

Guérin v. Canada:
Exposing the Indentureship of Prison Labour
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The institution wants to give you as little as possible. The bare minimum to survive. It's part of the punishment. The punishment is jail – we are not supposed to be punished more – once you're in jail they keep punishing you over and over.

– Wendy Bariteau

INTRODUCTION

In the judicial review, *Guérin v. Canada* (2018), the applicants argued that drastic pay cuts by the Correctional Services Canada (CSC) and their special branch in charge of labour programs, CORCAN (established in 1992), put prisoners in what one applicant referred to as a relation of slavery (*Guérin v. Canada*, 2018, p. 79). Applicants say that pay cuts have caