The Canadian Food and Allied Workers Union Local 240,” *Labour/Le Travail* 82 (Fall 2018): 9-39.

<sup>2</sup> Upton Sinclair, *The Jungle* (New York: Penguin, 1965), 199.

<sup>3</sup> For an account of the 1970 Folsom Prison Strike, see Cummins, *The Rise and Fall of California's Radical Prison Movement*. For a comprehensive account of the Attica Prison Rebellion, see Thompson, *Blood in the Water: The Attica Prison Uprising of 1971 and Its Legacy* (Pantheon: New York, 2016). In Canada, similar demands were made by the “Archambault Guys” in their strike in 1976, see Gosselin, *Prisons in Canada*.

determined that prohibitions against prisoner unionization efforts were constitutional and effectively precluded prisoners from union protections.<sup>4</sup>

This chapter will examine the formation and life of CFAW Local 240, a union of incarcerated and non-incarcerated meat cutters employed by a private firm operating out of the Guelph Correctional Centre (GCC), by tracing the origins of the union in the context of the Ontario government's expansion of work release programs and privatization of prison industry over the course of the 1970s. First, I consider the ideological and economic factors that contributed to the creation of Outside Managed Industrial Programs (OMIP) in Ontario prisons, which eventually led to the creation of the Guelph Abattoir Programme and its subsequent unionization. I then turn to an overview of the Guelph Abattoir Programme, analyzing the two private firms, Essex Packers and the Guelph Beef Centre/Better Beef Limited, that ran the abattoir at the Guelph Correctional Centre after the program began in 1974. Following that, I will consider the unionization of the Guelph Abattoir Programme in more detail, considering the Ontario Labour Relations Board's decision to certify the union, the Ministry of Correctional Services' (MCS) response to union certification, and the collective bargaining agreements between the company and union that followed. I argue that the CFAW's narrow scope and the particular circumstances of Ontario's OMIP program allowed the local to achieve relative success. However, the same factors that allowed the union these successes also hampered potential for the union to transcend its trade union character, limiting its ability to serve as a significant vehicle for prison reform or prisoners' rights in the ways that had been envisioned by some advocates of prisoners' unions. By way of conclusion, I will briefly consider the legacy of Local 240, reflecting on the union's impact on

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<sup>4</sup> See Tibbs, *From Black Power to Prison Power*.

questions of rights and citizenship for prisoners, as well as its influence on other prison labour organizers.

### **Ontario Prison Industry Privatization and OMIPs**

Besides being a time of significant turmoil in Canada's prisons, the 1970s were also a time of experimentation in prison and jail reform.<sup>5</sup> As part of this trend, the Province of Ontario undertook a series of reforms in an attempt to modernize its prison system. In addition to the modernization of physical buildings, Ontario's Ministry of Correctional Services enacted two main policy changes related to work and prison labour. First, it instituted a Temporary Absence Program (TAP) in 1969, which allowed for prisoners to work under "normal" conditions in the community. Second, beginning in 1974, it experimented with Outside Managed Industrial Projects (OMIP). OMIPs involved for-profit management of select prison industries by outside private firms.

#### ***Temporary Absence Programs***

Temporary absence and work release programs were introduced with the aim of increasing provincial prisoners' ability to reintegrate into society before the end of their sentences. Increasing prisoners' participation in the workforce was particularly emphasized, both because working prisoners were assumed to be less likely to reoffend, and because more working prisoners allowed the Ministry of Correctional Services to recoup correctional costs in various ways. For example, temporary absences and work release allowed prisoners to earn wages rather than collect government stipends, and provided increased opportunities for the Ministry to charge prisoners

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<sup>5</sup> The 1970s were characterized by frequent prison strikes and riots. See Mark MacGuigan, *Report to Parliament by the Sub-committee on the Penitentiary System in Canada* (Ottawa: Government of Canada, 1977). The prison turmoil of the 1970s will be discussed in more detail in the next chapter.

room and board. In a 1977 interview with the Ministry of Correctional Services newsletter, *Correctional Update*, Minister of Correctional Services Frank Drea explained that the economic downturn and subsequent austerity agenda of the 1970s offered the Ministry an ‘opportunity’ to become more lean, and alluded to increasing expectations for offenders to work:

[We] have to operate with efficiency, with much more productivity. We have to abandon the safe and traditional methods because they are expensive. We are going to have to innovate, use our creativity, our imagination. We have to be prepared to experiment. If we can keep the jail population at a level the present institutions can handle, the money for new institutions can go into programs.

Instead of people spending part of the weekend in jail on intermittent sentence, let’s have them working in the community. We can’t ask the public to consider new approaches if we won’t consider them ourselves.<sup>6</sup>

This leaning of Ontario’s correctional system was well underway in 1977.<sup>7</sup> The new neoliberal position of the government was succinctly formulated by Drea: “We are a work-oriented, success-oriented, incentive-oriented society and we are doing inmates a disservice by not allowing them to be a part of that society.”<sup>8</sup> If market opportunity, rather than social wages and robust social programs, made for a healthy and affluent society, it was easy to argue that prisoners should be the last people to receive public benefits, and the first people to take whatever work they could find. This neoliberal logic was likewise revealed in Ministerial references to the goal of instilling

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<sup>6</sup> “An Interview with the Honourable Frank Drea,” *Correctional Update* 5:5 (September/December 1977), 5.

<sup>7</sup> The ‘leaning’ of the Ontario prison system involved increasing private sector involvement, especially in prison industries. It also involved an expansion and modernization of prison facilities and the phasing out of aging facilities, which allowed for increased concentration of prisoner populations. The Maplehurst Correctional Facility was opened in 1975. The Ministry of Correctional Services also extensively overhauled the Provinces jails, renovating or replacing many of them. In 1973, the Province opened the Niagara Regional Detention Centre, which replaced both the St. Catharines and Welland Jails. In 1974, the Ministry finalized plans to build new detention centres in Toronto East, Toronto West, Hamilton and London. Over the same period, the Ministry opened a new women’s section of the Kenora Jail and the treatment-focused Ontario Correctional Institute in Brampton. Conversion of cellblocks and dormitories to more modern “self-contained living units” also occurred in many older facilities, such as the Guelph Correctional Centre. See Ontario, Ministry of Correctional Services, *Report of the Minister 1974* (1974); Ontario, Ministry of Correctional Services, *Report of the Minister 1975* (1975). By 1981, the Ministry claimed that its prison industry program reforms had saved tax dollars—mostly in the form of reduced industry supervisory staff salaries. See Martin Dewey, “Prisons Profiting in Joint Ventures with Outside World,” *The Globe and Mail* (February 21, 1981), B1. The same period saw increased non-profit involvement in prison industries. See Ontario, Ministry of Correctional Services, *Report of the Minister 1980* (1980).

<sup>8</sup> “An Interview with the Honourable Frank Drea,” *Correctional Update*, 5.



an entrepreneurial mindset in prisoners, with officials referring to the creation of “capitalist-inmates.”<sup>9</sup> The fact that the main path to the creation of these incarcerated ‘capitalists’ was through compelling prisoners to work in industrial manufacturing jobs—jobs that exemplified the industrial proletariat—was seemingly lost on prison industry program architects. Still, the rhetoric of the government represents a key insight into the transformations occurring in corrections in Ontario. While economic motivations were at play in these policy changes, they were also clearly driven by a notion of neoliberal citizenship that held out the possibility for self-improvement and rehabilitation for prisoners.

In order to “allow” prisoners to be a part of Ontario’s “work-oriented” society, Ontario instituted a Temporary Absence Program (TAP) in 1969 that offered limited releases to prisoners for “compassionate leaves or to pursue employment or educational opportunities.”<sup>10</sup> The TAP was lauded as a means of gradual, supervised reintegration into society and had the benefit of allowing prisoners to pursue various educational, vocational or employment opportunities that the Ministry was incapable of supporting in-house.<sup>11</sup> Moreover, working prisoners were expected to support their families, reducing prisoners’ families’ dependence on government welfare programs and private charity. The program also emphasized the moral duty of “family responsibility.”

The implementation of TAP was not simply—or at least, only—the imposition of a neoliberal logic of individual ‘responsibility’ and market dependency by cruel and calculating politicians and bureaucrats on an unwilling prison population. Prisoners themselves had repeatedly

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<sup>9</sup> John Pahapill to Abattoir, Guelph C.C. File, 26 March 1974, Guelph C.C. (1973-74) File, Central Registry of the Ministry of Correctional Services, Ontario Government Record Series RG 20-15, Archives of Ontario.

<sup>10</sup> Between 1969 and 1976, the Ministry approved 42,852 absences. The program appeared to be quite successful—over this period less than 3 percent of these passes were revoked or withdrawn for reasons such as minor rule violations or “termination of employment.” Over the course of 1975-1976, provincial prisoners working through TAP releases earned \$1,305,000. Ontario, Ministry of Correctional Services, *Report of the Minister 1976* (1976), 14-15.

<sup>11</sup> Arthur Brydon, “Live-In, Work-Out Program: Grossman Tells How Man Can Go to Jail and Keep His Job,” *The Globe and Mail* (November 7, 1968): 35.

stated that more and better work opportunities would benefit their families and dependents as well as themselves.<sup>12</sup> For example, in a 1973 issue of *Tarpaper*, the joint mag of the Matsqui Federal Institution, L.H. Grant wrote that, if prison labour was normalized, society “would benefit greatly, because the families of prisoners would be taken off the welfare rolls and prisoners would be contributing to the national economy by paying taxes.”<sup>13</sup> Prisoners would likewise make similar arguments in the face of wage cuts in 2013. The establishment of educational and temporary compassionate releases through the TAP program were also of clear benefit to prisoners.

The TAP also potentially provided the provincial government means to strategically deal with labour shortages and subsidize municipal budgets by allowing provincial prisoners to be hired to work agricultural and municipal maintenance jobs—although the practice was never as widespread as some had hoped. For example, in 1980, Ray Haggarty, the Liberal MPP for Erie, suggested that prisoners could fill a shortage in seasonal fruit pickers, saying:

I have often thought prisoners might be used in the Niagara Peninsula, where there is a shortage of fruit pickers for the agricultural industry and where we have to go offshore for them. The farming industry in the area will bring in offshore workers from the West Indies to pick fruit there. They can do all the advertising they want in the Niagara Peninsula. It is on almost every radio station that they are looking for tender fruit pickers, but they cannot seem to get anybody there any more to pick fruit.<sup>14</sup>

As one Ontario tobacco farmer who hired workers through the TAP program explained, provincial prisoners were much more reliable than local workers who “had no sense of humor and weren’t good workers.” He further explained, “On some occasions I had given them [locals] breakfast and

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<sup>12</sup> See Jim Robinson, “Convicts Offered as Workers in Commercial Abattoirs,” *The Toronto Star* (April 27, 1974), B5. For some examples of federal prisoners’ thoughts on increased prison industry and expansion of work release programs, see Jean LeBlanc, “Wanted: More and Better Trades in Dorchester,” *Echo* I:VIII (September 1974), n.p.; Jim Armour, “The Answer???” *Avatar* 1:11 (April 1975), 14-15; Norm, “Industry for Prisoners,” *The Outlook* (Christmas Edition 1978), 14.

<sup>13</sup> L.H. Grant, “The Working Prisoner,” *Tarpaper* 2:10 (July 1973), 19.

<sup>14</sup> Ontario, *Legislative Assembly Debates*, October 31, 1980, available <http://hansardindex.ontla.on.ca/hansardeissue/31-4/1104.htm>.

then gone to the field a few minutes afterwards to start working, and they had taken off.”<sup>15</sup> Whatever their sense of humour, unlike their non-incarcerated counterparts, the TAP workers faced significant disincentives to “taking off,” not the least being the possibility of extending their jail sentences—and the Ministry fed them breakfast too. The sense that prisoner-workers actually had superior work habits to their free counterparts raises questions about the necessity of using work-release to cultivate a strong work ethic in prisoners. Addressing labour market shortages would later be utilized as a justification for the pilot project in the Guelph abattoir, and that project too would face some criticism over its efficacy in cultivating prisoner-workers’ marketable skills.<sup>16</sup>

Other Canadian jurisdictions also explored and instituted new prison labour and work release schemes over this period. In 1976, Alberta proposed a mandatory work plan for all provincial prisoners, which would have seen them paid below-market wages. The plan, which was never implemented, was opposed by the Alberta Federation of Labour, who argued it was “not very humane.”<sup>17</sup> Quebec, following Ontario, began entering into joint ventures with private firms to employ prisoners in the early 1980s.<sup>18</sup> The federal system, too, tried its hand at new prison labour and work release schemes. In 1974, an experimental work release program at the Saskatchewan Penitentiary was forced to shut down after it was found to be in violation of federal penitentiary regulations, which did not have a mechanism to issue temporary absences for employment purposes. Before the program was shut down, about 100 prisoners worked outside the institution for 14 months. Participants in the project paid taxes and contributed to

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<sup>15</sup> “Employer Harvests Benefits from TAP,” *Correctional Update* 3:6 (December 1975), n.p.

<sup>16</sup> Jim Robinson, “Convicts Offered as Workers in Commercial Abattoirs,” *The Toronto Star* (April 27, 1974), B5.

<sup>17</sup> “Prison work is opposed,” *The Globe and Mail* (October 22, 1976): 31. Alberta was also interested in exploring the possibility of replicating Ontario’s OMIPs. In a letter to Ontario’s Minister of Correctional Services in 1974, Alberta Solicitor General Helen Huntley asked to have the details of the Guelph Abattoir privatization sent to her office. Helen Huntley to Syl Apps, 12 March 1974, Guelph C.C. (1973-74) File, Central Registry of the Ministry of Correctional Services, Ontario Government Record Series RG 20-15, Archives of Ontario.

<sup>18</sup> Martin Dewey, “Prisons Profiting in Joint Ventures with Outside World,” *The Globe and Mail* (February 21, 1981), B1.

unemployment insurance. At least some of the prisoners worked union jobs and paid union dues.<sup>19</sup> Despite this procedural setback, the federal government would eventually follow Ontario's lead and implement its own work release and private employment programs.<sup>20</sup> Similar experiments in private involvement in prison industry were also occurring in a variety of other international jurisdictions at this time, notably the United States.<sup>21</sup>

### ***Outside Managed Industrial Programs***

With the perceived success of the Ontario TAP program, politicians and correctional bureaucrats explored the possibility of expanding Ontario's prison industries.<sup>22</sup> In 1974, the Ministry of Correctional Services hired outside consultants to study the province's prison industry. It also added the position of "Manager of Industrial Programming" to the Ministry's bureaucracy, hiring mechanical engineer and former manufacturing manager John Papahill to lead the expansion and partial privatization of industrial programs in Ontario's prisons.<sup>23</sup> The Ministry of Correctional Services explained:

The Ministry intends to increase use of existing facilities and equipment in manufacturing goods for use within the Ministry and elsewhere within the Government. It also intends to introduce more awareness of industrial practices into the industrial programs by inviting private industry to participate in certain industries on a partnership basis.<sup>24</sup>

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<sup>19</sup> "Prison Work Program: Successful but Still Illegal," *The Globe and Mail* (October 10, 1974), 9.

<sup>20</sup> Dewey, "Prisons Profiting in Joint Ventures with Outside World," B1.

<sup>21</sup> Robert C. Grieser, Neal Miller, and Gail S. Funke, *Guidelines for Prison Industries* (Part I, "State-of-the-Art Survey of Prison Industries"; Part II, "Legislative Guidelines"; Part III, "Model Policies and Procedures"; and Part IV, "Court Actions and Standards Impacting Prison Industries") (Washington, DC: National Institute of Corrections, 1984). It should also be noted that the introduction of private involvement in prison industry over the course of the 1970s was not an innovation, but in many ways a return to older forms of prison production.

<sup>22</sup> A 1980 review of the TAP program noted that "Ministry optimism surrounding the Temporary Absence Programme has promoted its rapid expansion and application." See Dale K. Ardon, "The Temporary Absence Program: Participants and Their Outcome" (Ministry of Corrections Services, Planning and Research Branch, February 1980).

<sup>23</sup> Ontario, Ministry of Correctional Services, *Report of the Minister 1974* (1974), 14; Robinson, "Convicts Offered as Workers in Commercial Abattoirs," B5.

<sup>24</sup> Ontario, Ministry of Correctional Services, *Report of the Minister 1974* (1974), 14.

This plan to introduce private management of prison industries would eventually to be referred to as “Outside Managed Industrial Programs” (OMIPs), of which the privatization of the GCC abattoir would be the initial pilot project. The expansion of Ontario prison industry and the pilot program at the GCC was first announced to the public in the 1974 Ontario Throne Speech. The announcement was careful to emphasize that prospective participants would receive industry wages and that organized labour, in addition to business, would be involved in the program’s development:

Negotiations are under way for operation and supervision by private business of an industrial enterprise within a correctional centre. This innovative experiment should provide inmates with realistic employment and training experience. The labour force would consist of those serving short terms under minimum custody, who would be paid competitive wages. My government is confident that *with the support and co-operation of labour unions and industry*, the concept can play a worthwhile part in correctional services in the years ahead.<sup>25</sup>

The Ministry of Correctional Services further detailed the plan, and emphasized the potential for prisoners to ‘contribute’ to society through taxes, fees for room and board, and family support:

At the year’s end, as a pilot program, preparations were being made to invite tenders from the meat-packing industry for the operation on an expanded scale of the abattoir at the Guelph Correctional Centre. It was expected that a successful contractor would be able to employ some 50 inmates as full-time employees at wage rates prevailing in the industry. In addition to assuming normal responsibilities for paying income tax, unemployment insurance, etc., inmate employees will be expected to pay room and board and contribute to the support of their families.<sup>26</sup>

Other OMIPs included the private management of kitchen facilities by the food service and catering company Parnell Foods Limited and an electric wheelchair factory by Pedal Power (Canada) Limited, both in the Maplehurst Correctional Complex in Milton.<sup>27</sup> Later, an automotive

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<sup>25</sup> Ontario, Throne Speech 1974, available:

[https://www.poltext.org/sites/poltext.org/files/discours/ON/ON\\_1974\\_T\\_29\\_04.txt](https://www.poltext.org/sites/poltext.org/files/discours/ON/ON_1974_T_29_04.txt). Emphasis added.

<sup>26</sup> Ontario, Ministry of Correctional Services, *Report of the Minister 1974* (1974), 14. Emphasis added.

<sup>27</sup> “Pilot Catering Project in Operation at Maplehurst,” *Correctional Update* 4:3 (June 1976), 4; “Private Industry Provides Inmate Training in New Centres,” *Correctional Update* 3:4 (August 1975), 5.

parts manufacturing plant operated by Carlisle Automotive Parts was also opened at Maplehurst.<sup>28</sup> By 1981, the Ministry reported that 75 provincial prisoners worked in OMIPs and indicated that it hoped the program would grow to grow to 150 participants.<sup>29</sup>

The sensational story of hardened criminals armed with knives and saws employed specifically to kill and dismember was an easy one for the press to pick up. The *Star* pondered the difficulty of selling “a room full of knife-wielding, meat-cutting convicts” to the public.<sup>30</sup> Some members of the public questioned the logic of rehabilitating those deemed to have anti-social behaviours by putting them on a kill floor. One *Toronto Star* reader wrote:

How can men be helped to a better life if they are to be forced to take part in such a degrading occupation as work in a slaughterhouse? Men have to be made tough and hard to stand the sight of actual killing, the suffering of animals, the smells and atmosphere of violence which fills an abattoir.<sup>31</sup>

This concerned citizen was not the only one with reservations about the type of work being done in the program. In the words of one GCC abattoir worker, who spoke favourably to the media about the planned private management and industry wage scheme for the plant, “personally, [...] on the kill-floor—some jobs in there I don’t like too much.”<sup>32</sup> Even GCC Superintendent Scott Keane admitted that he did not like visiting the abattoir, commenting that he thought he had “heard the hogs still making sounds when they [went] into the scalders.”<sup>33</sup>

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<sup>28</sup> Ontario, Ministry of Correctional Services, *Report of the Minister 1979* (1979), 13.

<sup>29</sup> Dewey, “Prisons Profiting in Joint Ventures with Outside World,” B1.

<sup>30</sup> Robinson, “Convicts Offered as Workers in Commercial Abattoirs,” B5.

<sup>31</sup> “Abattoir Can’t Help Men Reform, She Argues,” *Toronto Star* (August 12, 1974), C5.

<sup>32</sup> Robinson, “Convicts Offered as Workers in Commercial Abattoirs,” B5.

<sup>33</sup> Robinson, “Convicts Offered as Workers in Commercial Abattoirs,” B5. For an additional letter to the editor, raising issues of the Guelph prison abattoir work and animal rights, see “Killing Animals Not Good Therapy,” *Toronto Star* (November 2, 1985), B3. The same issue would be taken up in academic discussion in a 2012 article in the *Journal for Critical Animal Studies*, which argues that not only is the commercial killing of animals harmful, and thus not useful for rehabilitation of prisoners, but that the power systems which see fit to confine living beings, both non-human animal and human, in “cages, pens, and cells” are intertwined. See Amy J. Fitzgerald, “Doing Time in Slaughterhouses,” *Journal for Critical Animal Studies* 10:2 (2012), 12-46. For more on the impact of slaughterhouse labour on workers, see Kendra Coulter, *Animals, Work, and the Promise of Interspecies Solidarity* (New York: Palgrave Macmillan, 2016).

The Ministry had no apparent concern that slaughterhouse work might have been in tension with rehabilitative objectives.<sup>34</sup> It did continually emphasize that the program would not threaten the security of the institution or public safety. The Throne Speech assured the public that participants in the program would be short term and under minimum custody. A government spokesperson argued that the program would actually *increase* public safety by boosting participants' employability and reducing instances of reoffending. Ministry Industry Manager John Papahill conceded that the program involved some risk, and that "inmates [would] have to be very, very carefully picked." For his part, Guelph abattoir foreman Joe Ellis reassured the public, saying, "I've been around here 17 years and I've never been threatened with a knife or anything."<sup>35</sup>

### ***Organized Labour and OMIPs***

The labour movement had some reservations but was generally supportive of the planned OMIP. The Ontario Federation of Labour's (OFL) Secretary Treasurer, Terry Meagher, attended several meetings with the Ministry of Correctional Services in relation to the proposed industrial programs. Although Meagher called the abattoir program "a worthwhile undertaking," the OFL raised concerns about the program's potential to undermine industry wages.<sup>36</sup> Ministry officials also met with representatives of the Canadian Food and Allied Workers Union (CFAW), the Canadian section of the Amalgamated Meat Cutters and Butcher Workmen of North America, as early as May 1974.<sup>37</sup> Labour sought assurances that the GCC abattoir would not run if,

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<sup>34</sup> These issues would emerge decades later when a broad coalition formed to oppose the shuttering of federal prison farms under Stephen Harper's Conservative government. See Goodman and Dawe, "Prisoners, Cows and Abattoirs."

<sup>35</sup> Robinson, "Convicts Offered as Workers in Commercial Abattoirs," B5.

<sup>36</sup> Lightman, "The Private Employer and the Prison Industry," 45.

<sup>37</sup> M.J. Alger to Thompson, Garraway, Pahapill, and Kerr. 10 May 1974, Guelph C.C. (1973-74) File, Central Registry of the Ministry of Correctional Services, Ontario Government Record Series RG 20-15, Archives of Ontario.

hypothetically, there was a strike at a “parent industry” company. MCS officials assured the OFL and their colleagues in the Ministry of Labour that the prison industry program would not engage in strikebreaking—at least under normal circumstances. It noted that under no circumstances would the Ministry allow prisoners to picket, but a strike could be allowed in some scenarios.<sup>38</sup>

MCS officials explained:

[...] the prison industry would probably have to discontinue its operation for the duration of such a strike at the parent-industry operation(s) as long as such a company operated on a total company-wide labour contract basis. If, on the other hand, such a company operated on a local plant labour-union contract basis, and if at the same time its other plants were not strike-bound, its prison industry plant should not have to stop working either. However, the merits of each case, as they rose [sic], would have to dictate the proper action.<sup>39</sup>

In his review of private industry experiments in correctional institutions in Ontario, Ernie S. Lightman explains that “Several specific reservations were put forward [by the OFL], but most of these were ultimately satisfied in 1977 when the employees—both inmates and civilians—became unionized under the labour laws of the province.”<sup>40</sup> Despite Lightman’s claim, the OFL continued to seek assurances from the Ministry of Correctional Services that correctional industry initiatives would not displace free workers, and was especially concerned about a later proposal to have convicts do municipal maintenance work.<sup>41</sup> In 1978, even after the unionization of the Guelph abattoir, some members of Provincial Parliament who supported the expansion of OMIPs continued to be very careful to emphasize that they would not take work away from members of

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<sup>38</sup> M.J. Alger to Thompson, Garraway, Pahapill, and Kerr. 10 May 1974, Guelph C.C. (1973-74) File, Central Registry of the Ministry of Correctional Services, Ontario Government Record Series RG 20-15, Archives of Ontario.

<sup>39</sup> M.J. Alger to Thompson, Garraway, Pahapill, and Kerr. 10 May 1974, Guelph C.C. (1973-74) File, Central Registry of the Ministry of Correctional Services, Ontario Government Record Series RG 20-15, Archives of Ontario.

<sup>40</sup> Lightman, “The Private Employer and the Prison Industry,” 45.

<sup>41</sup> Wilfred List, “OFL Gets Assurance: Inmates Won’t Take Workers’ Jobs, Drea Says,” *The Globe and Mail*, (February 7, 1978), 44.



the ‘community’ and give it to prisoners.<sup>42</sup> This caution was perhaps spurred by additional complaints by unions relating to prison work schemes. In May 1978, the Laborers’ International Union of North America (LIUNA) objected to a waterfront clean-up project that utilized prison labour from the province’s Mimico Correctional Centre under contract to Mississauga city council.<sup>43</sup> The issue would come up again in 1980, this time in direct relation to an OMIP, when the United Auto Workers (UAW) accused the Ministry of undercutting industry wages and taking away union work through its contract with Carlisle Industries, an automotive parts manufacturer. The company, operating out of the Maplehurst Adult Training Centre, employed prisoners at the provincial minimum wage, well below wage levels prevailing in the auto parts industry. Minister of Correctional Services Gordon Walker assured the concerned members of the opposition and the labour movement that the program was focused on rehabilitation and was not, in fact, undermining industry standards.<sup>44</sup>

### ***Institutional Fractures***

The OMIP at Guelph was not without its detractors, even from within its own house. The MCS’s Adult Eastern Regional Administrator, Sydney Shoom, laid out several concerns to the Ministry’s Industrial Manager, John Pahapill, in a letter sent in April 1974, just months before the OMIP began. Shoom and others, such as GCC Superintendent Scott Keane, worried that the wage differential created by the OMIP at Guelph could generally serve as a disincentive to work for other prisoners not employed in the program.<sup>45</sup> Indeed, Keane had already raised the issue of pay

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<sup>42</sup> Ontario, *Legislative Assembly Debates*, May 30, 1978, available: <http://hansardindex.ontla.on.ca/hansardeissue/31-2/1074.htm>.

<sup>43</sup> “Mississauga Rejects Laborer’ Claim Convicts Taking Jobs,” *The Globe and Mail*, (May 4, 1978), P3.

<sup>44</sup> Ontario, *Legislative Assembly Debates*, October 31, 1980, available: <http://hansardindex.ontla.on.ca/hansardeissue/31-4/1104.htm>.

<sup>45</sup> John Pahapill to Abattoir, Guelph C.C. File, 26 March 1974, Guelph C.C. (1973-74) File, Central Registry of the Ministry of Correctional Services, Ontario Government Record Series RG 20-15, Archives of Ontario.

differentials and had proposed that all working prisoners at GCC should make a base wage, suggesting up to \$2.00 per hour (the provincial minimum wage).<sup>46</sup> This proposal for wages for non-OMIP prisoners would not come to fruition. Moreover, Shoom objected to adding industrial program capacity to the GCC, which he deemed to be already well-equipped, while other correctional institutions in the province had significant issues with prisoner unemployment. Perhaps most critically, there were fears that the pay differential involved in the Guelph abattoir plan could cause strife at the government-managed marker plant in the Millbrook Correctional Centre, which supplied all the province's license plates and had a history of worker militancy. In Shoom's words, "Inmates are well aware of the fact that license plates must be produced and on occasion have utilized sit-downs etcetera to enforce demands or grievances. Has there been consideration given to the ramifications of the Guelph Project on the Marker Plant at Millbrook?"<sup>47</sup> Pahapill assured Shoom that his concerns had already been raised and that the pilot OMIP at Guelph did not in anyway indicate a lack of attention to other institutions.<sup>48</sup>

However, the beginning of the OMIP did have an impact on prison labour at the GCC. In a January 1975 letter to GCC Superintendent Scott Keane, GCC's Deputy Superintendent for Services and Industries, Karl Grottenthaler, complained that recruitment for the program had taken away all the institution's most skilled and reliable workers. Grottenthaler gave an example of a certified plumber who had been working on renovations at the Guelph Correctional Centre.

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<sup>46</sup> John Pahapill to Abattoir, Guelph C.C. File, 26 March 1974, Guelph C.C. (1973-74) File, Central Registry of the Ministry of Correctional Services, Ontario Government Record Series RG 20-15, Archives of Ontario; Government of Canada, "Hourly Minimum Wages in Canada for Adult Workers" available: <http://srv116.services.gc.ca/dimt-wid/sm-mw/rpt2.aspx?GoCTemplateCulture=en-CA>.

<sup>47</sup> Sydney Shoom to J. Pahapill, Abattoir Project Guelph Correctional Centre, 8 April 1974, Guelph C.C. (1973-74) File, Central Registry of the Ministry of Correctional Services, Ontario Government Record Series RG 20-15, Archives of Ontario.

<sup>48</sup> John Pahapill to S. Shoom, Industrial Programs, Adults, 16 April 1974, Guelph C.C. (1973-74) File, Central Registry of the Ministry of Correctional Services, Ontario Government Record Series RG 20-15, Archives of Ontario.

Despite reportedly preferring plumbing work, this prisoner took a TAP job in Essex Packers' Hamilton abattoir because the pay was better. In fact, the Deputy Superintendent feared that so many reliable prisoner-workers had been approved for TAPs that significant delays could occur in renovations to the abattoir facilities being upgraded for the OMIP.<sup>49</sup>

### **Enter Essex Packers Limited**

In June 1975, after a public bidding process, Essex Packers Limited of Hamilton, Ontario began operations at the abattoir. The opening of the plant was met with some fanfare. The Minister of Correctional Services and various news organizations were onsite for the plant's ribbon cutting ceremony, which involved a ceremonial butcher's knife rather than the more conventional novelty scissors. Prior to the Essex takeover and the start of the OMIP, the abattoir had employed 15-30 prisoners who butchered cattle and hogs for sale and consumption within the Province's correctional centres and mental hospitals.<sup>50</sup> Before the OMIP, abattoir prisoner-workers were not paid above the \$5 weekly stipend afforded to all prisoners at the GCC, and participating in abattoir work mainly offered prisoners "a way to pass the time."<sup>51</sup>

The ten-year deal with the Ministry was seemingly a good one for the company. In exchange for agreeing to hire "as many inmates as practical, having regard to the efficient operation of the abattoir,"<sup>52</sup> the company received a newly renovated commercial facility, capable

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<sup>49</sup> K. Grotenthaler to Scott Keane, T.A.P. and Grading Categories, 15 January 1975, Guelph C.C. (1974-75) File, Central Registry of the Ministry of Correctional Services, Ontario Government Record Series RG 20-15, Archives of Ontario.

<sup>50</sup> Robinson, "Convicts Offered as Workers in Commercial Abattoirs," B5.

<sup>51</sup> Robinson, "Convicts Offered as Workers in Commercial Abattoirs," B5.

<sup>52</sup> *Amalgamated Meat Cutters and Butcher Workmen of North America v. Guelph Beef Centre Inc.*, 1977 489 (ON LRB) 1977-03-29 [1977] OLRB Rep. March 184.

of producing beef halves and quarters, at below market rents.<sup>53</sup> Essex promised that it would add additional machinery, which would allow them to produce smaller products, such as roasts. This expansion was expected to add 35 additional jobs to the operation, with about 40 percent of those jobs earmarked for prisoners. The company also agreed to purchase laundry services from the Ministry, allowing uniforms and meat shrouds to be cleaned on-site at the GCC's laundry facilities. Laundry services were estimated to cost \$40,000, an amount which was stated as similar to market rates.<sup>54</sup> The company reported that "The plant was reconstructed to our requirements and we have relocated all beef operations from Hamilton to Guelph. The Guelph plant has the capacity for 1,500 cattle per week and it will permit us to increase our volume of beef business substantially."<sup>55</sup> With the plant up and running, Essex began negotiations to take over GCC's canning facility in order to add new products such as "pet food and possibly sauerkraut and other non-meat products."<sup>56</sup>

Like many meatpackers, Essex was in a very precarious financial situation and heavily subsidized by government during this period. Rising food prices (as well as the price of cattle and hogs), soaring inflation, and intense competition resulted in a near-continuous string of bankruptcies, mergers and buy-outs by meatpacking and processing firms over the period.<sup>57</sup> In 1973, Essex reported that it had received federal government assistance in overhauling plant

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<sup>53</sup> It is not clear exactly how much of a rent subsidy the Province offered to Essex. Essex's 1975 annual report stated that the company agreed to pay the Province \$170,000 per year to operate the abattoir. It was estimated that, by 1976, this subsidy amounted to \$80,000 per year; however, this was after Essex had been replaced by the Guelph Beef Centre as the abattoir operator. See Lightman, "The Private Employer and the Prison Industry," 38. Frank Drea, the Minister of Correctional Services, reported in the Ontario Provincial Legislature that the Guelph Beef Centre paid \$15,000 per month to operate the abattoir. Ontario, *Legislative Assembly Debates*, 4 November, 1977, available: <http://hansardindex.ontla.on.ca/hansardeissue/31-1/1041.htm>.

<sup>54</sup> "Essex Beef Centre in Production with Inmate Employees," *Correctional Update* 3:4 (August 1975), 3.

<sup>55</sup> Essex Packers Limited, 1975 Annual Report, n.p.

<sup>56</sup> "Essex Beef Centre in Production with Inmate Employees," *Correctional Update* 3:4 (August 1975), 3.

<sup>57</sup> Robert Stephens, "Meat Packers' Profits Being Trimmed to the Bone," *The Globe and Mail* (22 April 1978), B1; Joel Novek, "Peripheralizing Core Labour Markets?: The Case of the Canadian Meat Packing Industry," *Work, Employment & Society* 3:2 (June 1989): 157-177. For an analysis of Labour's response to this instability, see Anne Forrest, "The Rise and Fall of National Bargaining in the Canadian Meat-Packing Industry," *Relations Industrielles/Industrial Relations* 44:2 (1989): 393-408.

productivity. That same year, Toronto's Atem Holdings Limited became the company's majority shareholder and fired the Board of Directors.<sup>58</sup> In 1974, losses allowed the company to rebate \$37,000 in income taxes.<sup>59</sup>

Essex plant, office, and sales workers were represented by an in-house Employee' Council. The MCS's preliminary report on the company noted that the council was not a union, but rather "a liaison between management and the labour, and they have enjoyed relatively peaceful labour relations during the past ten years." The MCS also noted that "Essex would not resist a union there [at Guelph] or Hamilton if its employees would so choose."<sup>60</sup> It is unclear if either the company or the Ministry considered the prisoner-workers to be included in the category of "employees." In its 1974 Annual Report, Essex bemoaned "a shortage of people interested in the meat industry" and praised its workers for their loyalty to the company.<sup>61</sup> In 1975, the company reported that it had signed a new agreement with the Employee Council that allowed it to "take the necessary steps to correlate labour rate increases to productivity improvements."<sup>62</sup> It is unclear if the newly hired prisoner-workers at GCC were covered by this agreement. The plan to "correlate" wages to productivity, however, would not be implemented.

By August 1974, 36 of the company's 79-person workforce at the GCC facility were inmates. For prisoner-workers, a job in the abattoir allowed for wages reasonably close to those prevailing in industry, as well as the opportunity to earn a company-created training certification.<sup>63</sup>

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<sup>58</sup> Essex Packers Limited, 1974 Annual Report, n.p.

<sup>59</sup> Essex Packers Limited, 1975 Annual Report, n.p.

<sup>60</sup> "Essex's Preliminary Evaluation, Guelph Abattoir; Their Present Position," 27 February 1974, Guelph C.C. (1973-74) File, Central Registry of the Ministry of Correctional Services, Ontario Government Record Series RG 20-15, Archives of Ontario.

<sup>61</sup> Essex Packers Limited, 1975 Annual Report, n.p.

<sup>62</sup> Essex Packers Limited, 1975 Annual Report, n.p.

<sup>63</sup> Wages for participants in the program had been determined by independent consultants, based on prevailing industry rates. *Amalgamated Meat Cutters and Butcher Workmen of North America v. Guelph Beef Centre Inc.*, 1977 489 (ON LRB). The Canadian Food and Allied Workers Union was also consulted on wages for the Essex

Under the system, each job in the plant was assigned a rating. When a worker mastered a job, he earned points equivalent to that rating. When a worker had accumulated a sufficient number of points, he received a diploma “specially designed by the company, which he [could] show at job interviews with any other company.”<sup>64</sup> Workers were allowed to retain five dollars per week of their wages for use in the prison canteen. Five dollars per day was also deducted from workers’ pay for room and board.<sup>65</sup> Taxes and in some cases, family support were also deducted from wages, and the remainder was held by the institution to be disbursed upon a prisoner-worker’s release.<sup>66</sup> The Ministry was initially optimistic about prisoner participation in the program. In August 1975, *Correctional Update* reported that:

Plant Manager, Bert Christenson, says that although the institution has pre-screened job applicants, his firm’s 80 percent acceptance of potential workers from the institution is high compared to their acceptance rate from among civilian applications.

‘We’ve been very pleased so far,’ he says. ‘None of the men are bucking the system, and the few who have proved unsuitable because they can’t stand the smell of blood or can’t live up to the discipline don’t last more than two or three weeks.’<sup>67</sup>

This optimism may have been premature, however. A review of the program prepared for the Ministry of Correctional Services by revealed that prisoners were highly concentrated among the least desirable, lowest paid and least skilled abattoir jobs.<sup>68</sup> Assimilation of prisoner-workers into the abattoir workforce was difficult because prisoners were housed together, dressed “differently from the civilian employees and [were] generally given more menial tasks” such as packing and

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Workers. John Pahapill, Re: Labour Union’s involvement in determining abattoir workers’ wages and other working conditions with Essex Packers Limited, Guelph C.C. (1973-74) File, Central Registry of the Ministry of Correctional Services, Ontario Government Record Series RG 20-15, Archives of Ontario.

<sup>64</sup> “Essex Beef Centre in Production with Inmate Employees,” *Correctional Update* 3:4 (August 1975), 3.

<sup>65</sup> M.J. Irvine, *The Guelph Abattoir Programme: An Innovative Approach to Correctional Industries: III. The Follow Up* (Toronto: Ministry of Correctional Services, Planning and Research Branch, 1977), 4.

<sup>66</sup> “Essex Beef Centre in Production with Inmate Employees,” *Correctional Update* 3:4 (August 1975), 3.

<sup>67</sup> “Essex Beef Centre in Production with Inmate Employees,” *Correctional Update* 3:4 (August 1975), 3.

<sup>68</sup> M.J. Irvine. *The Guelph Abattoir Programme: An Innovative Approach to Correctional Industries: II. Inmate Response* (Toronto: Ministry of Correctional Services, Planning and Research Branch, 1977), 3.

sanitation, raising questions about the extent to which abattoir employment offered workers marketable skills.<sup>69</sup> Moreover, the program suffered from a selection bias in terms of work ethic and discipline. Since prisoners were pre-screened for “good or better than average work habits,” the program was likely drawing on the most work disciplined and well-adjusted prisoners for participation, rather than cultivating those skills in those who ‘needed’ them.

Furthermore, nearly two-thirds of prisoner participants in the program were terminated or resigned prior to their release. Unlike in the outside world, terminations were not simply the result of poor work performance or violation of work rules. In addition to those reasons, prisoners in the program also were terminated for institutional violations such as institutional misconduct or violations of the temporary absence program. Most worryingly for the Ministry, there was evidence that some prisoner-workers worked for only three months and then resigned to become eligible for unemployment insurance upon their release. Similarly, it was discovered that some workers were saving their earnings rather than sending money home so that their families could continue to collect Welfare and Family Allowance assistance. This practice apparently irked guards, who questioned whether the program contributed to developing a sense of “family responsibility.”<sup>70</sup>

Perhaps unsurprisingly, researchers evaluating the program on behalf of the Ministry found that wages, rather than work experience, was the primary motivation for prisoners to participate in the program: “it appears that the primary motivaton for involvement in the program is wages and not the work experience.”<sup>71</sup> The notion that prisoners, or, for that matter, anyone, might be inclined

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<sup>69</sup> Michael J. Irvine, “Abattoir Programme: A Subjective Impression,” 24 May 1977. Guelph Correctional Centre - Future Operation of the Abattoir File, Provincial Secretariat for Justice Cabinet Submissions, Ontario Government Record Series RG 64-18, Archives of Ontario.

<sup>70</sup> Michael J. Irvine, Abattoir Programme: A Subjective Impression, 24 May 1977. Guelph Correctional Centre - Future Operation of the Abattoir File, Provincial Secretariat for Justice Cabinet Submissions, Ontario Government Record Series RG 64-18, Archives of Ontario.

<sup>71</sup> Michael J. Irvine, Abattoir Programme: A Subjective Impression.

to work “for the experience” rather than wages is a somewhat curious one.<sup>72</sup> However, this emphasis on work experience was also not the priority for the MCS. As stated by the report, “In terms of potential post-release employment [...] few of the inmates are given experiences which would qualify them in particular for abattoir work. However, [...] the goal of marketable job training is secondary to others including improved work habits and attitudes [...]”<sup>73</sup>

Throughout its history, however, the efficacy of the program at Guelph was a less important concern for correctional industry administrators than simply maintaining its existence. In November 1975, Essex succumbed to its financial ailments, going into receivership and initiating the first crisis of the Guelph abattoir program.

### **Essex Packers Goes Bankrupt**

The bankruptcy of Essex Packers was a potential disaster for the Ministry of Correctional Services, threatening to cut its flagship OMIP experiment short before it could be proven as a model for new prison industry programs. It also exposed the Progressive Conservative provincial government to criticisms of undue meddling in the free market. The bankruptcy was hardly surprising given Essex’s rough financial shape and the general state of the meatpacking industry. The situation was so extreme that by 1980 the Ontario government was compelled to consider altering the *Livestock and Livestock Products Act* to add protections for beef producers, who were

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<sup>72</sup> The logic of working for “the experience” has not only persisted, but become much more generalized and a major point of contention for critics of the so-called “gig” or “virtual” economy. Now, it is not only former prisoners who might ‘benefit’ in the long run from working for low or no wages. In particular, it can be seen in the cases of unpaid internships and schemes offering “exposure” for cultural workers. Ursula Huws describes the exploitation inherent in the compensation of labour with “showpieces” that might allow a potential employee to be hired for pay by a future employer. See Ursula Huws, *Labor in the Digital Economy: The Cybertariat Comes of Age* (Delhi: Aakar Books, 2015); Ursula Huws, “The Underpinning of Class in the Digital Age: Living, Labour and Value,” in Leo Panitch, Greg Albo, and Vivek Chibber (eds.), *Socialist Register 2014: Registering Class* (London: Merlin Press, 2013), 80-107.

<sup>73</sup> Michael J. Irvine, Abattoir Programme: A Subjective Impression.



understood to be bearing the brunt of meatpacking industry bankruptcies. John Riddell, a Liberal MPP for Huron-Middlesex and future Minister of Agriculture, summarized the situation to the Ontario legislature:

In 1973, Colemans, London, went bankrupt with a default of \$250,000. In 1975, Essex Packers, Hamilton, went bankrupt with a default of \$250,000. In 1977, Better Beef, Toronto, had an original debt of \$850,000, although I believe this is being worked off and is supposed to be repaid by 1981. In 1977, Sunnybrook Packers, Toronto, went bankrupt with a default of \$180,000. In 1979, Forest Packers, Toronto, owed \$192,000. In 1979, Monarch Meat Packers, Toronto, closed with a debt of \$92,000. In many cases it has been the livestock producer who has borne the brunt of these bankruptcies.<sup>74</sup>

In the case of Essex, the government had not simply been an outside observer, nor a potential helping hand in bad times. The Guelph Abattoir Programme had intertwined the interests of the Ministry of Correctional Services, if not the whole provincial government, with a particular meatpacking firm. The government thus became at least partially responsible not only for the unemployed Essex workers in Guelph and Hamilton, but also the farmers who relied on Essex to purchase their hogs and cattle and who were owed money by the now-defunct meatpacker. The situation caused Riddell to demand that the government admit to “making a very serious blunder in leasing its facilities to Essex Packers in the first place.”<sup>75</sup> NDP Opposition leader Stephen Lewis suggested that, since the government was so embroiled in selling off Essex’s debts, it should partially compensate beef producers.<sup>76</sup> Agriculture Minister William Newman reported to media that the government would not force the firm chosen to replace Essex at the GCC abattoir to settle the debts of cattle and hog producers, but the new firm would be “encouraged strongly to consider

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<sup>74</sup> Ontario, *Legislative Assembly Debates*, 15 April 1980, available: <http://hansardindex.ontla.on.ca/hansardeissue/31-4/1021.htm>.

<sup>75</sup> Ontario, *Legislative Assembly Debates*, 2 April, 1977, available: <http://hansardindex.ontla.on.ca/hansardeissue/30-4/1008.htm>.

<sup>76</sup> Ontario, *Legislative Assembly Debates*, 7 April, 1977, available <http://hansardindex.ontla.on.ca/hansardeissue/30-4/1008.htm>.

the financial plight of the beef producers who would become its suppliers.”<sup>77</sup> Moreover, the bankruptcy of Essex made it all too clear to the government that the meat industry in Ontario faced significant challenges. Newman also announced that the Ministry of Agriculture would appoint a task force to review the issue of bankruptcies in the meatpacking industry and develop a “Government program to protect all producers.”<sup>78</sup>

Luckily for the Ministry of Correctional Services, there was no shortage of firms interested in the GCC abattoir. An internal memo prepared by Deputy Minister G.R. Thompson reported that between November 1975, when Essex went into receivership, and early February 1976, the Ministry had received no less than twelve phone calls from “companies and groups of individuals” interested in taking over the abattoir operation at the GCC. These included representatives from some of the largest meatpacking operations in the province, including Schneider’s, Swifts and Canada Packers.<sup>79</sup> In addition to the phone calls, the Ministry received a rough proposal from the deJonge family, a trio of brothers who owned several meatpacking enterprises in Ontario. The proposal claimed that the deJonge brothers had been approached by some of Essex’s major creditors. After “careful consideration,” the deJonges were interested in taking over the GCC operation and would also be willing to “assist in a reorganization or at least consolidation of the Essex operation.”<sup>80</sup> Furthermore, the deJonges emphasized that the proposal was only made after “a very careful consideration of the rehabilitation goals of the Ministry on this project and after

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<sup>77</sup> “Meat Packer Sought at Guelph Reformatory,” *The Globe and Mail* (27 February 1976), 5.

<sup>78</sup> “Meat Packer Sought at Guelph Reformatory,” *The Globe and Mail* (27 February 1976), 5.

<sup>79</sup> Future of the Abattoir: Guelph Correctional Centre, Guelph Correctional Centre - Future Operation of the Abattoir File, Provincial Secretariat for Justice Cabinet Submissions, Ontario Government Record Series RG 64-18, Archives of Ontario.

<sup>80</sup> Future of the Abattoir: Guelph Correctional Centre, Guelph Correctional Centre - Future Operation of the Abattoir File, Provincial Secretariat for Justice Cabinet Submissions, Ontario Government Record Series RG 64-18, Archives of Ontario.

some direct experience in the operation of the plant.”<sup>81</sup> It was unclear if the deJonge offer could be unilaterally accepted or if a new public bidding process should proceed.

Based on a letter drafted by the Deputy Minister of Correctional Services for distribution to various firms interested in leasing the GCC abattoir, the MCS sought four main provisions from the potential winning bidder, all of which had been covered, at least to some degree, in the deJonge proposal:

1. Guarantee of the outstanding bank debenture.
2. Payment of outstanding debts to smaller unsecured creditors and an interim dividend to other unsecured creditors.
3. Reopening of the Hamilton plants of Essex Packers and re-employment of some part of the labour force now laid off.
4. Continued operation, by the successor company, of the abattoir at the Guelph Correctional Centre.<sup>82</sup>

Deputy Minister Thompson noted that the deJonges’ proposal was “merely an outline and cannot be used as a true evaluation of the benefits which could accrue to Essex’ [sic] creditors and past employees or to the Ministry rehabilitation and inmate training programs.”<sup>83</sup> The proposal also lacked a plan for a long-term stabilization or reorganization of Essex. Furthermore, the Department of Agriculture raised “a number of concerns” regarding the “operation of deJonge interests.” Most significant among these, and of particular importance to the Ministry of Correctional Services, was that one of the brothers, Bernard deJonge, had been ordered to pay restitution to ten beef farmers, fined \$3,000, and sentenced to a day in jail in March 1974 after being found guilty of eleven

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<sup>81</sup> Future of the Abattoir: Guelph Correctional Centre, Guelph Correctional Centre - Future Operation of the Abattoir File, Provincial Secretariat for Justice Cabinet Submissions, Ontario Government Record Series RG 64-18, Archives of Ontario.

<sup>82</sup> Future of the Abattoir: Guelph Correctional Centre, Guelph Correctional Centre - Future Operation of the Abattoir File, Provincial Secretariat for Justice Cabinet Submissions, Ontario Government Record Series RG 64-18, Archives of Ontario.

<sup>83</sup> G.R. Thompson to D. Sinclair, Re: Future Operation of the Abattoir - Guelph Correctional Centre, 10 February 1976, Guelph Correctional Centre - Future Operation of the Abattoir File, Provincial Secretariat for Justice Cabinet Submissions, Ontario Government Record Series RG 64-18, Archives of Ontario.

charges of fraud for tampering with weights in beef purchases.<sup>84</sup> The Deputy Minister of Correctional Services requested that the Provincial Secretary for Justice follow up on this situation and “urge that further inquiries be made through [Ontario Provincial Police] O.P.P. intelligence regarding the background of the deJonge interests.”<sup>85</sup>

It is unclear if a public bidding process actually occurred and, if it did, the extent to which it was competitive. In the end, a deal was struck with the deJonges, and a new deJonge interest, the Guelph Beef Centre, headed up by businessman and former provincial prisoner Bernard deJonge, was created to run the GCC operations.<sup>86</sup> Guelph Beef Centre Incorporated began operations in the Guelph Correctional Centre abattoir on March 18, 1976.<sup>87</sup>

The transition from Essex to Guelph Beef Centre management of the OMIP, however, did not go as smoothly as the Ministry might have hoped. After securing the lease for the GCC operations, Guelph Beef Centre reneged on several of its commitments, most critically by laying off Essex’s Hamilton workforce.<sup>88</sup> The matter was raised in the provincial legislature by Liberal MPP from Huron-Bruce Murray Gaunt, whose remarks are worth quoting at length:

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<sup>84</sup> This would not be the only time Bernard deJonge found himself in trouble with the law. In 1994, DeJonge and fellow Better Beef executive Lorne Goldstein were charged with passing off ungraded US beef as Canadian and interfering with evidence, respectively. The charges against the two men were withdrawn in exchange for the company pleading guilty to violating the federal Meat Inspections Act. The company was fined \$9,000. “Short-changed Beef Farmers, Man is Jailed,” *The Globe and Mail* (29 March 1974), 5; Jim Romahn “Packer Charged Over Beef from U.S. Meat Labelled as Canadian,” *The Globe and Mail* (5 May 1994), A7; “News Briefing: Meat Packer Fined \$9,000 for Selling Ungraded U.S. Beef,” *The Globe and Mail* (8 November 1994), A6.

<sup>85</sup> G.R. Thompson to D. Sinclair, Re: Future Operation of the Abattoir - Guelph Correctional Centre, 10 February 1976, Guelph Correctional Centre - Future Operation of the Abattoir File, Provincial Secretariat for Justice Cabinet Submissions, Ontario Government Record Series RG 64-18, Archives of Ontario.

<sup>86</sup> Guelph Beef Centre would eventually merge into Bernard deJonge’s other company, Better Beef Limited, around 1989. For some time “Guelph Beef Centre” and “Better Beef Limited” were used interchangeably to refer to the Guelph Correctional Centre abattoir operation.

<sup>87</sup> Unionization of the Inmates Employed at Guelph Correctional Centre Abattoir, 25 July 1977, Guelph Correctional Centre - Future Operation of the Abattoir File, Provincial Secretariat for Justice Cabinet Submissions, Ontario Government Record Series RG 64-18, Archives of Ontario.

<sup>88</sup> The closing of the Hamilton operation and centralization of production in the GCC was in direct opposition to Ministry of Correctional Services promises to the OFL and Ministry of Labour that the OMIP would not result in the direct loss of industry jobs. M.J. Alger to Thompson, Garraway, Pahapill, and Kerr, 10 May 1974, Guelph C.C. (1973-74) File, Central Registry of the Ministry of Correctional Services, Ontario Government Record Series RG 20-15, Archives of Ontario. See also “MPP Criticizes Meat Plant Layoff,” *The Globe and Mail* (28 May 1976), 5.

I wanted to mention the matter of the Essex Packers affair about which my colleague from Huron-Middlesex (Mr. Riddell) asked the Minister of Agriculture and Food (Mr. W. Newman) last week. I want to say to the government that almost everything—indeed everything that I can recall—which we in this party predicted would happen with respect to that matter and the agreement entered into by the government with Better Beef [and The Guelph Beef Centre] has happened.

First of all, on the matter of jobs, the assignment was given on the basis that 200 jobs in Hamilton would be preserved. Those jobs are gone. Those two plants are closed. That is exactly what we said would happen.

In terms of the creditors, the creditors who agreed to take the 15 cents on the dollar have not been paid the 15 cents. The assets have been dissipated and there isn't enough money to pay the 15 cents. The creditors who refused to take the offer are not going to get anything at all. That is exactly what we predicted would happen with respect to this matter.

In my mind, there is no question that this entire affair has been a disaster from beginning to end. The first mistake was made by the government when it entered into an agreement with Essex Packers, a company which was very shaky financially at that time. Ultimately, they went into receivership and Better Beef came up with a proposal to save the company and, at the same time, to maintain the 200 jobs in the Hamilton plants, neither of which has been accomplished. I say that in terms of the government's responsibility and its actions in this respect, it certainly hasn't been looking after the public interest in any way, shape or form.<sup>89</sup>

It was not only the jobs that were lost in Hamilton: just weeks after Gaunt's statement in the Legislature, the former Essex plant in Hamilton burned to the ground.<sup>90</sup> In addition to the layoffs in Hamilton, and the less-than-generous compensation to creditors, the Guelph Beef Centre scaled back on the GCC operation, electing not to operate the prison's cannery facility.<sup>91</sup> All in all, the abattoir was shuttered for approximately two months between the demise of Essex and the takeover by the deJonge Guelph Beef Centre.<sup>92</sup>

Upton Sinclair could have been describing the Guelph Beef Centre rather than a Chicago jail when he wrote about a "wild-beast tangle" in which "swindlers and thieves of pennies and

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<sup>89</sup> Ontario, *Legislative Assembly Debates*, 12 April 1977, available: <http://hansardindex.ontla.on.ca/hansardeissue/30-4/1009.htm>.

<sup>90</sup> "Police Probe Hamilton Fire at Meat Plant," *The Globe and Mail* (17 May 1977), 9.

<sup>91</sup> Before going under, Essex had ceased operation of the GCC's cannery facility in early 1975, citing its inability to compete commercially. The Ministry reopened the cannery later that year under its own industrial management. See "Guelph Inmates Will Reopen Pet Food Plant," *The Globe and Mail* (16 September 1975), 14.

<sup>92</sup> M.J. Irvine. *The Guelph Abattoir Programme: An Innovative Approach to Correctional Industries: II. Inmate Response* (Toronto: Ministry of Correctional Services, Planning and Research Branch, 1977), 3.

dimes [...] had been trapped and put out of the way by the swindlers and thieves of millions of dollars.”<sup>93</sup> Some of the imprisoned abattoir workers were, it was true, swindlers and thieves. But they were swindlers and thieves of pennies. Meanwhile, deJonge and his company were ‘swindlers of millions’—or at least thousands. However, the ‘jungle’ in Guelph was unlike any known to Sinclair, literally combining jail and abattoir into a single location of work and incarceration.

Criminality was not restricted to the workers and owners of the Guelph Beef Centre. In January 1974, before private management took over abattoir operations, the Guelph Correctional Centre was subject to an investigation that attempted to identify the source of significant amounts of missing stock from the abattoir. The investigation concluded that Ministry staff were likely responsible and several new policies regarding stock monitoring were put in place but criminal charges and administrative discipline were not pursued.<sup>94</sup>

With the abattoir back up and running under deJonge management by March 1976, it seemed that the MCS’s flagship OMIP had weathered the worst of the storms of the tumultuous meatpacking industry. Whatever the issue with Bernard deJonge’s brief stint in provincial jail and Essex’s outstanding debts, it seems government officials were simply happy to have the prisoners back to work in the abattoir. Unfortunately for the Ministry of Correctional Services, the next crisis—the unionization of the Guelph Beef Centre—was only months away.

## **The Union**

### ***Certification***

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<sup>93</sup> Sinclair, *The Jungle*, 199.

<sup>94</sup> H. Hughes to Scott Keane, Investigation—Missing Meat From Abattoir, Guelph Correctional Centre, 25 January 1974, Guelph C.C. (1973-74) File, Central Registry of the Ministry of Correctional Services, Ontario Government Record Series RG 20-15, Archives of Ontario.

On January 31, 1977, the Ontario Labour Relations Board heard arguments for and against a unique union certification bid.<sup>95</sup> The Canadian Food and Allied Workers (CFAW), the Canadian section of the Amalgamated Meat Cutter and Butcher Workmen and Allied Workers of North America, sought to represent “all persons attached to the production at Guelph Beef Centre Inc., 785 York Road, Guelph, Ontario, excluding foremen and all above the rank of foreman office staff and sales staff.”<sup>96</sup> CFAW organizer Vince Gentile cited complaints about overtime and inadequate safety procedures as the impetus for the union drive.<sup>97</sup> The drive was supported by prisoner-workers, and it appears that the issue of forced overtime disproportionately affected them.<sup>98</sup> The OLRB noted that the application was “a novel one,” due to the fact that the half of the employees of the Guelph Beef Centre were prisoners in the Guelph Correctional Centre.<sup>99</sup>

Predictably, the certification was opposed both by management and the Ministry of Correctional Services. The company countered the application with a two-pronged legal strategy, initially arguing that the prisoners should be categorized into their own bargaining unit. Presumably this would have allowed the company to formalize disparities between incarcerated and non-incarcerated workers and pit both groups against each other in bargaining. However, before the hearing was over, the company lawyer argued that prisoner-workers should be excluded

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<sup>95</sup> Wilfred List, “Inmates Employed by Meat-packing Plant: Union Wants to Bargain for 43 Prisoners,” *The Globe and Mail* (1 February 1977), 35.

<sup>96</sup> The union bid was the first in Canada to be made by a group of prisoners; however, the OLRB noted several examples where prisoners on work release were included in the normal bargaining units at their workplaces. See *Amalgamated Meat Cutters and Butcher Workmen of North America v. Guelph Beef Centre Inc.*, 1977 489 (ON LRB) 1977-03-29 [1977] OLRB Rep. March 184.

<sup>97</sup> List, “Inmates Employed by Meat-packing Plant: Union Wants to Bargain for 43 Prisoners,” 35.

<sup>98</sup> In 1977, automatic card-based certification in Ontario required 55 percent of employees to sign union authorization cards. At the time of certification, the Guelph Beef Centre employed 43 prisoners and 35 non-incarcerated workers. For the minimum card-based certification requirements to be met, at least eight prisoners had to have signed cards. For a discussion of overtime for prisoner-workers during Essex’s management of the facility, see M.J. Irvine, *The Guelph Abattoir Programme: An Innovative Approach to Correctional Industries: II. Inmate Response* (Toronto: Ministry of Correctional Services, Planning and Research Branch, 1977), 22.

<sup>99</sup> *Amalgamated Meat Cutters and Butcher Workmen of North America v. Guelph Beef Centre Inc.*, 1977 489 (ON LRB) 1977-03-29 [1977] OLRB Rep. March 184.

from the bargaining unit altogether, since “the control exercised over them [the prisoners] by the institution deprived them of a normal employee-employer relationship.”<sup>100</sup> This exclusion would have resulted in an even more problematic situation for the union, essentially creating an ‘open shop’ in which only some employees belonged to the union. Non-union prisoner-workers, who the company acknowledged were more vulnerable than their coworkers, could be used to undermine the bargaining power of the union. In the case of a strike, the company would have a ready-made scab workforce already on the job.

The government, represented by Bruce Hawkins of the Attorney General’s Department, was an intervenor in the proceedings. Officially the government “neither opposed, nor approved” the unionization of the Beef Centre, but instead “urged caution,” saying, “You can’t have a complicated grievance and arbitration procedure. If you take that out and wages out there’s not too much to negotiate about.”<sup>101</sup> It is unclear why a bargaining unit that included prisoners could not have a standard grievance procedure—indeed, the union’s first and all subsequent collective agreements would contain provisions for a “normal” grievance procedure. John Pahapill, the Ministry of Correctional Services industrial manager, emphasized that prisoner-workers, like their free counterparts, were welcome to bring complaints to appropriate government agencies or the prison superintendent.<sup>102</sup> The government, however, had much more significant fears than it publicly let on, as will be discussed below.

The OLRB summed up the situation at the Guelph Beef Centre as follows:

As of the date of the union’s application for certification, there were (exclusive of managerial and confidential personnel) 78 persons attached to the respondent’s production facility, of which 43 were inmates of the Guelph Correctional Centre. The inmates work as trainees and are paid \$3.50 to \$4.05 an hour for a 40-hour week. They are permitted to work overtime. The Ministry deducts \$35.00 a week

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<sup>100</sup> List, “Inmates Employed by Meat-packing Plant: Union Wants to Bargain for 43 Prisoners,” 35.

<sup>101</sup> List, “Inmates Employed by Meat-packing Plant: Union Wants to Bargain for 43 Prisoners,” 35.

<sup>102</sup> List, “Inmates Employed by Meat-packing Plant: Union Wants to Bargain for 43 Prisoners,” 35.



for room and board from the wages of each inmate. The remainder is held in trust and distributed to the inmates upon their release from prison. The inmates work side by side with the non-inmate employees of the respondent, often on the same jobs, and using the same skills. During their time at work, the inmates are under the direction and supervision of the management of the respondent, as are all of the respondent's other production workers.

The OLRB identified two main questions it needed to consider: Are prisoners excluded from coverage from the *Labour Relations Act*? And do the prisoners working at the GCC abattoir have an employee-employer relationship with the Guelph Beef Centre?

To answer the first question, the OLRB noted that rather than list categories of workers who are covered by the *Labour Relations Act*, the *Act* identifies those groups who are excluded, such as domestic workers. Prisoners are not listed among those excluded in the *Act*:

Prisoners, as such, do not constitute a category of persons specifically excluded from The *Labour Relations Act*, and the Board is not aware of any external legislation which could be said to exclude them. Accordingly, it must be presumed that the legislature intended to permit this group of people to come under the provisions of the *Act*, provided that they can qualify as employees.<sup>103</sup>

However, whether attuned to developments in attempts to form prisoners' unions with legal standing in other North American jurisdictions, or simply anticipating the potential ramifications of legalizing prisoners' unions in Ontario, the Board was extremely careful to stress that *in this case* the union was attempting to organize prisoners *as workers, not as prisoners*. In the words of the Board:

It should be emphasized that the Board is not, in this case, dealing with a situation where a union has attempted to organize a unit of prison inmates qua inmates to bargain with the prison authorities or the government. The union here has organized the entire production work force of a private meat-packing firm without regard to the status of the individual workers while outside the plant. It is true that a majority of the persons in the unit applied for are inmates of the Guelph Correctional Centre,

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<sup>103</sup> *Amalgamated Meat Cutters and Butcher Workmen of North America v. Guelph Beef Centre Inc.*, 1977 489 (ON LRB) 1977-03-29 [1977] OLRB Rep. March 184.

but the applicant is seeking only to represent these people in their relationship with the respondent.<sup>104</sup>

The OMIP was specifically designed to mimic an ‘outside’ employer-employee relationship as much as possible, and moreover, the Board noted that the lease agreement between the company and the government went so far as to refer to prisoners as “employees.” Furthermore, prisoner-workers were paid at normal industry rates, although prisoners’ wages were lower than non-prisoners. The fact that convicts and their ‘free’ counterparts worked side-by-side meant that OLRB had to also concern itself with the interests of not only the workers, but also the union attempting to organize them:

A fundamental premise of *The Labour Relations Act* is that the bargaining power of individual employees must be combined so as to provide a sufficient countervailing force to the economic power of the employer. Accordingly, it is appropriate, in deciding the question of employee status, that we consider not only the position of the individuals whose collective bargaining is at issue, (i.e. whether collective bargaining is a necessary and/or suitable vehicle for the settlement of terms and conditions under which they work), but also the collective bargaining concerns of the union which seeks to represent them.<sup>105</sup>

The concern that the company could rely on prisoner-workers excluded from the bargaining unit in the case of a strike was overwhelming. The ability of the union to serve as a “countervailing force” to the employer’s power depended on organizing the shop wall to wall, irrespective of workers’ incarceration status.

In sum, the Board found no reason to exclude prisoners from coverage by the Ontario *Labour Relations Act*. It also found that prisoner-workers were ‘employees’ of the Guelph Beef Centre, who worked under similar conditions and at similar rates of pay to other meat packers. Despite the rehabilitative aims of the program, the workers provided essential labour to the

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<sup>104</sup> *Amalgamated Meat Cutters and Butcher Workmen of North America v. Guelph Beef Centre Inc.*, 1977 489 (ON LRB) 1977-03-29 [1977] OLRB Rep. March 184.

<sup>105</sup> *Amalgamated Meat Cutters and Butcher Workmen of North America v. Guelph Beef Centre Inc.*, 1977 489 (ON LRB) 1977-03-29 [1977] OLRB Rep. March 184.

company that would otherwise have to be sought elsewhere. Moreover, the nature of a mixed workforce of prisoners and non-prisoners created a strong possibility of the utilization of prisoners as scab labour in the event of a strike or lockout. For these reasons the Board certified the union and decided to include prisoners in the single bargaining unit.<sup>106</sup>

### ***Government Response***

The successful certification caused considerable concern for the Ministry of Correctional Services. An internal strategy document, drafted by the Deputy Minister Thompson, outlined a number of issues from the Ministry's perspective, and offered several potential courses of action. Most critically, the document noted that "Inmates may utilize the Union to resolve their problems as inmates and not as employees. This may cause economic hardship to the Company and embarrassment to the Government."<sup>107</sup> Moreover, "A precedent could be established for the unionization of inmates as inmates of correctional institutions and not as employees."<sup>108</sup> The document also noted the administrative burdens that the Ministry would have to confront, and considered several "conflicts" between labour legislation relating to the rights of union members, and correctional policy.

The strategy document laid out options for smashing the nascent union, including pulling the plug on the OMIP outright, ordering a judicial review in the hope of overturning the OLRB

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<sup>106</sup> *Amalgamated Meat Cutters and Butcher Workmen of North America v. Guelph Beef Centre Inc.*, 1977 489 (ON LRB) 1977-03-29 [1977] OLRB Rep. March 184; List, "Guelph Meat-packing Plant: Prisoners can be Included in Union, Board Decides," 2.

<sup>107</sup> Unionization of the Inmates Employed at Guelph Correctional Centre Abattoir, 25 July 1977, Guelph Correctional Centre - Future Operation of the Abattoir File, Provincial Secretariat for Justice Cabinet Submissions, Ontario Government Record Series RG 64-18, Archives of Ontario.

<sup>108</sup> Unionization of the Inmates Employed at Guelph Correctional Centre Abattoir, 25 July 1977, Guelph Correctional Centre - Future Operation of the Abattoir File, Provincial Secretariat for Justice Cabinet Submissions, Ontario Government Record Series RG 64-18, Archives of Ontario.

decision, and requesting the *Labour Relations Act* be amended to exclude prisoners.<sup>109</sup> The Ministry's position was clear: if the rules of the game allowed their prisoners to unionized, the rules would need to be changed.

That said, the Ministry took considerable care in its intervention, aware that a misstep could result in a backlash by "concerned lobby groups" in general, and the labour movement in particular.<sup>110</sup> The document included an appendix of potentially relevant excerpts from the Ontario *Labour Relations Act* that demonstrated the basis of some of the Ministry's fears. It identified three sections with bearing on the GCC union and potential union drives in other OMIPs. Could it be the case that labour law could empower prisoners and their allies at the expense of Ministerial power? Could unionization unlock a host of new rights for prisoners that could be utilized to undermine the goals of rehabilitation and community reentry? The first article of the Ontario *Labour Relations Act* quoted was Section 10:

Where employees of an employer reside on the property of the employer, or on property to which the employer has the right to control access, the employer shall upon direction from the Board, allow the representative of a trade union access to the property on which the employees reside for the purpose of attempting to persuade them to join a trade union. R.S.O. 1970, C.232. S.10.

If enforced, could Section 10 give union organizers have unchecked access to Ontario's prisons? Could former prisoners become organizers and be allowed back into institutions in which they once resided? Would unions attempt to organize working prisoners outside of OMIPs? The idea of a precedent for prisoners to unionize was especially troubling for the Ministry, which noted that

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<sup>109</sup> Unionization of the Inmates Employed at Guelph Correctional Centre Abattoir, 25 July 1977, Guelph Correctional Centre - Future Operation of the Abattoir File, Provincial Secretariat for Justice Cabinet Submissions, Ontario Government Record Series RG 64-18, Archives of Ontario.

<sup>110</sup> Unionization of the Inmates Employed at Guelph Correctional Centre Abattoir, 25 July 1977, Guelph Correctional Centre - Future Operation of the Abattoir File, Provincial Secretariat for Justice Cabinet Submissions, Ontario Government Record Series RG 64-18, Archives of Ontario.

“other jurisdictions are also experiencing problems with so-called ‘prisoners’ unions’.”<sup>111</sup> Moreover, labour law protected against employers prohibiting access to union meetings. This right would “conflict with the need for security and control of certain employee inmates.”<sup>112</sup>

Although it was initially unclear how these rights in conflict would be resolved, in November 1977, Minister of Correctional Services Frank Drea reported to the Provincial Parliament that prisoner-union members, upon completion of their probationary period, were issued temporary leave passes in order to attend union meetings outside of the correctional facility.<sup>113</sup> In response to this report, NDP MPP Michael Cassidy asked what may have been the most critical question in regards to the independence of the union from government interference: “Will you allow them to go on strike?” The question went unanswered.

The next section of the *Labour Relations Act* quoted, Section 56, stated:

No employer or employers’ organization *and no person acting on behalf of an employer* or an employer’s organization shall participate in or interfere with the formation, selection, or administration of a trade union or the representative of employees by a trade union or contribute financial support to a trade union, but nothing in this section shall be deemed to deprive an employer of his freedom to express his views so long as he does not use coercion, intimidation, threats, promises, or undue influence. R.S.O. 1970, C.232, S.56.

This raised the question, of whether—or to what degree—the Ministry could interfere or influence the collective bargaining process. Had control of the OMIP slipped out of the Ministry’s hands at the moment of certification? The government’s position, as articulated by Bruce Hawkins, was that meaningful collective bargaining could not occur for prisoner-workers. What recourse would

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<sup>111</sup> Unionization of the Inmates Employed at Guelph Correctional Centre Abattoir, 25 July 1977, Guelph Correctional Centre - Future Operation of the Abattoir File, Provincial Secretariat for Justice Cabinet Submissions, Ontario Government Record Series RG 64-18, Archives of Ontario.

<sup>112</sup> Unionization of the Inmates Employed at Guelph Correctional Centre Abattoir, 25 July 1977, Guelph Correctional Centre - Future Operation of the Abattoir File, Provincial Secretariat for Justice Cabinet Submissions, Ontario Government Record Series RG 64-18, Archives of Ontario.

<sup>113</sup> Ontario, *Legislative Assembly Debates*, 4 November 1977, available: <http://hansardindex.ontla.on.ca/hansardeissue/31-1/1041.htm>.

there be if the company agreed to demands that undermined Ministerial prerogatives? This worry may have been partially exacerbated by the text of the OLRB's decision, which stated:

It may be, as counsel for the respondent suggested, that the scope of the bargaining, in respect of some of the inmates' other terms and conditions of employment, will be circumscribed in certain areas by reason of their prisoner status. But we are not persuaded, on the evidence and representations before us, that meaningful collective bargaining cannot occur.<sup>114</sup>

The final section of the Ontario *Labour Relations Act* cited in the Ministry strategy document was

Section 58:

No employer, employers' organization or person acting on behalf of an employer or an employers' organization,

- (a) shall refuse to employ or continue to employ a person, or discriminate against a person in regard to employment or on any term or condition of employment because that person was or is a member of a trade union or was or is exercising any other rights under this Act;
- (b) shall impose any condition in a contract of employment that seeks to restrain an employee or a person seeking employment from becoming a member of a trade union or exercising any other rights under this Act; or
- (c) shall seek be threat of dismissal, or by any other kind of threat, or by the imposition of a pecuniary or other penalty, or by any other means to compel an employee to become or refrain from becoming or to continue to be or to cease to be a member or officer or representative of a trade union or to cease to exercise any other rights under this Act. R.S.O. 1970, C.232, S.58.<sup>115</sup>

This raised a critical question for the Ministry: Would free union elections result in the capture of the local leadership by prisoners? The math was worrisome for Ministry officials. Prisoner-workers outnumbered non-prisoners, and moreover, the leasing agreement between the company and the Ministry guaranteed that the ratio of prisoners to non-prisoner workers would remain high.

What would a trade union with a prisoner leadership demand? Even if they failed to take the local

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<sup>114</sup> *Amalgamated Meat Cutters and Butcher Workmen of North America v. Guelph Beef Centre Inc.*, 1977 489 (ON LRB) 1977-03-29 [1977] OLRB Rep. March 184.

<sup>115</sup> Unionization of the Inmates Employed at Guelph Correctional Centre Abattoir, 25 July 1977, Guelph Correctional Centre - Future Operation of the Abattoir File, Provincial Secretariat for Justice Cabinet Submissions, Ontario Government Record Series RG 64-18, Archives of Ontario.

leadership, it was almost guaranteed that prisoners would have an “active voice” in the union.<sup>116</sup> The Ministry identified the major possible consequence of prisoner-leadership of the local: the prisoners could seek to address issues of their captivity rather than workplace problems through the union.<sup>117</sup> This could cause “economic hardship on the Company and embarrassment to the Government.”<sup>118</sup>

Despite all the issues raised, the Ministry nonetheless noted that “there is a need to maintain good relations between the Ministry, the Company, and the Union.”<sup>119</sup> The Deputy Minister recommended that the Ministry proceed with a request for a Judicial review, and if faced with an undesirable outcome, seek an amendment to the *Labour Relations Act*. Despite this recommendation, the Ministry backed down from its initial opposition to the union. Its 1978 Annual Report simply stated, “Progress was made in the past year both in the outside-managed and Ministry-managed institutional industry operations. At Guelph, where the outside-managed industry was first introduced a few years ago, a collective agreement between the local union and the beef centre management was introduced in August 1977.”<sup>120</sup>

Even if some Ministry officials envisioned prisoners’ labour unions as an organizational wedge capable of shifting power away from prison officials and to prisoners and their allies, there is no evidence to suggest that the CFAW in any way sought to undermine Ministry objectives or

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<sup>116</sup> Unionization of the Inmates Employed at Guelph Correctional Centre Abattoir, 25 July 1977, Guelph Correctional Centre - Future Operation of the Abattoir File, Provincial Secretariat for Justice Cabinet Submissions, Ontario Government Record Series RG 64-18, Archives of Ontario.

<sup>117</sup> The notion that a trade union might attempt to address issues of importance to its members but not directly related to their employment is a key tenet of what labour scholars and activists have referred to as “social unionism.” See Ross, “Social Unionism and Membership Participation.”

<sup>118</sup> Unionization of the Inmates Employed at Guelph Correctional Centre Abattoir, 25 July 1977, Guelph Correctional Centre - Future Operation of the Abattoir File, Provincial Secretariat for Justice Cabinet Submissions, Ontario Government Record Series RG 64-18, Archives of Ontario.

<sup>119</sup> Unionization of the Inmates Employed at Guelph Correctional Centre Abattoir, 25 July 1977, Guelph Correctional Centre - Future Operation of the Abattoir File, Provincial Secretariat for Justice Cabinet Submissions, Ontario Government Record Series RG 64-18, Archives of Ontario.

<sup>120</sup> Ontario, Ministry of Correctional Services, *Report of the Minister 1978* (1978), 32.

even pursue a prisoners' rights program.<sup>121</sup> Fears regarding the potential scope of prisoner unionization in Ontario also proved to be exaggerated—CFAW Local 240 would be the one and only such case.

Although negotiations for the union's first contract went through a conciliation process, the company reported that bargaining went "smoothly" and the union's first collective agreement was ratified on August 29, 1977—four months after the union was certified.<sup>122</sup> Guelph's *Daily Mercury* noted that "Local 240 is the first bargaining unit in Canada and possibly North America to represent both inmate and civilian employees" and that prisoners "participated fully in negotiations."<sup>123</sup>

### ***The Collective Agreements***

Despite the early fears of the Ministry, and perhaps the hopes of some prisoners' rights advocates, the collective agreement was a fairly standard one.<sup>124</sup> It included a standard grievance procedure, as well as typical management rights, union security, and no strike clauses. Workers

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<sup>121</sup> The debate between what could be called 'bread and butter' prisoner unionism and revolutionary or 'abolitionist' prisoner unionism was well underway in Canada and the United States at this time. CFAW Local 240, along with the North Carolina Prisoners' Labor Union and the Prisoners' Labor Union at Green Haven (Local 65, Distributive Workers of America), represent the more legalistic and reformist attempts to form prisoners' labour unions. The degree to which issues of work and labour should be the focus of a prisoners' union were contested in the more social movement oriented California Prisoners Union and its split, the United Prisoners Union, as well as the British Preservation of the Rights of Prisoners (PROP).

<sup>122</sup> John D'Alton. "Inmate Workers at Beef Centre Ratify Agreement," *The Daily Mercury* (1 September 1977), 1; Yves Lavigne, "Guelph Inmates Win First Pact," *The Globe and Mail* (2 September 1977), 5.

<sup>123</sup> D'Alton, "Inmate Workers at Beef Centre Ratify Agreement," 1.

<sup>124</sup> An interesting aspect of the formation of CFAW Local 240 is the seeming lack of support or interest in the union by the radical left and the Canadian prisoners' rights movement, who seem to have been unaware it was even occurring. This is all the more curious given the left's keen interest in radical prisoners and prison strikes and protests in Canada and around the world. For example, the Trotskyist *Labor Challenge*, reported frequently on prisoner organizing in BC, Ontario and Quebec, but made no mention of the unionization of prisoners at the GCC. For an example of *Labor Challenge*'s prison protest coverage, see "LSO Backs Prisoners' Work Stoppage," *Labor Challenge* (16 February 1976), 2. Likewise, the anarchist publication *Open Road*, which featured regular articles about prison issues and frequently contained a prison news brief column, made no mention of the Guelph abattoir project or its unionization.



won wage gains across the board, and discrepancies in pay between prisoner and non-prisoner workers working the same job classification were eliminated. Prior to the signing of the collective agreement, a majority of prisoner-workers were making about \$3.15 per hour.<sup>125</sup> When the collective agreement came into effect, minimum starting pay for all workers was raised to \$5.00 per hour. After a ninety-day probationary period, workers were given a \$1 per hour raise.<sup>126</sup> Workers also won health benefits and long-term disability, vacation and holiday pay.<sup>127</sup>

With one exception, prisoners and non-prisoner workers were covered identically under the agreement. Prisoners' employment at the Guelph Beef Centre was dependent on their status as provincial inmates, which was by its nature temporary. All prisoners at the GCC were serving sentences of, at most, two years less a day. This meant clear limits on prisoner-workers' ability to accrue seniority and presented its own challenge to job security. Additionally, a key aspect of the Ministry's prerogative of "rehabilitation" depended on its ability to segregate former prisoners from the general prison population, a typical aspect of correctional policy.<sup>128</sup> For the Ministry, this meant that prisoners would not continue their employment with the Beef Centre after their release. This understanding was worked into the original leasing agreement with the Guelph Beef Centre. The company agreed to attempt to hire newly released workers in its other operations, but it "was agreed that the purpose of this latter provision was not to grant former inmates a preference in hiring in respect of the operation of the [Guelph Correctional Centre] 'Abattoir', which would have

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<sup>125</sup> This is below the base hourly wage of \$3.60 that had been recommended by a management consulting firm hired by Essex to study the matter. See Resource Management Consultants Ltd. A Recommended Wage and Employee Benefit Structure for the Inmates of the Guelph Correctional Centre as Employees of Essex Packers, RG 20-15 Central Registry of the Ministry of Correctional Services, Archives of Ontario.

<sup>126</sup> D'Alton, "Inmate Workers at Beef Centre Ratify Agreement," 1.

<sup>127</sup> Lavigne, "Guelph Inmates Win First Pact," 5.

<sup>128</sup> The aims of such policies are twofold. First, they are motivated by pragmatic concerns for institutional security (for example, preventing the smuggling of contraband). Second, they are informed by a correctional philosophy that holds that the separation of released "offenders" from "criminal elements" is beneficial to rehabilitative aims.

*the effect of frustrating the continued operation of the Ministry's rehabilitation programme at the Guelph Reformatory.*"<sup>129</sup>

In response, the union negotiated a hire-back policy for prisoner-workers that attempted to provide more job security for those workers. The result was a curtailment of the Ministry's unilateral power over which prisoners/ex-prisoners could work at the abattoir, at least in principle. The hire-back clause read: "When an inmate is released from the Institution his name shall be removed from the seniority list, however he shall be entitled to first refusal of a job opportunity to be filled by hiring from outside."<sup>130</sup> The ability of released prisoners to get rehired at the Guelph Beef Centre, however, was limited by several factors, most important of which was Ministerial approval. In the wording of the collective agreement, "the rehiring of a person pursuant to the provisions of this Clause shall be subject to approval of the appropriate government agency having control of the Institution."<sup>131</sup> Although it is unclear how many former prisoners were able to make use of this clause, it nonetheless represents the most important contribution of Local 240 to the prisoners' union movement—a concrete example where both employer and correctional administration power were moderated by union power.

Subsequent contracts won the union wage gains throughout the 1980s. The 1981 agreement was particularly significant, and saw the union gain a dental plan, a footwear allowance, a pension, and improvements to vacation and overtime break policies.<sup>132</sup> By 1989, the Guelph Beef Centre

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<sup>129</sup> *Amalgamated Meat Cutters and Butcher Workmen of North America v. Guelph Beef Centre Inc.*, 1977 489 (ON LRB) 1977-03-29 [1977] OLRB Rep. March 184; Essex Packers' Contract, 24 July 1974, Guelph C.C. (1974) File, Central Registry of the Ministry of Correctional Services, Ontario Government Record Series RG 20-15, Archives of Ontario.

<sup>130</sup> Guelph Beef Centre Inc, Collective Agreement, 1977-1979, RG 7-33 Company - Union Agreements and Construction Industry Collective Agreements, Archives of Ontario.

<sup>131</sup> Guelph Beef Centre Inc, Collective Agreement, 1977-1979, RG 7-33 Company - Union Agreements and Construction Industry Collective Agreements, Archives of Ontario.

<sup>132</sup> Guelph Beef Centre Inc, Collective Agreement, 1981-1982, RG 7-33 Company - Union Agreements and Construction Industry Collective Agreements, Archives of Ontario.

merged into deJonge's other commercial interest, Better Beef Limited, and had moved to a new property adjacent to the GCC, 781 York Road. There are no references to "inmate" workers in the 1992 or subsequent collective agreements. The last references to Better Beef or the Guelph OMIP appear in MCS documents in 1993. Presumably the OMIP program had shut down by that time, with much less fanfare than its opening.

### **Prison Labour, Economic Rights, and Citizenship**

Throughout its existence, the OMIP at the Guelph Correctional Centre sparked a debate in Ontario about prisoners' rights and, in particular, raised questions of citizenship and its limits. The day after the Provincial Throne Speech announced the OMIP at the GCC, the *Guelph Mercury* ran a front-page story on the plan, taking up an unexpected angle. The paper asked, "If the inmates at the Guelph correctional centre work for a private company and have income tax deducted from their wages, will they also get a chance to vote in municipal, provincial and federal elections?" After posing the question to the superintendent of corrections, local MPP Harry Morton (a member of the opposition Liberals) and various other government officials, the paper concluded: "No one seems to know."<sup>133</sup>

By virtue of prisoners' newfound status as 'normal' economic actors, politicians and the press were prompted to reconsider their rights *as citizens*. MPP Harry Morton stated, "Certainly if the inmates are going to pay taxes on the wages they earn while in the prison then they should be guaranteed the right to vote."<sup>134</sup> It seems that, at least for the press and certain MPPs, in Ontario one's status as a "tax payer" was the basis of one's enfranchisement. As would prove to be the case, by asserting their economic rights as workers, the prisoners in the Guelph Correctional Centre

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<sup>133</sup> "Inmates Will Pay Income Tax, Will They Vote?" *Guelph Mercury* (March 9, 1974), 1.

<sup>134</sup> "Inmates Will Pay Income Tax, Will They Vote?," 1.

would be able to access additional rights, such as certain expansions of the right to free assembly and speech that have been extremely restricted for prisoners. The franchise, however, would not be one of these rights.<sup>135</sup> The notion that gainful employment should entail certain rights can also be seen in NDP MPP Robert Mackenzie's assertion in 1978 that health and safety protections and rights to participate in workplace decisions should be extended to working prisoners:

Also, just because we have an inmate population, and if they are going to be organized into productive industrial units, it's not just a question of the province being responsible for them. They have every right, where they are engaged in an actual industrial installation, to have some input or some say in terms of the actual safety conditions, and the right to question them. I can really see nothing wrong whatsoever in suggesting that these employees have a committee.

Regardless of the type of operation we undertake in the penal institutions [...] I would sure as blazes like to know, if we are going to run something such as an abattoir or a textile operation, or you name it, that those employees have the right to that kind of protection. I am not at all convinced that it's there as it stands now.<sup>136</sup>

Indeed, health and safety concerns were cited by CFAW organizers as an impetus for the union drive at the Guelph Beef Centre. More than three decades later, in 2011, health and safety issues would once again be cited as a motivation for prisoner unionization by the Canadian Prisoners' Labour Confederation.

A report prepared for the Federal-Provincial Steering Committee on Inmates' Rights and Responsibilities in 1977, the year that CFAW Local 240 was certified and successfully bargained its first contract, considered the economic rights of prisoners, making explicit reference to the CFAW at the Guelph Beef Centre. The report states:

Despite a recent decision of the Ontario Labour Relations Board concerning the Guelph Correctional Centre of the Ontario system (*Amalgamated Meat Cutters v.*

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<sup>135</sup> Following the Supreme Court Decision *Sauvé v. Canada (Chief Electoral Officer)*, [2002] 3 S.C.R. 519, 2002 SCC 68, Canadian prisoners were granted the franchise. For an overview of prisoners' right to vote in Canada, see Debra Perks, "Prisoner Voting Rights in Canada: Rejecting the Notion of Temporary Outcasts," in Christopher Mele and Teresa A. Miller (eds.), *Civil Penalties, Social Consequences* (New York and London: Routledge, 2005), 237-254; Elections Canada, "A History of the Vote in Canada: Chapter 4: The Charter Era, 1982–2006," available: <http://www.elections.ca/content.aspx?section=res&dir=his&document=chap4&lang=e>.

<sup>136</sup> Ontario, *Legislative Assembly Debates*, December 14, 1978, available <http://hansardindex.ontla.on.ca/hansardeissue/31-2/1150.htm>. For a more

Guelph Beef Centre) in which it was held that a group of prisoners working for a private employer could be included in the bargaining unit of a union which acted for non-prisoner employees working for the same employer, the vast majority of prisoners who do not work for private employers seem to be excluded from the benefits of collective bargaining. Though it has yet to be decided by a Board or court, either on the theory that a prisoner has only those rights expressly preserved by prison legislation or on account of the express provisions requiring that a prisoner do the work assigned to him/her, there seems to be nothing with which the prisoner can legally “bargain” whether individually or collectively.<sup>137</sup>

Moreover, the report noted that, unlike their free counterparts, working prisoners are denied coverage by workers’ compensation schemes—something that prisoners in the CFAW had won in bargaining. The fact that prisoners were guaranteed some minimum material standards by the prison system might have mitigated the need for prisoners to access full workers’ compensation. However, a main question remained for the report’s authors: Does basic access to the necessities of life compensate prisoners for the deprivations they suffer, namely, the “lack of workers’ compensation rights and collective bargaining rights, far more limited job opportunities, far poorer public amenities and the threat of severe punishment for failure to do whatever work is assigned to the best of one’s abilities”?<sup>138</sup> The answer the authors arrive at is philosophical:

How many non-prisoners would trade all the rights they now have over their own labour (including the right to do as little work as is necessary to get by) for the bare essentials which prisoners are guaranteed, even if these essentials were offered outside of the prison context? The answer must be very few, if any.<sup>139</sup>

Regardless of the answer to that hypothetical question, it is clear that prisoners would struggle to extend both their economic and civil rights. In the case of the CFAW Local 240, prisoners won concrete victories in this regard. They won collective bargaining rights, access to employer-

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<sup>137</sup> B.C. Hofley, Lawrence J. Cohen, and Joan Nuffield, *A Working Paper Relating to the Protection of the Rights of Persons Confined in Penal Institutions*. Prepared for the Federal-Provincial Steering Committee on Inmates’ Rights and Responsibilities (Ottawa, 1977): 140.

<sup>138</sup> Hofley, Lawrence, and Nuffield, *A Working Paper Relating to the Protection of the Rights of Persons Confined in Penal Institutions*, 142.

<sup>139</sup> Hofley, Lawrence, and Nuffield, *A Working Paper Relating to the Protection of the Rights of Persons Confined in Penal Institutions*, 142.

provided workers compensation, and extended their rights of association in two key ways. First, they won the right to attend union meetings and hold union office. Second, they won a job security provision that allowed for the possibility for released workers to be rehired at the Guelph Beef Centre. This was despite longstanding correctional policy that rigidly segregated prisoners from former prisoners.<sup>140</sup> These expanded rights were significant, even if they were far short of the loftier aims of the more radical wing of the prisoners' rights and prisoner labour union movement.

## Conclusion

The Guelph Abattoir ultimately proved to be profitable. deJonge reported that in 1981 the company made sales in excess of \$140,000,000 and returned "profits well in excess of \$1,000,000."<sup>141</sup> Nonetheless, over the course of the mid-1980s, the Ministry of Correctional Services quietly shut down its OMIPs. Even before this, the emphasis on privately managed prison industries was dramatically reduced in both the Ministry's annual reports and *Correctional Update* in favour of increased discussion of Ministry-managed ones (mattress plant, cannery, jobbing shop, license plates, etc.), although the Ministry did partner with a privately managed commercial trout operation at the GCC in 1982.<sup>142</sup> The 1985 Ontario provincial election resulted in the formation of a Liberal minority, ending 42 years of Progressive Conservative rule. This government, along with subsequent Liberal and NDP provincial governments, would oversee a return to public management of Ontario's prison industries. By 1987, MCS Annual reports referred only to

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<sup>140</sup> In his 1978 review of the program, Irvine indicates that at least some prisoners were allowed to keep their jobs in the abattoir upon release. M.J. Irvine, *The Guelph Abattoir Programme: An Innovative Approach to Correctional Industries: III. The Follow Up* (Toronto]: Ministry of Correctional Services, Planning and Research Branch 1977), 3.

<sup>141</sup> Quoted in G. MacDonald, J. Ekstedt and D. Plecas, *An Assessment of the Feasibility and Acceptability of Self-Sustaining Prison Industries* (Vancouver: Simon Fraser Institute for Studies in Criminal Justice Policy (funded by the Donner Canada Foundation) / B.C. Ministry of the Attorney-General and the Solicitor General of Canada, 1982), 31.

<sup>142</sup> "On-Site Operation: Guelph Inmates to Process Trout," *Correctional Update* 10:4 (July/ August 1982): 4.

“Employment,” “Employment Experience,” and “Vocational Training,” rather than the “Industrial Programs,” and “Industries” that Ministry reports covered over the previous decade.<sup>143</sup> John Pahapill, the industrial engineer hired by the MCS to initiate OMIPs, left the Ministry in 1988.<sup>144</sup>

In 1991, the province overhauled its correctional industries program and established Trilcor Industries, shifting away from private industry partnerships in favour a state-use system for Ontario prison industries. Trilcor produces textiles, licence plates, and other products that are “marketed to government organizations at the federal, provincial and municipal levels, as well as school boards and not-for-profit organizations.”<sup>145</sup> By 1993, the MCS indicated a major shift by privatizing institutional renovations. This work had previously been taken for granted as suitable for prisoners, providing employment (and thus “employment experience”) as well as offering considerable savings for the Ministry. Rather than emphasizing rehabilitative potential in renovation work for prisoners or cost-savings for taxpayers, the Ministry, partnering with the then-NDP *jobsOntario* job program, boasted the creation of “25.5 person years of work for local contractors” as part of a five-year, \$2.3 billion provincial economic restructuring scheme with the goal of “putting 10,000 people to work.”<sup>146</sup> Apparently, provincial prisoners would not be among those employed.

The last reference to the Better Beef OMIP in public Ministry documents is in the January/February 1993 issue of the Ministry’s newsletter, *Correctional Update*, which noted that 30-40 of the company’s 200-person workforce were Provincial inmates.<sup>147</sup> The OMIP at Guelph

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<sup>143</sup> See Ontario, Ministry of Correctional Services Annual Reports 1975-1988.

<sup>144</sup> John Pahapill, personal website: <http://pahapill.ca/john.htm> (August 28, 2016), available: <https://web.archive.org/web/20160308175945/http://pahapill.ca/john.htm>.

<sup>145</sup> Ontario, Ministry of Community Safety and Correctional Services, “Trilcor Industries,” (n.d.) available [https://www.mcscs.jus.gov.on.ca/english/corr\\_serv/OffenderProgramsServices/treat\\_prog\\_trilcor/treat\\_prog\\_trilcor.html](https://www.mcscs.jus.gov.on.ca/english/corr_serv/OffenderProgramsServices/treat_prog_trilcor/treat_prog_trilcor.html)

<sup>146</sup> “Institutions Upgraded Through Job Program,” *Correctional Update* 21:1 (Spring 1993), 3.

<sup>147</sup> “Industrial Programs Provide Work Opportunities for Guelph CC Inmates,” *Correctional Update* 14:1 (January/February 1986), 6-7.

ended without any apparent fanfare around 1991, after the Guelph Beef Centre had moved off the Guelph Correctional Centre property. As previously mentioned, the last reference to “inmates” appears in the union’s 1989 contract (which expired on December 31, 1991). In 2001, the province closed the Guelph Correctional Centre.<sup>148</sup> The Guelph Beef Centre/Better Beef Limited was bought by the multinational food processing company Cargill in 2005.<sup>149</sup> CFAW Local 240, along with the rest of the union, merged into the newly created United Food and Commercial Workers in 1979, becoming UFCW Local 617P. Over the course of company mergers, Local 617P eventually became UFCW Locals 175 & 633. Throughout its history, Local 240 avoided a strike or lockout. Bernard deJonge’s 2013 obituary noted that “he was particularly proud there had never a strike at Better Beef.”<sup>150</sup>

The legacy of the union is somewhat unclear. The unionization of the Guelph abattoir remains a major victory for prisoner-workers and those who support prisoners’ rights. The case demonstrates the fundamental similarities, rather than the differences, between prisoner and free workers. It proved that, at a time of heightened prison turmoil, some form of a prisoners’ union could be compatible with correctional policy. It also served as inspiration for other prisoner labour union attempts, most notably the Canadian Prisoners Labour Confederation, which attempted to certify in B.C. in the mid-2000s and is the subject of the next chapter.

Several factors should be considered when attempting to explain the union’s success. The CFAW organizing drive at the GCC OMIP had the advantage of organizing prisoners with an employer that was clearly and distinctly separate from correctional authorities. Moreover, the fact

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<sup>148</sup> Daniel Sellers, “How an Ontario Non-profit Plans to Give New Life to an Old Prison,” *TVO* (February 23, 2017), available: <https://www.tvo.org/article/how-an-ontario-non-profit-plans-to-give-new-life-to-an-old-prison>.

<sup>149</sup> “Cargill Unit Buying Better Beef Assets,” *The Globe and Mail* (16 April 2005), B6.

<sup>150</sup> Vik Kirsch, “Guelph Business Pioneer Mourned,” *Guelph Mercury* (22 August 2013), available: <http://www.guelphmercury.com/news-story/4042160-guelph-business-pioneer-mourned/>.



that the workforce was mixed, with non-incarcerated workers working alongside prisoners, meant that it was not only prisoners' rights and that had to taken under consideration. To deny those rights would also mean the denial to rights to free workers. The union drive also occurred at a time when there was relatively high union density in the general economy and the meatpacking industry in particular. Moreover, the government was not responsible for the wages and working conditions at the Guelph abattoir, and thus the pecuniary interests of the government were not threatened by the union.

Critically, the CFAW never attempted to negotiate for prisoners *as prisoners*. The CFAW emphasized that it was organizing the union “not because the majority [of workers] were prisoners, but because all the employees in the plant were entitled to representation.”<sup>151</sup> Since the union seems to have made no real attempts to push a prisoners' rights program, it is unclear what potential the union may have had to win concessions from prison administrators. Still, inasmuch as incarcerated workers' rights as workers directly conflicted with correctional prerogatives—for example, prisoner-workers' ability to attend union meetings or be rehired upon their release—the union fought and won concessions from correctional authorities. In the end, the union leveraged very little power away from the Ministry, although the fact that it did at all is significant and represents a first in the history of prisoners' labour unions in North America. More generally, the fact that a “free world” union made strides toward equalizing conditions for prisoner and non-prisoner workers, seemingly as a matter of principle, is notable. Ultimately, Local 240 represents a relatively unique moment in labour history—one where the labour movement acted in solidarity with prisoner-workers, organizing them as it would any other group of workers, instead of fearing competition and working against them. While Local 240 did not directly result in the widespread

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<sup>151</sup> List, “Guelph Meat-packing Plant: Prisoners can be Included in Union, Board Decides,” 2.

unionization of prisoners, the success of the union in certifying a bargaining unit and negotiating collective agreements that included prisoner-workers would serve as an important inspiration for prisoner organizers. A labour union for prisoners was possible.

## CHAPTER 3

### **A UNION FOR FEDERAL PRISONERS: FROM THE PRISONERS' UNION COMMITTEE TO THE CANADIAN PRISONERS LABOUR CONFEDERATION**

It sounds incredible, but there's a profit-hungry Canadian manufacturer that pays its 1,811 workers about \$7 a day, locks them up behind 4.6-metre-high fences topped with razor wire and body-frisks them at the end of every shift. Anyone who tries to leave the premises without permission risks being shot by heat-packing guards. Yet no one seems to mind the rigid working conditions—and there's nary a union official in sight.<sup>1</sup>

— *Canadian Business*, 1995

While *Canadian Business's* description of CORCAN, the Canadian federal prison industry program, captures much, the article does not tell the whole story. Throughout Canadian history, prisoners have demonstrated that they do mind the rigid working conditions of prison industries, and the absence of a union was not due to a lack of trying. In fact, within the long history of prisoner resistance to prison labour regimes, there has been much discussion of and several attempts to form a union or union-like organization for prisoners working for CORCAN, as well as Canadian prisoners more generally.

This chapter considers these discussions and prisoner unionization efforts. In particular, I examine the formation and certification campaign of the Canadian Prisoners' Labour Confederation (CPLC), which failed in a series of efforts to win legal trade union certification for federal prisoners, beginning in 2010. The CPLC first sought to organize working federal prisoners and represent them in relation to their institutional maintenance and prison industry work for the Correctional Service of Canada (CSC). When unsuccessful in this initial effort due to labour board jurisdictional issues, the CPLC narrowed its scope and sought to represent prisoners working for CORCAN. Ultimately, the Canadian Industrial Relations Board would rule against the union,

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<sup>1</sup> Brian Hutchinson, "Outlaw Capitalists," *Canadian Business* 68:9 (1995): 82-83.

finding that prisoners working for CORCAN were primarily participants in a rehabilitation program and therefore did not have ‘employee’ status as defined by the *Canada Labour Code*.

To better understand the efforts of the CPLC, it is helpful to contextualize their campaign in both the theoretical discussion of, as well as historical attempts to form, prisoners’ unions in Canada. The CPLC was directly inspired by the successful unionization of prisoner-workers by the Canadian Food and Allied Workers Union in 1977, as discussed in the last chapter. They were also inspired by other discussions of, and efforts to form, a Canadian prisoners’ union in the 1970s and 1980s. The most notable of these earlier efforts is the campaign by an organization called the Prisoners’ Union Committee (PUC), which sought to negotiate on behalf of federal prisoners and provincial prisoners in BC in 1975. The PUC campaign occurred within the context of a broader discussion of the merits of a prisoners’ union. The best record of this discussion exists within the penal press—prisoner-run newspapers and magazines published by prisoners in various provincial and federal institutions.

An evaluation of the CPLC, the PUC, and the discussions of prisoners’ unions in the Canadian penal press, along with the case of the CFAW Local 240, allows for a fruitful comparison and analysis of Canadian prisoner union organizing. CFAW Local 240 represents a successful attempt by provincial prisoners to unionize with the support of an established trade union. The PUC was primarily an activist organization based outside of prison, albeit with some significant relationships to prison-based organizers. The PUC sought to represent prisoners *as prisoners* through a direct-action based strategy of prison strikes and related protests. It did not have significant support from the trade union movement. The CPLC also lacked formal support by the trade union movement, but in contrast to the PUC pursued a highly legalistic strategy to attempt to gain trade union status.

These cases together demonstrate the significant barriers that prisoner labour union organizers face. As discussed in the last chapter, the prisoners who successfully unionized at the Guelph Correctional Centre worked under an atypical working arrangement. Unlike most other prisoners in Canada, they were employed by a private firm and worked alongside ‘free’ workers. As will be discussed below, neither the direct action strategy of the PUC nor the legal strategy of the CPLC proved able to win substantial gains or formal recognition for a prisoners’ union.

The cases also reveal insights into prisoner organizing in two relatively distinct periods of Canadian history. The CFAW and the PUC organized in the 1970s, at the end of the post-war Keynesian period. This period featured a relatively strong and militant labour movement, with a high level of politicization and social movement activity, including the prisoners’ rights movement. Like their counterparts in the United States, prisoners’ unions in Canada were inspired by radical left-wing politics as well as public sector union militancy. In the Canadian case, prison guard union militancy was, and remains, a motivating factor for prisoner union organizers but also a significant obstacle.

On the other hand, the CPLC’s efforts occurred after three decades of neoliberal transformations in the economy and Canadian institutions. These transformations saw a decline in trade union power and increased economic precarity throughout the economy. The strength of the prisoners’ rights movement has likewise declined, and prisoner organizers now have to contend with an increasingly powerful rhetoric of victims’ rights. As will be discussed below, this rhetoric has been deployed in such a way as to present prisoners’ rights as an affront to the rights of victims.

The remainder of this chapter will consider the organizing drives of the CPLC and PUC, as well as the discussion of prisoners’ unions in the Canadian penal press in the 1970s in detail. First, I briefly summarize early efforts by Canadian prisoners to gain representation in prison

decision-making in the context of the emerging post-war economic order, and the significance of the rise of public sector unionization in Canadian prisons. Next, I summarize the discussion related to the merits of a prisoners' union that occurred in the Canadian penal press in the mid-1970s and the organizing efforts of the PUC, which organized during a prison strike wave over the summer of 1975. I then examine the CPLC in detail, summarizing the organization's efforts to seek legal recognition between 2010 and 2015. I consider the CPLC's strategy and organizational form in light of earlier prisoner union efforts in Canada, as well as the changed political, economic, and social context in which the CPLC's organizing occurred. I end with a brief discussion of the challenges for future prisoner union organizers.

### **The Origins of Canadian Prisoner Unionism**

Prisoners in the 1920s and 1930s increasingly incorporated trade union tactics into prison protests—especially in the form of the sit-down strike. This may have been, in part, due to the increasing numbers of people with experience with labour unions and radical left-wing political organizations being imprisoned during the first Red Scare and Great Depression.<sup>2</sup> For example, Industrial Workers of the World Member Fred Thompson describes organizing around prison conditions amongst IWW prisoners in San Quentin, California in the 1920s, some of whom were serving time for convictions of “criminal syndicalism”:

Our speciality was improving jobs and we felt like we should improve that job too while we were there. Did it largely through taking action that caused news in the paper. We'd go on strike in San Quentin; it was unusual for strikes in those days in the penitentiary. We'd go on strike and that would make the newspapers.<sup>3</sup>

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<sup>2</sup> See J. Petryshyn, “Class Conflict and Civil Liberties: The Origins and Activities of the Canadian Labour Defense League, 1925-1940”; Anne Burger, “The Communist Party of Canada During the Great Depression: Organizing and Class Consciousness” (Master's Thesis, Simon Fraser University, 2004); Michel S. Beaulieu, *Labour at the Lakehead: Ethnicity, Socialism, and Politics, 1900-35* (Vancouver: UBC Press, 2011).

<sup>3</sup> Fred Thompson, *Fellow Worker: The Life of Fred Thompson* (Chicago: Charles H. Kerr Publishing Company, 1993), 58.

In Canada, government work relief camps set up to mitigate unemployment levels and urban social disruption during the Great Depression were plagued by strikes and targeted for unionization by the Relief Camp Workers' Union, an affiliate of the Workers' Unity League.<sup>4</sup> Inside the country's penitentiaries prisoners struck, protested, and rioted.<sup>5</sup> The prison unrest in Canadian federal penitentiaries was so significant in the 1930s that two government reports, the "Ormond Report" and the "Archambault Report", were commissioned to investigate the causes and make recommendations for improvements to the penitentiary system. Although they were likely exaggerating the influence of leftist radicals, Canadian officials blamed much of the prison unrest of the 1930s on "Communistic activities."<sup>6</sup>

While these protests often involved sets of demands related to conditions of imprisonment, Canadian prisoners increasingly and repeatedly demanded political representation within the prison. Usually this took the form of demands for prisoners' committees that would have mandates to represent prisoners' broad interests in relation to prison authorities. One of the earliest examples of this is from 1934, when striking prisoners in British Columbia demanded recognition of a 'convicts' committee' along with wages for prison work.<sup>7</sup> Demands such as these were being put forward in the context of prison reform in the 1930s, which resulted in some gains, such as restrictions on some forms of corporal punishment and the eventual establishment of a daily

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<sup>4</sup> See Laurel Sefton MacDowell, "Relief Camp Workers in Ontario during the Great Depression of the 1930s," *Canadian Historical Review* LXXVI:2 (1995): 205-228.

<sup>5</sup> See D.M. Ormond, *Report of the Superintendent of Penitentiaries Re: Kingston Penitentiary Disturbances 1932* (Ottawa: King's Printer, 1932); Joseph Archambault, *Report of the Royal Commission to Investigate the Penal System of Canada* (Ottawa, King's Printer, 1938).

<sup>6</sup> Ormond, *Report of the Superintendent of Penitentiaries Re: Kingston Penitentiary Disturbances 1932*: 8.

<sup>7</sup> "Convicts Riot to Aid Strike, Warden States: Punishment Meted Out to Prisoners at New Westminster," *The Globe and Mail* (September 14, 1934), 1; Michael Barnholden, *Reading the Riot Act: A Brief History of Riots in Vancouver* (Vancouver: Anvil Press, 2005); House, "The 1934 British Columbia Penitentiary Strike and Prisoners' Wages in Canada."

stipend for working prisoners.<sup>8</sup> These reforms, however, would fall far short of meaningful institutionalized representation for prisoners. And while work strikes and other forms of collective action were not uncommon in prison, the idea of a formal organization made up of prisoners independent of the prison system was an extremely marginal one, if it existed at all.<sup>9</sup>

In the wake of World War Two and with the adoption of the UN Declaration of Human Rights in 1948, criminologists and prison reform advocates continued to advocate for the normalization of prison labour, calling for parity with free wages and the expansion of employment standards legislation to cover prisoners.<sup>10</sup> There was significant reform to and liberalization of Canada's federal and provincial prison systems in the decades following World War Two. Over the course of the late 1940s and early 1950s, certain aspects of prison discipline were relaxed, such as the elimination of last remnants of the "silent system" in which prisoners were expected to live and work in silence.<sup>11</sup> Vocational programs were expanded, as were prison farm programs. Equipment was modernized, prisoners' wages increased modestly, and prison canteens were established.<sup>12</sup>

In broader society, the decades after the end of World War Two also saw the establishment of a 'Fordist compromise,' the creation of government-supervised labour relations systems, and an expansion of the welfare state. As Thom Workman explains:

The institutions of the post-war era reflected a *compromise* between capital and labour. This compromise amounted to a series of tacit understandings about the

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<sup>8</sup> Carrigan, *Crime and Punishment in Canada*.

<sup>9</sup> The closest thing to a prisoners' union at this point in Canadian history would be the Relief Camp Workers' Union, which organized workers in Canada's Depression-era government work camps. See MacDowell, "Relief Camp Workers in Ontario during the Great Depression of the 1930s," 205-228; Fudge and Tucker, *Labour Before the Law*, 159-163; Michael Ekers, "'The Dirty Scruff': Relief and the Production of the Unemployed in Depression-era British Columbia," *Antipode* 44:4 (2012): 1119-1142.

<sup>10</sup> See United Nations Department of Economic and Social Affairs, *Prison Labor*; Manuel Lopez-Rey, "Some Considerations on the Character and Organization of Prison Labour," *The Journal of Criminal Law, Criminology, and Police Science* 49:1 (1958): 10-98.

<sup>11</sup> Carrigan, *Crime and Punishment in Canada*, 371-374.

<sup>12</sup> Carrigan, *Crime and Punishment in Canada*, 371-374.



manner in which productive life would be maintained within the workplace and across society and included an understanding that the “radical” left alternative (communism) would be eschewed by the labour movement. [...] To grasp the rich nature of this compromise it is best to start with the basic analytical model of Fordism: “mass production for mass consumption.”<sup>13</sup>

For their part of this compromise, unions recognized employers’ “management rights” and agreed to limits on when and how they would strike. They also agreed to “responsible unionism,” meaning unions would play a role in enforcing the law—such as the forbidding of illegal strikes—on their own members. In exchange, unions received certain legal protections, a government-mediated process of dispute resolution, and guarantees of union security through a ‘closed shop’ system that ensured all workers in a workplace would be members of certified bargaining units. Furthermore, unions won a ‘dues check-off’ system that made employers responsible for collecting dues and remitting them to the union.<sup>14</sup>

This compromise, from the perspectives of many working people, seemed to be working—at least for a time.<sup>15</sup> The percentage of unionized workers in the labour force sat at around 10 percent after World War One. During the Great Depression, it modestly rose to around 15 percent. By the 1950s, union density stood around 30 percent, and between 1965-1975 rose to more than

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<sup>13</sup> Thom Workman, *If You’re in My Way, I’m Walking: The Assault on Working People Since 1970* (Black Point, Nova Scotia and Winnipeg: Fernwood, 2009): 11.

<sup>14</sup> See Eric Tucker and Judy Fudge, “Forging Responsible Unions: Metal Workers and the Rise of the Labour Injunction in Canada,” *Labour/Le Travail* 37 (1996): 81-119; Fudge and Tucker, *Labour Before the Law*; Workman, *If You’re in My Way, I’m Walking*, 11; Stephanie Ross, Larry Savage, Errol Black and Jim Silver, *Building a Better World: An Introduction to the Labour Movement in Canada* (Third Edition) (Halifax and Winnipeg, Fernwood Press, 2015).

<sup>15</sup> Feminist analyses have noted the gender-segmented character of the post-war labour market and the ways that the creation of standard employment relations (full-time and continuous employment) in unionized and well-paying industries—dominated by male workers—occurred alongside of the continued existence of a secondary labour market. This secondary labour market in which women are overrepresented, is characterized by low-pay, part-time, and temporary work. See Judy Fudge and Leah F. Vosko. “Gender, Segmentation and the Standard Employment Relationship in Canadian Labour Law, Legislation and Policy,” *Economic and Industrial Democracy* 22:2 (May 2001): 271–310.

35 percent—meaning more than one in three workers were in a union.<sup>16</sup> Throughout this period, real wages also steadily rose across the labour market, resulting in the Keynesian “golden age.”<sup>17</sup>

Like in the United States, Canada saw an explosion of public sector worker unionization during the 1960s.<sup>18</sup> As public sector workers were generally excluded from collective bargaining rights, this wave of unionization was ushered in through militant struggle. An illegal postal workers’ strike in 1965 resulted in the passing of the *Public Service Staff Relations Act* that year, which gave collective bargaining rights to federal civil servants.<sup>19</sup> Prison guards were among the groups of public sector workers to unionize at this time, and guards’ unions quickly established themselves as militant and influential organizations, engaging in legal strikes, threatening wildcat strikes, and taking other jobs actions throughout the 1960s and 1970s.<sup>20</sup>

In this political and economic context, in 1965 the Canadian Correctional Association (CCA), an organization of criminal justice professionals and academics (now the The Canadian Criminal Justice Association), released a position paper that supported a minimum wage for

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<sup>16</sup> Workman, *If You’re in My Way, I’m Walking*, 56.

<sup>17</sup> Workman, *If You’re in My Way, I’m Walking*, 68.

<sup>18</sup> Ross, Savage, Black and Silver, *Building a Better World*, 54.

<sup>19</sup> Ross, Savage, Black and Silver, *Building a Better World*, 55.

<sup>20</sup> Gaucher, “Organizing Inside,” 93-110. There is a need for more research on prison guard unionization in Canada. The first guard union in Canada seems to have been The Penitentiary Officers’ Union, which was formed in B.C. Penitentiary in 1941. See “The Big and Little Events,” *Let’s Talk* 5:9 (May 1980), 6. Guards at the Don Jail in Toronto unionized in 1961. “Guards at Don Jail Bid for Union Status,” *The Globe and Mail*, February 3, 1961, 4. Provincial jail guards in Quebec unionized in 1966. “Peace Officers Sign,” *The Globe and Mail*, July 30, 1966, 3. Most federal prison guards joined the Public Service Alliance of Canada (PSAC) in 1967. Mark MacGuigan, *Report to Parliament by the Sub-committee on the Penitentiary System in Canada* (Ottawa: Government of Canada, 1977), 15. Federal guards in Quebec were represented by the Canadian Union of Public Employees in 1969. “Prison Guards ask Arbitration in Pay Dispute,” *The Globe and Mail*, November 14, 1969, 11. For examples of guard union militancy, see “Guards at Don Jail Plan Slowdown Action,” *The Globe and Mail*, March 15, 1961, 5; “Vote for Illegal Strike Backs Guards Demands,” *The Globe and Mail*, December 4, 1969, 41; “Pact Provides 22% Raise for Guards,” *The Globe and Mail*, December 24, 1969, 21.

prisoners—at most 20 percent below those prevailing in industry—and “limited participation” in a labour union for prisoners.<sup>21</sup> The CCA statement argued:

The possibility of limited participation in the inmate’s program on the part of unions should also be considered. The aim is to make the work experience within the institution as close as possible to that in the outside community, and participation in the labour movement forms part of normal working conditions. Also, such union contacts might provide personal relationships for the inmate after discharge.<sup>22</sup>

However, like so many government reports and commissions before it, the CAA’s position paper did not lead to any significant movement towards union representation for prisoners, and it would be nearly two decades before a standardized wage system was introduced for federal prisoners. In fact, far from adopting the recommendations of the report, Justice Minister Guy Favreau and the Liberal government were heavily criticized for dragging their feet on prison reform and overseeing prisons such as Kingston Penitentiary and St. Vincent de Paul—which critics likened to a medieval dungeon—even as they moved forward on new super-maximum security prison construction.<sup>23</sup>

### **The New Left and Prisoner Unionism**

Prison became a focus for parts of the New Left and other social movement activists throughout the 1960s and 1970s for a confluence of reasons. First, a number of the most articulate and capable movement leaders were former prisoners, including Malcolm X, Eldridge Cleaver, and Russell Means. Additionally, New Left and social movement activists faced prison in relation to their own political activities as protestors, war resisters, urban guerrillas, and more. The arrest and imprisonment of some activists resulted in high profile political prisoner campaigns, such as

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<sup>21</sup> “Association Proposes Basic Hourly Wages, Unions for Prisoners,” *The Globe and Mail*, January 6, 1965, 1. For a history of the Canadian Criminal Justice Association, see Matthew G. Yeager, “The First 75 Years: A History of the Canadian Criminal Justice Association, 1919-1994,” (Ottawa: The Canadian Criminal Justice Association, 1994), available: [http://www.bccja.com/images/CCJA\\_HISTORY-ENG.doc](http://www.bccja.com/images/CCJA_HISTORY-ENG.doc).

<sup>22</sup> W.T. McGrath, “Prison Pay and Discharge Provisions in Canada,” *Chitty’s Law Journal* 16:2 (1968): 47-53.

<sup>23</sup> “Urge Improvements for Quebec Prison,” *The Globe and Mail*, February 17, 1965, 5; “Still Another Look at Our Prisons,” *The Globe and Mail*, April 19, 1965, 6; “Blame the People!” *The Globe and Mail*, June 25, 1965, 6.

those concerned with Angela Davis, Huey Newton and other Black Panthers, Leonard Peltier and other American Indian Movement (AIM) activists, and former Weatherpeople and other urban guerrillas. The use of imprisonment to repress third world liberation struggles likewise forced anti-imperialists in Canada and the United States to critically examine the prison at home, and relatedly, analyses of economic and social inequality and oppression led to a new focus on imprisonment as an instrument of class, race, and gender oppression. Finally, the politicization of relatively large swaths of prisoners—some famous like George Jackson but also unknown numbers of “rank-and-file” prisoners who self-educated, agitated, and organized—led to new theorizations about the role of prisons in capitalism and the role of prisoners and ex-prisoners in socialist revolution.

In Canada, left-wing activists turned their attention to prisoners for some of the same reasons as in the United States. Canada, however, did not experience the same level of prison radicalism as the United States, and had fewer famed ‘political’ prisoners in the 1970s—with the notable exceptions of Leonard Peltier and Front de libération du Québec (FLQ) prisoners.<sup>24</sup> Many who joined the nascent prison justice movement in the early 1970s were veterans of the New Left, student, peace, and women’s movements. The enacting of the War Measures Act during the 1970 October Crisis contributed to an already growing general concern over the role of prison as a tool of political and social repression for leftists and social movement activists.<sup>25</sup> Feminists likewise increasingly saw prison as a component of the oppression of women—especially poor and racialized women.<sup>26</sup> As Canadian prisoners organized to advance their interests, veterans of these

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<sup>24</sup> Ratner, “Politicized Prisoners: From Class Warriors to Faded Rhetoric.” For commentary on the left and social movement response to the War Measures Act, see Dominique Clément, “The October Crisis of 1970: Human Rights Abuses Under the *War Measures Act*,” *Journal of Canadian Studies* 42:2 (Spring 2008): 160-186.

<sup>25</sup> Eryk Martin, “Burn it Down! Anarchism, Activism, and the Vancouver Five, 1967–1985,” (Doctoral Thesis, Simon Fraser University, 2016), 94-95.

<sup>26</sup> For example, in a 1978 interview with the feminist magazine *Kinesis*, PUC activist Betsey Wood described prison as “the ultimate weapon of male politics.” Lorri Rudlan, “What Really Happened? We Were Never the Hostages of the Prisoners,” *Kinesis* (July-August 1978): 19. Also see Martin, “Burn it Down!”.

movements, as well as those in the peace movement, indigenous rights, and others, increasingly saw prison and prisoners as a political struggle of considerable import.<sup>27</sup> The ‘political’ status of individual prisoners was less important than the fact that a political struggle needed to be waged against the prison as such. As the PUC would argue in their main political statement: “The Committee is of the view that to a greater or lesser extent, all crime arises out of poverty, economic, and cultural deprivation, and in this sense, almost all prisoners in this society are to some degree political prisoners.”<sup>28</sup>

### **The Canadian Penal Press and Prisoners’ Unions**

Before the idea of a prisoners’ union was put into practice in Canada, a theoretical discussion of the potential merits of a union occurred in the pages of the penal press—the various magazines, newspapers, and newsletters produced by and for Canada’s prisoners. Sometimes called “joint mags,” prison newsletters and magazines were most often produced by institutional inmate committees or publication clubs and covered topics such as social events, sports, clubs, information on policy and legislative changes, and internal institutional news. They vary widely in their autonomy from prison administrations, and thus in editorial freedom. However, the 1970s was a noteworthy period of relatively liberal editorial policies for the joint mags in many of Canada’s prisons, which provide a relatively unique snapshot of the issues prisoners faced at that time. As described by the criminologist Bob Gaucher, joint mags are “an exceedingly rich ethnographic source of prisoner experience and prison life in Canada during the post-war period of prison reform and change.”<sup>29</sup> These discussions demonstrate the broad way that prisoners’

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<sup>27</sup> See Martin, “Burn it Down!,” 106-110.

<sup>28</sup> “Prisoners’ Union,” *Tarpaper* (October 1975), 8.

<sup>29</sup> Robert Gaucher, “The Canadian Penal Press: A Documentation and Analysis,” *The Journal of Prisoners on Prisons* 2:1 (1989): 1.

unions were conceived by most prisoners, with the potential to not only improve working conditions, but agitate for improvements to all aspects of prisoners' conditions of confinement.

The most comprehensive discussion of a prisoners' union was in the pages of *Transition*, a joint magazine based out of Saskatchewan Penitentiary, but with an editorial committee made up from prisoners in BC, Alberta, Manitoba and New Brunswick. *Transition* published a multi-part exploration of a Canadian prisoners' union in 1974, just months before a nation-wide prison strike wave and the corresponding campaign for recognition by the PUC in BC and Ontario. The series stressed that, while grand political debates were welcome, the emphasis should be on bread and butter issues: "The big questions in any con's mind about a union are what it can do for him (a) to get him onto the street and (b) to make his time easier but more useful to him on the inside."<sup>30</sup> The editorial note that preceded each of the articles indicates some of the main defining principles that the authors were working with. First, despite desiring a "prisoners' trade union," the authors envisioned an organization that would be broader in scope than a labour union—an organization capable of bargaining over conditions of confinement as well as work. Second, such an organization would have to seek formal recognition and legal standing. While the PUC sought government recognition, it did not attempt to do so through a labour board certification process, as was the case with the CFAW and the CPLC. Third, the union would be democratic and prisoner controlled, independent of the prison administration and government. In the words of the editorial committee:

During the past few months we have been printing a series of articles to familiarize prison inmates with the idea of a prisoners' trade union, an organization which will have the legal recognition and the influence to bargain for the betterment of prison conditions on behalf of inmates collectively and which, more importantly, will be

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<sup>30</sup> Saskatoon Editorial Staff, "Organizing a Prisoners' Trade Union," *Transition* 2:1 (Jan-Feb 1974): 41.

run by the inmates themselves—not by ex-inmates or by charitable societies or the Solicitor General.<sup>31</sup>

This aim would be partially ensured in a way similar to other unions—by being dues-based. While fundraising would be necessary to cover some of the expenses, especially initial expenses, the regular funding for the organization would have to come from prisoners themselves. Additional funds for the union could be secured through bargaining. As the article poses it, “where does the bread come from?” To answer that question, the authors explained:

It comes from the inmates themselves, and just as important it comes from the ex-inmates who for one reason or another want to maintain their membership. Inmates already kick into the Inmate Welfare Fund whether they want to or not. What they get for their money is precious little and what little there is must be OKed by the bulls [guards] before they get it. Conceivably, the Welfare Fund would be in full control of the inmates through the trade union.<sup>32</sup>

In order to be democratic, the organization would also need a formal constitution: “The constitution is the most crucial document union members will put together. It will determine whether or not the cons will control their union. And it will determine whether or not the cons will at long last have an organized voice in their own affairs.”<sup>33</sup> Even with a written constitution, the most difficult problem for an independent and autonomous prisoners’ union would be the threat of take-over by non-incarcerated people, whether ex-cons or activists: “The ex-con gets out of touch too fast with the joint conditions and “good” citizens rarely know what’s really happening ... and most people on the street have their own axes to grind anyway.”<sup>34</sup> They go on: “The union must be controlled by the guys doing time, and as much as possible these controls must be localized to individual institutions. Not only will this make the unions affects [sic] swift and direct it will

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<sup>31</sup> Saskatoon Editorial Staff, “Organizing a Prisoners’ Trade Union,” *Transition* 2:2 (March-April 1974): 50, emphasis in original.

<sup>32</sup> Saskatoon Editorial Staff, “Organizing a Prisoners’ Trade Union,” *Transition* 2:1, 41.

<sup>33</sup> Saskatoon Editorial Staff, “Organizing a Prisoners’ Trade Union,” *Transition* 2:1, 44.

<sup>34</sup> Saskatoon Editorial Staff, “Organizing a Prisoners’ Trade Union,” *Transition* 2:1, 41.

allow cons in the individual joints lots of voice in union affairs.”<sup>35</sup> Decentralized power was understood not only to be a democratic good, but would also ensure that militancy would not be stifled by a centralized bureaucracy. The authors note that a model similar to that of the UK labour movement would be desirable. “There the shop stewards are given a lot of flexibility. For this reason there are many more quick, short term strikes, than in Canada, but there is a lot more union control of shops over there and the union can move fast to clean up minor local disputes.”<sup>36</sup>

Considering the question of formal leadership, the *Transition* editorial team had some notion of who should not lead the union: ‘yes-men’ to the administration. The authors felt the leadership would be best if it was made up of those with the most to gain—the long-term prisoners: “Guys doing a lot of time are probably the best bet because they have somewhat more concern with what’s happening in the joint.”<sup>37</sup> Even then, as an article in *The Communicator* (Springhill, NS) would later note, there was a risk of a democratic organization degenerating. As such, the union would have to counter the potential for the leadership becoming detached from the base and self-serving bureaucrats substituting their own interests in place of the on-the-ground issues of the rank-and-file of the organization. In the words of the author, “the voice of the prisoners will be lost with all the other extremes, and could get to be as weird as those we wish to protect ourselves against.”<sup>38</sup> Despite this challenge, the authors maintained that these potential pitfalls did not outstrip the positive potential a prisoners’ union could have. The union could be a positive force in prisoners’ lives even if it was not a panacea:

Of course we can’t pretend that the unions would solve all the problems, or answer everyones’ [*sic*] questions, but I think it is the best solution yet, and most of the

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<sup>35</sup> Saskatoon Editorial Staff, “Organizing a Prisoners’ Trade Union,” *Transition* 2:1, 43.

<sup>36</sup> Saskatoon Editorial Staff, “Organizing a Prisoners’ Trade Union,” *Transition* 2:1, 43.

<sup>37</sup> Saskatoon Editorial Staff, “Organizing a Prisoners’ Trade Union,” *Transition* 2:1, 44.

<sup>38</sup> “Unions?!!,” *Communicator*, VI: I (April 1977): 3.



problems we encounter in the most archaic and heavy handed criminal justice system in the world could become history is a union was organized.<sup>39</sup>

Beside the question of structure, the editorial board at *Transition* also identified three main organizing strategies that had been utilized by prison union organizers: 1) by prisoners inside and without outside help, 2) by ex-cons and activists with a program but no inside base, and 3) by prisoners inside with the support of a “free world” trade union. The first strategy, according to the editorial, corresponded to efforts by prisoners in California, the second to those in the UK. The authors believed that only the third, exemplified in the Prisoners’ Labour Union at Green Haven in New York State (backed by Local 65, Distributive Workers of America), had the potential to succeed.<sup>40</sup> To emphasize their point, the authors produced a table listing union aims, and the corresponding form of organization necessary to achieve them. Under the authors’ rubric, it was “doubtful” that an independent union of federal prisoners could develop an “organized power base,” achieve “nation-wide co-ordination,” and win legal recognition. Not only could a prisoners’ union backed by an established union or the Canadian Labour Congress win all of these, it could also likely bargain over wages, have input into vocational training, establish seniority protection and fringe benefits. Unlike an independent union, an affiliated one would also offer firmer “financial strength” and “political clout.”<sup>41</sup> To summarize, the authors asserted:

A lot of cons will say ‘to hell with the big unions,’ but the fact is that without their support, either individually, or through the Canadian Labour Congress, chances of a union being formed and recognized are slim and chances of it being effective are damn near nil. Take it or leave [it] the big unions are essential.<sup>42</sup>

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<sup>39</sup> “Unions??!,” *Communicator*, 3.

<sup>40</sup> See Dowie, “Unionizing Prison Labour”; Diaz-Cotto, *Gender, Ethnicity, and the State*.

<sup>41</sup> Saskatoon Editorial Staff, “Organizing a Prisoners’ Trade Union,” *Transition* 2:4 (Jul/Aug 1974): 30-31.

<sup>42</sup> Saskatoon Editorial Staff, “Organizing a Prisoners’ Trade Union,” *Transition* 2:4, 31.

This position is notable for being unlike the form of the PUC, which was made up of prisoners, ex-prisoners and prison justice activists but not affiliated to a legally recognized trade union, as well as the later effort of the CPLC, discussed below.

Despite the support among prisoners, the looming spectre of the guard unions hung over the notion of a prisoners' union. As the editorial board of *Transition* noted, guards—or 'bulls' in prison parlance—and their unions would likely oppose any prisoner organizing initiative, saying:

The only thing more gruesome than the performance of the bulls [at Millhaven] is the performance of their union across the country. Used to be that unions led the way in social reform, now they lead the way in social rot. We can't look to other unions to get them to clean up their act either because almost every union in the country has lined up for the status quo.<sup>43</sup>

Despite this, if any prisoner union succeeded:

The possibility of a tie-in to existing public service unions should be looked at. If the bulls and the cons could develop an alliance of some sort the bargaining power of both could increase considerably. As it now stands, the bull's union may try to block a prisoners' trade union.<sup>44</sup>

History would confirm the fears of guard opposition to prisoner organizing by the *Transition* team. A 1975 guards' strike at New York's Tombs prison was "rooted in the guards' perception that prison authorities had ceded to the political demands of the inmates."<sup>45</sup> Two years later, in 1977, the California Prison Guards' Union quashed the implementation of a tentative agreement that had been reached between the California Department of Corrections and the California Prisoners' Union by threatening a mass wildcat.<sup>46</sup> Guard activism would prove to be both an inspiration for prisoner union organizing *and* a potential barrier for the success of that organizing in the Canadian cases.

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<sup>43</sup> Saskatoon Editorial Staff, "Organizing a Prisoners' Trade Union," *Transition* 2:3 (May/June 1974): 37.

<sup>44</sup> Saskatoon Editorial Staff, "Organizing a Prisoners' Trade Union," *Transition* 2:4, 32.

<sup>45</sup> Scharf, "Democracy and Prison Reform," 25.

<sup>46</sup> Irwin, *Prisons in Turmoil*, 243-244.

In late 1974, T. Holt, the editor of *Off the Wall* (Saskatchewan Penitentiary), wrote an editorial in support of a union, but feared that a prisoners' union initiative—as desirable as it was in theory—would suffer from the perceived culture of apathy that was endemic to the nation's prisons and made meaningful prisoner protest virtually impossible:

A union would give us the power of collective bargaining, which means we could negotiate wages, and working and other conditions with the administration. A union has to be organized though, and not without opposition. You can imagine what would happen to the first few cons that try to do anything. Which brings us back to the question: who is going to be first? Not me. How about you? [...] I'm not saying it is wrong to be concerned about what is going on—what I'm saying, is that I don't know [if] I'm ready to put myself in jeopardy [*sic*] for a common cause, and I don't think you are either. If someone started, we would probably jump in, but who will be the first? I guess you could call it self-preservation, and I'm not saying it is right or wrong—that is just the way it is.<sup>47</sup>

As the strikes over the spring and summer of 1975 in BC and Ontario, and 1976 in Quebec, would demonstrate, the editorial may have overstated the apathetic disposition of Canadian prisoners. Through courage or desperation—or a potent mixture of both—some prisoners were indeed willing to be the first to “jump in.”

## The PUC

Just as the California Prisoners' Union had formed as an outside support organization during the Folsom prison strike in 1970, the Prisoners' Union Committee (PUC) formed following a deadly hostage-taking at British Columbia Penitentiary in June 1975.<sup>48</sup> Originally created as a watchdog group to ensure prisoners in BC Pen did not face extra-legal reprisals after the hostage-taking, the PUC morphed into a potential representative body for prisoners when a strike wave

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<sup>47</sup> T. Holt, “Editorial,” *Off the Wall* (Dec 1974): 5. Such a sentiment is not very different from those who bemoan member apathy in the labour movement. See Bernard Karsh, “Union Traditions and Membership Apathy,” *Labor Law Journal* 9:9 (September 1958): 641-646; Labor Notes Staff, “Beating Apathy,” *Labor Notes* #440 (November 2015): 12-13, available: <https://labornotes.org/sites/default/files/LN%20440%20-%20Beating%20Apathy.pdf>.

<sup>48</sup> Betty Noir, “Prison Protest in BC,” *This Magazine* (September-October 1975): 3-6.

broke out in Canadian federal prisons in the summer of 1975. Once established, the prisoners in both men's and women's prisons in BC and Ontario engaged in work stoppages, hunger strikes, and other protests demanding the recognition of the PUC as their bargaining agent in relation to the Canadian Penitentiary Service and BC provincial government.<sup>49</sup>

The summer of 1975 was a turbulent one, part of a decade of unrest in Canadian prisons. On the evening of July 1, 1975, a week after a prison guard was killed on the job in Montreal, guards in 49 federal penitentiaries walked off the job in a nation-wide, one-day strike in support of the death penalty for people found guilty of murdering prison guards.<sup>50</sup> Canadian Armed Forces personnel and Royal Canadian Mounted Police (RCMP) officers were called in to replace the striking guards. Meanwhile, earlier that day, 130 male prisoners at the Lower Mainland Regional Correctional Centre (also known as Oakalla), a provincial prison in Burnaby, BC, sat down in the prison yard, refused to return to their cells, and demanded that officials respond to their list of demands, which had been smuggled out of the prison and sent to the media earlier.<sup>51</sup> Forty women prisoners gathered in the nearby gymnasium, chanting "We're with you. We're with you."<sup>52</sup> The men stayed in the yard for 24 hours before peacefully returning to their cells.

Most significantly, the prisoners' statement argues: "All decisions made here are directed toward the inmates of Oakalla. We have to abide by the rules of this Institution [*sic*] and we want a voice in that part of the system. [...] WE WANT TO BE PART OF THAT PANEL THAT MAKES ALL THE DECISIONS [...] WE THE INMATES OF OAKALLA DEMAND that the

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<sup>49</sup> See Ron Haywood, "B.C. Prisoners Strike," *Labor Challenge*, August 4, 1975; Judith Timson, "B.C. prison violence sparks campaign for convicts' union," *Toronto Star* August 9, 1975, F6.

<sup>50</sup> Mary Janigan, "Guards to Walk Out Tonight: Mounties, Soldiers to Staff Prisons," *Toronto Star*, July 1, 1975, 1; "Can't Continue, Stanfield Says: Allmand Asked to Resign Over Position on Hanging," *Globe and Mail*, July 3, 1975, 1.

<sup>51</sup> "Prisoners Stage Sit Down," *Toronto Star*, July 1, 1975, A2; "Prisoners' Demands," *Western Voice* 4:13 (July 9-22, 1975): 16. For the full statement of the Oakalla protesters, see Appendix A.

<sup>52</sup> Claire Culhane to Raymond Boyer, July 2, 1975. Box 1, Folder 1-1, Claire Culhane fond, UBC Special Collection.

Prisoners Union Committee act with us and on our behalf as representatives and witnesses in our negotiations with the prison administration.”<sup>53</sup> The next day, on July 3, 140 men at Oakalla attempted another sit-down. It only lasted hours before being broken up by guards in riot gear. In response to the protest, BC Attorney General Alex Macdonald announced that isolation (“the hole”) would be abolished in provincial prisons.

However, on July 14, the BC government announced that it would not follow through on the promise to abolish the hole, sparking a new wave of prisoner action. On July 23, the entire population of the federal British Columbia Penitentiary refused to leave their cells for morning work duty. Later that day, PUC members held a press conference, claiming to have the support of 300 prisoners in BC who had signed a petition authorizing the PUC to represent them and 150 ‘outside’ members. Most notable among the PUC’s members was Claire Culhane, a former labour organizer and Communist Party member well known for her activism against the Vietnam War, who would go on to become one of the most prominent and outspoken prison justice activists in Canada.

On July 28, prisoners at the federal Matsqui Institution joined the BC Pen prisoners on the strike. At this point, the strike, and the demand for recognition of the prisoners’ union, had caught the attention of the federal government. In Question Period that day, Progressive Conservative MP Otto Jelinek asked Solicitor General Warren Allmand what the Liberal government was doing about the situation. Allmand assured the House that the government had no intention of recognizing the union:

Mr. Otto Jelinek (High Park-Humber Valley): [...] In view of the work stoppages by striking prisoners at the British Columbia Penitentiary, who are demanding the acceptance of unions for convicts, can the minister advise this House what steps he is taking or has taken to bring this absurd situation to an end in order

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<sup>53</sup> “Prisoners’ Demands,” *Western Voice* 4:13 (July 9-22, 1975): 16.

to prevent other similar institutions from following this unfortunate and incredible precedent?

Hon. Warren Allmand (Solicitor General): Mr. Speaker, the inmates at B.C. Penitentiary sent a message to the Commissioner of Penitentiaries asking that he go out to B.C. to discuss with them the possibility of forming a union of inmates. The Commissioner of Penitentiaries sent back a message that this was completely unacceptable and that he would not be willing to discuss it with them in B.C. or anywhere else in Canada.

Mr. Jelinek: A supplementary question. In view of the fact that the sit-down strike is continuing and in view of the government's inaction, can it be surmised that the government intends to follow the course that these criminals are suggesting and make it government policy to allow convicts the right to strike that many honest Canadians do not share?

Mr. Allmand: Mr. Speaker, I think it was fairly clear from my answer that this is completely unacceptable. I might say that the inmates are in their cells.

An hon. Member: Thank God!

Mr. Allmand: They have not left their cells since this started. With respect to working, I might point out that not all these inmates are working—at any time—and the work is not the type that is done on the outside.<sup>54</sup>

However, the situation was not as under control as Allmand had reported. The next day, the prisoners at BC Pen and Matsqui returned to work, but women at the federal Fraser Valley Institution began a strike. The PUC claimed that 84 percent of the women at Fraser Valley signed a petition in favour of PUC representation.

On August 1, the protest wave spread to the Millhaven Institution in Ontario, where prisoners began a ten-day strike action. On August 6, the PUC announced that it was organizing with prisoners in “the Prairies, Montreal, New Brunswick and Kamloops” and that there would be a national hunger strike on August 10 in support of the union and in memory of Eddie Nolan, a prisoner who had died in custody. On August 10, prisoners in Joyceville, the Prison for Women, and Collins Bay, all in Ontario, participated in the hunger strike, which would become the first Prisoners' Justice Day.<sup>55</sup>

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<sup>54</sup> Canada, Parliament, *House of Commons Debates* (July 28, 1975): 7971. Available: [http://parl.canadiana.ca/view/oop.debates\\_HOC3001\\_08/321?r=0&s=1](http://parl.canadiana.ca/view/oop.debates_HOC3001_08/321?r=0&s=1).

<sup>55</sup> For more discussion of the origins of Prisoner Justice Day, see Gaucher, “Organizing Inside.”

In response to retaliation related to the August 1 strike activity, Millhaven prisoners went back on strike on August 21, and sympathy work and hunger strikes occurred in Collins Bay, Joyceville and the Prison for Women.<sup>56</sup> On August 28, Robert Diguier, security commissioner for the Penitentiary Service, gave a press conference. Diguier reiterated that the federal government has no intention of negotiating with prisoners and dismissed the notion of a prisoners' union as "ridiculous."<sup>57</sup> Protests continued in Ontario federal prisons into the fall, but with less energy. On September 22, two-thirds of Millhaven prisoners staged a one-day hunger strike.<sup>58</sup> With the strike wave floundering, the PUC suffered a split over political differences, and its organizing efforts fizzled shortly thereafter, unable to institutionalize a meaningful representational structure for prisoners.<sup>59</sup> Riots would soon take the place of strikes as the main mode of prison protest. In response to several violent incidents, the government commissioned an investigation into the increasingly volatile penitentiary system. The report stated, "By 1976 the prison explosions were almost constant; hardly a week passed without another violent incident."<sup>60</sup>

The PUC was not the organization that had been discussed and argued for a year earlier in the pages of *Transition*. It was 'outside' based, and its membership was dominated by left-wing students, lawyers, and activists. It had no meaningful connections with traditional trade unions; however, this was not for lack of trying. In July 1975, in the middle of the strike wave, PUC activist Claire Culhane reached out to the Canadian Confederation of Unions (CCU) to inquire about support for the prison organizing campaign. The response from CCU Secretary-Treasurer R. Kent Rowley, which came a month later, dismissed the idea outright, saying "we have a large number

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<sup>56</sup> "Security Tight at Millhaven," *The Globe and Mail*, August 12, 1975, 2.

<sup>57</sup> "Prisoner Union is 'Ridiculous,' Won't be Allowed, Official Says," *The Globe and Mail*, August 29, 1975, 5.

<sup>58</sup> "Director Won't Bow—Millhaven Inmates Refuse to Eat," *The Globe and Mail*, September 23, 1975, 35.

<sup>59</sup> Minutes for meeting of PUC breakaway Sept 17/75, September 17, 1975 Box 1, Folder 1-1, Claire Culhane fond, UBC Special Collection.

<sup>60</sup> MacGuigan, *Report of the House of Commons Sub-Committee*; Judith Timson, "Riot in Cell Block Canada," *Maclean's*, October 18, 1976, 22-24.

of important problems that we cannot handle now, and I am not going to divert my energies away from steel, railways, etc. to organize the lumpen-proletariat.”<sup>61</sup> Likewise, the PUC did not seem to have gathered much support from social movement organizations, despite its members’ roots in various movements. For example, during the summer of 1975, the Vancouver Status of Women released a statement urging humane treatment for women prisoners, but declined to endorse the PUC.<sup>62</sup>

Ironically, it was guard union militancy that reinvigorated interest in and discussion of a union for prisoners. In early 1977, there was a minor controversy concerning a group of ten guards at Millhaven. Labelled the “Millhaven mafia,” the guards were accused of “trying to run” the prison, assaulting prisoners and coercing other staff—going so far as to vandalize the car of an uncooperative coworker.<sup>63</sup> The guards were vigorously and publicly defended by their union, the Public Service Alliance of Canada (PSAC). In this context, *The Communicator* ran a new article in favour of a prisoners’ union. The editor, Teddy Carr, noted that the recent agitation by the guards’ union had rekindled conversations about a prisoners’ union: “With all that commotion from the PSAC recently, we’ve cast an eye towards prisoners’ unions and the efforts in that direction elsewhere.”<sup>64</sup>

While the PUC was unable to win recognition and bargain on behalf of prisoners, the protests of the 1970s did result in a number of changes to the federal and provincial prison systems. Prisoners in BC succeeded in winning the right to vote in the 1975 provincial election.<sup>65</sup> In the

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<sup>61</sup> R. Kent Rowley to Claire Culhane, August 15, 1975. Box 1, Folder 1-1, Claire Culhane fond, UBC Special Collection.

<sup>62</sup> Joanne Lazenby to Claire Culhane, August 24, 1975. Box 1, Folder 1-1, Claire Culhane fond, UBC Special Collection.

<sup>63</sup> Mary Trueman, “Other staff coerced by ‘Millhaven Mafia,’ official says: Guards trying to run prison, MPs told,” *The Globe and Mail*, February 1, 1977, 13.

<sup>64</sup> Teddy Carr, “Preview,” *Communicator*, VI: I (April 1977): 3.

<sup>65</sup> “Prisoners Permitted to Vote in B.C. Provincial Election,” *The Globe and Mail* (November 1975: 8).



federal system, an inmate grievance procedure was piloted in 1978. A standardized inmate grievance procedure, Inmate Committees, and Citizen Advisory Committees (volunteer oversight bodies attached to most federal correctional institutions and district parole offices) would later be established throughout the federal system.<sup>66</sup>

As the discussions in the penal press and organizing efforts of the PUC demonstrate, while the idea of a prisoners' union was supported by a number of prisoners and prisoners' rights advocates, there was a lack of consensus over what the focus of the organization should be, how the organization should be structured, and what methods it should use to win recognition.

For some, such as the activists involved in the PUC, the union represented a radical opportunity to introduce a 'structural reform' into the prisons that had the potential to fundamentally alter the balance of power in the institution. Some prison organizers understood this to be a first step toward the abolition of prisons.<sup>67</sup> Others, however—due to earnestly held conviction or political expedience, or both—made the case that rather than disrupt the prison, a prisoners' union could be a potent means to *make the prison work*. In this line of thinking, which would later be clearly articulated by the Canadian Prisoners' Labour Confederation, a prisoners' union has the potential to more effectively meet the stated goals of corrections—rehabilitate prisoners, reduce recidivism, and therefore increase public safety—than the correctional service itself. This debate somewhat mirrors those concerned with the paradoxical role of unions in capitalist society. Institutional economists and industrial relations scholars have argued that trade unions effectively “improve

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<sup>66</sup> Joan Nuffield, “Inmate Grievance Procedure Pilot Project (Saskatchewan Penitentiary): An Evaluation.” Research Resources, Research Division [Canada: Solicitor General] (1979).

<sup>67</sup> Both the United Prisoners Union, a split from the California Prisoners' Union and PROP espoused abolitionist politics. In the revised edition of his classic work, *The Politics of Abolition*, Thomas Mathiesen draws on the work of socialist theorist Andre Gorz to advocate for a strategy of “non-reformist reforms.” Thomas Mathiesen, *The Politics of Abolition Revisited* (Abingdon, Oxon and New York: Routledge, 2015). Claire Culhane, a driving force behind the PUC, would emerge as one of Canada's most prominent advocates of the abolition of prison. See Liz Elliott, “Farewell to A Friend,” *Journal of Prisoners on Prisons* 8:1/2 (1997): 1-2.

both the efficacy and equity of the market system and lead to a win-win outcome for employers, workers, and the public at-large” and expanded the boundaries of political democracy into the industrial sphere.<sup>68</sup> On the other hand, syndicalists and some Marxists have viewed trade unions as potentially revolutionary organizations capable of overthrowing the capitalist social order. Still others have noted their tendency to diffuse discontent, segment workers and tie their interests to individual capitalist firms, ultimately increasing workers’ dependency on them.<sup>69</sup>

### **The Origins of the CPLC: A Labour Union for Prisoners**

The desire for a prisoners’ union was not extinguished with the dissolution of the PUC or the disappearance of the idea from the penal press. In 1983, there was yet another attempt at the unionization of federal prisoners when 500 prisoners at Stony Mountain petitioned the Canadian Labour Congress (CLC) to aid in their organizing efforts. Unlike the efforts in the 1970s, this attempt sought direct affiliation with the Canadian labour movement and representation explicitly for the purpose of negotiating with correctional administrators on behalf of prisoners’ interests *as prisoners*, and especially in regard to issues of parole and early release.<sup>70</sup>

Frank Piche, federal prisoner and chairman for the prisoners’ initiative, suggested that a prisoners’ union affiliated with the CLC would be able to limit the broad discretion of parole boards and officers, creating a more balanced early release process. In addition, Piche suggested

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<sup>68</sup> Bruce E. Kaufman, “The Early Institutionalists on Industrial Democracy and Union Democracy,” *Journal of Labor Research* XXI: 2 (Spring 2000): 189.

<sup>69</sup> There is a substantial literature concerned with the paradoxical functions of trade unions in capitalist society and the debate cannot be fully summarized here. For a summary of some of these debates within Marxism, see Barry Eidlin, “Why Unions Are Good—But Not Good Enough,” *Jacobin*, January 6, 2020, available: <https://www.jacobinmag.com/2020/01/marxism-trade-unions-socialism-revolutionary-organizing>. For some additional discussion, see Lucien van der Walt and Michael Schmidt, *Black Flame: The Revolutionary Politics of Anarchism and Syndicalism* (Oakland: AK Press, 2009).

<sup>70</sup> “Prisoners want a union to fight for release,” *The Globe and Mail*, February 3, 1983.

that a prisoners' union could lobby for prisoner enfranchisement and against double-bunking.<sup>71</sup> Whereas in the case of the PUC the government had denied the possibility of prisoner unionism, this time it was the labour movement itself, calling the proposal "totally unrealistic in the present context" given that the fact that certified trade unions represent workers strictly in relation to their employers. This response was something of a sleight of hand, as the CLC, with the exception of a few directly chartered local unions, is a federation of unions and not a union itself, with a mandate to represent workers politically and to advocate for policy changes affecting workers in and outside their direct employment.<sup>72</sup> Despite this, the CLC was not completely unsympathetic to the issues facing prisoners. Ed Johnson, an assistant to CLC president Dennis McDermott, stated, "I'm not saying nothing can be done. We have a concern for people in institutions. If there's something labor unions can be of help in, we will." Johnson further suggested that the CLC could work with the Solicitor General to explore setting up a standardized system for handling prisoner grievances.<sup>73</sup> This system would eventually be established but has been widely criticized as ineffective.<sup>74</sup>

Nonetheless, within Canadian prisons, the idea of a union for prisoners persisted. A number of young prisoners around the time of the PUC strikes and the attempted affiliation with the CLC were introduced to ideas of labour, political organization, and collective action as a means to win demands.<sup>75</sup> One of these young prisoners was David Jolivet. After decades of intermittent

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<sup>71</sup> "Prisoners want a union to fight for release," *The Globe and Mail* (February 3, 1983).

<sup>72</sup> The CLC has, at times, taken a more proactive approach in lobbying for expanded rights of workers, such as migrant workers on limited visas, who are not covered by regular employment and labour laws. For example, see Canadian Labour Congress, "Canada's Unions Applaud Pilot Project Offering Greater Protection to Migrant Workers," press release, July 12, 2019, available: <https://canadianlabour.ca/unions-applaud-project-protection-migrant-workers/>.

<sup>73</sup> "Prisoners want a union to fight for release," *The Globe and Mail*, February 3, 1983.

<sup>74</sup> See Jeremy Patrick, "Creating a Federal Inmate Grievance Tribunal," *Canadian Journal of Criminology and Criminal Justice* 48:2 (2006): 287-303.

<sup>75</sup> David Jolivet, telephone interview with the author, April 3, 2017.

incarceration across Canada and the United States, Jolivet became increasingly active as a “jailhouse lawyer”—advocating for himself and assisting other prisoners with their legal cases. By 2008, Jolivet was serving a sentence in the Mountain Institution in Agassiz, BC. While he had never been a unionized worker, as a federal prisoner Jolivet was struck by the power that guards were able to wield through their union and shop-floor direct action. Always sympathetic to organized labour, Jolivet began a process of reading labour history and labour law and learning about unions. The main question he sought to answer was “do prisoners have a right to join and form unions?” The question was unresolved, but given the successes of the CFAW in 1977 and his own understanding of the law, Jolivet cautiously moved forward on a new prisoner organizing effort.

Jolivet understood that the possibility of winning a prisoners’ union that could bargain broadly for prisoners around issues of their confinement was unlikely, as had been attempted by the PUC and the CLC affiliation attempt in 1983. However, a prisoners’ *labour* union, which could advocate for prisoners in relation to their maintenance and industrial work in federal institutions—a prisoner-workers’ union plain and simple—could be feasible. Like CFAW Local 240, a prisoners’ labour union, if successful in making gains in relation to prisoners’ work, could have the potential to leverage its power in support of prisoners’ broader interests.

The organizing effort was never exactly a secret given the monitoring of prisoner communication; however, organizers also felt that proceeding in a relatively open way was the best way to avoid institutional retaliation.<sup>76</sup> In April 2010, Jolivet wrote to Human Resources and Skills Development Canada requesting information about the union certification process and began talking to others about the idea of a union. That same month, Jolivet filed an application to

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<sup>76</sup> David Jolivet, telephone interview with the author, April 3, 2017.

trademark a CPLC logo, and he and others began to sketch out an organizing plan. Jolivet also had several meetings with representatives from the Union of Canadian Correctional Officers (UCCO) to discuss the union idea. In fact, Jolivet would become so openly identified with the union effort that guards would jokingly refer to him as the prison's "Jimmy Hoffa."<sup>77</sup>

Jimmy Hoffa, of course, was a labour figure of an earlier era, and the situation of the labour movement had changed drastically since his much-publicized disappearance in 1975. By 2010, the labour movement in Canada had atrophied significantly and the labour market had changed dramatically. Union density was still around 30 percent, however, only due to high levels of unionization in the public sector.<sup>78</sup> Private sector union density had fallen to just over 16 percent, from a high of 37.9 percent in 1984.<sup>79</sup> Significantly, the neoliberal period, which began in the late 1970s, saw federal provincial governments introduce legislation to weaken union power. These policies included changes to certification requirements the elimination of "no scab laws" as well as the signing of free trade agreements that increased capital mobility. As Leo Panitch and Donald Swartz have argued, the neoliberalization of Canadian labour relations is not only a matter of deregulation.<sup>80</sup> This same period has seen an increased willingness by governments to directly attack unions' power through wage controls, back-to-work legislation, expanded essential service designations, and more.<sup>81</sup> While real wages rose steadily throughout the Fordist era, real wages

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<sup>77</sup> David Jolivet, telephone interview with the author, April 3, 2017.

<sup>78</sup> Sharanjit Uppal, "Unionization 2010," Statistics Canada — Catalogue no. 75-001-X (October 2010), available: <https://www150.statcan.gc.ca/n1/pub/75-001-x/2010110/article/11358-eng.htm#a1>.

<sup>79</sup> "Unionization rates falling," Statistics Canada (n.d.), available: <https://www150.statcan.gc.ca/n1/pub/11-630-x/11-630-x2015005-eng.htm>.

<sup>80</sup> For additional analysis on the neoliberal transformation of the global economy and its impact on labour, see David Harvey, *A Brief History of Neoliberalism* (Oxford and New York: Oxford University Press, 2005); Leo Panitch and Sam Gindin, *The Making of Global Capitalism: The Political Economy of American Empire* (New York: Verso, 2012); Sam Gindin, "Rethinking Unions, Registering Socialism," in Leo Panitch and Viviek Chibber (eds.), *The Socialist Register 2013: A Question of Strategy* (London: Merlin, 2012): 26-51.

<sup>81</sup> Panitch and Swartz, *From Consent to Coercion*.

have remained stagnant since the 1970s.<sup>82</sup> Low-paid, part-time, contract and otherwise precarious jobs have grown as a proportion of the labour market. Household indebtedness has also risen over this period. According to Statistics Canada, “In 1980, the ratio of household debt to personal disposable income was 66%” By 2011 that ratio passed 150 percent.<sup>83</sup>

These general trends were that much more compounded by the 2008 financial crisis, which, after a brief Keynesian deviation by the Stephen Harper Conservative government to ameliorate the crisis, ushered in an era of “permanent austerity.” These responses to the crisis built on the nearly three decades of neoliberal policies, and renewed efforts to constrain public spending and attack the power of unions and “privilege of public sector workers” who were “targeted as a cause of the crisis.”<sup>84</sup> Corrections were, at first, exempt from the spending cut trend. In fact, between 2005-6 and 2010-11, CSC’s budget increased by over 30 percent.<sup>85</sup> While the exemption of corrections from budget cuts could be viewed as a deviation from “market fundamentalism,” as Mark Thomas and Steven Tufts have argued, support for corrections in the context of an austerity regime fits into patterns of “uneven austerity,” which requires increased, rather than decreased state coercive capacities.<sup>86</sup>

This authoritarian approach to social regulation was not hidden by the Harper Conservatives, who had run on a tough-on-crime program, emphasizing the criminal justice system

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<sup>82</sup> Workman, *If You're in My Way, I'm Walking*, 71.

<sup>83</sup> Raj K. Chawla and Sharanjit Uppal, “Household Debt in Canada,” *Perspectives on Labour and Income* 24: 2, Statistics Canada Catalogue no. 75-001-X. (Summer, 2012): 1-12, available: <https://www150.statcan.gc.ca/n1/en/pub/75-001-x/2012002/article/11636-eng.pdf?st=hBQ-CBwL>.

<sup>84</sup> Mark P. Thomas and Steven Tufts, “Austerity, Right Populism, and the Crisis of Labour in Canada,” *Antipode* 48: 1 (2016): 212.

<sup>85</sup> Anna Mehler Paperny, “Corrections Canada to Make Budget Cuts as Prison Population Grows,” *The Globe and Mail* (August 19, 2012), available: <https://www.theglobeandmail.com/news/politics/corrections-canada-to-make-budget-cuts-as-prison-population-grows/article4488757/>.

<sup>86</sup> Thomas and Tufts, “Austerity, Right Populism, and the Crisis of Labour in Canada,” 212.

as a response to (bad) individual choices rather than social conditions.<sup>87</sup> The government planned to implement and increase mandatory minimum sentences, eliminate 2-for-1 credit for time served in pretrial custody, reduce eligibility for sentences to be served in the community, increase restrictions on pardon eligibility, and more.<sup>88</sup> However, the Harper government's tough-on-crime and spending constraint mandates were not in play for long before they converged, first in complimentary way, and then in more direct conflict. Starting in 2012, the government targeted prisoners for cost savings in the name of "offender accountability"—a reciprocal blending of "get tough" and cost savings. More costs were downloaded from CSC onto prisoners, and prisoners' rates of pay were cut. These pay cuts, and the national federal prison strike they provoked, are the subject of the next chapter. By 2015, however, austerity finally caught up to the prison system and CSC was forced to slash nearly \$300 million from its budget.<sup>89</sup>

It was in this economic and political context that, in August 2010, David Jolivet met with the Deputy Warden at Mountain Institution, Claude Demers, to discuss the possibility of forming a prisoners' union. By that meeting, Demers "of course knew about the union."<sup>90</sup> In fact, by pursuing the drive openly, Jolivet hoped to avoid retaliation. As he later explained to BC lawyer Natalie Dunbar, who would later be retained by the CPLC:

For the most part, [Demers] was very cordial and receptive. I told him I didn't want any retaliation from officers or administration in taking the next steps of passing out information pamphlets and having them say I'm inciting by having everyone come to the Gym to sign cards. He said there would be no retaliation and no problem he could see. He said he was impressed at my due diligence in checking with him first to insure [sic] he had no problem with any of the activities I described

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<sup>87</sup> Cheryl Marie Webster and Anthony Doob, "US Punitiveness 'Canadian Style'? Cultural Values and Canadian Punishment Policy," *Punishment & Society* 17:3 (July 2015): 299–321.

<sup>88</sup> These changes came into effect with the passage of the *Safe Streets and Communities Act*, which received Royal Assent in 2012.

<sup>89</sup> Paperny, "Corrections Canada to Make Budget Cuts as Prison Population Grows"; Natalie Clancy, "Prison Food After Cutbacks Called Disgusting and Inadequate by B.C. Inmates," *CBC News*, March 11, 2015, available: <https://www.cbc.ca/news/canada/british-columbia/prison-food-after-cutbacks-called-disgusting-and-inadequate-by-b-c-inmates-1.2989657>.

<sup>90</sup> Jolivet to Dunbar, August 23, 2010. In author's possession.

and to go ahead. I also told him I would send him copies of our pamphlet and final constitutions as well as all notices I post for the inmates on elections, and sign ups so they will know what the situation is. He said, ‘great.’<sup>91</sup>

A number of reasons could explain the administration’s seemingly neutral—or even supportive—orientation to the CPLC effort. At the time, Jolivet speculated that the administration may have been relatively supportive as a means to provoke the guards’ union, the UCCO:

My sense is that they are looking at this tongue in cheek. I actually get the impression that the Administration is secretly cheering us on from behind closed doors. They have complained to us about UCCO for so long being unreasonable, needy and frivolous, all their job actions stopping operations causing millions and millions in wasted money interfering with institutional goals and programs. I think they actually welcome giving UCCO a major distraction and obstacle like us having a Labour Union, that UCCO can fight with.<sup>92</sup>

While it’s difficult to know if Jolivet’s interpretation was correct, it would become clear that the administration’s commitment to non-retaliation would not last.

## **Initial Organizing**

Over the course of 2010, the prisoners’ union continued to build up its capacity. In addition to research and the creation of the CLPC logo, Jolivet and others were working to redraft “our Constitutions Local and National to conform with real Labour Constitutions.”<sup>93</sup> At this time, CPLC activists were working with B.C. lawyer Natalie Dunbar, who would later be retained by the CPLC. In September 2010, Dunbar set up a trust account for the “Canadian Prisoners’ Labour Confederation” at a bank in Surrey, BC.

By early 2011, Jolivet and others made the decision to begin the organizing drive in earnest by having union authorization cards signed by prisoners in the Mountain Institution. On February

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<sup>91</sup> Jolivet to Dunbar, August 23, 2010. In author’s possession.

<sup>92</sup> David Jolivet, Interview with the author, March 4, 2017.

<sup>93</sup> Jolivet to Dunbar, August 23, 2010. In author’s possession.



2, 2011, Mark Kimball, the Warden at Mountain Institution, sent a letter to Jolivet denying him access to the institution's gymnasium for the purpose of signing union cards on the basis that a process of requesting utilization the gymnasium for this purpose was not properly followed.

Kimball's letter read:

Mr. Jolivet,

It has come to my attention that you are attempting to form an inmate union under the title Confederation. I have been provided with a copy of a poster that indicates your intention to utilize the gymnasium throughout the evening this week in order to take applications for membership.

I have been advised that Correctional Managers have met with you to ensure that you are aware of the appropriate process to access in order to obtain proper approval for institutional events. You have not sought any formal approval for your planned activities in the gymnasium. I want to be clear Mr. Jolivet, that the Institution is not preventing you from displaying your posters regarding your union membership recruitment, but the direction provided in your posters with respect to meetings in the gym has not been formally requested by yourself or approved. Therefore, there is really little purpose in you displaying the posters as written.<sup>94</sup>

Despite the card signing setback, organizers pressed on. By March 2011, the union, now colloquially known as *Confed*, had appointed an interim executive, with Jolivet serving as interim National Board President, J.P. Aabee as Organizer Mobilization/Interim executive President, Rick Wheeler Secretary/operations, and Dan Younger as Secretary Treasurer. They also appointed a Grievance Committee Chair and five Unit Representatives and claimed to represent 395 members.

Despite this progress, the prohibition from utilizing the Mountain Institution gymnasium was not the only challenge facing the nascent union. According to Jolivet, while it was not clear that the administration was deliberately attempting to quash organizing, at minimum officials "left it up to the officers" to harass Jolivet and other CPLC supporters.<sup>95</sup> Jolivet had his cell routinely searched and documents, including items related to the CPLC, confiscated: "They were searching my cell everyday and taking my paperwork out of my cell. And just doing things like that

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<sup>94</sup> Kimball to Jolivet, February 22, 2011, copy in author's possession.

<sup>95</sup> David Jolivet, Interview with the author, March 4, 2017.

constantly. Constantly. It was just harassment.”<sup>96</sup>This independent initiative of guards is a good example of complex tripartite prison dynamic that prisoner organizers must navigate. The administration, prisoners, and guards all have their own institutional interests—and the ways that those interests align or come into conflict varies dramatically by issue. This dynamic means that it can sometimes be hard to parse the positions of the various parties in some policy debates. For example, if individual guards or their union opposes prisoner organizing efforts, they may create space for administrators—who are privately in agreement—to publicly take a more moderate position.

In early March, lawyer Natalie Dunbar issued a press release on behalf of the CLPC and publicly announced their intentions to form a labour union for federal prisoners. The press release was designed to spread the word of the organizing work occurring in BC and put pressure on officials in the Mountain Institution to cease retaliation. The press release was somewhat effective—at least temporarily—in this second goal.<sup>97</sup> According to Jolivet, after the initial media attention, officials “backed away a little bit” once they realized “there was a lot of interest in this kind of thing.”<sup>98</sup>

In its public messaging, the union was careful to be clear that it sought to represent prisoners in relation to their work rather than *as prisoners*. The *Globe and Mail* reported that “the inmates are not trying to create another prisoners’ rights group but want the right to assemble as any other workers to vote about forming a union that will deal with their various complaints.”<sup>99</sup>

Dunbar highlighted issues that “plague prison populations as a workforce such as proper work

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<sup>96</sup> David Jolivet, Interview with the author, March 4, 2017.

<sup>97</sup> David Jolivet, Interview with the author, March 4, 2017.

<sup>98</sup> David Jolivet, Interview with the author, March 4, 2017.

<sup>99</sup> “B.C. inmates attempt to form first prison labour union in Canada,” *The Globe and Mail*, March 4, 2011, available: <https://www.theglobeandmail.com/news/british-columbia/bc-inmates-attempt-to-form-first-prison-labour-union-in-canada/article569566/>.

boots and qualified first aid personnel,” and noted that organizing was spurred by a “slowdown” of the inmate grievance process.<sup>100</sup> Prison administrators at the Mountain Institution asserted that the inmate grievance system was operating normally and dismissed health and safety issues:

We have an entire healthcare unit on site within the institution that’s staffed 16 hours a day and in the event that medical attention is required after the nurses leave for the day, then we send inmates to outside hospitals. Inmates have access to health care 24 hours a day.<sup>101</sup>

Assistant warden Brenda Lamm was careful negotiating discussion of the union drive itself, saying, “We’ve never had inmates trying to organize a labour union before so that’s why we’re proceeding cautiously and thoughtfully,” and indicated that administrators at the Mountain Institution had contacted CSC for instruction on how to respond to the union effort.<sup>102</sup>

The initial flurry of media attention about the union drive was soon followed by a second round of news stories focused on the union’s announcement that it would seek raises for working prisoners.<sup>103</sup> The announcement sparked some public discussion about prisoners’ working conditions and low rates of pay. Most notably, Rebecca Lindell, a journalist with Postmedia, penned an article exploring the issue of prisoners’ pay and the union drive. The column described the “movement from inside and outside of the prison walls to give Canada’s federal inmates a raise, despite stern resistance from the federal government,” and outlined the low wages of federal prisoners who made between \$5.25-\$6.90 per day.<sup>104</sup> The column first appeared in the *Vancouver Province*, but versions of the article also appeared in other Postmedia papers such as the *Vancouver Sun*, the *Ottawa Citizen*, the *Calgary Herald*, the *Saskatoon Star-Phoenix*, and the *Windsor Star*.

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<sup>100</sup> “B.C. convicts aim to form union,” *CBC News*, March 4, 2011, available:

<https://www.cbc.ca/news/canada/british-columbia/b-c-convicts-aim-to-form-union-1.1022691>.

<sup>101</sup> “B.C. convicts aim to form union.”

<sup>102</sup> “B.C. convicts aim to form union.”

<sup>103</sup> “Inmates at a B.C. prison are fighting for better wages and a union,” *National Post*, March 19, 2011, A14.

<sup>104</sup> Rebecca Lindell, “What’s prison work worth? Push to boost wages debated; Government resists arguments for raise,” *Windsor Star*, March 19, 2011, A15.

Lindell's article prompted a direct response from Minister of Public Safety Vic Toews, who objected to the notion of increased pay for prisoners and restated the Conservative government's "victims-first" position, which placed prisoners' rights and victims' rights in a zero-sum contest:<sup>105</sup>

I would like to reassure hardworking Canadian taxpayers that as far as their government is concerned, this debate is closed.

Our government is serious about putting the rights of victims ahead of the rights of criminals.

The very reason criminals serve time in prison is to pay the debt they owe to their victims and to society.

Their incentive is that if they participate in their correctional plans, they will eventually be released once this debt to society has been paid.

We will continue to support programs that provide offenders with skills relevant to today's workforce so that, upon release, they can begin contributing as other citizens do.

However, we will not concede to advocates who continue to put the rights of criminals first.<sup>106</sup>

However, this anti-prisoners' union position was not unanimous throughout the government, even among Conservative politicians. Stockwell Day, a high-ranking Conservative MP and himself a former Minister of Public Safety, took a surprisingly measured position, saying, "I think if there are things that people working together can do to make their hopes and opportunities better, to see their offenders move ahead, then those discussions should happen."<sup>107</sup> The silence of both the opposition Liberals and NDP is indicative of what criminologists have described as the centrist "consensus" around Canadian penal politics or, at least, an unwillingness to use political capital on this issue.<sup>108</sup>

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<sup>105</sup> See Webster and Doob, "US punitiveness 'Canadian style'?", 299-321; Michael Jackson and Graham Stewart, "A Flawed Compass: A Human Rights Analysis of the Roadmap to Strengthening Public Safety," (2011), available: <http://www.justicebehindthewalls.net/news.asp?nid=78>.

<sup>106</sup> Vic Toews, "Minister defends prison policies," *Windsor Star*, March 25, 2011, A9.

<sup>107</sup> The Canadian Press, "B.C. prison inmates fighting to unionize," CTVnews.ca, March 4, 2011, available: <https://bc.ctvnews.ca/b-c-prison-inmates-fighting-to-unionize-1.614662>.

<sup>108</sup> On the one hand, with the exception of Harper, this consensus has insulated Canada from the nastiest forms of penal populism evident in the United States. However, it also has meant that penal politics in Canada have been

Local administrators continued to emphasize to media that this was a “new element for us” and that “We’ve never had inmates trying to organize a labour union before so that’s why we’re proceeding cautiously and thoughtfully.”<sup>109</sup> CSC spokesperson Jean-Paul Lorieau emphasized that prisoners have access to an inmate grievance system through which they can make complaints regarding their work and are represented by an institutional inmate committee, before dismissing the existence to the union: “So far no union has been formed, and we do not have any further comments on this issue.”<sup>110</sup>

On March 23, 2011, the CLPC formally retained Dunbar. According to a letter from the interim executive, organizers had written to “nearly thirty lawyers to take our case and pursue our cause, all of which turned us down with number of excuses.”<sup>111</sup> Dunbar agreed to “assist in the creation and maintenance” of the union and to serve not only as legal counsel, but also administer union funds held in trust and handle media and public relations for the union. Likewise, the contract specified that Dunbar would handle “Disciplinary hearings for executives or members facing retaliation.” The union agreed to pay Dunbar a monthly fee of \$1000.<sup>112</sup>

## **Retaliation**

A few months after the initial media flurry, Jolivet, Aubee, and David McClain, a CLPC unit representative, were accused by correctional officials of plotting to incite violence against a

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viewed primarily as a technocratic endeavour, best left to experts. For more on Canada’s penal consensus, see Anthony Doob, “The Harper Revolution in Criminal Justice Policy... and What Comes Next,” *Policy Options / Options Politiques*, May 4, 2015, available: <https://policyoptions.irpp.org/magazines/is-it-the-best-of-times-or-the-worst/doob-webster/>.

<sup>109</sup> The Canadian Press, “B.C. prison inmates fighting to unionize.”

<sup>110</sup> Stephanie Findlay, “Prisoners of the World, Unite!,” *Macleans*, July 14, 2011, available: <https://www.macleans.ca/news/canada/prisoners-of-the-world-unite/>.

<sup>111</sup> CPLC Executive to Dunbar, March 25, 2011. In author’s possession.

<sup>112</sup> Dunbar Law Work Agreement on “Confederation” - Prisoners’ Union, March 23, 2011. In author’s possession.

guard at the Mountain Institution on the basis of information provided to CSC from a jailhouse informant.<sup>113</sup> The plot was alleged to be a response to an incident that had occurred in the fall of 2010.

In November 2010, Jolivet, McClain, and Aubee had contacted the *National Post* after a Mountain Institution prisoner, Jeremy Phillips, was found dead in his cell. Phillips' cellmate, the notorious serial killer Michael Wayne McGray, would later plead guilty to the murder. Speaking to the *National Post*, Jolivet, McClain and Aubee "all insisted that Phillips had begged prison staff, including a female guard, for a cell transfer away from McGray" and had alerted officials that he feared for his life.<sup>114</sup> CSC claimed Jolivet "was involved in attempts to incite other offenders to rally against a staff member" and alleged that the informant claimed that "some gas from a weed eater is already hidden in the compound and may be used to throw on [the guard]."<sup>115</sup> The three accused conspirators, all active CLPC members, were transferred out of the Mountain Institution. In an interview with the *Globe and Mail*, Jolivet denied the allegations and accused CSC of retaliating against him for union organizing: "It's nonsense [...] I'm vocal about things, but I don't go around shooting my mouth off. If someone was killed because of negligence, I'll say that. But I never made threats to anyone and I never incited any inmates to rise up against prison staff."<sup>116</sup> None of the allegations resulted in criminal charges and Jolivet later reiterated that "I was exonerated of the whole thing. It was absolute lies that they made up."<sup>117</sup> A coroner's inquest into

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<sup>113</sup> Brian Hutchinson, "Inmate had scheme to attack female guard with gasoline, prison says," *National Post*, September 12, 2011, available: <https://nationalpost.com/news/canada/inmate-had-scheme-to-attack-female-guard-with-gasoline-prison-says>.

<sup>114</sup> Hutchinson, "Inmate had scheme to attack female guard with gasoline, prison says."

<sup>115</sup> Hutchinson, "Inmate had scheme to attack female guard with gasoline, prison says."

<sup>116</sup> Hutchinson, "Inmate had scheme to attack female guard with gasoline, prison says."

<sup>117</sup> David Jolivet, Interview with the author, March 4, 2017.

Phillips' death would later recommend that multiple killers should not be "double-bunked" and should be kept in single-cell accommodations.<sup>118</sup>

Rather than stifle the prison union drive, the transfer of Jolivet and Aubee to the maximum security Kent Institution which neighbours the Mountain Institution set off organizing there. Forced transfers are one of the many disciplinary tools available to prison administrators, and in times of strikes or riots, prisoners often include prohibitions against forced transfers amongst their demands, as was the case during the 1976 Archambault strike.<sup>119</sup> While transferring perceived troublemakers away from their co-conspirators, as is often done with gang members, may be effective in reducing certain forms of criminal or undesirable activity, the transferring of prison organizers often has the unintended consequence of spreading, rather than stifling, organizing efforts. In this way, forced transfers, sometimes referred to as "bus therapy,"<sup>120</sup> have the effect of "salting"<sup>121</sup> organizers into populations they would not otherwise be able to access. Such was the case with the infamous prison radical George Jackson, who began to organize in Soledad prison after his transfer there from San Quentin in 1968.<sup>122</sup> Transfers of prisoners by officials with the intention of breaking up strike organizing was so routine that in the 1970s, the British prisoners' union PROP would intentionally publicize strikes early in order to allow for transfers to occur, allowing word of the strike—and organizers—to spread throughout the British penitentiary system.<sup>123</sup>

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<sup>118</sup> The Canadian Press, "Don't make serial killers roomies in prison, coroner's jury recommends," *The National Post*, November 1, 2012, available: <https://nationalpost.com/news/canada/dont-make-serial-killers-roomies-in-prison-coroners-jury-recommends>.

<sup>119</sup> Gosselin, *Prisons in Canada*, 202.

<sup>120</sup> Huff, "The Prisoners' Union: A Challenge to State Corrections," 149.

<sup>121</sup> Salting is the practice of seeking employment in a particular workplace or industry with the explicit intention of organizing a union there.

<sup>122</sup> Cummins, *The Rise and Fall of California's Radical Prison Movement*, 160. For a discussion of forced transfers of prisoner organizers in California and Rhode Island, see Irwin, *Prisons in Turmoil*, 149-150.

<sup>123</sup> Mike Fitzgerald, "Prisoners in Revolt," 50; 198.

## The Struggle for Recognition

After again being denied the ability to sign union cards, this time at the Kent Institution, on December 8, 2011, Jolivet and another CLPC member using a pseudonym filed what would be the first of several complaints alleging interference by prison administrators in the union's organizing efforts. The complaint was filed with the Public Service Labour Relations Board (PSLRB, now the Public Service Labour Relations and Employment Board) on the basis that prisoners have rights, under both the Canadian Charter of Rights and Freedoms and the *Canada Labour Code*, which protect them from undue interference in joining or forming trade unions.<sup>124</sup>

This complaint clearly demonstrated the CLPC's preference for certification by strict means of legal process. According to Jolivet, it was understood that this decision was not made because formal recognition was the only way to move the project forward. Jolivet understood that workers could just begin acting like a union:

We wondered if we had the right to become unionized. That was the first thing, and I found out that not only did we have the right to become unionized, we could become unionized whether anyone liked it or not, and we don't even have to sign up for it. We can just say "we are now a prisoners' union and screw everybody, we're running everything now." And that's the bottom line.<sup>125</sup>

Despite this, legal recognition was understood to be the best means to achieve stability and permanence. If recognition was voluntarily granted by CSC rather than ordered by a labour relations board, it could be taken away:

But, I wanted to do this the legal way. And I wanted to take it through the court process, through the various labour board processes, to be able to have them rubber stamp it and say, "yeah, you're good to go." That way, there wouldn't be any

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<sup>124</sup> The rationale for why the CPLC chose the Public Service Labour Relations Board as the appropriate venue for the claim is unclear. The issue of labour board jurisdiction would be a major issue for the CPLC and latter efforts to secure employment rights for prisoners.

<sup>125</sup> David Jolivet, Interview with the author, March 4, 2017.



argument in the future as to our status. But you really don't need any of that to become a union. You can just form a union and be a union.<sup>126</sup>

In what would be the first of several legal defeats for the CPLC, in January 2013 the PSLRB dismissed the complaint, finding that inmate workers were not listed by the Public Service Commission and therefore not public servants. Moreover, the board determined that, even if found to be part of the public service, inmate workers would likely not meet the legal definition of “employees” due to the fact that their employment was an aspect of correctional rehabilitation programming.

The federal Conservatives could barely contain their excitement at the opportunity to publicly bash the union's recognition efforts. In Question Period, Conservative MP Scott Armstrong asked:

Mr. Speaker, our government has taken strong action to ensure that prisoners are held accountable for their actions.

Shockingly, a group of convicted criminals in Canada has attempted to form a prisoners union. Apparently the purpose of this prisoners union is to protect convicted criminals from unfair labour practices while they are incarcerated.

Could the Parliamentary Secretary to the Minister of Public Safety please update Canadians on our government's position on this matter?<sup>127</sup>

Candice Bergen, Parliamentary Secretary to the Minister of Public Safety, responded by saying that “the suggestion that prisoners should have the right to unionize is just plain wrong. Most Canadians would see it as plain wrong. We welcome the common sense decision of the Public Service Labour Relations Board that unions are indeed not necessary for convicted criminals.”<sup>128</sup>

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<sup>126</sup> David Jolivet, Interview with the author, March 4, 2017.

<sup>127</sup> Scott Armstrong, “Public Safety” Canada. Parliament. House of Commons. *Edited Hansard 146 (202)*. 41th Parliament, 1st session. Retrieved from the Parliament of Canada website: <http://www.parl.gc.ca/HousePublications/Publication.aspx?Language=E&Mode=1&DocId=5954632>.

<sup>128</sup> Candice Bergen, “Public Safety,” Canada, Parliament, House of Commons. *Edited Hansard 146 (202)*. 41th Parliament, 1st session. Retrieved from the Parliament of Canada website: <http://www.parl.gc.ca/Parliamentarians/en/PublicationSearch?View=D&Item=&ParlSes=41-1&oob=&Topic=&Per=&Prov=&Cauc=&Text=Labour%20%20%20prison&RPP=15&order=&targetLang=&SBS=0&MRR=150000&Page=2&PubType=37>.

The public celebration of a labour board decision by a sitting government was troubling for CPLC organizers. Jolivet, acting as interim president of the union, send a letter to Bergen in protest. The union also sought a judicial review of the labour board ruling.<sup>129</sup>

Quasi-legal proceedings such as labour board decisions are, like other legal processes, generally slow moving. Indeed, a common criticism levelled at labour relations systems in North America is the lengthy nature of decision-making related to labour law.<sup>130</sup> Moreover, labour scholars and activists have been critical of the demobilizing and bureaucratizing effect of legalistic union recognition processes. In the words of Leo Panitch and Donald Swartz, legal union recognition “directed union leaders away from mobilizing and organizing and toward the juridical arena of the labour boards.”<sup>131</sup> The demobilizing nature of a primarily legal union recognition strategy is evident in the case of the CPLC.

While waiting for the decision of the Public Service Labour Relations Board, the CPLC was unable to do much besides build its legal case. In the fall of 2013, while still awaiting a decision on the judicial review, prisoners across Canada engaged in a nation-wide work-stoppages in response to a government decision to cut to prisoners’ wages (see Chapter 4). CPLC members participated as individuals in their own institutions, but perhaps not wanting to risk invalidating their legal case, the CPLC as an organization did not comment publicly on the issue. In January 2014, the judicial review of the Public Service Labour Relations Board’s decision dismissed the complaint on similar grounds as the original case.<sup>132</sup>

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<sup>129</sup> See *Jolivet v. Treasury Board (Correctional Service of Canada)*, 2014 FCA 1.

<sup>130</sup> See Staughton Lynd and Daniel Gross, *Labor Law for the Rank & Flier: Building Solidarity Unionism While Staying Clear of the Law* (Oakland, PM Press, 2011).

<sup>131</sup> Panitch and Swartz, *From Consent to Coercion*, 20.

<sup>132</sup> *Guérin c. Canada (Procureur général)*, 2019 CAF 272 (CanLII), available: <https://www.canlii.org/fr/ca/caf/doc/2019/2019caf272/2019caf272.html?searchUrlHash=AAAAAQAMSmFycm9kIFNob29rAAAAAAE&resultIndex=1>.

In response, the CPLC narrowed their scope to prisoners working for CORCAN, the federal prison industry program, but continued their efforts to win legal standing for the union effort. Prisoners working for CORCAN produce a variety of good and services across a number of business lines, including construction, furniture, textiles, office supplies and printing, and laundry services. CORCAN also operates a number of farms located on prison grounds. The union filed a new complaint with the Canadian Industrial Relations Board on October 17, 2014, alleging that the CSC, the Treasury Board of Canada Secretariat, and CORCAN had violated section 94(1)(a) of the *Canada Labour Code* by “denying permission to the complainant to engage in labour organizing activities of certain prisoners within the correctional institutions.”<sup>133</sup> Jolivet and the union argued that prisoners employed in CORCAN programs should have a right to unionize like other workers employed by crown corporations. However, the petition contained a technical error. Since CORCAN is not a crown corporation, but rather a Special Operating Agency of the Ministry of Minister of Public Safety and Emergency Preparedness, the board ruled against the CPLC again in June 2015. This decision represents the effective end of the union’s campaign.

### **The Unfulfilled Vision**

Despite the CLPC’s failure to win labour board certification, organizers took several steps to build what they believed to be the necessary infrastructure for a prisoners’ labour union, repurposed effective organizing techniques from past struggles, and innovated new ones to suit their context. For example, despite the CPLC’s concentration in the Mountain and Kent Institutions, which were the home of CPLC’s locals 001 and 002 respectively, there were efforts to expand the campaign beyond BC.<sup>134</sup> One such attempt at spreading the drive was a nation-wide

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<sup>133</sup> *Canadian Prisoners’ Labour Confederation and Correctional Service Canada, Re 2015 CIRB 779 (Confed)*.

<sup>134</sup> Tiffany Crawford, “B.C. prisoners trying to form labour union,”

poll to gauge interest in a potential union, organized by Natalie Dunbar, the CPLC's lawyer, who sent letters to inmate committees across the country asking them to poll their populations. There were issues with the representativeness of responses—some polls were potentially intercepted by prison officials and never made to their destinations, while some completed polls may not have made it back to Dunbar. Despite these problems, organizers were confident that “it was a pretty solid poll” and that the response—over 75 percent in favour at six different institutions—indicated overwhelming support for a union amongst federal prisoners.<sup>135</sup> According to Jolivet, “There was no question about it. Everybody wanted it because everybody was desperate to have something to intervene in their lives.”<sup>136</sup>

Likewise, CLPC organizers took advantage of the contemporary penal press to send updates to prisons beyond their immediate reach, although the organizing attempt sparked a less robust discussion than had occurred in the mid- to late 1970s. For example, *Cellcount*, a newsletter published by the Toronto-based prisoner service organization PASAN and distributed to prisons across the country, republished updates on the campaign.<sup>137</sup> A short article on the 2011 ruling against the CLPC in the Spring 2013 edition of *Out of Bounds*, the publication of the William Head Institution, was accompanied by a brief editor's note, which stated “I love the idea,” and encouraged readers to write in to discuss the potential benefits of an “organization to represent (Men & Women) from coast to coast.”<sup>138</sup> Still, the CPLC was limited in its efforts to promote itself. Many prisoner organizers and Inmate Committee members in other parts of the country,

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<sup>135</sup> Stephanie Findlay, “Prisoners of the World, Unite!”

<sup>136</sup> David Jolivet, Interview with the author, March 4, 2017.

<sup>137</sup> David Jolivet, “ConFederation Update,” *Cellcount* 69 (Spring 2013): 5.

<sup>138</sup> “Union????,” *Out of Bounds* 30:1 (Spring 2013): 29.

who were actively organizing around issues of prisoners' pay during the life of the CPLC campaign, had not heard of the union effort.<sup>139</sup>

Media reported that, while the CPLC had formed an independent organization "because they didn't want to put any other union in an awkward political position over the controversial nature of the request," organizers had "garnered letters of support from other unions."<sup>140</sup> Indeed, Jolivet reached out to several unions, including the Teamsters, the British Columbia Teachers' Federation, and the British Columbia Government and Service Employees' Union. Dunbar also had some meetings with union representatives, and CLPC organizers received private indications of encouragement from unions, although no labour organization came forward with public statements.<sup>141</sup> While the discussion of prisoner unions in *Transition* in 1974 had emphasized the importance of the support of "big labour," this support was still not easy to come by.

While there was a deliberate attempt to reach out to the labour movement, organizers did not spend a significant amount of energy reaching out to prisoners' rights groups due to an understanding that the larger service-oriented organizations, such as the John Howard or Elizabeth Fry Societies, were unwilling or unable to support political projects such as the CPLC.<sup>142</sup> Meanwhile radical prisoners' justice organizations were understood to be too small and marginal to be able to offer substantial support to the union.<sup>143</sup>

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<sup>139</sup> Chester Abbotsbury, interview with the author, Toronto, ON, January 25, 2017; "Earl," telephone interview with the author, Toronto, ON, April 29, 2017; "Jim," telephone interview with the author, Toronto, ON, April 29, 2017; Jarrod Shook, interview with the author, Toronto, ON, January 21, 2017.

<sup>140</sup> Crawford, "B.C. prisoners trying to form labour union."

<sup>141</sup> Natalie Dunbar to David Jolivet, November 6, 2010. In author's possession.

<sup>142</sup> David Jolivet, Interview with the author, March 4, 2017. This is likely a reference to Harper-era changes to political activity rules that sought to limit partisan political advocacy. Critics claimed that the rules were interpreted too broadly, resulting in a chill of non-profit advocacy. See Terrance S. Carter and Linsey E.C. Rains, "Separating Fact from Fiction: Political Activities Revisited," *Charity Law Bulletin* 361 (February 26, 2015), available, <http://www.carters.ca/pub/bulletin/charity/2015/chylb361.pdf>.

<sup>143</sup> David Jolivet, Interview with the author, March 4, 2017.

## The Union on Paper and in Practice

The CPLC carefully crafted a constitution to provide a backbone for the on-the-ground organization and to establish legitimacy. Jolivet estimates that it took him and a collaborator at least eight months to draft the English version of the constitution. After looking at 20-25 different “legitimate union” constitutions—including the constitution of the federal guards’ union—they chose the staff union at Queen’s University as a template.<sup>144</sup> It was deemed critical to make the constitution as straightforward and accessible as possible: “Some of the union constitutions just go on and on [...] we pared it down to make it more simplified. All the inmates could look at it if they were educated or not—so people could understand it.”<sup>145</sup>

After completing a satisfactory English draft, the CPLC organizers worked on getting it translated, as a bilingual constitution was understood to be necessary for a national union. The organizers in Kent sent the English version of the constitution to a CPLC supporter in prison in Quebec—a bilingual lawyer who had lost his licence—for translation.<sup>146</sup> The constitution was ratified by the interim executive on September 12, 2011.<sup>147</sup>

In many ways, the CPLC constitution is like that of many other trade unions and has many of the features that are common to union constitutions: processes for the chartering of locals, the election of officers, the creation of local bylaws, and policies on the organization’s governance structure, meetings, and funds. The constitution also features an application for membership, equity statement, and a preamble outlining the general philosophy and aims of the organization. However, other aspects of the CPLC’s constitution, such as the section regarding a Victims’ Assistance Fund, are unique.

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<sup>144</sup> David Jolivet, Interview with the author, March 4, 2017.

<sup>145</sup> David Jolivet, Interview with the author, March 4, 2017.

<sup>146</sup> David Jolivet, Interview with the author, March 4, 2017.

<sup>147</sup> *Canadian Prisoners’ Labour Confederation National Constitution*, 2012. In author’s possession.

There are potential issues with a straightforward textual analysis of the CPLC's preamble—or any document written under the conditions of prison censorship. It is difficult to know how much was written for politically expedient reasons, and how much was written in earnest. Moreover, there are potential problems with basing an analysis of an organization on its constitutional documents alone. Scholars of union democracy have identified two main approaches to analyzing unions. “Legalists” concern themselves primarily with formal union structures—constitutions, by-laws, and the formal rights and duties of members. “Behaviouralists” are primarily concerned with the practices of union members and leaders, on the assumption that union constitutions and related documents do not always reflect real world practices.<sup>148</sup> It is clear that the best analyses of an organization would take both “legal” and “behavioural” practices into account. In the cases of the CPLC, this is difficult given the fact that the unions efforts fizzled before it could take significant concrete action. This means many interesting characteristics, such as the level of militancy or the internal democratic culture of the union, cannot be known. Instead, it will have to suffice to analyze the CPLC largely on the basis of the intentions of its founders.

### ***The Preamble***

That said, there is at least one critical decision of the CPLC that has considerable bearing on understanding the aims and approach of the union—the decision not to play a leadership role in the 2013 federal prison strike, which is the subject of the next chapter. The CPLC never engaged in disruptive action and pursued a strictly legal recognition campaign. This gives some credence to the vision of a ‘by the book’ union that saw no major inherent conflict—at least in theory—between the union and prison administrators. This sentiment is also made clear in the preamble to

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<sup>148</sup> Judith Stepan-Norris, “The Making of Union Democracy,” *Social Forces* 76:2 (1997): 475-510.

the CPLC's constitution. Unlike the class struggle assertion of the Industrial Workers of the World—"The working class and the employing class have nothing in common"—or even the more moderate trade union assertion that the unions are an essential tool for workers to counterbalance employer power on the shop floor, the preamble to the CPLC constitution suggests that the union could be a tool to fill critical gaps left unaddressed by corrections. The preamble states first and foremost:

The Canadian Prisoners' Labour Confederation is the result of much concern regarding the conditions of employment for Canada's growing federal prisoner population, the lack of opportunities available for prisoners to prepare themselves for release and the resultant, unacceptably high recidivism rate. Our initiatives are designed to offset the release to society of uneducated, untrained, and vocationally unskilled prisoners.<sup>149</sup>

Indeed, the union would not only be compatible with the aims of corrections but also make also a potentially valuable contribution to public safety as a whole by reducing recidivism and therefore victimization: "Reduced recidivism means fewer new victims of released offenders."<sup>150</sup> It is only after the assertion that a prisoners' union would be of broad benefit to society that the preamble turns to the situation of working prisoners themselves; however, these concerns remain couched in a notion of effective corrections.

The preamble argues that "Prisoners historically have had little say over the conditions of their employment and virtually no independent resolution for their work-related grievances. Such a power differential between employer and employee does not make for a healthy work ethic."<sup>151</sup> The unfair balance of power reduces prisoners' desire to comply with programs and, ultimately, serves to "subject prisoners to years of conditions which teach them that it is okay to take

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<sup>149</sup> *Canadian Prisoners' Labour Confederation National Constitution*, 2012. In author's possession.

<sup>150</sup> *Canadian Prisoners' Labour Confederation National Constitution*, 2012. In author's possession.

<sup>151</sup> *Canadian Prisoners' Labour Confederation National Constitution*, 2012. In author's possession.



advantage of someone when they have less power than you do.”<sup>152</sup> The remaining final paragraphs of the preamble outline the union’s desire to continue prisoners’ traditions of charity and support for victims’ initiatives.

The preamble does not explicitly demand the normalization of prison labour, but the notion is implied when it asserts that its members will make contributions to retirement funds, health benefits, workers’ compensation, payroll taxes and room and board. Even this is posed primarily as a public benefit, arguing that union “initiatives will reduce the burden on taxpayers.”<sup>153</sup> This discursive strategy is not dissimilar from those utilized in any number of campaigns to expand services and programming in prison. For example, advocates for Prison Needle and Syringe Programs (PNSPs) assert that, in addition to reducing harm to prisoners, such initiatives can reduce burdens on medical services in both prisons and communities and “contribute to safer environments for both prisoners and prison staff.”<sup>154</sup>

### ***Dues***

*Transition* asked “where does the bread come from?”—a question that has been of importance for all prisoner unions. For the CPLC, lawsuits against administrative excesses could have potentially accounted for some of the union’s war chest. However, it was also clear that, if the CPLC was not going to depend on the good will of prison officials or accept limitations similar to those of institutional inmate committees, the organization would have to develop its own

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<sup>152</sup> *Canadian Prisoners’ Labour Confederation National Constitution*, 2012. In author’s possession.

<sup>153</sup> *Canadian Prisoners’ Labour Confederation National Constitution*, 2012. In author’s possession.

<sup>154</sup> Emily van der Meulen, Tara Marie Watson, and Ann De Shalit, “Insights on Prison Needle and Syringe Programs: Research With Former Prisoners in Canada,” *The Prison Journal* 97:5 (2017): 628–643.

funding sources.<sup>155</sup> The CPLC thus sought to fund itself the way most unions do—through membership dues. Despite their meagre pay, if all 22,000 prisoners under federal correctional supervision (including those incarcerated in federal institutions and those under community supervision) contributed to a dues pool, it would not be insignificant. If the union could achieve closed shop status, or otherwise organize all of those incarcerated or under correctional supervision in Canada, a federal prisoners’ union would be among the 65 largest unions in Canada.<sup>156</sup> The CPLC’s constitution outlined the union’s dues rate at “2.5% of his or her earnings or \$2.50 per pay period, whichever is greater, to a maximum of \$50 per month.” The union also had a \$5.00 initiation fee. Although small, these amounts are significant sums to prisoners who make at most \$6.90 minus deductions per *day*.<sup>157</sup> While there was some debate among CPLC activists about how high dues should be set, ultimately dues were set intentionally low so as to not dissuade people from joining: “The way we figured it out, we could do the lowest fee to start off with. And then when we got increases in our pay, through our job actions and arbitration, then we could hike the union dues up a little bit.”<sup>158</sup>

The process of getting dues from prisoners to the union’s bank account would also prove to be its own challenge. In initial discussions with the union, the Warden at Mountain had insisted that, because the CPLC was not a CSC initiative, a group financial account could not be set up for

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<sup>155</sup> For discussions of the necessity of membership dues for independent labour and political organizations, see G DeJonz, “There is Only One Democratic Funding Model,” *Organizing Work* (August 19, 2018): <http://organizing.work/2018/08/only-one-democratic-funding/>; INCITE!, *The Revolution Will Not Be Funded: Beyond the Non-Profit Industrial Complex* (Durham and London: Duke University Press, 2007).

<sup>156</sup> According to Statistics Canada, there are 29 unions in Canada with between 10,000-29,999 members, and only 35 unions with more than 30,000 members. Employment and Social Development Canada, *Labour Organizations in Canada 2015*, available: <https://www.canada.ca/en/employment-social-development/services/collective-bargaining-data/reports/union-coverage.html#fnb3>.

<sup>157</sup> In fact, most prisoners earn far less than this. The 2015-2016 annual report of the Correctional Investigator notes that only 8.6 percent of the federal prison population earn the maximum pay level (Level A). The largest proportion of prisoners are in Level C (37 percent), and earn \$5.80. Office of the Correctional Investigator, *Annual Report 2015-2016*, available: <http://www.oci-bec.gc.ca/cnt/rpt/pdf/annrpt/annrpt20152016-eng.pdf>.

<sup>158</sup> David Jolivet, Interview with the author, March 4, 2017.

the union the way it could for a sanctioned club. In a letter to the union's lawyer, Natalie Dunbar, Jolivet explained the situation:

I also mentioned to [Deputy Warden] Demers that the Warden insisted we don't get a group account because this is our initiative—not CSC's. I said I don't think finance will tolerate 440 Disbursement of Funds Forms and have to make up 440 checks for 5 bucks, then \$2.50 a month each for dues. He agreed with me that finance will end up going to the Warden and demand we get a group account if this occurs. This will be easier for you and us, not to mention our institutional finance department.<sup>159</sup>

While not a dues checkoff, which would presumably come with certification, this arrangement would have allowed the union to receive lump sum dues payments from the prison. It would be up to the union to get prisoners to pay their monthly dues until checkoff could be established.

### *Victims' Assistance Fund*

The politics of victimhood looms large over attempts to unionize prisoners. Throughout the 1960s and 1970s, both the developing sub-discipline of critical criminology inside the academy and the prisoners' rights movement within and outside of the prisons attempted to trouble typical understandings of offenders and victims. Much of critical criminology and the prison justice movement emphasized that prisoners were themselves the victims of the injustices of racialized patriarchal capitalism.<sup>160</sup> As articulated by prison radical George Jackson, in order to win them over to the struggle, "Prisoners must be reached and made to understand that they are victims of

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<sup>159</sup> Jolivet to Dunbar, August 23, 2010. In author's possession.

<sup>160</sup> For additional discussion of the criminal as victim within critical criminology, see Eric Madfis and Jeffrey Cohen, "Critical Criminologies: Left Realism and Left Idealism," *Social Justice* 43:4 (2016): 1-21; Goodman, Page, and Phelps, *Breaking the Pendulum*.

social injustice.”<sup>161</sup> Black Panther leader Huey Newton likewise argued, “The prison cannot gain a victory over the political prisoner because he has nothing to be rehabilitated from or to. He refuses to accept the legitimacy of the system and refuses to participate. To participate is to admit that the society is legitimate because of its exploitation of the oppressed.”<sup>162</sup> The PUC had likewise asserted that, due to various forms of social injustice, “all prisoners from this society are to some degree political prisoners.”<sup>163</sup>

The CSC, and the Canadian criminal justice system more broadly, makes a clear delineation between those deemed “offenders” and those deemed “victims.” However, the rigid distinction between victim and offender should be problematized. Such a distinction overlooks the simple fact that many—perhaps even most—offenders have been victims of crime. A 2010 CSC study on incarcerated women found that “High rates of physical and sexual abuse are commonly reported amongst women offender populations.” It further reported that 85.7 percent of women surveyed had reported experiences of being physically abused, and 68.2 percent of women surveyed reported experiences of sexual assault.<sup>164</sup> Moreover, as Kelly Hannah-Moffat has asserted, contemporary criminogenic risk assessment practices conflate offender needs with risk, resulting in correctional programming focused on individuals making good individual choices when confronted with individual problems, rather than in interventions designed to address structural inequalities.<sup>165</sup>

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<sup>161</sup> Jackson, *Blood in My Eye*, 108.

<sup>162</sup> David Hilliard and Donald Weise (eds.), *The Huey P. Newton Reader* (New York: Seven Stories Press, 2002), 156.

<sup>163</sup> “Prisoners’ Union,” *Tarpaper* (October 1975), 8.

<sup>164</sup> Meredith Robeson Barrett, Kim Allenby and Kelly Taylor, “Twenty Years Later: Revisiting the Task Force on Federally Sentenced Women,” Correctional Service of Canada (July 2010), available: [http://www.csc-scc.gc.ca/research/005008-0222-01-eng.shtml#\\_Toc276046054](http://www.csc-scc.gc.ca/research/005008-0222-01-eng.shtml#_Toc276046054).

<sup>165</sup> Kelly Hannah-Moffat, “Criminogenic Needs and the Transformative Risk Subject: Hybridizations of Risk/Need in Penalty,” *Punishment & Society* 7:1 (January 2005): 29–51.

Nevertheless, a zero-sum understanding of victims' and prisoners' rights remains dominant in mainstream politics and media. It is also evident in correctional programming. The CPLC understood this fact and attempted to overcome the zero-sum approach by directly linking the union to victims' assistance funds. This was especially critical as the then-ruling Harper Conservative government justified its harshening of the criminal justice system in the name of victims' rights. Perhaps nowhere was this made more clear than in the name of Bill C-37, the *Increasing Offenders' Accountability for Victims Act*, which in 2013 effectively reduced prisoners' pay by increasing various fees and surcharges.

To counter the narrative that prisoners did not do enough to make amends to victims of crime, the CPLC constitution emphasized the long tradition of Canadian prisoner support for charity initiatives. The architects of the union sought to institutionalize this tradition within the union by creating a National Victims' Assistance Fund:

As our main public service initiative, the National Executive Office will establish a National Victims' Assistance Fund, for the purpose of providing financial assistance to past and present victims of crime in Canada. Money will be garnered from a percentage of Canadian Prisoners' Labour Confederation (ConFed) work contract revenues, per capita taxes, volunteer fundraising and donations to the Fund by the National Executive Council on behalf of all ConFed members.<sup>166</sup>

This victims' fund initiative was not uncontested—some union supporters worried that a Victims' Fund would be simply viewed as political opportunism on the part of the union, while others argued that the union should prioritize spending on services for its own members. However, once the idea of the fund was decided upon, “everybody was supportive of it.”<sup>167</sup> This is a particularly interesting aspect of strategy and structure of the CPLC. As scholars such as Marie Gottschalk and Joshua Page have noted, the contemporary victims' rights movement was largely manufactured by

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<sup>166</sup> *Canadian Prisoners' Labour Confederation National Constitution*, 2012. In author's possession.

<sup>167</sup> David Jolivet, Interview with the author, March 4, 2017.

police and prison guards' unions as a counter-balance to civil rights and prisoners' justice organizing, and as a means to support law-and-order and tough-on-crime policies.<sup>168</sup> However, despite the close relationship between 'victims rights' and 'tough on crime' policy, for Jolivet "in the end we want to do something for these people because we're trying to do the right thing. The right thing is, it boils down to, is to help these people wherever we can."<sup>169</sup>

The political utility of the Victims' Fund, however, should not be overlooked. The fund was a clear and easy way for union supporters to rebuff critics in the CSC and government. In the words of Jolivet, who had not initially supported the creation of a victims' fund: "I used to throw it in the officers' faces and the administration's faces all the time when we talked about this. I'd say, 'What, you're against us helping victims? What's the matter with you?'"<sup>170</sup>

### ***Dealing with Corruption***

In 1979, the California Department of Corrections argued to the California Supreme Court that its ban on allowing the California Prisoners' Union to meet in its facilities should be upheld for a number of reasons, including that "Membership solicitation activities lend themselves to infiltration of the union organization, and possible seizure, by existing prison gangs which have exhibited a propensity for violence and other antisocial behaviour," as well as the overwhelming likelihood of corruption.<sup>171</sup> As discussed in Chapter 2, corruption was also a concern for Ontario Ministry of Corrections officials in regard to the unionization of provincial prisoners in the Guelph Correctional Centre in 1977.

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<sup>168</sup> See Gottschalk, *The Prison and the Gallows*; Page, *The Toughest Beat*. While Gottschalk and Page examine the case of the United States, many of the same social forces, ideology and organizations map easily onto the Canadian context, although there is a need for further investigation in this area.

<sup>169</sup> David Jolivet, Interview with the author, March 4, 2017.

<sup>170</sup> David Jolivet, Interview with the author, March 4, 2017.

<sup>171</sup> *In re Richard Price et al., on Habeas Corpus* [Crim. No. 20226. Supreme Court of California. October 15, 1979], available: <https://law.justia.com/cases/california/supreme-court/3d/25/448.html>.

The possibility for undue influence by gangs or other ill-intentioned actors was not left unaddressed by the CPLC: “We had to make sure that there were safeguards at every single turn so that no one could steal money, there could be no way that anybody could embezzle or anything like that. The minute that happens [the union] is done.”<sup>172</sup> The union planned to propose that an auditor appointed by the Public Service Commissioner could periodically audit union funds. They also planned for the hiring of staff—“people from the street, no inmates”—that would likewise serve as a means to ensure compliance with union financial policy, and sought to enshrine democratic procedures that ensured transparency around finances.<sup>173</sup> These measures would likely also help insulate the union from the undue influence of criminal opportunists, as had been issues for California’s prisoners’ unions.<sup>174</sup> If these safeguards failed, the constitution outlined a number of mechanisms to address financial or other improprieties. For example, a CPLC member who “Fraudulently receives or misappropriates any property of the Canadian Prisoners’ Labour Confederation or any of its chartered bodies” would be guilty of a conduct violation, and subject to discipline by the union (if not correctional staff).<sup>175</sup> Moreover, the constitution empowered the National Board of Directors to:

conduct an investigation of any situation in which there is reason to believe that any chartered organization may be dominated, controlled or substantially influenced, in the conduct of its affairs by any corrupt influence, or that its policies or activities are contrary to the principles or policies of the Canadian Prisoners’ Labour Confederation. Upon completion of such an investigation by the Board, or its designated representatives, and including a hearing before the Board if requested by the chartered organization, the Board shall have the authority to make recommendations to the organization involved. It shall have the further authority, upon a two-thirds vote of the Board, to place the organization under supervision,

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<sup>172</sup> David Jolivet, Interview with the author, March 4, 2017.

<sup>173</sup> David Jolivet, Interview with the author, March 4, 2017.

<sup>174</sup> Cummins, *The Rise and Fall of California’s Radical Prison Movement*, Chapter 8; Irwin, *Prisons in Turmoil*, 118-121.

<sup>175</sup> *Canadian Prisoners’ Labour Confederation National Constitution*, 2012: 57. In author’s possession.

trusteeship, or suspension. Any action of the Board under this section may be appealed to the next Convention.<sup>176</sup>

With these measures in place, the union hoped to avoid any issues related to corruption. However, the CPLC also noted that, despite instances of corruption and financial mismanagement of funds by institutionally recognized and regulated inmate committees, the CSC did not feel that this undermined the importance of inmate committees in general.<sup>177</sup> In addition to these measures, CPLC activists discussed the possibility of barring individuals with “security threat group” designations (gang affiliations) from membership, similar to prohibitions related to eligibility to serve on inmate committees.<sup>178</sup> No language regarding this prohibition appears in the CPLC constitution. It should be noted that the problem of corruption is not unique to prisoners’ labour unions. For example, the preamble to the constitution of the International Brotherhood of Teamsters asserts that it is a union that is “strong, democratic, and free of corruption.” The constitution likewise lays out procedures to counter union corruption.<sup>179</sup> Of course even the most finely crafted constitutional language cannot *prevent* corruption—at best it can aid in remedying an unfortunate situation. Still, the emphasis on dealing with corruption by the CPLC is significant and is an excellent representation of organizers’ efforts to legitimate the fledging union.

### ***Other Planned Activities***

The CPLC also had other long-term plans, however the failure of the union drive meant that they did not have an opportunity to bring them to fruition. Organizers imagined a union-run

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<sup>176</sup> *Canadian Prisoners’ Labour Confederation National Constitution*, 2012: 16-17. In author’s possession.

<sup>177</sup> David Jolivet, Interview with the author, March 4, 2017.

<sup>178</sup> David Jolivet, Interview with the author, March 4, 2017.

<sup>179</sup> International Brotherhood of Teamsters, “Constitution” (June 27 – July 1, 2016), available: <https://teamster.org/sites/default/files/73119teamstersconstitution.pdf>.



job training and placement program and made some efforts to reach out to outside partners.<sup>180</sup> They also envisioned the union setting up stores in federal institutions similar to the inmate committee-run canteens. These stores would be a means of fundraising for the union but also of providing a concrete service to members by offering items not available at the inmate committee canteen. This idea was once again inspired by the guards' union, who ran their own institutional canteens. Speaking of the officers' canteen in Kent, Jolivet recounts that when he discovered its existence, "I was stunned. They had like a 7-Eleven in there, they had everything—fruit and everything. And I said, well, if they can do this then we can do this."<sup>181</sup> A proposal for a union canteen was developed and language around the operation of union canteens was included in the CPLC constitution.<sup>182</sup>

### **Is there a Future for a Federal Prisoners' Union?**

The failure of the CPLC need not mark the end of the struggle for a prisoners' union. Indeed, since the organizing attempt by the CPLC, there has been an uptick in prisoner union organizing and prisoner-worker protest in the US.<sup>183</sup> The extremely difficult practical circumstances and constrained legal framework in which US prisoners are operating should give some hope to activists who wish to take up such a project north of the border. Anyone interested in such a project also has the benefit of hindsight and the example of the CPLC. Additionally, they have the opportunity to operate in what may prove to be a more advantageous legal context in this country, given recent legal developments.<sup>184</sup>

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<sup>180</sup> David Jolivet, Interview with the author, March 4, 2017.

<sup>181</sup> David Jolivet, Interview with the author, March 4, 2017.

<sup>182</sup> David Jolivet, Interview with the author, March 4, 2017.

<sup>183</sup> The best example of a contemporary prisoners' union campaign is the Incarcerated Workers Organizing Committee of the Industrial Workers of the World. See <https://incarceratedworkers.org/>.

<sup>184</sup> Rashid, "Unionization for inmate workers."

CPLC organizers made some mistakes future organizers can learn from. First, while extreme secrecy was impossible, the public outing of the campaign to the media—a decision made by the union itself—proved to be an error:

Our biggest mistake was doing the news conference at the time that we did it. We should have never done it at that time. We should have done it way later when we had everything already secured and approved to do it and not before, because it caused too much controversy.<sup>185</sup>

Likewise, the CPLC was operating in an extremely unfriendly political climate given the ‘tough on crime and criminals’ commitments of the ruling Conservative government. This ensured that officials as high up at the Minister of Public Safety were commenting on—and openly opposed to—the union drive before a union election could be secured.

Additionally, the attempt to certify under the Public Service Labour Relations Board (now the Public Service Labour Relations and Employment Board) proved to be an error that set back organizing efforts considerably. Any future effort will have to correctly identify the proper venue for certification and build a case for certification that is able to justify the inclusion of federal prisoner-workers under relevant labour legislation in a more robust way than the CPLC. For example, it will be critical to demonstrate that prisoner workers provide a real economic benefit to the prison system and therefore should be considered to have an employee-employer relationship through the course of their work, even if they are also participants in rehabilitational programming. Future organizers may be aided in these efforts by recent legal precedent. In 2015, the Supreme Court of Canada made a major ruling on workers’ freedom of association by striking down prohibitions against unionization by the Royal Canadian Mounted Police. As prison justice activist and lawyer Asaf Rashid notes, “Ironically, a decision that strengthened the rights of RCMP workers ends up useful for inmate workers. If expressly excluded workers can win employee status

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<sup>185</sup> David Jolivet, Interview with the author, March 4, 2017.

through the application of s.2(d) of the *Charter*, so can inmate workers.”<sup>186</sup> Still, the danger of a legal strategy for union recognition is made clear not only by the CPLC but also other failed certification efforts—if the union loses the bid, it is placed in an extremely weak position from which to organize. The failure of the CPLC to win legal recognition also raises several critical questions for labour. Namely, what recourse should there be for workers who are formally or informally excluded from union protections?

Another issue that both prisoner organizers and labour activists should consider is the failure of both the inmate grievance system—which was explicitly crafted to resemble labour grievances—and inmate committees to give prisoners meaningful voice and impose some measure of accountability on prison administrators.<sup>187</sup> If a prisoners’ union was able to certify, it would be at immediate risk of succumbing to the same fate as inmate committees, with extremely curtailed independence, essentially creating a bosses’ union for prisoners.

The successful negotiation of a collective bargaining agreement by working prisoners in Canada’s federal system could also have the result of *increasing* disparity between prisoners. Labour scholars and unions have long identified a “union advantage”—the superior wages and conditions that unionized workers enjoy compared with non-union workers at an aggregate level.<sup>188</sup> However, as Stephanie Ross notes, while the union advantage is indispensable for promoting unionization, it also represents a “double-edged sword” that highlights the disparity between unionized and non-unionized workers.<sup>189</sup> If a prisoners’ labour union won improvements

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<sup>186</sup> Rashid, “Unionization for inmate workers.”

<sup>187</sup> Nuffield, “Inmate Grievance Procedure Pilot Project (Saskatchewan Penitentiary): An Evaluation.” Unlike the trade union grievance process, the federal inmate grievance procedure does not have a third-party arbitration process. This is a critical difference has been pointed out by critics. See Patrick, “Creating a Federal Inmate Grievance Tribunal.”

<sup>188</sup> Ross, Savage, Black and Silver, *Building a Better World*, 38.

<sup>189</sup> Stephanie Ross, “The Complexities of Worker Anti-Unionism” in Stephanie Ross and Larry Savage (eds.), *Labour Under Attack: Anti-Unionism in Canada* (Halifax and Winnipeg: Fernwood Press, 2018), 49.

to dental care for their members, for example, would the union be less likely to agitate for improved dental care for all prisoners? As such, any successful prisoners' labour union effort will have to be mindful to avoid becoming a prisoner 'labour aristocracy' vis-a-vis non-unionized or non-working prisoners.<sup>190</sup>

If government-certified and employer-recognized trade unionism is not available to prisoners, what structures can be built to advance their interests? This is another question that is not unique to prisoner-workers. In the context of declining union density, increased precarity, and the expansion of so-called "almost impossible to organize" industries, workers are turning to new and old forms of workers organization such as workers' centres, non-certified and unrecognized associations, and cross-employer councils as potential forms of labour organization capable of winning gains for workers on the new—and unfavourable—terrain that many workers find themselves.<sup>191</sup> As more workers develop standing organizations that do not rely on legal union certification, it is possible that prisoners could form a labour association to agitate on their behalf even without winning employee status or certifying a labour union. As Jolivet noted, a union becomes a union when it acts like one, not when it is officially recognized. There is a long history of unions building power and forcing voluntary recognition on reluctant employers.

Overall, and despite the overwhelming challenges, the desire for a federal union or union-like organization for Canadian prisoners has been persistent. While its antecedents can be traced

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<sup>190</sup> The phrase "labour aristocracy" originates in the works of Marx and Engels, but has a number of different meanings. Here I use it to describe a privileged and self-interested layer or grouping within the working class. For a summary of theorizations of the labour aristocracy, see Jonathan Strauss, "Engels and the Theory of the Labor Aristocracy," *Links: International Journal of Socialist Renewal*, 25 (January-June 2004), available: <http://links.org.au/node/45#II>.

<sup>191</sup> Janice Fine, *Worker Centers: Organizing Communities on the Edge of the Dream* (Ithaca, NY: ILR Press, 2006), 151. Also see Simon Black, "Community Unionism and the Canadian Labour Movement," in Stephanie Ross and Larry Savage (eds.), *Rethinking the Politics of Labour in Canada* (Halifax and Winnipeg: Fernwood Press, 2012), 146-285; Lynd, *Solidarity Unionism*; Jordan House and Paul Christopher Gray, "The Toronto Airport Workers' Council: Renewing Workplace Organizing and Socialist Labor Education," *Labor Studies Journal* 44:1(2019): 8-35.

back to the 1930s and the birth of modern trade unionism, the efforts began in earnest at a time of extreme disorder and violence within Canadian prisons. Despite a decrease in overt and spectacular conflict, and some gains for human and civil rights as well as some limited political representation, prisoners continue to struggle around these issues. As, the next chapter will demonstrate, prisoners will organize collectively to protect their interests even if they lack legal standing or the backing of a formal organization.

## CHAPTER 4

### THE 2013 PRISON STRIKE AND THE STRUGGLE OVER PRISONERS' WAGES IN CANADA

The history of prisoners' rights is the history of struggle. As federal prisoner Bobby Paul explained in 1983:

The hole [solitary confinement]. There's a good example right there. Now you can smoke. You get your meals. Look how many years were spent on bread and water. Not too long ago neither. That's something that came about because of the guys who were sacrificed. The guys who died, the other guys who spent years in solitary being labelled ringleaders. The younger guys don't realize it, they [the Canadian Penitentiary Service] or nobody didn't just come along and say "hey, we better change this." *It was changed because it was brought to people's attention with blood, literally with blood.* Then they changed it.<sup>1</sup>

One of these changes was the institution of pay for federal prisoners. First initiated as an outcome of a strike-turned-riot at the BC Penitentiary in 1934, pay for federal prisoners has been the subject of near-constant contestation.<sup>2</sup> Government reports and inquiries recommended increased incentive pay for prisoners in 1938, 1969, and 1977, as did a number of academics and reformers over the same period.<sup>3</sup> As discussed in the last chapter, prisoners likewise agitated and protested for increased pay throughout the pre- and post-war period. By 1974, prisoners' wages had risen to 60-90 cents per day and, over the course of the late 1970s, the federal government experimented with pay scales nearing minimum wage designed to incentivize increased productivity.<sup>4</sup> In 1981, a new,

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<sup>1</sup> Stephen Reid, "Special Interview," *Kent Times*, [Agassiz, BC] 1986: 17, available: [http://penalpress.com/wp-content/uploads/KentTimes\\_V1\\_I1\\_Aug1986.pdf](http://penalpress.com/wp-content/uploads/KentTimes_V1_I1_Aug1986.pdf).

<sup>2</sup> For information on the 1934 BC Pen strike and riot, see Jordan House, "The 1934 British Columbia Penitentiary Strike and Prisoners' Wages in Canada"; Michael Barnholden, *Reading the Riot Act: A Brief History of Riots in Vancouver* (Vancouver: Anvil Press, 2005).

<sup>3</sup> Archambault, *Report of the Royal Commission to Investigate the Penal System of Canada*; Roger Ouimet, *Report of the Canadian Committee on Corrections* (Ottawa: Government of Canada, March 31, 1969); Mark MacGuigan, *Report to Parliament by the Sub-committee on the Penitentiary System in Canada*.

<sup>4</sup> John Beayfof, "Regular Pay for Prisoners is Approved," *The Globe and Mail*, May 28, 1974: 1.

streamlined federal prisoner pay policy was finally introduced.<sup>5</sup> This policy set wages between \$3.15 and \$7.55 per day—however, the maximum wage would later be adjusted to \$6.90. The wage system was based on the idea that, after paying room and board, “the average minimum-wage earner is left with 15% of his wages as disposable income.”<sup>6</sup> This pay took the technical form of a “stipend,” rather than a direct wage for work performed. In addition to streamlined wages for working prisoners, prisoners engaged in education and vocational programming would also receive a stipend. Critics of the plan noted that the wage increase came with corresponding hikes to canteen prices.<sup>7</sup> While the 1981 wage scale represented a substantial wage increase, it remained frozen without a cost-of-living adjustment. By the end of the decade, prisoner purchasing power had eroded and agitation around wages re-emerged.<sup>8</sup>

With the exception of the addition of productivity incentive bonuses for prisoners working in CORCAN prison industry programs, federal prison pay policy remained essentially unchanged until the Canadian government announced a series of reforms, centred around prison pay cuts, in the spring of 2012. As rates of pay had not increased since the early 1980s, prisoners had endured what was effectively a thirty-year long wage freeze. The government proposed to reduce prisoners’ wages by 30 percent by increasing room and board fees and eliminating bonuses for prisoners working for CORCAN. Such wage rollbacks are rarely implemented without resistance by

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<sup>5</sup> Canada, Correctional Service of Canada, “Final Progress Report on Implementation of the Parliamentary Sub-Committee on The Penitentiary System in Canada” (Ottawa: CSC, 1981), 21. The notion of a uniform prisoner pay system was studied by academics and Corrections throughout the 1960s, 1970s, and 1980s. See McGrath, “Prison Pay and Discharge Provisions in Canada,” 47-53; Canada, Ministry of the Solicitor General, Management Consulting Service, “Study of the inmate Pay Structure” (Ottawa: Management Consulting Service, Ministry of the Solicitor General, 1976), available, <http://www.sattaqueraucrime.gc.ca/cnt/rsrscs/lbrr/ctlg/dtfs-en.aspx?d=PS&i=472466>; Canadian Corrections Services, Inmate Employment Branch and Canada, Bureau of Management Consulting, “Inmate employment: Review of Attendance Reporting and Hourly Pay: Correctional Services of Canada” (Ottawa: Supply and Services Canada, Bureau of Management Consulting, 1983), available: <http://205.193.1.8/cnt/rsrscs/lbrr/ctlg/dtfs-en.aspx?d=PS&i=987318>.

<sup>6</sup> Kirk Makin, “Federal prisoners’ pay tripled to meet minimum rate,” *The Globe and Mail*, April 22, 1981, 23.

<sup>7</sup> Makin, “Federal prisoners’ pay tripled to meet minimum rate.”

<sup>8</sup> Kirk Makin, “Low pay leads to thievery in penitentiaries: Inmates can’t make ends meet,” *The Globe and Mail*, April 17, 1989, A4.

workers. As one prison justice activist put it, “*Anyone* would be really frustrated if they showed up to their job one day and found out that they were going to get a 30% pay cut.”<sup>9</sup> In the case of the prison pay cuts, those frustrations resulted in a national prison strike in the fall of 2013. The strike would be the largest since the prison strike wave in the summer of 1975. Although it is difficult to estimate how many prisoners took part in the strike, based on media reporting and accounts from strikers, prisoners in at least 18 of the country’s 43 federal correctional institutions, including many of Canada’s largest prisons, participated. Among the groups of prisoners who went on strike were those serving time in Kent Institution, where Bobby Paul had noted the need for struggle to achieve reforms thirty years earlier. Although the length of the strike varied by institution, most prisoners had returned to work by early November 2013. Lawsuits launched to challenge the pay cuts, and subsequent appeals continued on for years, before a final decision which ruled against the prisoners was rendered in November 2019. Although the strike (and lawsuits) failed to reverse the cuts, it nevertheless represents a very significant moment in prisoner struggle and a relatively rare opportunity to examine the “nuts and bolts” of prison organizing.

The 2013 national Canadian prison strike occurred as part of a broader upsurge in prisoner protest and growing public attention to issues of economic inequality in the aftermath of the 2008 financial crisis. In Canada, this prison protest wave included the attempted formation of the Canadian Prisoners’ Labour Confederation in the mid-2000s, hunger strikes by immigrant detainees in 2013 and 2016, as well as a plethora of smaller-scale and localized protests over a variety of issues.<sup>10</sup> The 2013 Canadian federal prison strike also occurred alongside a similar

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<sup>9</sup> *Stark Raven Radio*, podcast audio, November 7, 2013, available: [www.vcn.bc.ca/august10/audio/Nov2013.mp3](http://www.vcn.bc.ca/august10/audio/Nov2013.mp3).

<sup>10</sup> For example, in May 2017 a group of prisoners in the Regina Provincial Correctional Facility initiated a work stoppage in response to cuts to provincial prisoner pay in Saskatchewan. Taline McPhedran, “Saskatchewan inmates on strike after daily wages reduced to \$1,” *CTV News*, May 4, 2017, available: [ctvnews.ca/canada/saskatchewan-inmates-on-strike-after-daily-wages-reduced-to-1-](http://ctvnews.ca/canada/saskatchewan-inmates-on-strike-after-daily-wages-reduced-to-1-)



upswing in large-scale prisoner protest in the United States, including hunger strikes in California in 2011 and 2013, and national prison strikes in the US in 2016 and 2018, the latter of which spilled over into Canada.<sup>11</sup>

While prison strikes have received some scholarly attention, they are most often understood as a form of prisoner protest (like riots, hostage takings, hunger strikes, etc.). While in recent years the label of “strike” has been applied more and more broadly to a variety of forms of protest, strikes are a distinct form of collective action.<sup>12</sup> Strikes in the private sector use economic leverage to interfere with employers’ profits and pressure them to change their approach to workers’ needs and demands. This is most simply accomplished by workers withdrawing their labour in order to halt production. Public sector strikes also involve an organized refusal to work as a means to pressure an employer. However, most workers in the public sector produce public services, rather than products that are sold for a profit. As such, when they strike, public sector workers may actually save their employers money (since they do not have to pay workers’ wages or provide certain services). When public sector workers strike, they are not just interfering with the ability of a business or industry to produce a profit, they interrupt public services. For this reason, public support is key for public sector workers taking strike action.<sup>13</sup>

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1.3399189?fbclid=IwAR2lmPcmUfKk8w\_8JdSUxn4GPqxFxZjJqQYQL5ayvSIO8e0Cu3JhJrbV5aw; In June 2020, around 100 detainees at the Central East Correctional Centre in Lindsay, ON began a hunger strike to protest lack of rehabilitating programming and hygienic living conditions during the COVID-19 pandemic. See Alyshah Hasham, “Inmates Launch Hunger Strike Over Conditions at Ontario Jail,” *Toronto Star*, June 16, 2020, available: [https://www.thestar.com/news/canada/2020/06/16/inmates-launch-hunger-strike-over-conditions-at-ontario-jail.html?fbclid=IwAR0U16VsAm87mIRienp2TAvaA9IrMzKp\\_BS11HWm2ZTm7T-bWlcg8k6wOnI](https://www.thestar.com/news/canada/2020/06/16/inmates-launch-hunger-strike-over-conditions-at-ontario-jail.html?fbclid=IwAR0U16VsAm87mIRienp2TAvaA9IrMzKp_BS11HWm2ZTm7T-bWlcg8k6wOnI).

<sup>11</sup> See Jordan House, “Why Canadian Prisoners Are Participating in the US Prison Strike,” *Jacobin*, September 5, 2018, available: <https://www.jacobinmag.com/2018/09/canada-prison-strike-burnside-jail-incarceration>.

<sup>12</sup> Jane McAlevey, *No Shortcuts: Organizing for Power in the New Gilded Age* (New York: Oxford University Press, 2016), 20-21. Also see Joe Burns, “No More Fake Strikes,” *Organizing Work* (blog), August 19, 2019, available: <https://organizing.work/2019/08/no-more-fake-strikes/>.

<sup>13</sup> Stephanie Ross, “Social Unionism and Union Power in Public Sector Unions” in Stephanie Ross and Larry Savage (eds.), *Public Sector Unions in the Age of Austerity* (Halifax: Fernwood, 2013).

Prisons are relatively unique social institutions in terms of who produces and uses their “services.” Regardless of their efficacy, from a certain standpoint prisons are themselves public services (protecting public safety, etc), but they are also a place where a certain population—prisoners—receive services (food, shelter, healthcare, recreational and rehabilitative programming). Many of these services are provided by state employees like guards, vocational trainers, healthcare workers, and social workers, but they are also produced by prisoners themselves. As was discussed in the last two chapters, prisoners have not been understood to be legally “employees,” except in a few rare cases. Usually they are understood to be “participants in rehabilitative programming.” Depending on the particulars of a given prison system, prisoners’ labour may be more or less critical to the functioning of the prison. It is partially for this reason that the term ‘prison strike’ typically refers to not only work refusals by prisoners, but also accompanying refusals to participate in institutional programming. Together work refusals and service boycotts disrupt the normal functioning of the prison. Given that prisoners are both the producers and users of services, they are doubly impacted by strikes. The general (non-incarcerated) public, on the other hand, is largely unaffected by prison strikes. In fact, politicians and some section of the public may celebrate reduced services for striking prisoners as getting appropriately ‘tough’ on crime.

Given constraints on freedom of movement—a significant aspect of the prison experience—prisoners are unlikely to be able to picket during strike actions. However, if the aim of pickets is to prevent replacement workers from maintaining production, this is less of a concern in prison. Not only are administrators unlikely to bring in outside workers to run prison industries and perform institutional maintenance work—although sometimes correctional staff are temporarily reassigned for this purpose—prison strikes are generally considered “disturbances”

that warrant the locking down of the prison, which means prisoners are confined to their cells. This, in turn, means prison strikers often do not have to deal with scab workers, since even those prisoners who might want to work through a strike are typically confined to their cells.

Despite these unusual dynamics, prison strikes, at their core, involve workers withholding their labour as a means to force their employer to meet their demands. As such, prison strikes—especially those that deal primarily with issues of work and employment such as the 2013 federal prison strike—can be analyzed like other workers’ strikes. Scholars and labour activists have long debated strike strategy. They have considered, for example, the ways organizers prepare for and sustain strikes. More specifically, they have produced generalizable best practices for such necessary tasks as increasing unity among workers, choosing demands, building public support, responding to scabbing, dealing with employer violence, and more. Considering the 2013 federal prison strike in terms of the existing literature on strike strategy helps draw out exactly what prison strikes have in common with those in the “free world” and where they differ. Moreover, such an approach highlights key failures in the 2013 strike that might prove fruitful for future organizers.

This chapter will first consider the context of the strike, beginning with the announcement and implementation of prison wage cuts as part of the Harper Conservative government’s “Offender Accountability Initiative” (OAI). This initiative was one plank of the federal Conservative’s “tough on crime” agenda that sought to both cut government spending and harshen Canadian prisoners’ time. Next, I provide a brief chronology of the strike, tracing its start in four Ontario institutions on October 1, 2013, its subsequent spread eastward and westward, and its eventual end. The remainder of the chapter analyzes what labour strategist John Steuben refers to as “the strike machinery” at work in 2013, considering the details of how the strike was organized

and sustained, and grappling with the lessons that can be drawn from it.<sup>14</sup> In particular, the 2013 federal prison strike begs the question, can prison strikes be successful? If they can indeed be successful, what organizational forms, organizing methods, and strategy are necessary?

### **Austerity in the Prisons: The Offender Accountability Initiative**

The 2013 strike was over a year in the making. In May 2012, the Conservative government announced the latest policy tweak in their tough-on-crime program: a plan to “restore balance” in the criminal justice system by slashing prisoners’ wages, hiking room and board fees, and raising telephone service prices.<sup>15</sup> This perverse ‘balancing’ had a double meaning. First, it was meant to correct criminal justice policy which the Conservatives claimed had allowed the mantra of ‘rehabilitation’ to go too far. Conservative politicians argued that ‘offenders’—in the preferred nomenclature of the government—now had too many rights and privileges, while Canadian society and victims of crime were powerless. An official Conservative Party website, [toughoncrime.ca](http://toughoncrime.ca), laid out the problem this way:

As recently as eight years ago, Canada’s justice system was a laughing stock. The so-called rights of criminals were being put ahead of the rights of their victims. Canadian taxpayers were on the hook for free pizza parties and cable TV for prison

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<sup>14</sup> John Steuben, *Strike Strategy* (New York: Gaer Associates Inc, 1950), 97.

<sup>15</sup> Public Safety Canada, “Harper Government Takes Further Actions to Restore Balance in the Criminal Justice System,” press release, May 9, 2012, available: <https://www.canada.ca/en/news/archive/2012/05/harper-government-takes-further-actions-restore-balance-criminal-justice-system.html?wbdisable=true>. The Harper government outlined the major contours of their tough-on-crime plan in 2007 in its “A Roadmap to Strengthening Public Safety.” Correctional Service of Canada Review Panel, “A roadmap to strengthening public safety: report of the Correctional Service of Canada Review Panel” (Ottawa: Correctional Service of Canada Review Panel, 2007), available: <https://www.publicsafety.gc.ca/cnt/cntrng-crm/csc-scc-rvw-pnl/report-rapport/cscrprprt-eng.pdf>. In response to the report, preeminent law professor Michael Jackson and John Howard Society Executive Director Graham Stewart jointly authored a scathing critique of the plan. See Jackson and Stewart, “A Flawed Compass.” For a retrospective overview of the Harper government’s “Tough on Crime” policies and their impacts, see Canadian Centre for Policy Alternatives, “The Impact of the Harper Government’s Tough on Crime Strategy” (September 2015), available: <https://www.policyalternatives.ca/publications/reports/impact-harper-governments-tough-crime-strategy>.

inmates. Criminals—even the most dangerous of them—were able to get out of jail after serving only a fraction of their sentence.<sup>16</sup>

‘Offenders’ had to be made ‘more accountable’ by harshening their time. Of course, exactly how harsher conditions would keep prisoners “accountable” was never explained. Indeed, there is agreement among many criminologists and those working within criminal justice institutions that fair and progressive prison conditions lead, if anything, to *less*—not more—crime.<sup>17</sup> Nonetheless, the implication was that prisoners had it too easy, and that making their lives more miserable would empower crime victims and make Canadians safer.<sup>18</sup>

The second aspect of the ‘balancing’ was a fiscal one aimed at reducing the so-called ‘handouts’ prisoners received from the government. This was in line with the Government’s broader efforts to curb public spending as part of the “Deficit Reduction Action Plan.” Prisoners’ pay was a perfect target as it could be easily connected to both planks of the program: Increase prisoners’ privation to make their time “harder,” and save millions of tax dollars a year via clawed back prisoner wages.<sup>19</sup> To accomplish this goal, the Conservatives announced their intention to reduce prisoners’ pay by 30 percent through an increase in room and board fees as well as eliminating incentive pay offered to prisoners working jobs for CORCAN, the federal prison industry program. The government did not publicize the fact that wage rates for prisoners, when calculated in 1981, already took room and board into account. The hike in fees effectively meant

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<sup>16</sup> The website is now defunct, but is partially available through the Internet Archive. “Tough on Crime” Internet Archive, available: <https://web.archive.org/web/20150127223919/http://www.toughoncrime.ca:80/victims-rights/>.

<sup>17</sup> Jackson and Stewart, “A Flawed Compass”; Doob, “The Harper Revolution in Criminal Justice Policy... and What Comes Next.”

<sup>18</sup> A similar dynamic was playing out around the announced closures of Canada’s prison farms, which were deemed to be too expensive and “ineffective.” See Goodman and Dawe, “Prisoners, Cows, and Abattoirs”; Meghan Dawe and Philip Goodman, “Conservative Politics, Sacred Cows, and Sacrificial Lambs: The (Mis)Use of Evidence in Canada’s Political and Penal Fields,” *Canadian Review of Sociology* 54:2 (May 2017): 129-146.

<sup>19</sup> Carys Mills, “More convicts must pay their own way in prison, Toews declares,” *The Globe and Mail*, May 9, 2012, available: <http://www.theglobeandmail.com/news/politics/ottawa-notebook/more-convicts-must-pay-their-own-way-in-prison-toews-declares/article4105912/>.

that prisoners would be paying room and board twice—first on the back end through below-minimum wage rates, and then, again, on the front end, through the new fees deducted from their paycheques. Prominent jailhouse lawyer and prison justice activist Peter Collins, incarcerated at Bath Institution, summarized the situation as such:

They're going to take 30 percent of our pay, and we haven't had a pay increase since 1981. You know, back in 1981 the Cabinet Committee—the Parliamentary Cabinet Committee on Social Development—got together with the CSC and Statscan and they came up with a system where they figured out if we were working minimum wage jobs, after we paid for our rent, and after we paid for our food, and after we paid for clothes and transportation, we would have about \$7.55 left over. And that's how they reached the maximum pay scale in the Canadian prison system. [...] But even then they left our pay at \$6.90 which is \$.65 less than what they had agreed upon.<sup>20</sup>

Before the 2013 cuts, the maximum daily pay for federal prisoners was \$6.90, although the CBC reported that the *average* daily pay for prisoners was only about \$3.00.<sup>21</sup> The government claimed the wage clawbacks alone would amount to \$4 million in annual savings.<sup>22</sup>

To put this figure into perspective, CSC spending reached \$2.48 *billion* in 2013.<sup>23</sup> Statistics Canada reported that, for the 2013-2014 fiscal year, the average daily cost per federal prisoner was \$298.07, or \$108,795.55 annually.<sup>24</sup> Public Safety Canada reported that in 2013, community supervision of an offender cost \$35,101.00 per year.<sup>25</sup> This means that CSC could have also reduced its costs by \$4 million by granting parole to around 53 federal prisoners.

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<sup>20</sup> *Prison Radio*, podcast audio, September 27, 2013, available: <https://archive.org/details/20130927.11.0012.00Final>.

<sup>21</sup> Brosnahan, “Federal inmates go on strike to protest pay cuts.”

<sup>22</sup> Public Safety Canada, “Offender Accountability,” press release, May 9, 2012, available: <https://www.publicsafety.gc.ca/cnt/nws/nws-rlss/2012/20120509-1-en.aspx>.

<sup>23</sup> Correctional Service of Canada, “Statement of Management Responsibility Including Internal Control Over Financial Reporting (2013-2014),” August 28, 2014, available: <https://www.csc-scc.gc.ca/publications/005007-4006-eng.shtml>.

<sup>24</sup> Statistics Canada, “Table 5: Operating expenditures of the adult correctional system by jurisdiction, 2013/2014, (November 30, 2015), available: <https://www150.statcan.gc.ca/n1/pub/85-002-x/2015001/article/14163/tbl/tbl05-eng.htm>.

<sup>25</sup> Public Safety Canada. Portfolio Corrections Statistics Committee, “Corrections and Conditional Release Statistical Overview 2013” (December 2013), available: <https://www.publicsafety.gc.ca/cnt/rsrscs/pblctns/ccrso-2013/crrctns-cndtnl-rls-2013-eng.pdf>.

CORCAN is a special operating agency of the Correctional Service of Canada and is Canada's federal prison industry program. At any given time, it employs about 1,700 prisoners who work a variety of manufacturing, textile, agriculture and service jobs.<sup>26</sup> CORCAN produces almost all its goods and services for 'state use,' meaning that they are sold only to government agencies and departments. CORCAN bonuses were first introduced for similar reasons that Ontario's earlier Outside Managed Industrial Programs had offered provincial prisoners wages comparable to 'free' labour in the 1970s, as discussed in Chapter 2. First, wages that were reasonably close to prevailing market rates soothed labour's concern that prison wages could undermine those in free industry, and addressed capital's fear that competitors could gain an unfair advantage by utilizing prison labour. Second, bonuses provided enough incentive to get prisoners to work more difficult, dangerous, and less desirable industrial jobs, and contributed to consistent levels of productivity. Before the 2013 cuts, prisoners employed by CORCAN earned incentive pay of \$1.25 to 2.50 *per hour* on top of their daily pay, meaning that CORCAN jobs, as far as prison work is concerned, were comparatively lucrative. The government estimated that the elimination of CORCAN incentive pay would save \$1.7 million annually—the cost of paroling around 22 federal prisoners.<sup>27</sup>

In addition to the wage cuts, the Offender Accountability Initiative involved other 'cost savings' by transferring ownership (and the associated costs) of prison canteens to inmate committees (with an estimated cost savings of \$1.555 million annually), eliminating special canteen item procurements (estimated savings of \$1.048 million annually), and downloading administrative costs of phone systems onto prisoners (estimated savings \$1.649 million annually).

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<sup>26</sup> This figure is based on the average monthly number of CORCAN participants between 2010-2016. Data was drawn from CSC's Corporate Reporting System and provided to the author by CSC.

<sup>27</sup> Public Safety Canada, "Offender Accountability."

The government justified the last reform as in line with its fee-for-use service provision agenda. In the words of the Public Safety Ministry in a 2012 press release, “You use it – you pay for it.”<sup>28</sup>

Despite the government’s insistence that the so-called ‘accountability’ initiatives meant significant cost savings, they were, in fact, largely inconsequential to CSC’s budget. The changes made by the OAI represented a total combined cost savings of just over \$10 million, less than 0.4 percent of the CSC budget, for the first year that they came into effect.<sup>29</sup> It is clear that any reduction in spending was far less important than the political gesture of making criminals “pay.” In this way the Conservatives initiated what criminologists have referred to as a ‘political penal drama’—the cuts were primarily a means for the government to signal that it was pursuing a tough-on-crime agenda to its political base.<sup>30</sup> Indeed, David Jolivet, incarcerated organizer and then-interim president of the Canadian Prisoners’ Labour Confederation, suggests that the cuts may in fact have been at least partially pursued in response to efforts by the CPLC to agitate around pay raises.<sup>31</sup> “I’m wondering to this day if we had a hand in pushing [Harper]. I believe that he was pushed by the negative publicity on our case to get higher wages.”<sup>32</sup>

The OAI announcement was met with considerable criticism. The *Toronto Star* published a guest editorial by Leah DeVellis, a doctoral student in sociology at Carleton University, who

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<sup>28</sup> Public Safety Canada, “Offender Accountability.”

<sup>29</sup> For a discussion of the Harper government’s selective austerity for corrections, see Justin Piché, “Playing the ‘Treasury Card’ to Contest Prison Expansion: Lessons from a Public Criminology Campaign,” *Social Justice* 41:3 (2015), 145-167; Greg McElligot, “Invested in Prisons.”

<sup>30</sup> For a study of the political penal drama surrounding the Harper government’s closure of Canada’s prison farms, see Goodman and Dawe, “Prisoners, Cows, and Abattoirs.” For an example of a political penal drama in the United States, see Joshua Page, “Eliminating the Enemy: The Import of Denying Prisoners Access to Higher Education in Clinton’s America,” *Punishment & Society*, 6 (2004): 357–378.

<sup>31</sup> David Jolivet, telephone interview with the author, Toronto, ON, March 25, 2017. Indeed, in March 2011, a year before the pay cuts were announced, the CPLC’s efforts to increase prisoners’ wages prompted a response from then Minister of Public Safety Vic Toews, who commented: “The very reason criminals serve time in prison is to pay the debt they owe to those they have victimized, and to society [...] We will not concede to the requests of prisoner advocates who continue to put the rights of criminals first.” Rebecca Lindell, “Pay the prisoner, save the taxpayer?” *Star-Phoenix*, March 21, 2011, A7.

<sup>32</sup> David Jolivet, telephone interview with the author, March 25, 2017.



asserted that the cuts would “accomplish nothing.” According to DeVellis, the plan was not only legally dubious in that it was potentially in conflict with the *Corrections and Conditional Release Act*, but also would likely undermine the government’s own objectives to enhance public safety and achieve cost savings:

Although [Public Safety Minister] Toews claims that these measures aim to increase victim and public safety, there is no evidence showing that reducing the financial stability of prisoners and their families will in any way contribute to safer communities. Instead, it seems that the Harper government is seeking ways to recoup funds given public criticism of its \$2 billion prison expansion plan and the recent passing of Omnibus Crime Bill C-10, which will cost Canadian tax payers many millions, perhaps even billions, more.<sup>33</sup>

Moreover, increasing prisoners’ financial instability could undermine rehabilitative goals and, in fact, *increase* the likelihood of recidivism. Critics also pointed out that cost savings derived by the wage cuts would simply be offloaded on prisoners and their families, and then likely onto public social service providers and non-profits.<sup>34</sup> Academics were not the only critics of the plan. Mary Campbell, the recently retired director general of the Corrections and Criminal Justice Directorate at Public Safety Canada, was quoted as saying that the Harper government’s new tough-on-crime measures reflected a “deep, visceral nastiness” and “do nothing to reduce or address crime.”<sup>35</sup> Perhaps most significantly, the pay cuts were also opposed by the CORCAN Advisory Board. When the board met on May 16, 2012, a week after the government publicly announced the changes to prisoner pay as part of the Offender Accountability Initiative, “board members expressed their concerns on the elimination of the [CORCAN] incentive pay and agreed that the

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<sup>33</sup> Leah DeVellis, “Plan to Cut Inmates’ Pay will Accomplish Nothing,” *Toronto Star*, May 14, 2012, available: [https://www.thestar.com/opinion/editorialopinion/2012/05/14/plan\\_to\\_cut\\_inmates\\_pay\\_will\\_accomplish\\_nothing.html](https://www.thestar.com/opinion/editorialopinion/2012/05/14/plan_to_cut_inmates_pay_will_accomplish_nothing.html).

<sup>34</sup> DeVellis, “Plan to Cut Inmates’ Pay will Accomplish Nothing.”

<sup>35</sup> “Federal policy on crime just plain nasty: Retired official,” *The Province*, October 4, 2013, A26.

elected chairperson meet with the Minister to voice their concerns.”<sup>36</sup> It seems that nothing came of this meeting.

Prisoners were acutely aware of the effect the cuts would have on themselves and their families. As one prisoner wrote in *Cellcount*, a newsletter for Canadian prisoners:

While we are doing our Sentences we use our pay for many things. We need stamps and phone card money so that we can maintain contact with our families, friends and Community Supports.

Many of the families of people doing time are from low income circumstances and do not have enough money to pay large phone bills so we use what extra money we can to pay our way while being incarcerated. We also use our pay to help get our families up here to visit us through John Howard or FEAT for Children bus services or friends and other relatives. The CSC Mission Statement says that we are to maintain close Community Supports that are vital to our success when released. Without a decent pay it is very hard to keep these close Community Supports.

We send money home to help out with bills, payments, gifts for our children, for our aging parents. We use our pay for dental work and medical items. We do lots of Charitable work for Sick Children’s Hospital, [...] and many others. The amount of things we use our pay for is quite vast and necessary for our daily lives and release.<sup>37</sup>

Another wrote:

Inmates have not had an increase in pay since the early 80s. Some argue the \$4.00 Hygiene credit given a decade or so ago was a raise but when the credit came into effect, Health Care stopped supplying simple items such as cough medicine, Tylenol/Aspirin type headache remedies and so forth, directing us to purchase them through the Canteen. So it really wasn’t a raise, only a reduction in the care of inmates, making us responsible for our own basic needs. The CSC has violated the very Charter Rights of every inmate by imposing ‘Cruel and Unusual Punishment’ on them, forcing them to work full 7 hour days for substandard pay and then take another 22% for Room and Board. At what point do inmates receive guidance, initiative and humanity to abide by the laws and treat others with respect, if CSC teaches them these things don’t exist or work like that?<sup>38</sup>

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<sup>36</sup> CORCAN Advisory Board Meeting Minutes, May 16, 2012. In author’s possession.

<sup>37</sup> "Re: Inmate Pay Cut," *Cellcount* 73 (Spring, 2014): 5, available: [http://prisonfreepress.org/Cell\\_Count/Cell\\_Count\\_-\\_Issue\\_73.pdf](http://prisonfreepress.org/Cell_Count/Cell_Count_-_Issue_73.pdf).

<sup>38</sup> "Pay Cuts," *Cellcount* 72 (Winter, 2013/14): 5, available: [http://prisonfreepress.org/Cell\\_Count/Cell\\_Count\\_-\\_Issue\\_72.pdf](http://prisonfreepress.org/Cell_Count/Cell_Count_-_Issue_72.pdf).

It was not only in prison publications that prisoners were invited to give their thoughts and feelings about the cuts. Between the announcement of the policy in May, and its implementation in October, CSC initiated a consultation process on the OAI changes.<sup>39</sup> Prisoners, however, rejected the notion that any meaningful consultation on the OAI occurred:

I submitted a few letters, along with many other people in the prison population, about how I thought the pay cuts would actually impact prisoners. At the time, I wasn't on the inmate committee but I did give that information to them. To my knowledge that information was summarized and put forward to the warden who was supposed to take it to the executive committee and they were supposed to use that information to redraft the policy or maybe eliminate it altogether if it could be shown that, concretely, this would be harmful to the population. We all know that that's just never the case. They do the consultation and, you know, it's their way of satisfying their responsibilities within the context of the CCRA—the *Corrections and Conditional Release Act*—and they still go forward with policy anyways.<sup>40</sup>

As the implementation date for the cuts approached, two lines of thinking persisted among the prison population. As former Collins Bay prisoner Jarrod Shook notes, immediately after the announcement there was a general feeling that the cuts were too drastic and were unlikely to be implemented wholesale—many believed that to do so would provoke riots.<sup>41</sup> However, the idea that the potential for prison riots restrained policy changes had recently been challenged when tobacco products were banned from prisons in 2008 without provoking violent protest. As Shook puts it, “In the minds of prisoners, if they could take cigarettes, they could take anything.”<sup>42</sup> On September 24, one week before the policy was set to take effect, the Inmate Committee at Bath issued a press release summarizing the situation:

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<sup>39</sup> From time to time, CSC consults prisoners, along with other stakeholders, over changes to policy and programming. The Office of the Correctional Investigator routinely advocates for more frequent and more substantial consultations with the federal prison population. For a discussion of the deficiencies of CSC consultation processes in the cases of prison needle exchange programs and the National Menu for federal institutions, see Office of the Correctional Investigator, *Annual Report 2018-2019* (June 25, 2019), available: <https://www.oci-bec.gc.ca/cnt/rpt/annrpt/annrpt20182019-eng.aspx>.

<sup>40</sup> Jarrod Shook, interview with the author, Toronto, ON, January 21, 2017. For a fuller account of the minimal consultation process, see Jarrod Shook, “Full Article: Resistance to Prison Pay Cuts.” Also see “CSC Machine,” *Cellcount* 74 (Summer 2014), 5, available: [http://prisonfreepress.org/Cell\\_Count/Cell\\_Count\\_-\\_Issue\\_74.pdf](http://prisonfreepress.org/Cell_Count/Cell_Count_-_Issue_74.pdf).

<sup>41</sup> Jarrod Shook, interview with the author, Toronto, ON, January 21, 2017.

<sup>42</sup> Jarrod Shook, interview with the author, Toronto, ON, January 21, 2017.

As federal prisoners we know we violated the social contract and as such the vast majority of us are working to take responsibility for our actions and turn our lives around. It concerns us deeply to see how the Conservative government ignores the reams and reams of parliamentary committee reports on best practices when it comes to the delicate balance of punishment and rehabilitation, and instead they choose the ill-informed path of blind punishment found in the “get tough on crime” agenda.

Empirical evidence proves that this does not work. We see and hear reports about crime rates dropping and we see and feel the prison system getting more crowded, more punitive, and we read the statistics of ever increasing tension and violence in the prison system and now we have a so-called “Offender Accountability” policy coming into effect [...]

The office of the Correctional Investigator routinely tells the prison system that these low wages encourage black market illicit activities and create violence as commodities become more and more rare. The Correctional Investigator has also raised the point that prisoners do not make enough money to reintegrate into the community safely or effectively. The Correctional Investigator, for 30 years, has called for an across the board pay increase with indexing annually for inflation [...]

We are concerned that the removal of incentive pay will make skills training programs collapse in federal prisons. We want the public to know that these policy changes only diminish prisoners’ ability to turn their lives around and return to the community as law abiding citizens.

We are deeply worried about this thoughtless direction currently being taken by the Commissioner of Corrections and the Conservative Party. It should not go without stating that even guard’s unions do not support this policy or the policies which lead to overcrowding. If you don’t want to listen to us, perhaps you should consider their concerns.

Respectfully,  
Bath Institution Prisoners<sup>43</sup>

On September 26, Peter Collins attempted to file an injunction to prevent the implementation of the OAI. However, prisoner support publication *4strugglemag*, would later report that he was denied an express post envelop and the paperwork was not sent until October 2, the day after the policy came into effect. However, it remained unclear if the injunction paperwork “really has left the prison.”<sup>44</sup>

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<sup>43</sup> *Stark Raven Radio*, podcast audio, October 7, 2013, available, <http://www.vcn.bc.ca/august10/audio/Oct7.mp3>.

<sup>44</sup> 4struggle, “Update on Work Strikes in Canadian Federal Prisons,” *4strugglemag* (blog), December 10, 2013, available: <https://4strugglemag.org/2013/12/10/update-on-work-strikes-in-canadian-federal-prisons/>.

With no reprieve forthcoming through consultations, injunctions, or other means, a consensus grew among prisoners that, in the absence of a direct response, the cuts would be implemented to their great detriment. As the October 1, 2013 implementation date neared, many individuals pledged not to work, and more widespread discussions began of challenging the cuts through administrative policy and within the legal system. With the cuts looming, “people started saying concretely: we will not be going to work.”<sup>45</sup>

## **The Strike**

On October 1, 2013, the pay cuts came into effect and prisoners stopped working. It is difficult to assess the exact number of prisons or prisoners that participated in the work stoppage, but a basic picture of the strike can be pieced together from media reports and accounts of participants. On October 1, strikes began in Ontario at Bath, Collins Bay, Fenbrook and Warkworth Institutions.<sup>46</sup> As communication between organizers in different institutions was limited, this simultaneous start was likely less the result of direct coordination and more the result of independent decisions in the various institutions to take strike action on the day that the policy change came into effect. On October 2, the CBC reported that “prison staff are filling in to do the inmates’ cleaning and kitchen work.”<sup>47</sup> Within the next two days, additional reporting of the strike began to appear in the media and prisoners at the Atlantic Institution in New Brunswick, Donnacona Institution in Quebec, Saskatchewan Penitentiary in Prince Albert, Saskatchewan, and

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<sup>45</sup> Jarrod Shook, interview with the author, Toronto, ON, January 21, 2017.

<sup>46</sup> Maureen Brosnahan, “Federal inmates go on strike to protest pay cuts,” *CBC News*, October 1, 2013, available: <http://www.cbc.ca/news/federal-inmates-go-on-strike-to-protest-pay-cuts-1.1875491>.

<sup>47</sup> CBC News with Reshmi Nair, “Prisoners strike over wage cuts,” *CBC News*, October 2, 2013, available: <http://www.cbc.ca/news/canada/prisoners-strike-over-wage-cuts-1.1876713>.

the Drumheller Institution in Alberta struck.<sup>48</sup> By the end of the first week of October, Drummond, Archambault, Cowansville, and the Federal Training Centre, all in Quebec, had joined the strike. While the strike suspended most normal services in the struck institutions, some necessary work needed to be covered. On October 10, ten days into the strike, *Vice News* reported that “corrections staff is now being forced to do the jobs of the inmates—like prepare food for the prison.”<sup>49</sup> That same day, Stony Mountain Institution in Manitoba, and Kent, Mountain, Matsqui, and Mission Institutions in BC joined the now national strike.<sup>50</sup> By the end of the strike, there would also be work stoppages in the Edmonton Institution for Women, which seems to have been the only women’s institution to have participated.<sup>51</sup> This means that prisoners in at least 18 of the country’s 43 federal correctional institutions, across all five of the CSC’s regions—Atlantic, Quebec, Ontario, Prairie, and Pacific—participated in the strike. If medical, psychiatric, and mental health treatment facilities are removed from this figure, nearly half of Canadian correctional institutions experienced work stoppages in response to the wage cuts.<sup>52</sup> CSC did not reveal many details about the extent of the strike activity or the significance of its impact.

During the second week of the strike, CSC Pacific region spokesperson Jean-Paul Lorieau confirmed that prisoner strikes were happening in BC and “‘sporadically’ across the country” but

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<sup>48</sup> Maureen Brosnahan, “Prison inmates’ strike over pay spreads,” *CBC News*, October 3, 2013, available: <http://www.cbc.ca/news/prison-inmates-strike-over-pay-spreads-1.1895065>; “Inmates take strike action,” *The Drumheller Mail*, October 9, 2013, available: <http://www.drumhellermail.com/news/13348-inmates-take-strike-action>.

<sup>49</sup> Angela Hennessy, “Why Are Canadian Prisoners on Strike?” *Vice News*, October 10, 2013, available: [https://www.vice.com/en\\_au/article/why-are-canadian-prisoners-on-strike](https://www.vice.com/en_au/article/why-are-canadian-prisoners-on-strike).

<sup>50</sup> Carol Sanders, “Stoney Inmates Refuse Work After Pay Cut,” *Winnipeg Free Press*, October 9, 2013, A4.; Sam Cooper, “Prisoners on strike over cuts to pay; Stipends: \$5 a day wage rate reduced,” *The Province*, October 11, 2013, A19.; “Inmates take strike action,” *The Drumheller Mail*, October 9, 2013, available: <http://www.drumhellermail.com/news/13348-inmates-take-strike-action>.

<sup>51</sup> Un Détenu Incarcéré au Centre Fédéral de Formation de Laval, “Exclusif: un détenu explique la grève des prisonniers au Québec: Notre sort est entre vos mains aussi,” *Montreal Media Coop*, October 7, 2013, available: <http://montreal.mediacoop.ca/story/un-d%C3%A9tenu-explique-la-gr%C3%A8ve-des-prisonniers-au-qu%C3%A9bec/19156>; Mimi Williams, “Inside the institution,” *Vue Weekly* #960, March 13, 2014, 6-7.

<sup>52</sup> Office of the Correctional Investigator, *Annual Report of the Office of the Correctional Investigator 2013-2014*, available <https://www.oci-bec.gc.ca/cnt/rpt/annrpt/annrpt20142015-eng.aspx>.

did not comment on the impact of the strike.<sup>53</sup> A week earlier, on October 4, Drumheller Penitentiary Spokesman Rick Easton attempted to downplay the impact of the strike on the institution and denied “a report that said the institution is bringing in people from outside to help during the inmate strike.” He instead asserted that “some prison staffers will be reassigned to fill in key areas like the kitchen, but it’s being handled entirely in-house.”<sup>54</sup> Maureen Brosnahan of the CBC, on the other hand, reported that the impact on prison staff was significant:

[It’s] fairly severe, [...] a lot of these jobs that the inmates do keep the institution running—food preparation, clean up, garbage collection, administration tasks. So that means the staff have to pick up all of this. It means a lot of overtime and these sort of things are very very costly to the system. I heard yesterday that teachers in one institution were actually cooking the meals so it really is quite disruptive to the system.<sup>55</sup>

At Joyceville, and likely other institutions, “food was coming up on the ranges through the meal carts and, you know, it’s most of the staff that’s cooking. They would pull staff from Social Development or CORCAN, or pull staff from programs in the school to help with the cooking in the kitchen.”<sup>56</sup> In October 2013, a starting guard had an annual salary of \$55,970, meaning that *before overtime* guards working prisoners’ jobs were paid at least around \$27 per hour.<sup>57</sup> Likewise, in summer 2017, Corrections job postings advertised starting hourly wages as \$17.58 (Food Services Helper), \$24.89 (Cooks Helper), and \$28.96 (CORCAN Carpenter)—the lowest of which

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<sup>53</sup> Sam Cooper, “Prisoners on strike over cuts to pay; Stipends: \$5 a day wage rate reduced,” *The Province*, October 11, 2013, A19.

<sup>54</sup> “Penitentiary ‘Strike’ No Big Deal,” *Drumheller Online*, October 4, 2013, available: <https://www.drumhelleronline.com/local/9433-penitentiary-strike-no-big-deal>.

<sup>55</sup> “Prisoners go on strike,” *CBC News*, October 2, 2013, available: <http://www.cbc.ca/news/federal-inmates-go-on-strike-to-protest-pay-cuts-1.1875491>.

<sup>56</sup> Earl, telephone interview with the author, Toronto, ON, April 29, 2017.

<sup>57</sup> Treasury Board of Canada and Union of Canadian Correctional Officers, *Agreement between the Treasury Board and Union of Canadian Correctional Officers (CSN)*, June 21, 2011-May 31, 2014, Ottawa, ON, available: <https://ucco-sacc-csn.ca/wp-content/uploads/2015/05/2010-2014-Collective-Agreement.pdf>.

is more than forty-six times the average prisoner's wage.<sup>58</sup> The extremely low wages of prisoners mean that any payroll savings from prisoner strikes are minimal, while the cost of replacement labour is, in relative terms, very significant.

Whatever the cost of the strike, and despite the breadth of the protest, the government refused to backtrack on the wage cuts. While some informal negotiations occurred on an institution-by-institution basis, CSC refused to enter formal negotiations with the strikers, and prisoners were unable to apply additional pressure on the government. The end of the strike was as uneven as the start. Collins Bay, Stony Mountain, and most other prisons suspended the strike on October 29, nearly four weeks after it began. Even though there was "not a ton of optimism" about possible negotiations, prisoners in Collins Bay notified the government that they had until November 20 to negotiate with them, or else they would resume the strike.<sup>59</sup> However, when this date passed, prisoners were unable to muster the forces to initiate a second strike. Shook describes the return to work and attempt at negotiations:

The November 20, 2013 deadline came and went and the Commissioner of Corrections showed little or no interest in our reasonable request for a mature discussion and in his response to our letter simply parroted the line that the cuts were a result of government austerity programs and that as far as CSC is concerned we were all consulted about these changes long ago and our views were taken into consideration.

So we acted in good faith, explored and exhausted every reasonable option available to us, and attempted to resolve our issues in a transparent, frank and mature fashion and we weren't even given a chance to come to the table. Other

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<sup>58</sup> These figures are taken from Government of Canada public service online job board for jobs posted in 2017. Government of Canada, "Food Services Helper," (n.d.), available: <https://emploisfp-psjobs.cfp-psc.gc.ca/psrs-srfp/applicant/page1800?poster=928600>; Government of Canada, "Cooks Helper (GS-FOS-03) - Casual Inventory" (n.d.), available: <https://emploisfp-psjobs.cfp-psc.gc.ca/psrs-srfp/applicant/page1800?poster=928600>; Government of Canada, "Carpenter, CORCAN" (n.d.), available: <https://emploisfp-psjobs.cfp-psc.gc.ca/psrs-srfp/applicant/page1800?poster=944243>.

<sup>59</sup> Shook, Jarrod. "Full Article: Resistance to Prison Pay Cuts: An Account of Accountability," *End the Prison Industrial Complex* (blog) (April 14, 2014) available: <https://epic.noblogs.org/full-article-resistance-to-prison-pay-cuts/>; *Stark Raven Radio*, podcast audio, November 7, 2013, available: [www.vcn.bc.ca/august10/audio/Nov2013.mp3](http://www.vcn.bc.ca/august10/audio/Nov2013.mp3).



institutions across Canada were similarly situated and thus faced the same questions with how to proceed next.<sup>60</sup>

Other institutions continued the strike beyond this date and returned to work throughout the fall of 2013. Notably, Joyceville continued the strike until January 2014, when canteen stocks became unbearably low.<sup>61</sup>

Despite the end of the strike, prisoners hoped that lawsuits filed in response to the cuts might have success where the strike did not. The use of legal and administrative mechanisms to oppose the cuts was viewed as important for two reasons. First, they could succeed in reversing the cuts. But, second, many organizers also believed that exhausting administrative and legal remedies was a key part of legitimating the strike and winning public support. These administrative mechanisms included the federal inmate grievance and appeals process.

As the cuts approached, some prisoners explored the possibility of filing a federal suit to challenge the cuts and other changes implemented as part of the OAI. However, for reasons which are unclear, the suit would not be filed until August, 2014—nine months after most prisoners had accepted defeat and returned to work. The suit claimed that the 2013 wage cuts violated both the *Corrections and Conditional Release Act*, since they placed unnecessary burdens on prisoners' ability to be released and reintegrate into the community, as well as the prisoners' rights to "liberty and security of the person" under the Charter of Rights and Freedoms.<sup>62</sup> In January 2018, the Federal Court ruled against the prisoners' lawsuit, finding that the reduction in pay did not violate the *Corrections and Conditional Release Act* and constitute cruel and unusual punishment under

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<sup>60</sup> Shook, "Full Article: Resistance to Prison Pay Cuts"

<sup>61</sup> Earl, telephone interview with the author, Toronto, ON, April 29, 2017; Jim telephone interview with the author, Toronto, ON, April 29, 2017; Chester Abbotsbury, interview with the author, Toronto, ON, January 25, 2017; Jarrod Shook, interview with the author, Toronto, ON, January 21, 2017.

<sup>62</sup> Maureen Brosnahan, "Prison Inmates take Federal Government to Court Over Pay Cuts," *CBC News* (August 10, 2014), available: <http://www.cbc.ca/news/canada/prison-inmates-take-federal-government-to-court-over-pay-cuts-1.2732382>.

the Charter. Moreover, the court ruled that prisoners do not have an employee-employer relationship with the CSC or CORCAN.<sup>63</sup> An appeal of the decision was dismissed in November 2019.<sup>64</sup>

### **Power and Protest: Prisoners Organize Against the Cuts**

There are many reasons why prisoners might not be expected to strike. As powerful forms of collective action, strikes require substantial levels of solidarity—something not typically associated with prisons populated by seemingly self-interested actors divided by race, age, immigration status, type of conviction, length of sentence, security level, gang affiliation, and more. Furthermore, the potential consequences of prison strikes are substantial. Taking such action can jeopardize prisoners' ability to be released. They might also risk other forms of institutional sanction, loss of privileges or even violent reprisals. Even if bonds of solidarity could be built, without the support of a standing organization, a number of practical challenges serve as potential obstacles to strike action. Despite these challenges, prisoners have and do strike. Given these considerable obstacles, the organizing methods and practices of prisoners are worth considering in detail.

John Steuben was a machinist and organizer for the Congress of Industrial Organizations (CIO) in the 1930s. His 1950 book, *Strike Strategy*, is both a history of the strike in the United States and an organizing manual that continues to be influential on labour organizers today.<sup>65</sup> Steuben lays out best practices for labour organizers preparing for strikes, carrying them out, and

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<sup>63</sup> *Guérin v. Canada* (Attorney General), 2018 FC 94 (CanLII), available: <https://www.canlii.org/en/ca/fct/doc/2018/2018fc94/2018fc94.html?searchUrlHash=AAAAAQAMSmFycm9kIFNo b29rAAAAAAE&resultIndex=2>

<sup>64</sup> *Guérin c. Canada* (Procureur général), 2019 CAF 272 (CanLII), <http://canlii.ca/t/j36f5>.

<sup>65</sup> See Jane McAlevey, "The Strike as the Ultimate Structure Test," *Catalyst* 2:3 (Fall 2018), available <https://catalyst-journal.com/vol2/no3/the-strike-as-the-ultimate-structure-test>.

following them up. Though the book draws on Stueben's experiences of strikes in the 1930s and 40s, much of his advice has continued relevance. While a considerable amount of time has passed since Stueben's organizing days, much of what he discussed remains broadly relevant. Although labour relations in the United States in the pre-World War Two period were considerably more violent than labour relations today, even his discussion of violence has contemporary relevance for some groups of workers—like prisoners—who are more likely to have to deal with violence as part of strike actions. As such, Stueben and others concerned with strike strategy provide a particularly useful framework for examining the 2013 federal prison strike, as well as prison strikes generally.

### ***Preparing for a Prison Strike***

Solid strike machinery is possible for every union. But it cannot be built in a day or a week or a month. Strike leaders who want to create an effective organization cannot wait until the strike is actually on. Nor, on the other hand, can they perfect the strike machinery before the strike begins. What is needed is a plan, a skeleton organization to build on as the strike goes along.<sup>66</sup>

At first glance, the 2013 federal prison strike may appear to have been a spontaneous action. Groups of prisoners refused work and programming on the day cuts to their wages came into effect. When prisoners in other parts of the country saw news reporting of the strikes, they joined in solidarity. With no centralized decision-making body and little ability to communicate between institutions, strikers eventually trickled back to work and regular life without having their demands met. This, however, does not tell the whole story. As sociologist Rick Fantasia has argued, the strict categorization of collective actions into “spontaneous” and “planned” often has the effect of overlooking the “structured elements *within* spontaneous action.”<sup>67</sup> In the context of

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<sup>66</sup> Stueben, *Strike Strategy*, 108.

<sup>67</sup> Fantasia, *Cultures of Solidarity*, 111.

the 2013 federal prison strike, these structured elements include the ways that prisoners sought to develop unity and solidarity necessary to carry out the strike, the mobilization of prisoners through the organization of social leaders, and the creation of decision-making processes in relation to strike action. Moreover, prisoners sought to legitimate and popularize their struggle by engaging in public educational efforts and, in some limited cases, seeking support from community allies.

As Steuben notes, “Careful preparation for a strike is exceedingly important—very often the conduct and the outcome of a strike depend on the quality of the preparatory work.”<sup>68</sup> In ‘truly’ spontaneous strikes, this preparation is impossible. Strikers must rely on whatever unity and strength can be mustered in the moment. The 2013 federal prison strike was very much preplanned and agitated for by a layer of militant prisoners; however, despite some efforts, it was not nationally coordinated. This preparatory work was necessary to develop the “machinery” to run and win the strike. The character of strike preparation is very much dependent on the formal and informal organizational and decision-making structures that workers develop and have access to. As Stueben puts it:

The difference between an army and a mob is that an army is a well organized and disciplined body governed by rules and regulations and led by its own chain of command. No army of strikers can possibly achieve such a high degree of organization. However, if a strike is not to assume the character of a formless mob, it must have its own form of organization and a chain of command corresponding to the needs of the particular strike.<sup>69</sup>

In most strikes, this form of organization, chain of command and structure is imposed by an existing trade union, though this is not always the case.<sup>70</sup> In the context of the 2013 strike, there was no central organization directing the strike. Prisoners had to self-organize institution by

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<sup>68</sup> Steuben, *Strike Strategy*, 90.

<sup>69</sup> Steuben, *Strike Strategy*, 97.

<sup>70</sup> For a discussion of spontaneity and structure in self-organized strikes, see Fantasia, *Cultures of Solidarity*.

institution. In many places, it is likely that a consensus around strike activity only developed in the days before the strike began.

As discussed in Chapter 1, prison and democracy are concepts that seem at odds, and for good reason. Prison is a hierarchical, authoritarian institution. However, cultures of solidarity often penetrate the bars and walls of prison. According to Fantasia, a culture of solidarity is “a cultural expression that arises within the wider culture, yet which is emergent in its embodiment of oppositional practices and meanings.”<sup>71</sup> Strike organizers attempted to build a culture of solidarity leading up to and throughout the strike, supplanting the normally fractured, competitive, and apathetic attitudes and behaviours endemic to Canadian prisons. They did this by developing a culture of collective decision-making, encouraging gestures of mutual aid, and emphasizing the need for unity and collective action. Where they could, organizers utilized existing structures within the prison—even if the purpose of these structures was not to organize a strike (the most important of these were institutional Inmate Committees). Prisoners also organized through the informal social networks that exist amongst prisoners, as well as the semi-structured and formal organizations within the prison (for example the Native Brotherhood and Alcoholics Anonymous). As will be discussed below, key to these efforts was the identification and mobilization of organic social leaders, who were capable of mobilizing broader constituencies on behalf of the strike. Finally, prisoner organizers also developed new structures to suit their needs. In particular, they developed systems for collective decision-making, ranging from informal consensus to formal strike votes, to carry out the strike. Beyond simply allowing decisions to be made, these structures were critical to developing the cultures of solidarity necessary to take strike action.

### ***The Role of Inmate Committees***

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<sup>71</sup> Fantasia, *Cultures of Solidarity*, 17.

Advantage must be taken of the company unions. The employers have established these organizations to increase the workers' efficiency and to check the growth of class consciousness and trade unionism among them. Nevertheless the workers' impulse to organize and struggle often manifests itself in these boss-controlled bodies.<sup>72</sup>

Inmate Committees (ICs) are institutionally recognized elected bodies designed to allow “a means for inmates to provide input regarding institutional operations.” However, they are constrained as legitimate representative bodies for prisoners in important ways.<sup>73</sup> First, candidates for IC positions are screened by prison administrators. Prisoners are precluded from running for IC if they are not “compliant with Correctional Plan” and or are gang-affiliated. Second, candidates must have “demonstrated a commitment to reasonably resolve issues in conjunction with the institution’s management team as well as with the other members of the Inmate Committee.”<sup>74</sup> Finally, once elected, an IC member can be removed by the Institutional Head for a variety of reasons, including “deteriorating institutional behaviour.”<sup>75</sup> Since their implementation in the 1970s, Inmate Committees have been criticized by prisoners and prison justice advocates as ineffective advocacy bodies for prisoners. ICs have been likened to “puppet governments” and “social committees.”<sup>76</sup>

In many ways, ICs are also like company unions—workers’ organizations that are partially or wholly controlled by the employer. Such bodies, which were often referred to as “Employee

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<sup>72</sup> William Z. Foster, *Strike Strategy* (Trade Union Educational League, 1926), available: <https://www.marxists.org/archive/foster/1926/strikestrategy/index.htm>.

<sup>73</sup> “Inmate Committees,” Commissioner’s Directive 083, Correctional Service Canada, (n.d.), available: <http://www.csc-scc.gc.ca/policy-and-legislation/083-cd-eng.shtml>.

<sup>74</sup> Correctional Services of Canada. “Commissioner’s Directive: Inmate Committees,” Commissioner’s Directive 083, Correctional Service Canada, available: <https://www.csc-scc.gc.ca/politiques-et-lois/083-cd-eng.shtml>.

<sup>75</sup> Correctional Services of Canada. “Commissioner’s Directive: Inmate Committees,” Commissioner’s Directive 083, Correctional Service Canada, available: <https://www.csc-scc.gc.ca/politiques-et-lois/083-cd-eng.shtml>.

<sup>76</sup> Hansen, *Taking the Rap*, 116. John Drummond, who served on the first Inmate Committee in Millhaven in 1975, characterized the experience as a “frustrating” one, saying “most people know the Administration will only give us what they want us to have, not what we want or need.” John Drummond, “Inmate Committee,” *Momentum* (March-April 1976).

Representation Plans” in Canada, were meant to undermine workers’ desire for independent trade unions by seeming to provide a channel for resolving their grievances, albeit within parameters still controlled by employers.<sup>77</sup> Dealing with such entities in the 1920s, American union organizer William Z. Foster advised fellow organizers that “Advantage must be taken of the company unions.” Such unions, even when limited and controlled by employers, provide openings for organizers and resources that can be utilized to further organizers’ causes. As Foster notes, “the workers’ impulse to organize and struggle often manifests itself in these boss-controlled bodies.”<sup>78</sup>

In the lead-up to the 2013 strike, prison organizers adopted a similar position. In some cases, organizers ran for and were elected to IC positions for the purpose of opposing the impending wage cuts.<sup>79</sup> One prisoner who successfully ran for election to the Inmate Committee at Joyceville described his motivations: “One, was to ensure that things didn’t get out of hand; and two, was to apply some form of strategy in how we could get our pay back or lessen the blow.”<sup>80</sup> IC positions gave organizers some institutional legitimacy and an opportunity for prisoners to respond to the cuts on an official basis. To mitigate the risk of repercussions, inmate committees were careful to not be understood as instigating the strike, and individual organizers consciously sought to avoid being singled out for manufacturing a work stoppage that could potentially lead to disciplinary action.<sup>81</sup> At Kent, the IC avoided putting anything related to the strike in writing. As

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<sup>77</sup> See Margaret E. McCallum, “Corporate Welfarism in Canada, 1919–39,” *The Canadian Historical Review* 71:1 (March 1990): 46-79; Laurel Sefton MacDowell, “Company Unionism in Canada, 1915–1948,” in Bruce E. Kaufman and Daphne Gottlieb Taras (eds.), *Nonunion Employee Representation: History, Contemporary Practice, and Policy* (New York and London: M.E. Sharpe, 2000): 96-120.

<sup>78</sup> Foster, *Strike Strategy*, Chapter IV, sec.4, para. 10.

<sup>79</sup> “Earl,” telephone interview with the author, Toronto, ON, April 29, 2017. “Earl” is a pseudonym for a federal prisoner, currently incarcerated in Ontario. Earl served on the Inmate Committee at Joyceville, where he was incarcerated during the 2013 strike.

<sup>80</sup> “Earl,” telephone interview with the author, Toronto, ON, April 29, 2017.

<sup>81</sup> David Jolivet, telephone interview with the author, April 3, 2017.

one organizer in Joyceville explains, to be effective, it was necessary for ICs to maintain “plausible deniability” of being the primary motor behind the strike:

The supposition is that the inmate committee follows the direction of the population. So, the committee just does whatever the population wants them to do. [...] The inmate committee has ‘plausible deniability,’ it’s not really them that are pulling the strings—they’re just doing what the inmate population wants [...] If they [the prison administration] thought that the committee was responsible for the work stoppage or were the ones demanding that the population stop working, then they would probably be charged with inciting a riot and sent to higher security [...] Because it’s what the population wants to do, the onus is not on them, the responsibility is not on the inmate committee.<sup>82</sup>

Despite their limitations, ICs played an important role in organizing the 2013 federal prison strike. They were, however, only one component of the strike machinery, and they did not necessarily drive the strike in all places. Despite what guards and administrators may have thought, ICs did not have the capacity to simply call a strike by decree, and many prisoners who agitated for the strike were not IC members. IC members were simply well positioned to mobilize support for the strike. For both rank-and-file strike advocates as well as those on ICs, broad buy-in from prisoners with “pull” over various constituencies and the building of cultures of solidarity through practices such as collective decision-making and other means were critical to this mobilization.

### ***Strike Votes and Collective Decision-Making***

The strike organization must have a wide democratic base; that is, a large section of strikers must be involved in the various phases of activity. A strike needs active participants, not observers.<sup>83</sup>

Individuals in prison, like those in other workplaces and communities, are linked to each other through more and less formal social networks. Sociologists and criminologists have long been interested in the ways that prisoner social networks are structured into “cliques”, “sets,”

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<sup>82</sup> “Earl”, telephone interview with the author, Toronto, ON, April 29, 2017.

<sup>83</sup> Steuben, *Strike Strategy*, 97.



“cars,” and other groupings.<sup>84</sup> Writing in 1956, sociologist Morris G. Caldwell applied a theory of “informal groups” to the prison:

An informal social group may be thought of as a number of persons possessing established patterns of social interaction, similar social attitudes, social values, and group loyalties, mutual interests, and the faculty of cooperation in the performance of a natural function [...] The members generally display similar types of attitudinal behavior and adhere to the same set of social values. An important interest of informal groups centers around the cooperative performance of a natural function. In a prison community for adult males this function may be the making of moonshine liquor, gambling, or engaging in homosexual practices. The informal group may logically be designated as a “natural group” because of its universal existence and the fact that it emerges naturally in all types of environments and social situations to fulfill personality needs not satisfied by formal organizations. These informal groups have been delineated in large industrial organizations, labor organizations, business establishments, the army, college and university fraternities and sororities, women’s dormitories, boys’ clubs, churches, and in many other establishments where persons interact with one another [...].<sup>85</sup>

In a workplace organizing campaign—inside or outside of the prison—these networks and informal groups take a plethora of forms. They could be defined by common features at work (the night shift, ‘back of house’ workers, etc.) or common features unrelated to work (linguistic or religious groups, shared hobbies or interests, etc.). These networks and groups are structured by forms of leadership. At its most basic, “leadership” here simply refers to the ability of a person to influence others within their group. Union organizers have long used the method of charting social groups and identifying leaders to build support for a union campaign. In the words of union organizer and strategist Jane McAlevey:

Which key individual worker can sway exactly whom else—by name—and why? How strong is the support he or she has among exactly how many coworkers, and how do the organizers know this to be true? The ability to correctly answer these and many other related questions—Who does each worker know outside work? Why? How? How well? How can the worker reach and influence them?—will be the lifeblood of successful strikes in the new millennium.<sup>86</sup>

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<sup>84</sup> For example, see Irwin, *Prisons in Turmoil*.

<sup>85</sup> Morris G. Caldwell, “Group Dynamics in the Prison Community,” *Journal of Criminal Law and Criminology* 46:5 (1956): 649-650.

<sup>86</sup> McAlevey, *No Shortcuts*, 4.

In situations where workers strike without the backing of an established organization, these informal leaders are even more critical.

In the case of the 2013 prison strike, these leaders were a mix of formal and informal social leaders, and representative of different social and cultural groupings:

So, for example, the Native Brotherhood group as well as the Christian Fellowship group [...] and Alcoholic Anonymous and self-help groups and then the range reps<sup>87</sup> and also at that time, although the Conservatives had started to take representation away from us, we still had [for example] a food rep, someone who would be a liaison between the [Inmate] Committee and the kitchen.<sup>88</sup>

Organizers utilized the influence of these social leaders to mobilize support for the strike. As Jarrod Shook explains, “Initially, the population, not on the whole but a large contingent of prisoners, decided they weren’t going to work. And typically what happens with that sort of situation is those with the most social power in the institution have the ability to influence the masses.”<sup>89</sup> The sources of social power and influence in prison, like the workplace, vary widely. Criminologists and other commentators interested in prison social dynamics have, for example, pointed to such sources of influence as: oppositional attitude toward prison management; ability to obtain illegal or difficult to procure goods;<sup>90</sup> age and experience in the prison system;<sup>91</sup> and knowledge of law, politics, religion, or culture.<sup>92</sup> Critically, the influence of informal social leaders was tempered by a formal strike vote process in many cases. Formal and democratic procedures were better than the

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<sup>87</sup> In many federal correctional institutions “range representatives” or “living unit representatives” are formally recognized, elected, liaisons with Correctional Managers and Inmate Committees for issues related to individual ranges or living units. They are sometimes paid positions. Correctional Services of Canada. “Commissioner’s Directive: Inmate Committees,” Commissioner’s Directive 083, Correctional Service Canada, available: <https://www.csc-scc.gc.ca/politiques-et-lois/083-cd-eng.shtml>.

<sup>88</sup> Jim, telephone interview with the author, April 29, 2017.

<sup>89</sup> Jarrod Shook, interview with the author, Toronto, ON, January 21, 2017.

<sup>90</sup> Sykes, *The Society of Captives*, 41, 119; 125.

<sup>91</sup> John Irwin, *The Jail : Managing the Underclass in American Society* (Los Angeles: University of California Press, 1985): 94.

<sup>92</sup> Mumia Abu-Jamal, *Jailhouse Lawyers: Prisoners Defending Prisoners v. the USA* (New York: City Lights Publishers, 2009): 210; Diaz-Cotto, *Gender, Ethnicity and the State*, Chapter 5.

alternative of, as Chester Abbotsbury puts it, “a few guys strong-arming the rest of the population into doing something that could have been detrimental to their trip through the system and eventually finding freedom.”<sup>93</sup>

Between the announcement of the cuts in May 2012 and the start of the strike on October 1, 2013, prison organizers employed different forms of collective decision-making. This was important for several reasons: to encourage the ownership and buy-in from rank-and-file prisoners necessary for collective mass action, to legitimate decisions in the eyes of both participants and prison administrators, and to protect leaders and organizers from being singled out for reprisals.<sup>94</sup>

At Joyceville, members of the inmate committee also intentionally attempted to develop a democratic culture in the year leading up to the strike: “The culture at the time was, ‘ok everyone is involved, we’re going to vote on everything. We’re going to go range to range and vote.’”<sup>95</sup> Members of the IC knew that the strike would require unity and broad-based buy-in. “We tried to, not really enforce, but make it popular, that any decisions we were going to make were going to pass through the population and that way everyone feels that they’re a part of the decision-making and no one is left out.”<sup>96</sup> Although it was not practical to run the IC by referendum, the Joyceville IC members took care to ensure that any significant decisions were determined by mass votes. While the IC at Joyceville turned over in the lead-up to the strike, the culture held, and a formal strike decision occurred in a mass meeting:

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<sup>93</sup> Chester Abbotsbury, interview with the author, Toronto, ON, January 25, 2017.

<sup>94</sup> The US-based *Labor Notes* explains the role that union democracy plays in effective organizations: “Members who have a voice and a vote are more likely to take the union seriously, offer suggestions, and answer leaders’ calls for mobilization. They are more likely to develop into new leaders, and broader leadership means more good ideas percolating through the union, less reliance on a few increasingly burdened people, and greater capacity to inspire members to action.” The same logic applies to informal labour and protest movements and organizations. See Aaron Brenner, “Reform Caucuses and Running For Office,” in Jane Slaughter (ed.), *The Trouble Makers Handbook 2* (Detroit: Labor Notes, 2005), 272.

<sup>95</sup> “Earl,” telephone interview with the author, Toronto, ON, April 29, 2017.

<sup>96</sup> “Earl,” telephone interview with the author, Toronto, ON, April 29, 2017.

You've got representatives of different groups, representatives of different ranges—you know, living units. And basically, you hold a large meeting with everybody, or as many of those leaders, executive members of the different groups and representatives of different segments of the population and then there's a vote taken.<sup>97</sup>

At Collins Bay, a representative from the Inmate Committee, with a correctional officer serving as scrutineer, administered a strike vote in the days leading up to the October 1 policy implementation date. The vote was conducted by secret ballot. Abbotsbury says of the process in Collins Bay: "it was a fairly formal and fairly democratic procedure."<sup>98</sup> There was not much vocal opposition to the strike at Joyceville: "That was pretty easy. Easiest vote I ever participated in."<sup>99</sup> In Donnacona, prisoners took formal votes on a number of issues, including the decision to end the strike there.<sup>100</sup> At Kent, however, informal consensus rather than a formal strike vote was utilized in an attempt to minimize the possibility of disciplinary action.<sup>101</sup>

### ***Divisions and Unity***

No strike strategy is really sound unless its foundation is united and solid ranks. There is no reference here to artificial unity; the unity meant here is a conscious and well-cemented unity that will keep the ranks together come hell or high water. It is a unity based upon the highest interests of the workers. To achieve such unity and solidarity, sincere efforts must be made in several directions.<sup>102</sup>

As William Z. Foster advises, "A first consideration in strike strategy is the development of unity and solidarity among the workers involved in a given action against the employers."<sup>103</sup> The 2013 prison strikers faced significant material and non-economic barriers to collective unity. Canadian prisoners are divided in ways similar to other workers: by gender, race, age, language, national

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<sup>97</sup> Jim, telephone interview with the author, April 29, 2017.

<sup>98</sup> Chester Abbotsbury, interview with the author, Toronto, ON, January 25, 2017.

<sup>99</sup> Jim, telephone interview with the author, April 29, 2017.

<sup>100</sup> Personal correspondence with anonymous Montreal-based prison justice activists, September 29, 2017.

<sup>101</sup> David Jolivet, telephone interview with the author, April 3, 2017.

<sup>102</sup> Steuben, *Strike Strategy*, 113.

<sup>103</sup> Foster, *Strike Strategy*, Chapter II, para. 1.

origin, religion, and more. Canadian prisoners also work different types of jobs; most critically, working federal prisoners are divided between those working institutional maintenance jobs and those working in prison industry. Prisoners, of course, are also divided in unique ways, for example, by length of sentence and type of conviction. While not all prisoners are gang affiliated, gang affiliation marks a potentially deep division.

Like workers on the outside, prisoner organizers must overcome feelings of apathy and hopelessness. “There’s a huge ennui and sense of disempowerment that permeates prison culture at this point and guys aren’t really willing to stick their necks out anymore because so much is on the line.”<sup>104</sup> They also face very real barriers to solidarity—including physical ones. On top of the barriers to organizing posed by bars and walls, prison organizers also face a regime of policies and norms that impede solidarity. “[Prison administrators] don’t want solidarity among prisoners. They want guys to come in on their own, they want them to be there alone and they want them to leave alone. And one of the sayings in prison is: ‘You come here and you leave alone.’”<sup>105</sup>

One means that trade unionists utilize to overcome such divisions is to emphasize common demands. According to Steuben, “Another important step in strike preparations in an unorganized, as well as organized, field must be to popularize the economic demands of the workers.”<sup>106</sup> In the case of the 2013 federal prison strike, this issue—popularizing the economic demands of the workers—was largely done for organizers by the government. While CORCAN workers would feel the cuts most sharply due to the elimination of incentive pay, all prisoners would also be subject to the 30% pay cuts. Since the cuts took the form of an increase to room and board fees, all prisoners, including those who were not working, would be subject to the loss of income.

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<sup>104</sup> Chester Abbotsbury, interview with the author, Toronto, ON, January 25, 2017.

<sup>105</sup> Chester Abbotsbury, interview with the author, Toronto, ON, January 25, 2017.

<sup>106</sup> Steuben, *Strike Strategy*, 91.

Labour activists have likewise long noted that “the best issues are those that are widely and deeply felt and that we can reasonably come up with solutions for.”<sup>107</sup> The 2013 cuts represented both a widely felt issue and, given the significance of the 30% fee increases, a deeply felt one; in this way, the cuts themselves created the conditions for unity and action. The solution to the issue was to simply reverse the cuts and maintain the status quo. Such a demand did not require additional funding for corrections and was thus seemingly a realistic, winnable demand. Speaking of the strike vote at Joyceville, one organizer commented: “The fortunate thing about pay was that it affected everybody, and nobody had a better idea [*laughs*].”<sup>108</sup>

While there was broad consensus on the need to fight the cuts, there was some debate around the best means to do so. Once it was clear that the cuts were going to be implemented as planned, it likewise became obvious that some form of direct protest action was virtually inevitable. The form that this protest would take, however, was contested amongst prisoners. As a form of nonviolent civil disobedience, the strike is not the highest level of escalation of prison protest—that dubious distinction falls on the riot. However, the clear link between prison strikes and riots should also be noted—strikes often degenerate into riots to escalate protest.<sup>109</sup> In other cases, prison organizers have accused administrators of provoking riots, as they can be dealt with more easily than peaceful protest.<sup>110</sup>

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<sup>107</sup> Jane McAlevey, “Making Unions Matter Again,” *The Nation*, December 2, 2010, available <https://www.thenation.com/article/archive/making-unions-matter-again/>.

<sup>108</sup> Jim, telephone interview with the author, April 29, 2017.

<sup>109</sup> The most infamous prison riot in North America, the Attica prison rebellion, began as a metal-shop strike. See Thompson, *Blood in the Water*. According to Canadian Communist Party leader Tim Buck, who was imprisoned in Kingston Penitentiary in 1932 when a riot broke out there, the incident began as a peaceful work stoppage. William Beeching and Phyllis Clarke (eds.), *Yours in Struggle: Reminiscences of Tim Buck* (Toronto: NC Press Limited, 1977), 214-220. The MacGuigan Report on violence in the Canadian prison system in the 1970s provides a further example, noting that, at the Laval Institution, a six-month “period of disturbance began on January 7, 1976, when 158 inmates refused to participate in the normal daily activities and remained in their cells.” MacGuigan, *Report to Parliament by the Sub-committee on the Penitentiary System in Canada*, 28.

<sup>110</sup> Useem and Kimball, *States of Siege*, 99, 160; Fitzgerald, “Prisoners in Revolt,” 195.

As such, in the discussions around the cuts, the strike tactic represented a compromise position amongst those who wanted to undertake some form of direct protest action against the new policy. In the words of strike participant Chester Abbotsbury:

I certainly think that [the strike] was the middle ground. I think that there is a contagion of violence that can happen. [...] it's a bit of a negotiation of the pitfalls of the things that could happen. And so it's trying to find the safest path for everyone to achieve certain goals without making guys do more time, without anyone getting killed in a stab-up, without the guards starting to shoot people with rubber bullets or the tear gas and that type of thing. I've heard horror stories about the riots in Millhaven where they rip[ped] the wires out of the ceiling and really, really tore the place up.<sup>111</sup>

Prison organizer and jailhouse lawyer David Jolivet explained the situation in starker terms: “Our hands were tied with what we could really do. We could do one of two things: one, have a peaceful work action where we don't go to work, or two, we could riot.”<sup>112</sup> Strike organizers and IC members had to consciously “mitigate the very very militant guys who wanted to make a statement.”<sup>113</sup> And it was not only prisoners who feared that the cuts could precipitate riots. The *Vancouver Province* quoted an anonymous source “familiar with federal institutions in B.C.,” who reported that:

There could be riots, if you look at Kent (Maximum Security Institution) or some of the more radical prisons back east [...] The inmates are saying you've reduced our jobs, you're reducing our pay, you're double-bunking us and making us pay more for room and board. You've been reducing our visits with our families. How much more can we take?<sup>114</sup>

Such a sentiment also reflects issues faced by labour activists outside of the prison who must grapple with different cultures and social bases for militancy in different workplaces—even within the same firm or industry. Much like some industries or groups of workers in free society, some

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<sup>111</sup> Chester Abbotsbury, interview with the author, Toronto, ON, January 25, 2017.

<sup>112</sup> David Jolivet, telephone interview with the author, April 3, 2017.

<sup>113</sup> Chester Abbotsbury, interview with the author, Toronto, ON, January 25, 2017.

<sup>114</sup> Sam Cooper, “Rising Threat of Violence: Guards; Prisons: Cuts to Inmate Wages, Benefits Lead to Compounding Dangers in Already-volatile Situations,” *The Province*, October 3, 2013, A3.

Canadian prisons have reputations as being more inclined towards activism and militancy. For example, in the months and years leading up to the 2013 strike, Collins Bay had a particularly mobilized population. In January 2013, 10 months before the October nation-wide strike, prisoners in Collins Bay struck for eleven days to protest the looming wage cuts, food portions, and a variety of other issues. The strike peacefully ended after three weeks when the IC negotiated a settlement, winning improved food, access to microwaves, and the creation of additional inmate jobs, among other things.<sup>115</sup>

Organizers of the nation-wide strike later that year worked to avoid violence, which they understood would discredit the struggle and likely precipitate harsh responses from prison administrators.<sup>116</sup> In the words of one prisoner who had served on the Inmate Committee in Joyceville in the lead-up to the strike:

There had been examples of peaceful non-violent work strikes in other institutions where, as long as they stayed non-violent and non-confrontational and people engaged in all the other aspects of their correctional plan, the punitive measures were minimal. So that was felt to be the most effective way to address it.<sup>117</sup>

Despite the looming possibility of violence (either through a peaceful strike escalating into a riot, or violent retaliation against strikebreakers), it never materialized. In the end, the strike would be peaceful, orderly, and, to a considerable extent, democratic by design.

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<sup>115</sup> Danielle VandenBrink, “Documents show inmate complaints that led to strike,” *The Whig-Standard*, March 22, 2013, available: <https://www.thewhig.com/2013/01/18/collins-bay-inmate-strike-over/wcm/4e22a2b5-67c1-654f-0e7c-8bcca3231f67>.

<sup>116</sup> Similar concerns over “respectability” are also found in the labour movement. For example, in their study of the 2012 company lockout and closure of the Caterpillar Electro-Motive Diesel plant in London, Ontario, Stephanie Ross and Jason Russell show how some members of the Canadian Auto Workers rejected the tactic of a plant occupation on the basis that it would be perceived as overly militant and result in a loss of public support. See Stephanie Ross and Jason Russell, “Caterpillar Hates Unions More Than It Loves Profits”: The Electro-Motive Closure and the Dilemmas of Union Strategy,” *Labour / Le Travail* 81 (Spring 2018): 53–85.

<sup>117</sup> “Jim,” telephone interview with the author, April 29, 2017. “Jim” is a pseudonym for a federal prisoner, currently incarcerated in Ontario. Jim served on the Inmate Committee at Joyceville, where he was incarcerated during the 2013 strike.



Strike organizers did not achieve total unity around the strike as the best tactic to fight the cuts. Indeed, many organizers hoped that lawsuits could complement strike action. Shortly after the strike began, a group of prisoners at Collins Bay connected with prisoners' rights lawyer Todd Sloan to explore administrative and legal options with the hope of potentially reversing the cuts. To "exhaust administrative tools," the prisoners at Collins Bay wrote a letter to the Commissioner of Corrections, explaining the adverse effect the cuts would have on rehabilitation opportunities. They did not receive a response.<sup>118</sup> In taking this approach, prisoners carefully framed the cuts as harmful to the public, and their own struggle as furthering not only the public good in a general sense, but also CSC's mandate more specifically.

With no response from the Commissioner, prisoners at various institutions filed petitions under the *Corrections and Conditional Release Act*. Prisoners also filed an "Application for Reduction of Food & Accommodation Deduction" to have the new fees waived on the grounds that the pay cuts would negatively impact their ability to meet their correctional plans and seek timely release. At Collins Bay, prisoners turned this individual protest into a collective one, and organized a mass petitioning. All the petitions were denied. While the tactic failed, strike organizers at Collins Bay managed to turn an individual right to petition the administration into a sort of collective legal action and consciousness-raising exercise, using the petitions as a way to talk to members of the prison population about the cuts and potential responses.<sup>119</sup> Outside organizations also supported the mass application for waivers. For example, *Cellcount*, a newsletter for prisoners published by PASAN, a Toronto-based HIV/AIDS service agency, published notices advising prisoners to apply for the waiver.<sup>120</sup>

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<sup>118</sup> Jarrod Shook, interview with the author, Toronto, ON, January 21, 2017.

<sup>119</sup> "Jim," telephone interview with the author, April 29, 2017.

<sup>120</sup> "6 Month Deduction Waiver," *Cellcount* 72 (Winter, 2013/14), 5.

Fighting the cuts through administrative processes and lawsuits was viewed by some as being less likely to precipitate severe retaliation from prison officials and guards and less disruptive for prisoners.<sup>121</sup> Moreover, some prisoners favoured the legal strategy as it would not obstruct unity and morale—everyone would win or lose a case together, whereas the strike tactic could be divisive if strikers trickled back to work. For some, job action also meant endangering prisoners’ ability to move down security levels if there were interruptions to normal programming and staff services. Indeed, at Collins Bay and Joyceville, prisoners reported that, during the strike, correctional staff used the events as an opportunity to shirk duties (canceling scheduled meetings, regular programming, etc.).<sup>122</sup> On the other hand, a lawsuit would be slow and there was no guarantee that it would be successful. While the legal challenge had certain advantages, it was clear that a strike would occur as well. “Everyone know that that [the legal challenge] was going on simultaneously, and I don’t think anyone didn’t support it—but there were guys who wanted other things to happen in parallel.”<sup>123</sup>

### *Coordination*

[S]trike machinery must correspond to the needs and peculiarities of each industry. A miners’ strike is limited to the various mining communities. A national railroad strike spreads all over the country. A maritime strike could spread over many parts of the world. Clearly, strike machinery in these three industries will, of necessity, vary.<sup>124</sup>

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<sup>121</sup> It is widely recognized that even complaints that are filed through the proper institutional channels may provoke retaliation. This issue was recently raised by the Senate Standing Senate Committee on Human Rights: “The committee is also gravely concerned by consistent reports, from across the regions visited and across different penitentiaries for men and women, that individual staff members from the CSC take retaliatory action against federally-sentenced persons who exercise their right under the CCRA [*Corrections and Conditional Release Act*] to file grievances or make complaints when they believe their rights have been violated.” Senate of Canada, “Interim Report – Study on the Human Rights of Federally-Sentenced Person,” 24.

<sup>122</sup> Chester Abbotsbury, interview with the author, Toronto, ON, January 25, 2017; “Earl,” telephone interview with the author, Toronto, ON, April 29, 2017; Earl, telephone interview with the author, Toronto, ON, April 29, 2017.

<sup>123</sup> Chester Abbotsbury, interview with the author, Toronto, ON, January 25, 2017; “Earl,” telephone interview with the author, Toronto, ON, April 29, 2017.

<sup>124</sup> Steuben, *Strike Strategy*, 99.

The more workplaces participate and the larger the geographic area, the more complex strikes become. Even without the particular organizing barriers placed on prisoners, a national prison strike is a challenging proposition. Canada has 43 federal correctional institutions spread across the country and administratively divided into five regions. These correctional institutions themselves vary—there are multiple security classifications, men’s and women’s institutions, mental health treatment facilities and native healing centres.

The 2013 federal prison strike’s machinery was the most obviously weak in terms of its ability to coordinate across institutions. This lack of coordination was not an oversight. While organizers “were trying to organize *all* the institutions to stop working,” this was in actuality a nearly impossible task.<sup>125</sup> Despite some IC members’ best efforts, there was little to no communication between Inmate Committees in the various institutions. Since phone calls between ICs were not authorized for the purpose of discussing the work stoppage, letters were sent between institutions and responses only began to be received after the strikers had returned to work.<sup>126</sup> As Shook puts it, “the Security Intelligence Office made sure that those [letters] didn’t get into the hands of the population.”<sup>127</sup> This lack of communication between institutions was, and remains, a major barrier to Canadian prisoner organizing. “One of the problems in the system right now is that communication between Inmate Committees in general, just to prevent nation-wide strikes and that type of thing going on, and to kind of bifurcate and break up the prison population into unitary cells as much as humanly possible, is to go through the mail as much as possible unless there’s something super important—like the negotiation of a cable contract.”<sup>128</sup>

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<sup>125</sup> “Earl,” telephone interview with the author, Toronto, ON, April 29, 2017.

<sup>126</sup> Jarrod Shook, interview with the author, Toronto, ON, January 21, 2017.

<sup>127</sup> Jarrod Shook, interview with the author, Toronto, ON, January 21, 2017.

<sup>128</sup> Chester Abbotsbury, interview with the author, Toronto, ON, January 25, 2017.

Given the barriers to communication between organizers in different institutions, and given the fact that there was no outside organization capable of playing a role coordinating the strike, strikers in each institution were “striking blind.”<sup>129</sup> Most organizers relied on media reports to attempt to get a picture of the extent and strength of the strike. This lack of coordination would become a particularly acute issue as the strike ended and prisoners began trickling back to work institution by institution.

### ***Public Support and Community Alliances***

A hostile attitude on the part of the public at large, or even an attitude of apathy and indifference in time of a major strike, is dangerous; for such a condition is favorable to developing an offensive against the strike.<sup>130</sup>

As Janice Fine notes, many workers in the contemporary economy find themselves without substantial economic power. They are easily replaceable or otherwise limited in the power that they can leverage by withholding their labour. As such, their “power comes from their ability to cast issues in moral terms and capture the sympathy of constituencies that have more political power.”<sup>131</sup> Similarly, other groups of workers make moral claims to strengthen their economic demands. Public sector workers often appeal to conceptions of the public good as a labour relations strategy.<sup>132</sup>

As previously mentioned, to leverage moral power, prisoners framed the cuts as detrimental to their ability to successfully reintegrate into the community, and as increasing their likelihood of recidivism. As such, in the long run, the cuts would actually represent increased costs to taxpayers and risk public safety. Despite this messaging, prisoners and their supporters are well

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<sup>129</sup> Personal correspondence with anonymous Montreal-based prison justice activists, September 29, 2017.

<sup>130</sup> Steuben, *Strike Strategy*, 178.

<sup>131</sup> Fine, *Worker Centers*, 199.

<sup>132</sup> Stephanie Ross, “Social Unionism and Union Power in Public Sector Unions,” 57.

aware that prisoners have virtually no innate moral power, but that moral capital was nonetheless critical to their struggle. In an interview with *Prison Radio* during the strike, Bath Institution prisoner and prisoners' rights advocate Peter Collins put it simply: "People are realistic. We're in prison and we're not a big sympathy-grabber."<sup>133</sup> Prisoners in Collins Bay thus "wanted to show that we had exhausted all avenues" before escalating to "more extreme action—refusing to go to work or otherwise." There was a desire to appear "reasonable" in order to appeal to the public, which is critical for prisoners' struggles as "typically prisoners are seen as problematic, and ... you know, not reasonable."<sup>134</sup>

By exhausting all administrative tools available to them, the prisoners attempted to challenge public stereotypes of prisoners. This is not significantly different from other groups of workers engaging in strike action and appealing to public support and conceptions of the public good.<sup>135</sup> Despite his admission that prisoners are not a "big sympathy-grabber," Collins articulated a moral strategy in his *Prison Radio* appearances in the lead-up to the cuts. As others had done in letters to publications such as *Cellcount*, Collins emphasized that the cuts would not just hurt prisoners; "it is families and children as well. These cutbacks, these thoughtless cutbacks, really do damage—they leave a bigger hole in the ground than just with us."<sup>136</sup> Even when articulating a desire for concrete protest, prisoners considered optics and public opinion. As former Collins Bay prisoner and strike participant Chester Abbotsbury puts it:

To say, 'The prison's gone on strike, no one's getting stabbed, nothing's been set on fire' I think is a far better message than 'they lit the place on fire because they

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<sup>133</sup> *Prison Radio*, September 27, 2013.

<sup>134</sup> Jarrod Shook, interview with the author, Toronto, ON, January 21, 2017.

<sup>135</sup> Regardless of their legal employee status, Prisoners in most prison labour schemes are best understood as public sector workers. As explained by Stephanie Ross, public sector workers' "power—and the power of their immediate opponent, the state or public agency as employer—is not primarily economic." For this reason, practices such as "alliance-building (external solidarity) and voice (proactive framing)" are as important for prisoners engaged in strike activity as they are for public sector unions. Ross, "Social Unionism and Union Power in Public Sector Unions," 59, 65.

<sup>136</sup> *Prison Radio*, September 27, 2013.

got their pay cut in half—that’s why they’re in prison because that’s the type of thing they do!”<sup>137</sup>

Instead of prisoners lobbying politicians directly, Collins hoped that non-incarcerated people could intervene on behalf of prisoners:

It would be nice if people were asking their politicians why it is that CSC is now reformulating a 30-year-old pay schedule that already had room and board taken out of it and then doing it again. Or why they’re charging administrative costs for a phone system when the Treasury Board already gives CSC money to run their whole system.<sup>138</sup>

Although realistic and constrained, these moral appeals did result in some favourable media coverage. However, it cannot be said that prisoners and their supporters managed to win broad support. This was made evident in a “Chat back” article published by the *Vancouver Province* that collected Facebook comments on the subject of the wage cuts. Some commenters exclaimed, “Wait, wait ... nope. Just couldn’t give a rat’s ass about losers in prison” and “Boo freakin’ hoo!”<sup>139</sup> Thus, while the exercise of moral power might be a necessary component of a struggle in order to mobilize support, there is no guarantee that it can be marshalled and it cannot substitute direct exercises of power—either political or economic—by those in struggle.<sup>140</sup>

Despite recognizing that they were not, as Peter Collins had put it, “a big sympathy grabber,” prisoner support groups in various cities supported the strike. Specifically, community groups in Kingston, Winnipeg and Montreal supported the strikers at their local institutions. Some, like End the Prison Industrial Complex (EPIC) in Kingston, were standing organizations working

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<sup>137</sup> Chester Abbotsbury, interview with the author, Toronto, ON, January 25, 2017. “Chester Abbotsbury” is the pseudonym of a former Collins Bay prisoner who served as a range representative and prisoner spokesperson during the 2013 prison strike. He blogs at <https://chesterabbotsbury.wordpress.com/>

<sup>138</sup> *Prison Radio*, September 27, 2013.

<sup>139</sup> “Chat Back” *The Province*, October 16, 2017, A23.

<sup>140</sup> While public support is a key part of public sector workers’ strike strategies, it is also true that a strike does not necessarily have to have wide public support to win. See Dave Powell, “You Don’t Have to be Popular to Win,” *Organizing Work* (blog), May 2, 2020, available: <https://organizing.work/2020/05/you-dont-have-to-be-popular-to-win/>.

on prison justice and prison abolition campaigns. Others, such as the Prison Strike Support Network in Winnipeg, were ad hoc, though also cobbled together out of already-existing networks of prison justice activists.

The goals of the support committees varied, but all attempted to amplify the voices of the strikers by engaging in agitation and public education efforts to increase awareness around the pay cuts and strike. The Winnipeg committee attempted to provide material as well as moral support for the prisoners by raising money for a strike fund. The fundraising goal was set at \$3919, enough to pay every prisoner in Stony Mountain one day's wage at the maximum pay level. The Winnipeg committee also held a demonstration at the Winnipeg Remand Centre and members of the group ran a half-marathon from Winnipeg to Stony Mountain to raise money and awareness about the strike.<sup>141</sup> In Kingston, members of EPIC handed out flyers at an intersection in front of Collins Bay and published several essays by strikers.<sup>142</sup>

Another form of action took place in Montreal, where anarchists vandalized Ministry of Public Safety vehicles. In November 2013, an internet communique claimed, "Recently, we paid a visit to the parking lot of the Ministry of Public Security of Quebec at 600 Fullum, and doused their official vehicles with paint stripper and slashed the tires." According to the communique, this was done in support of immigrant detainees on hunger strike in Ontario and the striking federal prisoners.<sup>143</sup>

Although it is unclear if any of the prison strikers heard about the vandalism in Montreal, they were generally happy for outside support, though they also recognized that "at the end of the

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<sup>141</sup> Member of Prisoners' Strike Support Network, telephone interview with the author, December 15, 2016.

<sup>142</sup> Members of EPIC, telephone interview with the author, January 18, 2017.

<sup>143</sup> "Canada: Ministry of Public Security vehicles attacked (Montreal, November 2013)" *Inter Arma* (blog), November 12, 2013, available: <https://interarma.info/2013/11/12/kanadas-kammena-aytokinhhta-ypoyrgeiou-2013/?lang=en>.

day, [it came from] a handful of people who have always been there for us.”<sup>144</sup> Outside support is difficult—even prisoners’ families are often afraid to agitate on their behalf out of fear that their loved ones will be punished for it.<sup>145</sup> Strike supporters were unable to significantly mobilize public opinion behind the strikers and no national coordination of support work occurred.<sup>146</sup> This inability of strikers or their supporters to mobilize significant public support is all the more stark when contrasted with the public furor around the announcement of the closure of the CORCAN-operated prison farms, especially by elements of the centre-left.<sup>147</sup>

While the federal guards’ union, the Union of Canadian Correctional Officers (UCCO), neither publicly supported or denounced the wage protests, they utilized the visibility of issues in the federal prison system as an opportunity to bash the federal Conservatives, whose austerity agenda they vehemently opposed. The president of UCCO’s BC provincial section stated that the wage cuts “compounded” the “danger in an already volatile situation” created by Corrections budget cuts.<sup>148</sup> However, with the exception of UCCO, the labour movement was silent on the strike. Outside of the prison justice movement, the left was likewise.<sup>149</sup>

### *Levels of Compliance*

In newly or recently organized shops the employers may still be able to mislead a number of workers who will be induced to remain inside the factory. With such workers the union must reason, must appeal to their conscience, and try to exert a

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<sup>144</sup> Chester Abbotsbury, interview with the author, Toronto, ON, January 25, 2017.

<sup>145</sup> Chester Abbotsbury, interview with the author, Toronto, ON, January 25, 2017.

<sup>146</sup> Member of Prisoners’ Strike Support Network, telephone interview with the author, December 15, 2016; Members of EPIC, telephone interview with the author, January 18, 2017.

<sup>147</sup> See Goodman and Dawe, “Prisoners, Cows, and Abattoirs.”

<sup>148</sup> Cooper, “Rising Threat of Violence,” A3.

<sup>149</sup> For example, the socialist group Fightback praised the wildcat strike of Alberta prison guards, which occurred only a few months before the federal prison strike in 2013, as “a lesson for the entire labour movement,” and brushed off concerns that prisoners were locked down for the duration of the job action by noting that every “strike creates inconveniences for those who rely on the services of the workers on strike.” Isa Al-Jaza’iri, “Alberta Prison Guards’ Wildcat: A Lesson for the Entire Labour Movement,” *Marxist.ca*, May 3, 2013, available: <https://www.marxist.ca/article/alberta-prison-guards-wildcat-a-lesson-for-the-entire-labour-movement>. Fightback did not report on the prisoners’ strike later that year.



maximum of moral pressure. At least this must be the starting point. When such efforts fail, this group must be branded for what they are and treated as enemies of their fellow workers, the union, and the community. Often this group remains inside the plant for the duration of the strike. While the union continues to make constant appeals to such workers to leave the plant and join the strike, it at the same time takes all necessary measures to keep these scabs isolated.<sup>150</sup>

In institutions where strikes occurred, participation was generally reported as high, but it is difficult to assess the exact level of participation by prisoners. The *Drumheller Mail* reported that “It appears to be the majority of the population” on strike at Drumheller.<sup>151</sup> Some institutions went on lockdown in expectation of strikes, or due to some portion of the population engaging in work stoppages, effectively resulting in a lockout for prisoner-workers. This was the case in Kent, at least for a part of the duration of the strike, and lockdowns also occurred intermittently at other striking institutions:

For the most part we were all on strike. And when there is a rumour of a strike, usually the institution locks down anyway, so we didn’t have to do anything. They just, automatically, don’t open the doors in the morning for breakfast and they slip a memo under the door saying ‘because of a nation-wide inmate strike we’re locking the institution down for safety and security reasons’ and that’s it. We didn’t do nothing. They lock us down anyway because they think there’s going to be a problem.<sup>152</sup>

In many cases, even prisoners who had been vocally against the strike participated out of a sense of solidarity, fear of ostracism or violence, or some mixture of all three. For example, in Collins Bay Medium, “the guys in 9 block were overwhelmingly against going on strike but were going to go along with the flow.”<sup>153</sup> The role of social pressure is present, at least to some degree,

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<sup>150</sup> Steuben, *Strike Strategy*, 134

<sup>151</sup> “Inmates take strike action,” *The Drumheller Mail*, October 9, 2013, available: <http://www.drumhellermail.com/news/13348-inmates-take-strike-action>.

<sup>152</sup> David Jolivet interview with the author, Toronto, ON, April 3, 2017; “Prisoner pay cut prompts fundraising, support group,” *Winnipeg Free Press*, October 16, 2013, available, <http://www.winnipegfreepress.com/canada/Prisoner-pay-cut-prompts-fundraising-support-group-228102171.html>; “Q&A: Prisoner on strike says inmates have rights too” *CBC News*, October 11, 2013, available: <http://www.cbc.ca/news/canada/montreal/q-a-prisoner-on-strike-says-inmates-have-rights-too-1.1990743>.

<sup>153</sup> Chester Abbotsbury, interview with the author, Toronto, ON, January 25, 2017.

in all job actions. In an account of a wildcat strike at a casting plant in New Jersey in the mid-1970s, Rick Fantasia described the role of social pressure in mobilizing for strike action:

Before everyone left for the day, one of the activists took an informal poll to make sure everyone was committed, and it appeared that most were in favor. It would be hard to imagine anyone subjecting himself to the certain peer pressure and even ostracism that would have resulted from having openly opposed the action, but in any case, there was a “public” commitment from most to join in.<sup>154</sup>

In practice, people participate in risky collective action for complex reasons related to social pressure, self-interest, and feelings of unity and solidarity. Violence against strike breakers and scabs is also not unique to prison.

Even some minimum-security facilities, such as the one at Collins Bay, had a large proportion of prisoners join the strike, something which was “almost unheard of.”<sup>155</sup> Organizers reported that is because prisoners close to release and prisoners attempting to move down security classifications were less likely to participate in disruptive actions such as a strike.

Perhaps counterintuitively, those prisoners who had experiences with organized labour on the outside were not necessarily those most in favour of the strike. Support for strike action was instead correlated with levels of social marginalization and levels of integration into prison culture.<sup>156</sup> These are factors that intersect with race, socio-economic status, and immigration status. Wary of reinforcing stereotypes, Collins Bay striker Chester Abbotsbury explains:

I’ve got to be very careful how I phrase these things, but certainly people who hadn’t been much in the workforce through their lives, who’d only ever engaged in crime, many of whom were marginalized people of colour, people of indigenous ancestry, tended to be more for the strike. I think a lot of the newcomers—and there’s a fairly large immigrant population in prison in Canada—for the most part they were against it. They wanted to get through the system and mind their p’s and

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<sup>154</sup> Fantasia, *Cultures of Solidarity*, 96.

<sup>155</sup> Jarrod Shook, interview with the author, Toronto, ON, January 21, 2017.

<sup>156</sup> This somewhat mirrors research that has found that precarious and marginalized workers tend to more in favour of unionization. Labour scholar Stephanie Ross has noted that “Interestingly, the survey research available to us shows that those workers who are mostly likely to find themselves amongst the precariat—women, people of colour, immigrant workers and youth—are also consistently more pro-union than their older male, white, and Canadian-born counterparts.” Ross, “The Complexities of Worker Anti-Unionism,” 49.

q's. But certainly if you'd held an office job in the past, or been in a union or worked in a factory you weren't necessarily all for going on strike. You knew the work ethic and you could see the end game and how it was going to all play out and the benefits and the costs and that type of thing.<sup>157</sup>

There was a high level of strike participation by CORCAN workers who, facing cuts to incentive pay, had the most to lose. CORCAN workers also recognized that they had the most economic power, as they produced products that were sold to offset the costs of the program, and at least ideally, remit profits back to CSC.<sup>158</sup> Struck CORCAN shops could jeopardize customer contracts and potentially cause significant economic damage to the prison industry and, in turn, CSC.

Despite the strong support for the prison strike on the whole, organizers reported that there were some issues with scabbing, although a precise estimate of those who continued working through the strike is not possible.<sup>159</sup> Thus prisoners faced a risk of repercussions regardless of their position on the strike. They could choose to participate and potentially face sanctions from the administration, or to go to work and potentially face sanctions from peers. Abbotsbury explains: "You've got these opposing forces between just trying to get through the system without getting in trouble and moving along as quickly as you can and fitting into the criminal culture and keeping yourself safe."<sup>160</sup> The potential for violent sanctions from striking peers was obviously one of the most serious considerations for scabs. Despite this, there were no reported incidents of violence against prisoners who worked through the strike. Speaking of the situation in Collins Bay, Abbotsbury reported:

I think there were one or two guys who still went down to CORCAN, and I know that those guys faced some repercussions for that. Not violent, but definitely some

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<sup>157</sup> Chester Abbotsbury, interview with the author, Toronto, ON, January 25, 2017.

<sup>158</sup> Chester Abbotsbury, interview with the author, Toronto, ON, January 25, 2017.

<sup>159</sup> It is impossible to measure the exact numbers of prisoners who scabbed during the strike given the available data. The organizers interviewed for this study reported that scabbing occurred but was relatively rare.

<sup>160</sup> Chester Abbotsbury, interview with the author, Toronto, ON, January 25, 2017.

serious social ostracism by people in the prison population. They were fairly ostracized already by many people so I don't know if that made much of a difference...<sup>161</sup>

In Kent:

There were a few people that did go back to work [during the strike] but there was no retaliation. We sent a message to them telling them that it was wrong and 'don't do that again' because it could cause serious problems, but you can't control everybody, right?<sup>162</sup>

Many of the CORCAN workers did not return to their jobs at the end of the strike. Speaking of the CORCAN workers at Collins Bay, although he himself was not one, Abbotsbury says: "They said, 'I'm not doing this for no pay. This is highly skilled, difficult labour. I'll take an easy job in the prison taking garbage out, thank you.'"<sup>163</sup> In Collins Bay, "The majority of [CORCAN workers], probably 2/3 or 3/4 of them left and didn't go back."<sup>164</sup> At Joyceville, CORCAN struggled to operate after the strike. "All the guys that were in Joyceville that were part of the strike didn't go back to work with CORCAN."<sup>165</sup> A prisoner-organizer who was in Joyceville further explains: "Guys were making hundreds of dollars a week, and now you're down to thirty-some dollars a week. So it was sort of a spiteful move [on behalf of workers] not to go back to CORCAN [...]."<sup>166</sup> These accounts have been corroborated by the Auditor General, who reported that "with elimination of incentive pay, CORCAN shops estimate they have operated at 57% capacity – offenders do not value the jobs as highly as before."<sup>167</sup>

In order to function in the aftermath of the strike, CORCAN was forced to wait for newly admitted prisoners to complete training and staff the facilities, allegedly reaching out to reception

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<sup>161</sup> Jarrod Shook, interview with the author, Toronto, ON, January 21, 2017.

<sup>162</sup> David Jolivet, interview with the author, Toronto, ON, April 3, 2017.

<sup>163</sup> Chester Abbotsbury, interview with the author, Toronto, ON, January 25, 2017.

<sup>164</sup> Chester Abbotsbury, interview with the author, Toronto, ON, January 25, 2017.

<sup>165</sup> "Earl," telephone interview with the author, Toronto, ON, April 29, 2017.

<sup>166</sup> "Earl," telephone interview with the author, Toronto, ON, April 29, 2017.

<sup>167</sup> Office of the Correctional Investigator, *Annual Report of the Office of the Correctional Investigator 2014-2015*, available: <https://www.oci-bec.gc.ca/cnt/rpt/annrpt/annrpt20152016-eng.aspx>, 47.

centres to have prisoners take CORCAN jobs explicitly as part of their correctional plans. “So basically all the new guys that came to Joyceville from reception, those were the guys that worked at CORCAN.”<sup>168</sup> At Joyceville, strikers had demanded that *all* prisoners should be immediately granted “A” level pay in order to mitigate the effects of the cuts, a decision that the institutional head had the power to enact. With the new room and board clawback applied, “A” level pay became \$4.83 per day. While the strikers failed to win “A” level pay for all workers, the Joyceville CORCAN shop eventually conceded to the demand in the face of prolonged labour shortages—a good example that prisoners *can* sometimes successfully leverage economic power. Once they did, prisoners began to return to work, declaring the concession a partial victory.<sup>169</sup>

### ***Maintaining Morale and Cultures of Solidarity***

A hot cup of coffee during cold weather or an ice-cold drink during hot weather is a great morale builder.<sup>170</sup>

Striking in prison typically means lockdowns or “modified routines”; both feature more time locked in cells and little or no access to programming or recreation. Lockdowns are a normal part of life in Canada’s prisons and jails.<sup>171</sup> At Joyceville, the institution ran on “modified routine” during the strike. As a striker describes it:

We’d all be locked in our cells. Our usual routine would be, say 7:30 in the morning, they would unlock our cells. We would come out for breakfast. We would prepare breakfast or get meals off the carts and get ready for work. By 8:00 or 8:30 we’d be going out to work. We’d come back at, say, 11:00 or so and then stay in our unit,

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<sup>168</sup> “Earl,” telephone interview with the author, Toronto, ON, April 29, 2017. Other prisoners made similar allegations regarding CORCAN work to media. For example, see Brownell, “Prisoner Want a Raise. Taxpayers Want a Break.”

<sup>169</sup> “Earl,” telephone interview with the author, Toronto, ON, April 29, 2017.

<sup>170</sup> Steuben, *Strike Strategy*, 143.

<sup>171</sup> Justin Ling, “Canada’s Prisons are Failing,” *CBA/ABC National*, August 12, 2019, available: <https://www.nationalmagazine.ca/en-ca/articles/law/in-depth/2019/canada-s-prisons-are-failing>; The frequency of lockdowns is also a common topic in annual reports of the Office of the Correctional Investigator. For example, see Office of the Correctional Investigator, *Office of the Correctional Investigator Annual Report 2017-2018*, available: <https://www.oci-bec.gc.ca/cnt/rpt/annrpt/annrpt20172018-eng.aspx>.

stay in our ranges, until a little after 12:00, or 12:30. At 12:30 or 1:00 they'd release us to go back to work in the afternoon. And that's our regular schedule. And we would come back at 3:30, stay in our units, we'd eat supper around 4:00 and between 5:00 and 5:30, or sometimes 5:30 or 6:00, we'd go back out for yard time in the evening. During the strike, all of the times that we'd be at work, we'd be locked in our cells.<sup>172</sup>

For some strikers, this modification to the routine was difficult:

It's very difficult. When we're here most of what we do is routine. So, a disruption of routine is a different state—we're in a different mental state. It's frustrating sometimes, but most of the time guys would cope with it either by finding something to read or find something to watch, something to talk about, even [...] trying to let time pass [...] I read and studied a lot. I started taking a course for business management. So, I mostly did that. Or I was just reading history books that I have on African history.<sup>173</sup>

A striker in Kent describes his situation:

You're just locked up in your cell and you're on lockdown routine and you don't really notice it, at least I didn't. We got locked up there like three times a week anyway, so it wasn't any big deal for me, I'm pretty used to it. It wasn't a thing where everybody is ranting and raving about the conditions of work, and all that. Guys rarely even mentioned it. It was just lockdown and kick back and just get into your routine locked in a cell.<sup>174</sup>

One prisoner's wife reported that at Stony Mountain strikers stayed "in their cells except to shower every two days"<sup>175</sup>

The withdrawal of prisoners' labour directly impacted non-work programming and services in the striking institutions. As stated, most of the services (and some of the goods) produced by prisoner workers are for their own immediate consumption and, as such, prison strikes are general strikes. Abbotsbury puts it bluntly: "You're shooting yourself in the foot when you strike [...] it's like going on strike at the only bread factory in town, all of a sudden, you're not

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<sup>172</sup> "Earl," telephone interview with the author, Toronto, ON, April 29, 2017.

<sup>173</sup> "Earl," telephone interview with the author, Toronto, ON, April 29, 2017.

<sup>174</sup> David Jolivet, telephone interview with the author, April 3, 2017.

<sup>175</sup> Carol Sanders, "Stony inmates refuse work after pay cut," *Winnipeg Free Press*, October 9, 2013, A4.

eating.”<sup>176</sup> He continues, “You weren’t getting a plumber if your toilet’s clogged obviously, because he didn’t have his assistant to do the work.”<sup>177</sup> At Joyceville, prisoners were conscious of this dynamic, and strikers voluntarily cleaned up their living units, “doing the sweeping, emptying the garbage, and so on [...] but we didn’t collect any pay for that.”<sup>178</sup>

Inmate-run canteens are a part of daily life in Canadian prisons. Far from just pop and chip dispensaries, canteens are the source of a wide variety of necessary and desirable items, ranging from toothpaste, deodorant and other personal hygiene items to food items to educational and entertainment material. Federal prison watchdog Howard Sapers reported that over the 30-year period that Canadian prisoners endured a wage freeze, the cost of an average basket of canteen goods had risen by 700 percent.<sup>179</sup>

At Joyceville, prisoners staffed the canteen but did not collect wages.<sup>180</sup> “Some guys—most guys—would have money sent in through their community support: wives, girlfriends, or whatever. And that’s the money we would spend at the canteen.”<sup>181</sup> The Joyceville strikers ran the canteen “just to maintain some sort of routine amongst ourselves. Again, canteen is essential for us.” The canteen at Joyceville also served as a source of solidarity amongst strikers. Absent a strike fund, “some people go without, but there were instances where guys would help out each other. There were instances where guys would share any small thing—a bag of chips, something, a chocolate bar, anything—just to lighten the mood of someone that doesn’t have anything.” Prisoners with money would also give “cans of beans or cans of salmon, something that a person

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<sup>176</sup> Chester Abbotsbury, interview with the author, Toronto, ON, January 25, 2017.

<sup>177</sup> Chester Abbotsbury, interview with the author, Toronto, ON, January 25, 2017.

<sup>178</sup> “Earl,” telephone interview with the author, Toronto, ON, April 29, 2017.

<sup>179</sup> Tobi Cohen, “Prisoner Purchases Offer Peek at Life Inside the Penitentiary; Inmates Buy Shoes, Games, Body Wash,” *The Windsor Star*, September 15, 2012, A9.

<sup>180</sup> “Earl,” telephone interview with the author, Toronto, ON, April 29, 2017.

<sup>181</sup> “Earl,” telephone interview with the author, Toronto, ON, April 29, 2017.

could take back when they're locked up at night and enjoy and pass the time."<sup>182</sup> This solidarity economy also allowed social leaders to demonstrate their dedication to the strike:

Most of the guys that had pull would lead by example, and spend five bucks on somebody else, three dollars on someone and help them out—just so we would stick it out. You know, if one side of the institution is having canteen and the other side is not, then one side is thinking [...] 'I don't want to be part of this anymore' so that helped out with the solidarity as well.<sup>183</sup>

In addition to material acts, strikers also engaged in symbolic actions to demonstrate solidarity. For example, at Collins Bay strikers grew "strike beards."<sup>184</sup> Such an act of visible solidarity is not unlike the use of red squares by Quebec student strikers or red t-shirts by American teachers as visible ways for strikers and supporters to register their support.<sup>185</sup> As Jane McAlevey explains, symbols of support for a strike "are solidarity and confidence-building, showing workers the strength of their numbers."<sup>186</sup> As such, they also serve as a "structure test," allowing strikers (and employers) to gauge the level of support that exists at a given time.

### **Pushing Back Against the Push Back: Institutional Responses and Strike Breaking**

The disruption of the prison routine went beyond issues immediately related to prison labour. The shirking of regular duties by staff during the strike meant the suspension of activities that prisoners were required to do to "cascade" down the security classifications and increase their chances at parole. "I think there was a certain amount of advantage taken by the staff. You know,

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<sup>182</sup> "Earl," telephone interview with the author, Toronto, ON, April 29, 2017.

<sup>183</sup> "Earl," telephone interview with the author, Toronto, ON, April 29, 2017.

<sup>184</sup> Chester Abbotsbury, interview with the author, Toronto, ON, January 25, 2017.

<sup>185</sup> See "Trademark Ruling Keeps Red Square Student Protest Symbol Public," *CBC News*, July 4, 2016, available: <https://www.cbc.ca/news/canada/montreal/red-square-student-protest-public-domain-1.3663550>; Eric Blanc, *Red State Revolt: The Teachers' Strike Wave and Working Class Politics* (New York: Verso, 2019), 58. Strike beards received some popular attention during the 2007-2008 Writers Guild of America Strike. See Ben McGrath, "Strike Beards," *The New Yorker*, December 31, 2007, available: <https://www.newyorker.com/magazine/2008/01/07/strike-beards>.

<sup>186</sup> McAlevey, *No Short Cuts*, 37.



‘the guys are out on strike, I’m just going to sit here and watch YouTube videos.’”<sup>187</sup> This staff slacking also had the effect of putting some pressure to return to work on the strikers:

The garbage piling up is kind of a metaphor for a whole bunch of [...] institutional services and things that you may have required [...] which were all of a sudden screwed up because of the strike and you can’t easily figure out how much of it was screwed up because of the strike and how much of it was screwed up because they realized that it affected our quality of life. So, trips to healthcare and stuff like that, [it was unclear] if they were put off because the administration decided it was one of the things they were going to go and throttle down on, just to make guys’ lives harder.<sup>188</sup>

This remark echoes that of a prisoner in Walpole Prison in Massachusetts, quoted by Howard Zinn in his seminal *A People’s History of the United States*:

Every program that we get is used as a weapon against us. The right to go to school, to go to church, to have visitors, to write, to go to the movies. They all end up being weapons of punishment. None of the programs are *ours*. Everything is treated as a privilege that can be taken away from us. The result is insecurity—a frustration that keeps eating away at you.<sup>189</sup>

Guards, administrators, and politicians utilized different means to oppose the strike and pressure prisoners to return to work and programming. Steuben notes that “The oldest and most persistent form of strikebreaking is unadulterated violence stimulated, sponsored, planned and financed by the employers.”<sup>190</sup> Prison strikes and protests have, at times in Canadian history, been met with considerable violence by guards. Guard violence was a major feature of the 1975 strike wave. The Archambault strike in 1976 was likewise marred by violence. Perhaps the most notorious incident of guard violence in Canada is the putting down of the 1994 Prison for Women (P4W) riot. A film of the incident, recorded by the Institutional Emergency Response Team, was eventually released to the public and resulted in a government commission. While much of the public outcry and

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<sup>187</sup> Chester Abbotsbury, interview with the author, Toronto, ON, January 25, 2017.

<sup>188</sup> Chester Abbotsbury, interview with the author, Toronto, ON, January 25, 2017.

<sup>189</sup> Howard Zinn, *A People’s History of the United States, 1492-Present* (New York: Harper Perennial Modern Classics, 2005): 517. For more on prisoner organizing at Walpole, see Bissonette, [title?] 2008.

<sup>190</sup> Steuben, *Strike Strategy*, 183

subsequent commission focused on the fact that an all-male IERT had stripped and performed cavity searches on women prisoners, the Arbour Report (as the commission would be known), recommended, along with a host of other reforms, that prison staff “have available to them a range of non-violent, non-coercive interventions before force, including restraints and/or segregation, is used.”<sup>191</sup> Despite this recommendation, use of force continues to be an issue in Canadian prisons.<sup>192</sup>

Rather than crush the strike outright, however, guards and administrators utilized a host of more subtle tactics. On October 3, three days into the strike, an unnamed CSC spokesperson told the Vancouver *Province* that “peaceful protests in connection with prison wage cuts will be tolerated.”<sup>193</sup> This was reaffirmed the next week by CSC spokesperson Jeff Campbell, who told the *Winnipeg Free Press*, “Inmates who have not reported for work and/or program assignments have the right to peaceful protest.”<sup>194</sup> Despite these statements, a month later, after most institutions had returned to work, *Prison Radio*, a prison news program that airs on community radio station CKUT in Montreal, claimed that “Prison authorities quickly suppressed the majority of these strike initiatives by either placing prisoners that they deemed leaders in the hole and/or transferring them out to different prisons.”<sup>195</sup> As Steuben notes, throughout history employers and police have sought to label leaders and vocal strike advocates as “agitators” who are unrepresentative of their broader constituencies, and target them for discipline.<sup>196</sup> In Collins Bay,

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<sup>191</sup> Louise Arbour, “Commission of Inquiry into certain events at the Prison for Women in Kingston” (Ottawa: Public Works and Government Services Canada, 1996), 103, available: [http://www.caefs.ca/wp-content/uploads/2013/05/Arbour\\_Report.pdf](http://www.caefs.ca/wp-content/uploads/2013/05/Arbour_Report.pdf).

<sup>192</sup> Office of the Correctional Investigator, *Office of the Correctional Investigator Annual Report 2018-2019*, available: <https://www.oci-bec.gc.ca/cnt/rpt/annrpt/annrpt20182019-eng.aspx>.

<sup>193</sup> Sam Cooper, “Rising Threat of Violence,” A3.

<sup>194</sup> Sanders, “Stoney Inmates Refuse Work After Pay Cut,” A4.

<sup>195</sup> Prison Radio, podcast audio, November 14, 2013, available: <https://ia601005.us.archive.org/3/items/20131114.17.0018.00Final/20131114.17.00-18.00-final.mp3>.

<sup>196</sup> Steuben, *Strike Strategy*, 232-233.

several prisoners who were agitating for strike action were reportedly sent to segregation: “I know of four or five guys who were agitating in public [...] and they were sent to the hole. If you want to foment rebellion in here, you’re going to where you can’t talk to anyone.”<sup>197</sup> Strikers at Collins Bay also reported hearing that strike leaders had been segregated at Beaver Creek.<sup>198</sup> Strikers in Donnacona reported that “one prisoner was accused by the administration of orchestrating the strike and was emergency transferred to the Special Handling Unit in Saint Annes-Des-Plaines, Quebec.”<sup>199</sup> Regardless of how many strike supporters were segregated or written up for institutional infractions, the fear of segregation and other repercussions was palpable in the lead-up to, as well as throughout, the strike.

Organizers reported that front line officers had mixed attitudes about the strike. “It depends on the guard, right? Some of them understood, some of them were very upfront with their disapproval of what we were doing.”<sup>200</sup> At Joyceville, staff did attempt to persuade strikers back to work. “They would say stuff like, ‘oh we’re getting danger pay right now so we don’t care, we’re getting overtime pay we don’t care [...] It doesn’t matter to us what you’re doing, you are hurting yourselves [...] you should just go back to work.’”<sup>201</sup> According to strikers, this sentiment was less about personally held beliefs and more about directives from upper management. “The warden would tell these guys, ‘listen, you’ve got to get them to go back to work.’”<sup>202</sup> The prisoners were united enough that this strategy did not work: “It didn’t work because we were adamant in trying to get positive results from this [the strike].”<sup>203</sup>

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<sup>197</sup> Chester Abbotsbury, interview with the author, Toronto, ON, January 25, 2017.

<sup>198</sup> Chester Abbotsbury, interview with the author, Toronto, ON, January 25, 2017.

<sup>199</sup> Personal correspondence with anonymous Montreal-based prison justice activists, September 29, 2017.

<sup>200</sup> Chester Abbotsbury, interview with the author, Toronto, ON, January 25, 2017.

<sup>201</sup> “Earl,” telephone interview with the author, Toronto, ON, April 29, 2017.

<sup>202</sup> “Earl,” telephone interview with the author, Toronto, ON, April 29, 2017.

<sup>203</sup> “Earl,” telephone interview with the author, Toronto, ON, April 29, 2017.

At Kent, guards had mixed opinions on the strike: “I think that some of them sympathized with our situation, but they knew that there just wasn’t proper organization to be able to get something done to fix it all.”<sup>204</sup> Less sympathetic guards attempted to undermine the strike by emphasizing the scabbing that was occurring. “We heard through the guards that were trying to cause shit too [...] telling us ‘oh yeah, hey, we don’t know what you guys are on strike for down here, the guys over in E unit went to work this morning and cooked your breakfast.”<sup>205</sup> Ironically, at least at Kent, guard union militancy in the form of regular job actions had provided an example for strikers to follow, and also meant that lockdowns were a regular occurrence and, as such, a burden strikers were already familiar with.<sup>206</sup>

Rather than targeting the Inmate Committees to try to persuade strikers to return to work, Correctional Officers tasked with attempting to end the strike mirrored strike organizers and targeted social leaders in the population. This strategy was deployed in Collins Bay:

Certain C.O.s are responsible for, let’s say, two or three ranges. And on these two or three ranges they would have certain inmates that they have a certain level of respect between them. And they would try to talk with those ones in hopes—because there is a certain level of respect, a certain level of agreement—and they would try to convince them and try to get them to pass the word on.”<sup>207</sup>

At the level of individual institutions, strikers were punished and pressured in various ways. At Collins Bay, “Yard was taken away. I believe that our ability to use the phone was lessened over time.” A Collins Bay striker elaborates on various ways prisoners were pressured to return to work:

These are strategies also of the staff to try to force us to go back to work: making the food garbage—some of the food would come up half boiled, half cooked and sloppy, compared to when we’re working in the kitchen and we would have decent meals. It was all part of a strategy. Sometimes the garbage wouldn’t get emptied

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<sup>204</sup> David Jolivet, telephone interview with the author, April 3, 2017.

<sup>205</sup> David Jolivet, telephone interview with the author, April 3, 2017.

<sup>206</sup> David Jolivet, telephone interview with the author, April 3, 2017.

<sup>207</sup> “Earl,” telephone interview with the author, Toronto, ON, April 29, 2017.

outside. We would take garbage off the ranges and put them in a big bin outside and then outside a garbage truck would come and take it out. So sometimes they would delay a day or two late, as opposed to regular routine where it would be every couple of days they would come pick it up. Just things to annoy us or to make it uncomfortable for us during the work-stoppage.<sup>208</sup>

Strikers did not just have to contend with guards and other corrections officials. They also had to contend with an openly hostile government. Steuben notes that two classic anti-union strategies are “attempts to discredit strike demands” and “appeals to law and order and patriotism.”<sup>209</sup> Both strategies were subtly evident in the messaging from the government. Public Safety Minister Stephen Blaney responded to the first news reports of the strike on October 3, calling it “offensive to hard working, law abiding Canadians.”<sup>210</sup> The next day, the office of the Ministry of Public Safety and Emergency Preparedness further stated:

Prisoners who work hard will be paid. Prisoners who do not work will not be paid. We are teaching prisoners a valuable lesson for when they are released: you only get paid when you put in a hard day at work. The government is unmoved by this “prisoner work stoppage”—a silly publicity stunt that will impact no one but the prisoners themselves, by making them poorer.<sup>211</sup>

As in the case of the minor media controversy surrounding the intention of the Canadian Prisoners’ Labour Confederation to unionize federal prisoners discussed in the last chapter, the federal Liberals and New Democrats made no public comments on the prison strike.

In the end, the strikers were starved out. While canteens had shut down for periods of time in some institutions, they typically operated through the strike, even if that meant canteen items were delivered once a week, as was the case in Donnacona.<sup>212</sup> At Collins Bay, the canteen had initially shut down when the strike began, but was eventually reopened and staffed by members of

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<sup>208</sup> “Earl,” telephone interview with the author, Toronto, ON, April 29, 2017.

<sup>209</sup> Steuben, *Strike Strategy*, 238; 254.

<sup>210</sup> Brosnahan, “Prison inmates’ strike over pay spreads.”

<sup>211</sup> “Inmates strike at Saskatchewan Penitentiary,” *Global News*, October 4, 2013, available: <http://globalnews.ca/news/882961/inmates-strike-at-saskatchewan-penitentiary/>.

<sup>212</sup> Personal correspondence with anonymous Montreal-based prison justice activists, September 29, 2017.

the inmate committee so as not to give the perception of strikebreaking.<sup>213</sup> However, reopening the canteen had unintended consequences for the duration of the strike. Prisoners' desire for the comfort of hygiene products or a can of pop during the strike—as was articulated by the Walpole prisoner—can be a weapon against strikers. Running the canteen during the strike serves the interest of the administration in at least one important way: with no strike fund, prisoners' savings quickly dwindle and fiscal pressures mount. As Abbotsbury puts it, “Drain their purses, then they have to work.”<sup>214</sup> According to strikers, the administration at Collins Bay may have acted to increase these pressures when, contrary to normal operating policy, it allowed funds to be transferred from prisoners' savings accounts into their canteen funds during the strike.<sup>215</sup> Likewise, strikers in Donnacona reported that a vote to end the strike came immediately after the cap on prisoner spending accounts was raised.<sup>216</sup> This had the effect of placating better-to-do prisoners, who had savings and could continue to purchase from the canteen, while placing additional pressure on lower-income prisoners who had little or no savings. As a consequence of the continued need to make purchases while not working, prisoners' family members also increased the amount of money they were sending inside to support the strikers.<sup>217</sup>

### **Ending the Strike: Winding Up the Struggle?**

Winding up a strike calls for a great deal of wisdom. But the demands on the leadership are nowhere near as great when a strike is won, or partly won, as when it is lost. And many a major strike has ended in defeat; when workers enter a battle, they have no guarantee that victory is certain.<sup>218</sup>

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<sup>213</sup> Jarrod Shook, interview with the author, Toronto, ON, January 21, 2017.

<sup>214</sup> Chester Abbotsbury, interview with the author, Toronto, ON, January 25, 2017.

<sup>215</sup> Jarrod Shook, interview with the author, Toronto, ON, January 21, 2017.

<sup>216</sup> Personal correspondence with anonymous Montreal-based prison justice activists, September 29, 2017.

<sup>217</sup> *Stark Raven Radio*, podcast audio, November 7, 2013, available: [www.vcn.bc.ca/august10/audio/Nov2013.mp3](http://www.vcn.bc.ca/august10/audio/Nov2013.mp3).

<sup>218</sup> Steuben, *Strike Strategy*, 297.

Choosing when and how to end a strike is potentially as critical a decision as that to start it. Just as the strike had started “blind,” so too did it end that way. It is unclear exactly when the first groups of prisoners returned to work, but Collins Bay, Stony Mountain, and others suspended the strike on October 29, nearly four weeks after it began. Prisoners at Collins Bay issued a statement to the government that, unless they negotiated a settlement, they would resume the strike on November 20. In other prisons across the country, other strikers had to glean what they could about the status of the strike from media reports. Speaking of strikers in Kent, David Jolivet summed up the attitude that was likely shared by many: “We didn’t want to be the first to go back.”<sup>219</sup> Labour strategists have long cautioned that strikers must know when to call off a lost strike. If they do not, the

consequence is that many loyal workers, who have fought valiantly while there was even a slight chance to win the strike, are forced back to work with the odium of scab upon them [...] A far more intelligent course is to call off the strike officially when it is manifestly lost, and let the fragments of the defeated army go back to work with honor.<sup>220</sup>

Returning to work in a haphazard manner and without a plan for how to continue the struggle deals a final blow to the morale and solidarity of the workers.

The November 20 deadline passed without triggering a second strike. Prisoners were tired of striking and it was unclear that any additional leverage could have been mustered by a second strike. With canteen funds and stocks low, federal prisons adjusted to the new normal. Once back at work, many continued the spirit of the strike with their own personal protests by putting in minimal effort at work, but the prospects for further collective action did not exist.<sup>221</sup> Joyceville striker Jim summarized the situation: Pay is “always a problem. But have they adjusted? Of course

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<sup>219</sup> David Jolivet, telephone interview with the author, March 25, 2017.

<sup>220</sup> Foster, *Strike Strategy*, Chapter VII, sec.6, para. 2.

<sup>221</sup> Jarrod Shook, interview with the author, Toronto, ON, January 21, 2017; Chester Abbotsbury, interview with the author, Toronto, ON, January 25, 2017; David Jolivet, telephone interview with the author, April 3, 2017.

they have, they're human beings. Are they well-adjusted? I don't think so. It's difficult because at least once every two weeks you are reminded of the stupidity of it. Of the unfairness of it. Of the injustice of it."<sup>222</sup>

Steuben asserts that, to win a strike, organizers must get “across to the workers three things: first, that the demands presented to the employers are just and wise; second, *that these demands can be obtained only through a strike*; third, that if the strike is called, they must actively participate and stick it out till the very end.”<sup>223</sup> The second of these points was never fully made in the case of the 2013 federal prisoner strike. When the strike failed to produce negotiations, many fell back on the hope that the lawsuit would successfully reverse the cuts. Some strikers had preferred the lawsuit as the best option from the outset. For others, the fact that lawsuits were ongoing was likely a way to save face—in this way the struggle was not over, it had just taken a different form. This potential tension between direct and legal action is, again, in no way limited to the prison. In fact, the end of the 2013 federal prison strike closely mirrors the end to a number of recent “free world” strikes that have been ended through back-to-work legislation. Faced with a limit on the ability to negotiate (in this case a formal and legal limit), unions return to work but are able to assert that the strike has not really ended, but simply moved to a new arena.<sup>224</sup>

### **Conclusion: Could the 2013 Federal Prison Strike Have Been Won?**

Could the 2013 strike have been successful? Counterfactual history is a difficult proposition, and often of little value. Still, a critical analysis of the strike raises a number of issues

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<sup>222</sup> “Jim,” telephone interview with the author, April 29, 2017.

<sup>223</sup> Steuben, *Strike Strategy*, 92.

<sup>224</sup> For one example, this can be seen in the response by the Canadian Union of Postal Workers to being legislated back to work in 2018. See “CUPW Challenges Back to Work Legislation in Court,” press release, December 11, 2018, available: <https://www.cupw.ca/en/cupw-challenges-back-work-legislation-court>.



worthy of exploration. Before considering the possibilities of the 2013 strike, it is perhaps necessary to first consider the question more broadly: do prison strikes work? The answer, in short, is sometimes. Labour historian Erik Loomis cautions that we “should not romanticize strikes. Some workers went on strike to keep workplaces all white. Sometimes strikes backfire and hurt workers in the end.”<sup>225</sup> This general sentiment also applies to prison strikes. Prison strikes are risky endeavours. They can easily turn into riots with deadly consequences. They can likewise fail and leave strikers in a worse position than they were previously. For example, a failed strike in 1973 directly contributed to the dissolution of the Ohio Prisoners’ Labor Union.<sup>226</sup> Still, history clearly shows that prison strikes have, at times, resulted in gains—large and small—for prisoners. Wages for prisoners followed the 1934 BC Pen strike. Contact visits were introduced in the aftermath of the 1977 Archambault strike. Although more minor, just months before the nation-wide strike in 2013, prisoners in Collins Bay won a number of demands by refusing work and participation in programming. If prison strikes can be successful, why did the 2013 federal prison strike fail? In order to answer this question, several more must be raised.

First, and most simply, what if prisoners had been better able to mobilize their forces? What if more prisons had struck? What if more prisoners had participated? What if they had stayed on strike longer? As David Jolivet asserts, “If the entire country went on strike, every institution, and it was organized for at least two months straight, they would give us anything we wanted. I guarantee that. But when the administration can see that these things aren’t really well organized and that they could fall apart at any second in each institution, they don’t care. They’ll deal with it. What scares them is if we’re all one group and we’re all on the same page.”<sup>227</sup> These questions

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<sup>225</sup> Erik Loomis, *A History of America in Ten Strikes* (New York: The New Press, 2018), 5.

<sup>226</sup> Huff, “Unionization Behind the Walls,” 110.

<sup>227</sup> David Jolivet, telephone interview with the author, March 25, 2017.

of levels of participation are closely related to ones of organization. Despite impressive organizing efforts in individual prisons, the strike was uncoordinated and disjointed. Could prisoners have built better networks of communication? Given the constraints imposed by the prison system, this is perhaps not possible. If that is the case, it seems that the role of outside support and coordination bodies becomes more important. This contrast is especially noticeable given the role of outside support, especially in the form of spokespeople, evident in the 2016 and 2018 national prison strikes in the US. There, organizations such as Jailhouse Lawyers Speak and the IWW's Incarcerated Worker Organizing Committee played important roles promoting the issues at the heart of the strike to the media and public. Likewise, the US prison strikes, although also largely framed as labour strikes "against prison slavery," were also able to cast their struggles in terms of racial justice and thus built a broader coalition of support.<sup>228</sup> Could such broad coalitions of support be built around future Canadian prisoners' struggles? Relatedly, the labour movement has been largely silent on issues of prison labour. What would it take to convince unions that prisoner-worker struggles are worth taking up? This raises another key question: what is the role of guard unions in prisoner-worker struggles? The barriers to guard and prisoner joint action are massive. Is it possible to imagine guards supporting prisoner demands? Should prisoners appeal to guards and their unions? Or do guards simply represent a potential barrier to labour movement support?

Second, were there errors in prisoner strategy? The strike was only one aspect of the fight back against the cuts. As discussed, the existence of ongoing lawsuits meant that prisoners did not have to fully commit to the strike strategy and likely contributed to prisoners returning to work without concessions. This is not to say that legal strategies should not be pursued by prisoners. It

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<sup>228</sup> The 2018 National Prison Strike also received some support by trade unions, including endorsements by UNITE HERE Local 2 and the United Auto Workers locals 4121 and 2865. For a list of organizational endorsements of the 2018 National Prison Strike, see "Endorsements, Organizations in Solidarity," *Solid Black Fist* 6, October 2018), available: [http://sawarimi.org/wp-content/uploads/2018/10/SBF\\_Issue6.pdf](http://sawarimi.org/wp-content/uploads/2018/10/SBF_Issue6.pdf).

is extremely reasonable for people to want to minimize personal risk, especially given the potential seriousness of repercussions in response to prisoner collective action. Rather, the point here is to note that without a firm commitment that a strike is the *primary* means to win demands, it is unlikely to be successful.

Third, what is the role of the historical conjuncture or “political opportunity structure”?<sup>229</sup> Prisoners in the 1930s and 1970s struck at moments when prison reform was relatively popular and championed by not only social movements but also political organizations and parties. The 2013 strike occurred with a Conservative government in power that had made a “tough on crime” approach a major part of its platform. To the Conservatives, prisoners striking over their conditions may have been powerful evidence to the party’s base that the government was doing exactly what it set out to do—make crime pay. The criminal justice reforms under Harper were significant and have not been reversed. In its 2015 report “The Impact of the Harper Government’s Tough on Crime Strategy,” the Canadian Centre for Policy Alternatives found:

The “tough on crime” measures and budget cuts have shifted the orientation from rehabilitation to warehousing prisoners. Reduced access to meaningful programming, along with other cost-cutting measures—charging inmates more for room and board and the use of phones, closing full kitchens in the prisons and trucking in frozen meals, and reducing pay levels for prison work—has heightened prisoners’ levels of frustration, creating conditions for unrest and violence within the prisons. The families of prisoners, who end up doing time along with them, have also been affected by the longer sentences, pay cuts, and less access to visits and telephones. Once prisoners are released back to the community, they are more likely to face poverty and homelessness due to the lack of resources and supports, thereby inhibiting their ability to move forward in their lives and increasing the likelihood of returning to crime as a survival strategy.<sup>230</sup>

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<sup>229</sup> Political opportunity structures are “comprised of specific configurations of resources, institutional arrangements and historical precedents for social mobilization, which facilitate development of protest movements in some instances and constrain them in others.” Herbert P. Kitschelt, “Political Opportunity Structures and Political Protest: Anti-Nuclear Movements in Four Democracies,” *British Journal of Political Science* 16:1 (January 1986): 57-85.

<sup>230</sup> Elizabeth Cormack, Cara Fabre, and Shanise Burgher, “The Impact of the Harper Government’s Tough on Crime Strategy,” *Canadian Centre for Policy Alternatives* (September 2015), available: <https://www.policyalternatives.ca/sites/default/files/uploads/publications/Manitoba%20Office/2015/09/Tough%20on%20Crime%20WEB.pdf>.

This means that prisoners are in many ways in a worse position from which to struggle. To borrow a concept from Antonio Gramsci, prisoners lost a war of position by way of the Harper era reforms, and a war of maneuver in the 2013 strike. However, this also raises important questions about when might be productive times for prisoner action. If public support for tough on crime approaches wanes, and movements for social and economic justice become stronger, what gains can be made that better position prisoners in struggle? There may be some reason to think that such a moment is occurring now. Since the 2008 crisis and the Occupy Movement of 2011, there has been a return class analysis and increasing attention paid to questions of social and economic inequality. In Canada, Occupy was followed by Idle No More, Black Lives Matter, and the 2012 Quebec Student Strike as the largest and most visceral protests against inequality. In the United States, these protest movements have been accompanied by an upsurge in labour activism and militancy in sectors ranging from fast food to education.

Alongside these large public demonstrations and strikes, protests were also occurring in the prison system in the United States. In 2010, prisoners in Georgia launched a state-wide labour strike over prison conditions and pay. The next year, in 2011, a group 400 of prisoners in the Special Handling Unit of Pelican Bay prison in California went on hunger strike. Prisoners in Ontario were observing these events and sent messages of solidarity to hunger strikers in Pelican Bay.<sup>231</sup> In 2013, prisoners across California went on hunger strike to protest prison conditions and the practice of solitary confinement. The hunger strike ended in September 2013, just weeks before prisoners across Canada would strike against pay cuts. Since 2013, prison protest has only grown—the US saw nation-wide prison strikes in 2016 and 2018, the latter of which spilled over into Canada (albeit only in a very limited way). On December 14, 2016, a major riot broke out in

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<sup>231</sup> Reiter, “The Pelican Bay Hunger Strike,” 589.

the Saskatchewan Penitentiary that left one prisoner dead. The Office of the Correctional Investigator found that the riot was triggered by grievances related to food quality and portion sizes, “as well as perceived mistreatment of inmate kitchen workers (pay, hours, incentives) by CSC staff.”<sup>232</sup> The report also notes that the riot was preceded by a work stoppage by prisoner kitchen workers that escalated into a general prison strike in the institution. When negotiations between the Inmate Committee and the Warden broke down, the riot began. In the spring of 2020, lockdowns and other restrictions put into place in response to the global COVID-19 pandemic triggered prisoner protests in federal prisons in Quebec and Ontario, as well as in the Ontario provincial jail system.<sup>233</sup>

Given the dynamics of prison and the nature of prison labour, prisoner work stoppages will undoubtedly continue to occur from time to time. Prisoners will continue to struggle to improve their lives utilizing the means at their disposal. For this reason, the issue of prisoners’ wages is far from settled. The 2015-2016 annual report of the Office of the Correctional Investigator recommended that the Minister of Public Safety initiate a review of prisoners’ pay.<sup>234</sup> The election of Justin Trudeau and a federal Liberal government in 2015 raised some hope that the Harper cuts might be reversed; however, the Liberals initially gave no indication that they intend to rollback the changes to prisoner compensation. The global COVID-19 pandemic, however, has changed this. With the onset of the pandemic in March 2020, the Canadian government, like many others, struggled to find domestic industrial capacity that could be utilized to produce medical equipment

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<sup>232</sup> Office of the Correctional Investigator, *Annual Report 2017-2018*.

<sup>233</sup> See Colin Perkel, “Canada’s Prison Ombudsman Calls Coronavirus Isolation ‘Extremely Concerning’,” *City News*, April 24, 2020, available: <https://toronto.citynews.ca/2020/04/24/canadas-prison-ombudsman-calls-covid-isolation-extremely-concerning/>; Alyshah Hasham, “Inmates launch hunger strike over conditions at Ontario jail” *Toronto Star* (June 16, 2020), available: <https://www.thestar.com/news/canada/2020/06/16/inmates-launch-hunger-strike-over-conditions-at-ontario-jail.html>.

<sup>234</sup> “Response of the Correctional Service of Canada to the 43rd Annual Report of the Correctional Investigator 2015-2016,” Correctional Service of Canada (October 19, 2016), available: <http://www.csc-scc.gc.ca/publications/005007-2806-eng.shtml>.

given international shortages of things like masks, gowns, face shields, and hand sanitizer. In April 2020, CORCAN announced that it was shifting production in order to produce personal protective equipment.<sup>235</sup> It was also reported that the Harper era room and board deductions that had resulted in the 2013 strike would be suspended—presumably to incentivise prisoners to work in the retooled CORCAN facilities. It is unclear if the fee suspension will be permanent. It is clear, however, that the future of prisoners’ wages—like the history of prisoners’ wages—will be determined by struggle both within and outside prison walls.

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<sup>235</sup> The announcement was made on the Correctional Service of Canada’s Facebook page. Available, <https://www.facebook.com/CorrectionalServices/photos/a.827501694075653/1609272845898530/>.

## CONCLUSION

*The House of the Dead*, Fyodor Dostoyevsky's semi-autobiographical account of his time spent in a Siberian prison camp, describes many aspects of prison life, including not only work but also prison protest. Dostoyevsky describes how one August day, "at around one o'clock in the afternoon, when everyone usually took a rest before the afternoon's work," the prisoners lined up in the yard. The narrator, new to the prison and still unfamiliar with its customs, believed a routine count to be underway. In fact, the prisoners were staging a protest over the quality of food and a number of other complaints. When the narrator attempted to line up with the other men, they urged him to go wait in the kitchen with the noblemen and other convicts who were not taking part in the demonstration. When the Major in charge of the prison realized what was happening, he flew into a rage, denouncing the "riot," and ordered perceived ring-leaders, who were singled out one-by-one, to be sent away for punishment. As Dostoyevsky explains, "What was particularly upsetting was that nearly all the convicts had joined in the protest. The affair must be snuffed out at all costs. The 'troublemakers' were soon released. Next day the quality of the food improved, though this state of affairs did not last long."<sup>1</sup>

Although this prison protest occurred in Russia more than a century and a half ago, much of the story would be familiar to contemporary Canadian prisoners. The purposeful conflation of peaceful protest and riots (both "disturbances") and the identification and punishment of "ring leaders" remain tools used by prison administrations in response to protests. However, the most significant part of Dostoyevsky's account is the observation that the state of affairs to emerge out of the protest, in this case improved food quality, did not last long. Then in Russia, as in Canada now, the struggle over prison conditions is in near constant flux despite all appearances of stability.

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<sup>1</sup> Fyodor Dostoyevsky, *The House of the Dead* (London: Penguin, 2003), 318.

As the preceding chapters have demonstrated, the prison shapes prisoner struggle, as the struggle of prisoners shapes the prison. This dynamic relationship occurs within, and is at least partially determined by, the political, economic, and social struggles that occur within broader society.

The wage relationship lies at the heart of Canadian society. For this reason, labour and work discipline have been central to the prison for as long as it has existed. Sentences of hard labour, convict leasing, state use production, vocational training, and other forms of productive punishment, express basic assumptions about Canadian society—namely, that prisoners should work because, in the words of former Ontario Minister of Correctional Services Frank Drea, “We are a work-oriented, success-oriented, incentive-oriented society and we are doing inmates a disservice by not allowing them to be a part of that society.”<sup>2</sup> While prison labour serves as, at minimum, a subsidy to the operation of the prison system, work has important *moral* implications inside and outside of prisons. Those who cannot or do not work are suspected to be criminally inclined, and criminals are likewise thought of as unwilling or unable to work. Those who cannot or will not work in capitalist society are at odds with it, and so equipping prisoners with the means to work is a main rehabilitative priority. This emphasis, however, does not mean “rehabilitated” prisoners are shielded from the discipline of capitalist labour markets—formerly incarcerated people are largely on their own when it comes time to find work. What is really important, from a rehabilitative perspective, is that prisoners *can* work, not that work is available for them. This situation means that a large amount of correctional effort is put into making “prison work” (in the form of vocational and employment programs) regardless of its utility, correctional, social or otherwise.

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<sup>2</sup> “An Interview with the Honourable Frank Drea,” *Correctional Update*, 5.



On the other hand, it is clear that, at least on some level, prisoners' labour provides a real economic benefit to prison administrators and the labour of prisoners is required for normal operations and reproduction of correctional facilities. At times, prison labour has enabled cost-neutral facilities. In some cases, prisons have even remitted revenues back to the government. It has also, of course, sometimes generated substantial profits for private employers. More commonly, prisoners put to work cooking cleaning, and performing clerical, maintenance, and industrial work, serve to subsidize prison operations. Thus, prison labour makes the prison "work" in two senses. First, at an ideological level, prison labour as "rehabilitation" supports the idea that prisons are socially useful by effectively punishing criminals, changing their behaviours, and protecting society. This is why unproductive "make work" is endemic to prisons. In the second sense, prison labour makes prison work in a very immediate sense—the daily functions of the prison require the work of prisoners.

Given the centrality of work in prison, it should not be surprising that prisoners organize to improve their working conditions, despite the risks and challenges, in a manner similar to free workers. This organizing takes many forms; however, this study has been primarily concerned with two: attempts to form labour unions, and strikes. Of course, as has been mentioned, the reality of prison means that issues of work and conditions of incarceration are not always easy to separate. Issues of work are sometimes—understandably—subsumed within more comprehensive political struggles by prisoners. Given the range of potential issues facing prisoners, including violence, inadequate food and healthcare, lack of meaningful educational, treatment, and recreational opportunities, as well as issues related to the duration of their confinement, work may not always be understood to be the most pressing issue for prisoners to organize around. Still, despite this fact, work strikes are among the most common prison protests. This is because a withdrawal of

prisoners' labour allows them to apply economic pressure, which is more disruptive than simple moral suasion and appeals to public sympathy or reason—although, it may have the benefit of doing that as well. In some instances, prisoners may actually have significant economic power. The more central their labour is to the operation of the prison, or the more cost savings or profits they produce, the more power they will have. Many prisoners' rights activists have decried the 'exploitation' of prisoners by private corporations.<sup>3</sup> Ironically, as the case of the Guelph Abattoir Programme shows, prisoners may, in fact, have the most economic power when they are hired by private employers. This could suggest that, despite the prison justice movement's efforts to oppose exploitation of prison labour by private employers on principle, such prisoners might be better positioned to pursue unionization and improvements to their working lives. This is not a call for increased privatization of prison industry, although as noted in Chapter 1, access to private employment was a demand of some of the most celebrated prisoner protests and revolts in the US and Canada. In the absence of the full normalization of prison labour, however, where prisoner-workers have full access to labour and employment protections, it is likely that they will face abuse and "superexploitation" by private employers.<sup>4</sup> It is noteworthy that the workers in the abattoir at the Guelph Correctional Centre demanded a union in response to their employment by a private employer—they did not demand the privatization of the program. Unfortunately, the unionization of the Guelph Abattoir Programme did not set a reliable precedent for other privately employed prisoners. As such, history seems to show that the risks of private employment likely outweigh the potential rewards for prisoners.

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<sup>3</sup> In recent years, the grocery chain Whole Foods has been the target of criticism for its sourcing of prison-made products. See Allison Aubrey, "Whole Foods Says It Will Stop Selling Foods Made With Prison Labor," *NPR*, September 30, 2015, available: <https://www.npr.org/sections/thesalt/2015/09/30/444797169/whole-foods-says-it-will-stop-selling-foods-made-by-prisoners>.

<sup>4</sup> This term has a technical meaning within Marxist theory, but here I mean it in the more common sense of workers "working under intense conditions for extraordinarily low wages, facing extreme social exclusion, and experiencing a long-term state of subordination." Armstrong, "You May Be Down and Out, But You Ain't Beaten," 598n24.

Even in cases where prisoners do not have significant economic power, organizing around issues as workers has allowed prisoners to assert an expanded conception of citizenship and lay claim to rights as workers. Organizing as workers has not only afforded prisoners certain disruptive tactics, such as work stoppages; it also has allowed them to challenge constrained conceptions of citizenship that render them particularly vulnerable.

Civil rights struggles are difficult for prisoners, who as a political subjectivity have little moral capital, few resources, and severe restrictions placed on their political engagement by virtue of their incarceration. As such, prisoners have often attempted to advance their interests by constituting themselves as political subjectivities such as “Muslims,” “indigenous people,” or “workers” and asserted religious, cultural or economic rights on that basis.<sup>5</sup> Characterizing struggles in these ways has allowed prisoners to build moral support and leverage sets of rights (sometimes backed by institutional structures) to expand freedoms in other areas. In the case of imprisoned Black Muslims in the United States, the articulation of their struggles as religious ones meant bringing clearly defined religious rights to bear on their situation. In particular, Black Muslims were able to pursue litigation that resulted in expanding rights to worship and practice their faith in prison. However, some of these gains also sometimes had broader implications and expanded the rights of all prisoners. As Christopher E. Smith explains, “For example, the decision in *Walker v. Blackwell* (1969) helped to limit correctional officials’ discretionary power to arbitrarily ban literature as inflammatory without demonstrating the existence of an actual threat to institutional security.”<sup>6</sup>

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<sup>5</sup> A number of scholars of the prisoners’ rights movement in the United States have examined the role that litigation by Black Muslims asserting their religious freedoms had on the development of prisoners’ rights in that country. See Smith, “Black Muslims and the Development of Prisoners’ Rights”; Berkman, *Opening the Gates*. For an examination of prisoner organizing linked with claims of indigeneity, see Adema, “Our Destiny is Not Negotiable.”

<sup>6</sup> Smith, “Black Muslims and the Development of Prisoners’ Rights,” 140.

Prisoners have likewise sought to utilize state institutions designed to mediate labour and employment relations to intervene and disrupt the normal governance structures of the prison. To do this, prisoners have, for example, sought protections through employment standards law and attempted to form unions. How and why prisoners choose to pursue their struggles as workers is at least partially explained by the particularities of specific historical conjunctures.

In the 1970s, with the influence of the New Left and the rise of public sector union militancy, some prisoners recognized the potential power of organizing themselves as workers and members of the working class. For some, this was part of a greater revolutionary socialist project. Far from scorned by, or marginal to, the socialist movement (as prisoners had been historically), new conceptualizations of revolutionary subjectivities developed in the 1960s and 1970s placed prisoners at the centre of the working-class struggle. For others, some who may have been sympathetic to the goal of a socialist transformation of society, organizing as workers had more immediate and practical benefits. Government-established labour relations processes could provide a means to mediate the relationship between prisoners and prison administrations, and place limits on the arbitrary power of prison authorities. This led some prisoners and prison justice activists to form or attempt to form prisoners' labour unions with the potential to provide a countervailing force to administrative and guard power. The moderate success and limitations of CFAW Local 240, and the failures of the PUC and CPLC, demonstrate how difficult prisoner unionization is and how unclear the path towards such an organization is in the contemporary moment. Still, despite the difficulties in establishing such unions, the concept has proven to be a durable one—with prisoners continuing attempts at unionization more than fifty years after the first prisoners' unions in Scandinavia and the United States. Any future unionization efforts will have to contend with the same myriad of issues that prisoners' unions have struggled with in the

past. These issues include sources of funding and resources, vulnerability to criminal opportunists, workable democratic organizational structures, how to relate to ‘outside’ individuals, organizations, and movements.

The cases of the successful unionization of prisoner meat cutters in the Guelph Correctional Centre in 1977, the failures of the PUC in 1975 and CPLC in the 2010s to win recognition and bargain on behalf of prisoners, and the failure of the 2013 federal prison strike to roll back wage cuts for federal prisoners, reveal a great deal about the character of prisons and prison labour in Canada. Even at their most successful, these efforts have been limited. At the same time, the history of prisoners’ struggles shows how even seemingly failed endeavours have sometimes precipitated positive reforms or planted seeds of inspiration for future struggles. That said, based on the preceding case studies, it is clear that two major barriers exist to substantial gains for prisoner-workers: legal exclusion from labour protections and insufficient organization. It is worth considering these barriers in more detail.

Prisoners’ employee status and access to labour protections remains in limbo. Despite the certification of provincial prisoners at the Guelph Correctional Centre in 1977 by the Ontario Labour Relations Board, there has not been a comprehensive determination of prisoners’ employee status in Canada. Recent efforts by prisoners to seek labour and employment protections, such as those described in Chapters 3 and 4, have resulted in a kind of jurisdictional “hot potato” for prisoner-workers, with various labour boards and courts declaring themselves to not be the proper venue for such a determination. As such, we know that there are some legal dead ends for federal prisoners. However, we do not know if all such efforts are doomed.

The efforts of the CPLC determined that federal prisoners are not civil servants, and thus not covered by the *Public Service Labour Relations Act*. In response to this decision, the CPLC

narrowed its scope to focus on prisoners working in CORCAN programs, and sought recourse through the Canadian Industrial Relations Board. The CIRB ruled that the union had failed to prove CORCAN participants were federally regulated workers, and as such they were not covered by the Canada Labour Code. The Federal Court of Appeal ruling on the litigation that prisoners initiated in response to wage cuts in 2013 likewise refused to rule on the applicants' claims on the basis that prisoners had not properly pursued their claim of having an employer-employee relationship with CORCAN through proper administrative channels (which would have been the Canada Labour Code inspection and arbitration process).<sup>7</sup> Moreover, the court found that, even if the proper channels were followed, the appellants had erred by failing to provide evidence that CORCAN was a "federal business" as described by the Canada Labour Code. This raises the possibility that some application through proper channels could be followed and that CORCAN and CSC more generally could be identified as a federal business. Still, it seems likely that courts would rule against employee status for federal prisoners as their work is considered part of a rehabilitation program—however, at this time, this ruling has not been made. Even if federal prisoners were declared not to be employees, it does not necessarily follow that the same would hold for provincial prisoners. Indeed, given that the most success that prisoners have had in this arena was through the Ontario Labour Relations Board in the case of the CFAW Local 240, it is possible that provincial prisoners could pursue unionization or employment protections through provincial regulations. The future in this regard then is largely in the hands of legal scholars and lawyers (jailhouse and otherwise).

Purely or primarily legal campaigns have their advantages and disadvantages. As witnessed in the 2013 federal prison strikes, litigation was perceived by some as the best means to maintain

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<sup>7</sup> *Guérin c. Canada* (Procureur général), 2019 CAF 272 (CanLII), <http://canlii.ca/t/j36f5>.

prisoner unity. Unlike a strike that could result in divisions as some groups of workers returned to work while others remained on strike, lawsuits would be won or lost altogether. Although they can be expensive to carry out, legal strategies are also potentially less costly for prisoners than forms of collective action that might result in violence or repercussions—although it should also be stated that prisoners can and do face repercussions for utilizing even official grievance procedures.<sup>8</sup> In contrast to the earlier PUC, the CPLC pursued union certification through a purely legal strategy and without the support of an established trade union or other outside organization. The CPLC’s commitment to a legal route to recognition was so significant that the organization did not participate in the 2013 federal prison strike, although most of its supporters did. After a prolonged series of hearings and appeals, the courts ruled against the CPLC and the campaign ended without the union being able to maintain an organization either inside or outside of Canadian prisons.

Even if it was clear that prisoners did not have legal standing in relation to their employment, the story would not be over. Labour and employment laws are, like all others, political.<sup>9</sup> Critically, prisoners do not only articulate their struggles as assertions of individual or collective rights. As the preceding case studies have shown, prisoners also commonly cast their issues as matters of *public good*. In some cases, such as the CPLC or the 2013 federal prison strike, organizers and activists explicitly indict the CSC for failing in its mandate to protect public safety by implementing policies that increase the likelihood of recidivism. Instead, they argue that, for

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<sup>8</sup> For a discussion of the repression faced by jailhouse lawyers, see Abu-Jamal, *Jailhouse Lawyers*. For a discussion of repression of Canadian prisoners for asserting rights through institutional channels, see Senate of Canada, “Interim Report – Study on the Human Rights of Federally-Sentenced Person,” 24.

<sup>9</sup> For a discussion of the politics of recent labour law jurisprudence, including the 2015 Supreme Court of Canada decisions relating to collective bargain rights and the right to strike that emerged out of *Mounted Police Association of Ontario v. Canada (Attorney General)* and *Saskatchewan Federation of Labour v. Saskatchewan*, see Larry Savage and Charles W. Smith, *Unions in Court: Organized Labour and the Charter of Rights and Freedoms* (Vancouver and Toronto: UBC Press, 2017).

example, union representation or higher pay are aligned with the goals of rehabilitation and public safety.

In recent years, there has been increasing attention paid to changes in the economy and Canadian employment relations that have rendered greater and greater numbers of workers vulnerable and deprived of access to normal rights and protections. One response to this situation has been to seek protections for workers who have been excluded on the basis that they have been “misclassified” (for example, as an independent contractor instead of an employee), and are in fact employees entitled to rights and protections as such. Misclassified gig economy workers, including those employed by Foodora and Uber, have recently won several important victories in this regard, the impact of which may well be felt beyond those particular workplaces.<sup>10</sup>

The struggle for rights and protections is not just a matter of legal technicalities. These cases, along with other forms of organizing, have contributed to growing public concern over lack of adequate legal protections for many different kinds of marginalized and precarious workers. Although this movement has yet to translate this concern into substantial reforms, it is not unimaginable that it could. Indeed, the history of workers’ struggle is the history of confrontation with the law. If the laws are not working for workers (both inside and outside of prisons), workers will strive to change those laws. The possibility of changing the law through political or other means to favour prisoner-workers, however, relates directly to the second major barrier raised in the preceding chapters—that of organization.

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<sup>10</sup> Sara Mojtehdzadeh, “Inside the Battle for Foodora: ‘This is About the Whole Gig Economy’,” *Toronto Star*, May 19, 2020, available: <https://www.thestar.com/news/canada/2020/05/19/inside-the-battle-for-foodora-this-is-about-the-whole-gig-economy.html>; Sara Mojtehdzadeh, “Supreme Court of Canada’s Ruling Paves the Way for \$400M Class-action Lawsuit by Ontario Uber Drivers,” *Toronto Star*, June 26, 2020, available <https://www.thestar.com/business/2020/06/26/supreme-court-of-canadas-ruling-paves-the-way-for-400m-class-action-lawsuit-by-ontario-uber-drivers.html>.



The failures of the CPLC and the 2013 federal prison strike raise critical questions about the most effective form of prisoner organization, and raise the particular issue of the role of an “outside” organization for prisoners. The merits of inside-based and outside-based prisoners’ unions have been debated by scholars and activists.<sup>11</sup> The issues, at their core, are relatively straightforward. Inside-based organizations are very susceptible to repression, and outside-based organizations are susceptible to cooptation or “substitutionism”—a process whereby a group (typically motivated by ideological commitments rather than immediate personal concerns) acts on behalf of some oppressed constituency—by non-prisoners.<sup>12</sup> This is a real concern and is not limited to prisoners’ organizations—there has been considerable discussion of substitutionism in the labour movement.<sup>13</sup> It is important to note that some form of outside organization does not necessarily preclude prisoner leadership, and may be a critical factor in future prisoner organizing efforts. There is no doubt that an essential factor in the unionization of the prisoner-workers at the Guelph Correctional Centre was the backing of the Canadian Food and Allied Workers Union. In that case, prisoners made up a majority of the members of the local. While they may have faced particular challenges in participating in national union business, the national union/local union relationship may provide a potential template for future prisoner organizations.

As the cases discussed here have shown, Canadian prisoners face severe limitations on their abilities to communicate between institutions. It is for this very reason that the PUC was formed as a coordinating body and mouthpiece for striking prisoners in 1975. Likewise, in the absence of a formal organization, some kind of outside support has been sought by prisoners in

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<sup>11</sup> See Huff, “Unionization Behind the Walls: An Analytic Study,” 76; Fitzgerald, *Prisoners in Revolt*, 252.

<sup>12</sup> For a discussion of the origins and application of the notion of “substitutionism” in Marxist thought, see Tony Cliff, “The Revolutionary Party and the Class or Trotsky on Substitutionism,” *International Socialism 2* (Autumn 1969): 14–17; 22–26.

<sup>13</sup> This discussion is closely related to that of the issue of trade union bureaucracy. For example, see David Camfield, “What is Trade Union Bureaucracy: A Theoretical Account,” *Alternative Routes* 24:1 (2013): 133-156.

struggle. In the words of the Saskatoon editorial staff of *Transition* in an article on prisoner unions in 1974: “Lawyers are needed, civil liberties people are needed, and labour people are needed, and people are needed on the street to do the shitwork.”<sup>14</sup> In the case of the CPLC, Natalie Dunbar, the union’s lawyer, served this function. During the 2013 federal prison strike, groups of prisoner justice advocates attempted to do the same.

If this premise holds, several questions can be raised. What would a national prisoners’ organization look like? Given the emphasis in this dissertation, what would be required for working prisoners to receive meaningful support from existing trade unions or the broader labour movement?

Just as there is a need to expand who counts as an employee under the law, there is a need for the labour movement to re-evaluate who counts as a “worker.” The labour movement has largely been interested in the working conditions of prisoners only insofar as they related to competition with free labour. At times, however, the labour movement has expressed humanitarian concerns for working prisoners. In 1923, American labour leader John P. Frey argued that:

Briefly reviewed, the trade-union attitude towards prison labor is that its first object should be the prisoner’s reformation, that under no circumstances should any element of private profit enter into consideration, that the labor performed by the prisoner should be of a useful nature and that for this labor the convict should be paid for the benefit of those dependent upon him and for his own assistance upon regaining freedom, and finally that the principal object of the state should be to protect itself from the vicious and unfortunate, to give them an adequate opportunity for reformation but not to derive profit from their labor.<sup>15</sup>

This humanitarian concern—which happens to correspond to non-incarcerated workers’ material interests—stemmed more from a sense of benevolence than it did solidarity. Still, in a few rare instances, such as the backing of the Prisoners’ Union at Green Haven by the District 65 of the

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<sup>14</sup> Saskatoon Editorial Staff, “Organizing a Prisoners’ Trade Union,” *Transition* 2:1, 42.

<sup>15</sup> John P. Frey, “The Trade-Union Attitude Towards Prison Labor,” *The Annals of the American Academy of Political and Social Science* 46 (March 1913): 137.

Distributive Workers of America and the organization of prisoner meatcutters in the Guelph Correctional Centre by the CFAW, unions have organized prisoners as they would any other workers.

The decline of the power of the labour movement over the past 40 years has resulted in a plethora of recommendations of what is required for “union renewal.” Among these recommendations are organizing the unorganized, increased support for the struggle of marginalized workers, and a working-class orientation.<sup>16</sup> Neoliberal policies and corporate restructuring has resulted in increasing numbers of workers finding themselves in sectors, such as services, and employment relationships, such as independent contracts, that are difficult or not legally possible to unionize. The result has been increasing competition between workers. Unions have partially bowed to, and exacerbated, this new labour regime by, for example, adopting tiered structures in their collective bargaining agreements, fracturing solidarity. The labour movement has failed to counter the intensified competitive ethos of neoliberalism. Competition between free workers and prisoners, like competition between non-immigrant and immigrant workers, has only led to the degradation of vulnerable workers. A ‘workerist’ approach to prisoners’ rights, meaning a commitment to the idea that everyday working people can change the world through struggle, would prioritize limiting the restrictions placed on prisoners on account of their incarceration, and on the empowerment of prisoners as part of a broader working class. A labour movement that actually took up this kind of program would be one capable of, and interested in, the unionization of prisoners. This is not to suggest that the unionization of prisoners is *necessary* for union movement renewal. As sociologist and labour scholar Jennifer Chun has argued, “it would be naïve and presumptuous to claim that the margins represent some untapped reservoir of power; or that

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<sup>16</sup> Bill Fletcher, Jr. and Fernando Gapasin, *Solidarity Divided: The Crisis in Organized Labor and a New Path toward Social Justice* (Berkeley: University of California Press, 2008); Gindin, “Rethinking Unions.”

the deeply debilitating dilemmas facing organized labor in the current global economy can be resolved by simply unleashing the power of the excluded and disenfranchised.”<sup>17</sup> Rather, a reinvigorated labour movement that was capable of making real gains for working people should be one interested in making gains for incarcerated and other marginalized workers.

It is essential that those in the workers’ and prison justice movements maintain a critical sobriety around potential paths forward. Employment rights and a clear unionization process for prisoners would not in themselves be a panacea for prisoner-workers. Even if legal union certification was possible, a prisoners’ labour union would also likely face severe opposition from government officials and guards, as well as the media and likely much of the public. There is also concern of opposition from the labour movement itself. Both the Canadian Union of Public Employees and the Public Service Alliance of Canada, two of the largest public sector unions in Canada, have prison guards and other law enforcement officers as members. Many provincial public sector unions, such as the Manitoba Government and General Employees’ Union (MGEU), have very active and influential guard union components.<sup>18</sup> As police and prison guard unions have become larger and more influential, there is considerable potential for conflict over a prisoners’ labour union within the union movement itself. How would guards or police feel about the admission of a prisoners’ labour union into their union, or a trade union centre that they belong to?

Finally, it is also the case that even workers with full legal protections and entitlements often struggle to meaningfully assert them. Even if prison labour was fully normalized and all extra-economic coercion was removed from the equation, workers in prison would still face the

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<sup>17</sup> Jennifer Jihye Chun, *Organizing at the Margins: The Symbolic Politics of Labor in South Korea and the United States* (Ithaca and London: Cornell University Press, 2009), 173.

<sup>18</sup> For an excellent discussion of the influence of provincial prison guards on the MGEU and Manitoba provincial politics, see: Bronwyn Dobchuk-Land and James Wilt, “Prison Unionism” *Briarpatch* (July 2, 2020), available: <https://briarpatchmagazine.com/articles/view/prison-unionism>.

same struggles over exploitation, remuneration, alienation and autonomy that characterize all wage relationships in capitalist economies.

This dissertation centred on a very limited number of episodes of prisoner-worker organizing. As such, it contributes to a broader history of labour and penology in Canada. However, there is much more of this story to tell. There are many other examples of prisoner organizing around work and other issues in both the federal and provincial prison systems that deserve scholarly attention. These organizing efforts range from one-off strikes and riots, to canteen boycotts and prolonged campaigns to expand rights and access to goods and services. While riots have been the subject of some scholarly attention, not much work has been done on prison riots after the incident at the P4W in 1994. Additionally, more historical analysis of prison labour and prison industry in Canada is needed, particularly for the period of 1900-1950. Two understudied episodes that would likely yield very interesting findings include the prison labour reform efforts of left-wing lawmakers in the 1920s, and the role of prison labour and industry in the Canadian war effort during the World Wars. More research exploring the relationship between organized labour and the Canadian criminal justice system would also provide valuable insight into the potential and pitfalls for a working-class movement that took up prison and criminal justice reform as a central plank. This latter point has been made all the more relevant given recent events. The place of police unions within the broader labour movement has become a point of considerable contention in the wake of the murder of George Floyd by Minneapolis police in May 2020, and the protests that followed.<sup>19</sup> Some have argued that the role of police as instruments of class and racial dominance should disqualify them from participation in houses of labour. Relatedly, some

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<sup>19</sup> For a critical examination of police unions in the United States and Canada, see Mark P. Thomas and Steven Tufts, "Blue Solidarity: Police Unions, Race and Authoritarian Populism in North America," *Work, Employment, and Society* 34:1 (2020): 126-144.

critics of police unions accuse them of gobbling up disproportionate shares of public budgets and advancing their own financial and ideological interests at the expense of the public good.<sup>20</sup> If this is true of police, is it also true of prison guards and their unions?

Finally, placing prisoner-worker organizing in Canada within a broader international comparative perspective would be of considerable analytic value. Much of what has been written on prisoner organizing and the prison justice movement, both historically and contemporaneously, focuses on the United States. Given the sheer size and particular character of the prison system of the United States, this is understandable. This situation sometimes means that concepts and conceptual frameworks designed to explain phenomena in the United States get grafted wholesale onto the Canadian situation by scholars and activists, despite important differences between the two countries and their criminal justice systems.<sup>21</sup> Such a comparative approach could make valuable contributions to ongoing debates related to prisoner-worker organizing. For example, although it is not possible to explore in depth here, it does seem that Canadian examples of prisoner-worker organizing are primarily motivated by, and tend towards, “bread and butter” issues, rather than political commitments to the abolition of prisons or the overthrow of the capitalist economic and social order.<sup>22</sup> The differences in aims and rhetoric in the 2013 Canadian federal prison strike and the 2016 and 2018 national prison strikes in the US appear to make this difference especially clear.

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<sup>20</sup> For one example of these arguments in the Canadian context, see Ryan Hayes, “It’s Time to Talk About Police in our Unions” *Briarpatch* (June 20, 2020), available: <https://briarpatchmagazine.com/articles/view/its-time-to-talk-about-police-in-our-unions>.

<sup>21</sup> The concepts of “mass incarceration,” and “the prison industrial complex” are examples of this. Both are valuable concepts with considerable explanatory value, however they are sometimes utilized without clear definitions and in ways which gloss over important distinctions in different jurisdictions. The United States’ incarceration rate is more than six times higher than Canada’s—an important difference even if both countries have systems of “mass” incarceration.

<sup>22</sup> There has been some debate about the degree of politicization of Canadian prisoners, compared to their US counterparts. See Ratner and Cartwright, “Politicized Prisoners”; Gaucher, “Organizing Inside”; Gaucher, “Too Many Chiefs”; Ratner, “Response to Robert Gaucher.”

There are two common but contradictory conceptions of agency and structure held by those interested in the criminal justice system. Commonly, the criminal justice system is described as a pendulum, inevitably swinging back and forth between punishment and reform orientations as if by some cosmic force. However, this does not, in fact, correspond to reality.<sup>23</sup> On the other hand, some in the prison justice movement assert the centrality of prisoner agency to the detriment of the possibility of making meaningful change. For very understandable reasons, the notion that struggles should be led by those who are most directly affected is an important political and moral assertion. However, those who are interested in change must also have a proper analysis of structures of power. Voluntarism—the notion that will is the singular fundamental factor in struggle—is a problem. If all that is required for liberation is the heroic struggle of the oppressed, it logically follows that the oppressed, given that they have yet to liberate themselves, are actually to blame for their position. Instead we need to conceptualize struggles in ways that more carefully take account of structures of power. This dissertation has tried to centre prisoner agency but also meaningfully contend with the institutional, political, and economic power structures that bear down on them. Such an analysis necessarily describes a complex interplay between agency and structure. Although constrained, prisoners’ agency—especially in the form of collective action—does have the capability of altering those structures. Sometimes these changes are small and difficult to point to. Other times they are significant and obvious.

With this in mind, it should be noted that historical conjunctures do matter for prisoner struggle. This is not to say that prisoners should not strive to defend their humanity and improve their lives in ‘difficult’ periods; rather it is to say that certain gains are likely only going to be won

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<sup>23</sup> Goodman, Page, and Phelps, *Breaking the Pendulum*, 1.

if the broader balance of forces in society are properly positioned at a given time.<sup>24</sup> As such, the task of organizers both inside and outside of prison is to build capacities and cultures of solidarity so that movements are in a position to capitalize on “ripe” moments when they arise.

The CFAW organized prisoners at a time when unions were much more influential than they are today. Although it is unclear exactly why the CFAW decided to organize prisoners, the fact that an established trade union backed the organizing efforts likely contributed to their success. Moreover, the CFAW organized a group of prisoners in a very particular situation, working for a private employer who leased prison facilities, and alongside free co-workers. The CFAW clearly organized the prisoners as workers, and where it did manage to limit correctional prerogatives it was only in limited instances where those prerogatives conflicted directly with prisoners’ rights as workers and union members. The CFAW sought union recognition through the normal labour board system and did not, seemingly, engage in job actions. CFAW Local 240 succeeded in representing working prisoners, and had some small success in expanding prisoner-workers’ freedoms. Prison regulations were altered to allow imprisoned union members to attend union meetings, hold union office, and be rehired upon their release.

The PUC, although organizing in the same time period, used a direct action strategy and sought recognition through strikes and protests. This strategy is fairly intuitive given that, historically, recognition strikes were common when legal certification did not exist, or was not an option, for a particular group of workers. The PUC attempted to represent prisoners as prisoners and seemingly made little effort to seek legal union certification. The strike wave that precipitated the PUC proved to be unsustainable, and once these strikes ended the PUC’s leverage evaporated.

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<sup>24</sup> As such conjunctures cannot be predicted, and are themselves the product of struggle, it is important that organizers do not overemphasize the need for “ripe” conditions. See Marianne Garneau, “The Myth of the Present Moment,” *Organizing Work* (blog), April 9, 2020, available: <https://organizing.work/2020/04/the-myth-of-the-present-moment/>.



This seems common among prisoner union efforts that primarily rely on strikes to force negotiations with correctional authorities.<sup>25</sup> A similar lesson can also be drawn from the 2013 Canadian federal prison strike.

Labour under capitalism is only more or less free. Prison labour helps us see this in a particularly stark way. Prisoners are confronted with the same issues as their ‘free world’ counterparts. These issues might be dangerous work, work intensity, or tedium. They could be under-employment, unemployment, or struggles over wages. The conditions of prison mean that the prisoner-worker might face these issues more frequently or to a greater degree; however, the issues remain similar to those confronting free workers. Both prisoner-workers and free workers are compelled by economic forces to engage in wage labour. Prisoners, of course, are also compelled by extra-economic forces—most critically, the desire to become eligible for early release. However, as Todd Gordon has noted, prisoners are not the only workers in Canadian society to face “juridical and non-juridical forms of coercion.”<sup>26</sup> In contemporary Canada, temporary migrant workers and victims of human trafficking also face these forms of coercion.<sup>27</sup> These legal and extra-legal forms of coercion should be opposed in the name of equality and social justice. In the context of the prison, this means opposing mandatory work provisions, which are

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<sup>25</sup> Huff notes a similar problem for the Ohio Prisoners’ Labour Union and Fitzgerald acknowledged the limits of strikes for PROP in the UK. See Huff, “Unionization Behind the Walls: An Analytic Study”; Fitzgerald, *Prisoners in Revolt*.

<sup>26</sup> Gordon, “Capitalism, Neoliberalism, and Unfree Labour,” 3.

<sup>27</sup> It is important to note that human trafficking is a broad category of criminal forced labour and should not be reduced to sex trafficking, which is only one form of human trafficking. Likewise, it is important to distinguish between voluntary sex work and sex trafficking. Unfortunately, there is substantial evidence that recent Canadian anti-trafficking laws are primarily targeted at the re-criminalization of prostitution, rather than reducing the extra-economic forms of violence and coercion faced by some in the sex industry and other victims of forced labour. See Katrin Roots, “Trafficking or Pimping? An Analysis of Canada’s Human Trafficking Legislation and its Implications,” *Canadian Journal of Law and Society* 28: 1 (April 2013): 21-41; Tamara O’Doherty, Hayli Millar, Alison Clancey, and Kimberly Mackenzie, “Misrepresentations, Inadequate Evidence, and Impediments to Justice: Human Rights Impacts of Canada’s Anti-Trafficking Efforts,” in Elya M. Durisin, Emily van der Meulen, and Chris Bruckert (eds.) *Red Light Labour: Sex Work Regulation, Agency, And Resistance* (Vancouver, UBC Press, 2018), 104-120.

found in many provincial prison systems. It also means ensuring that participation in or performance of prison labour does not impact a prisoner's conditions of incarceration or ability to achieve early release. However, the normalization of employment relations for prisoners in these ways should not be understood as *sufficient* to achieve social justice, which would also require addressing the economic imperatives that shackle workers to employers as a class.

Prison labour—like work more generally—is not going anywhere any time soon. As long as work forms the basis of our society, and as long as incarceration remains a favoured response to criminal forms of deviance, prisoners will work. Prison labour reduces the cost of imprisonment, although is not always necessary for its functioning. The “warehouse prison” is a testament to this. Instead of agitating for the abolition of prison labour, prisoners have consistently organized to improve their working lives—prisoners have struggled against idleness for as long as they have struggled against coercive work regimes. Instead, those who seek prison justice and workers' power should demand a program that prisoners themselves have called for: the elimination of all extra-economic coercive power over prisoners and non-voluntary prison work; the full normalization of prison labour, including the right to unionize; and access to voluntary and socially useful jobs.

Of course, the problems of prison labour are not just confined to the “labour” part of the equation. Those who struggle for prison justice can and should demand these things in concert with a range of criminal justice reforms, both immediate and limited and longer term and transformative. This includes the decriminalization of drugs, the elimination of mandatory minimum sentences, increased access to parole and probation, the increased use of restorative and transformative justice programs, more robust social programs and more and better access to housing, healthcare, education, and more. However, to be politically viable, such programs and

benefits cannot be the privilege of those who have come into contact with the criminal justice system. They must be universal and, to be effective, would necessarily mean confronting the power structures of existing society. Pioneering Canadian prisoners' rights activist Claire Culhane succinctly summarized the task at hand: "We can't change prisons without changing society. We know that this is a long and dangerous struggle. But the more who are involved in it, the less dangerous and the more possible it will be."<sup>28</sup>

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<sup>28</sup> Claire Culhane, "To the Guys at Kent," *Kent Times*, [Agassiz, BC] (1986): 3, available: [http://penalpress.com/wp-content/uploads/KentTimes\\_V1\\_I1\\_Aug1986.pdf](http://penalpress.com/wp-content/uploads/KentTimes_V1_I1_Aug1986.pdf).

## APPENDIX A

### Statement of Oakalla Prisoners, July 1, 1975<sup>1</sup>

Prisoners' Demands, July 1, 1975

We, the inmates at Oakalla, would like it clearly understood that this is not a violent demonstration and we have no thoughts of violence. This is the alternative to all the meetings we have had with the staff and accomplished very little. It is now the time to bring our grievances to the public where we would hope to achieve a goal. You are never really told why these demonstrations happen for the simple reason the administration is afraid. They are incompetent and you may realize this.

Oakalla is very much outdated and there is very little being done to better it. We are told that they're trying but the problems that are before us have been around for years, but they think the old way—out of sight out of mind. So, everything is just pushed aside till they are confronted with it again, and then we get the answer, "Well, it takes time."

Oakalla is at the stage Haney Correctional was at five year ago and now they've closed Haney, so we have no example. We might go back in time if we don't take a stand now. The administration has brought some public through the walls of Oakalla and I imagine they thought it seemed to be sufficient, but you only see what they want you to see and that's only half the story. There is no freedom of speech at all. You can be sent to isolation for saying the wrong thing. In other words, for not saying what they want to hear.

#### OUR DEMANDS

##### RESPECT

We have been told time and time again that in jail we have no rights.

WE DEMAND OUR RIGHTS ARE GIVEN TO US—THE FREEDOM OF SPEECH AND TO BE TREATED AS A HUMAN BEING.

##### EDUCATION

There isn't much in the way of a school program. No school in the East Wing. School in the Women's unit is limited. Westage B has a very small school room. Only about ten inmates can receive schooling.

WE DEMAND THE RIGHT TO A PROPER EDUCATIONAL PROGRAM AND BETTER EDUCATIONAL FACILITIES.

##### REHABILITATION

There is no chance of rehabilitation here. There isn't anything here that inmates can do that will develop our minds. All our vocational shops were closed a few years ago. They say the reason for this is that people working here aren't interested in continuing this type of training.

WE DEMAND THE AVAILABILITY OF JOB TRAINING.

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<sup>1</sup> "Prisoners' Demands" *Western Voice* 4:13 (July 9-22, 1975): 16.

## VISITS

Our visits are beyond description. They are barbaric. Not only is it hard for inmates when we're at our visits, but there is a staff member over our shoulders all the time. Also, on many occasions the staff is rude with the inmates' visitor.

WE DEMAND PRIVACY IN OUR VISITS IN A DIGNIFIED AND RELAXED ATMOSPHERE.

## ISOLATION

Isolation is cruel and unusual punishment. Inmates are sent down to the hole [Isolation] for almost anything. They are given two meals a day [breakfast and supper], water [1 glass] every day, a mattress on the floor, a plastic bucket that they must use for a toilet, which they empty once a day if the staff is in agreement and wants to let them empty it. The hole is a great place to catch many little things such as lice and crabs.

WE DEMAND THAT ISOLATION BE ABOLISHED.

## FIRE ARMS

There should be a better training program for the staff in handling of firearms. Also a better screening program. We want people that know the value of one's life, somebody responsible enough to make a decision when it's time to make one so they don't put everybody in danger. We want to help decide who these people should be that are handling these guns.

WE DEMAND STAFF TRAINING THAT RECOGNIZES PRISONERS AS HUMAN BEINGS.

## WARDEN'S COURT

Warden's Court is all one-sided. You're guilty before you get in. Inmates have no one to represent them. Very, very rarely does an inmate beat Warden's Court.

WE DEMAND THE RIGHT TO BE REPRESENTED TO CALL WITNESSES OF OUR OWN CHOICE AND TO BE JUDGED BY PERSONS INDEPENDENT OF THE PRISON ADMINISTRATION.

## DECISION MAKING

All decisions made here are directed toward the inmates of Oakalla. We have to abide by the rules of this Institution and we want a voice in that part of the system.

WE WANT TO BE A PART OF THAT PANEL THAT MAKES ALL THE DECISIONS.

WE THE INMATES OF OAKALLA DEMAND that the Prisoners Union Committee act with us and on our behalf as representatives and witnesses in our negotiations with the prison administration.

## APPENDIX B

### Prisoners' Union Committee Statement of Principles and Demands<sup>1</sup>

The Prisoners' Union Committee was formed earlier this year to provide a community support base for prisoners organizing themselves in order to [bargain] for their rights collectively against the Federal Treasury Board, The Canadian Penitentiary Service and the Department of the Solicitor-General. The Committee is at a beginning stage of development and is mostly engaged in study and analysis of Canadian prisons and their role in the criminal justice system as a whole. The Committee is studying the political functions of prisons. It is compiling information on the number of prisoners in Canada, the nature of their confinement (maximum, medium, work camps, and so on), and the conditions of confinement (types of training, education, jobs available, wages paid, treatment by guards, internal disciplinary procedures, and so on).

The Committee believes that the function of prisons and the criminal justice system as a whole in Canada, as in the United States and many other countries, is to control the activities of poor people in order to keep them at the bottom of the economic scale. The Committee believes that a society which is based on unequal social and economic relationships among its members need[s] prisons to maintain order. The prisons and the criminal justice system in total prevent people from changing the economic and social hierarchy. In focusing people's attention on such things as an increased crime rate, or the need to rehabilitate prisoners, politician and community leaders try to mask over the deeper causes of crime in society. The Committee is of the view that to a greater or lesser extent, all crime arises out of poverty, economic and cultural deprivation, and in this sense, almost all prisoners in this society are to some degree political prisoners. That is, most person [*sic*] are in jail because they are poor people who have committed crimes against property and they have in common an economic background of working class or poverty. In addition, the Province of British Columbia, for example, almost one-third of the total number of prisoners are from the Native Indian Class [*sic*].

Prisoners are probably the most totally oppressed class of individuals in Canadian society; native prisoners are probably the most oppressed group within this class[.] They are dominated by the tyranny of arbitrary power held over them by [j]udges, wardens, guards, and parole boards. Even after they are paroled, they are oppressed by the tyranny of parole officers who have the power to suspend the parole at any time.

Institutions within the penitentiary, such as Warden's Court, have no semblance of justice of civil rights. They are completely arbitrary, operated by the immediate supervisor of the guard making the allegation against the prisoner. Invariably if a guard alleges something against a prisoner and the charge is proceeded with, the prisoner is found guilty. He may be punished by withdrawal of recreation privileges, or by something more major, including the systematic torture of incarceration in the solitary confinement unit, called the hole.

Although the Committee realizes that there are many reforms to be sought for prisoners, it supports primarily prisoners who are focused on the aim of organizing themselves into trade union-like organizations. The Committee believes, along with many prisoners themselves, that if prisoners

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<sup>1</sup> "Prisoners' Union," *Tarpaper* (October 1975), 8.

are not fighting the enemy individually, but are carrying on the struggle collectively, that they will have more power. There is a great amount of similarity between prisoners and the workers in the larger community. Prisoners are forced to work on Government projects, often manufacturing goods, such as license plates, or construction of buildings or paint[ing] buildings, or doing repairs to automobiles or shoes, and so on, which usually is available for the benefit of guards and other penitentiary staff. The prisoners are paid on the average \$.10 an hour for the work they do for the government. Sometimes the fruits and benefit of their work can be purchased by penitentiary official[s] at totally nominal cost.

Prisoners at the Matsqui Penitentiary in B.C. are presently building houses for the Department of Indian Affairs and are being paid \$.10 an hour for this.

Among the goals of the prisoners being supported by the Committee, then, are the following.

1. Establishment of a [trade] union-like organization of prisoners in each of the Federal and Provincial prison [*sic*] in this province and (ultimately in the whole country).
2. A reasonable wage for the work done by prisoners, including workers' compensation benefits and other benefits, such as, unemployment insurance, upon release.
3. Thorough analysis of the cost of the prison system to point out the fact that the taxpayers' money is wasted and that better use would be made of community resources if prisoners had a complete right of self-determination of rehabilitation programs.
4. Alterations in the internal disciplinary structures of prisons so that when a dispute arises between a guard and an inmate, a committee made up of a representative of guards, and a representative of the inmate and a representative chosen jointly by the other two representatives would be responsible for resolving the dispute.
5. Publication of a code for behavior within prisons which would be made available to all prisoners so that the degree of arbitrariness exercised by vicious guards and wardens will be reduced. No holding proceedings without guarantees of due process.
6. No refusal of parole by the National Parole Service without a hearing with due process guarantees.
7. No suspensions or revocations or forfeitures of parole without due process.
8. A stop to the arbitrary use of the transfer mechanism, that is, the transfer of an inmate from one prison to another or from a prison in one province to a prison in another province because of the political or organizing activities.
9. Abolition of the solitary confinement units.
10. Better medical aid in prisons.
11. Conjugal visiting privileges in both male and female prisons.
12. Study of the sentencing procedures and prison systems in other parts of the world, including the Cuban and Chinese criminal systems, with a view to withdrawal of prison sentences as a tool of the criminal justice system.

All prisoners organizing together to achieve these goals are supported by the Prisoners' Union Committee. The immediate task of the committee is to create an office for centralization of liaison of paroled prisoners interested in working to build community support for prisoners' union[s] and in continuing liaison with the prisoners still inside.

Prisoners' Union Committee

## APPENDIX C

### **Preamble of the Canadian Prisoners' Labour Confederation Constitution, 2011**

The Canadian Prisoners' Labour Confederation is the result of much concern regarding the conditions of employment for Canada's growing federal prisoner population, the lack of opportunities available for prisoners to prepare themselves for release and the resultant, unacceptably high recidivism rate. Our initiatives are designed to offset the release to society of uneducated, untrained, and vocationally unskilled prisoners.

Education and vocational training of prisoners during incarceration is known to reduce recidivism. Reduced recidivism means fewer new victims of released offenders. Prisoners historically have had little say over the conditions of their employment and virtually no independent resolution for their work-related grievances. Such a power differential between employer and employee does not make for a healthy work ethic. Where the employee is a prisoner, the employer the Correctional Service of Canada, and the aim to protect society through the safe, secure and humane control of prisoners while preparing them for their eventual release back into society as law-abiding citizens, it is counter-productive, to that end, to subject prisoners to years of conditions which teach them that it is okay to take advantage of someone when they have less power than you do.

One cannot instill, in another, deference to the Rule of Law and respect for rights of others by first stripping the Rule of Law and all rights from others. The more a person sees that legal avenues of redress are accessible and efficient, the less likely he or she is to turn to illegal avenues of redress. One will not abide what one does not respect, and one does not respect what does not work for him/her. It is in the interests of public safety that prisoners are taught viable work skills and the importance of the Rule of Law and dignity and respect for all. Prisoners also need to be provided opportunities to make voluntary reparation with those they have harmed, where possible.

In addition, many prisoners have a desire to contribute to victims of crime, the less fortunate and society generally. Historically prisoners have found meaningful ways to give back to society through organizing fundraisers for recognized charities such as the Canadian Cancer Society, Children's Hospitals, food banks, etceteras. But many prisoners would also like to give directly to specific victims of crime through an intermediary source to preserve dignity and comfort of those concerned.

Members will contribute payments to the Registered Retirement Savings Plan, Workman's Compensation, Health Insurance, and applicable employment taxes as well as room and board payments. This will install in our members a sense of responsibility that is presently lacking when there are no opportunities to contribute to society. Our initiatives will reduce the burden on taxpayers, which today is in the billions annually with no correctionally sound results.

It is our Mission, as a public service, to become a self-sufficient organization able to provide assistance to our members upon release into the community in a variety of ways to facilitate smooth reintegration into society as a whole, and the workplace specifically, in the interests of public safety and increasing the success rate against recidivism. As well, we will endeavour to increase transparency, educate the public and create dialogue on the state of corrections in Canada, in public service to all Canadians.



The Canadian Prisoners' Labour Confederation is a democratic union in which the members make the decisions and set the policies. The Local Constitution and Bylaws for Local #001 were written at Kent Institution in 2010 in consultation between Union co-founders at Kent and Mountain Institutions, and came to fruition in March of 2011. Additional locals are to be comprised of Canada's approximate 54 federal institutions which, at the time of this writing, will be collectively responsible for more than 13,000 in-custody prisoners and many thousand more serving sentences in the community at any given time. The Canadian Prisoners' Labour Confederation National Constitution, completed on September 12<sup>th</sup>, 2011, accordingly belongs to the members of the Canadian Prisoners' Labour Confederation. It determines the Union's objectives and how the Union operates on a national level. The National Executive Office and the National Board of Directors have an over-arching mandate to oversee all Canadian Prisoners' Labour Confederation initiatives, and the National Constitution forms the basis for the functioning of the National Executive Office, and all the Canadian Prisoners' Labour Confederation regional and local offices across Canada.

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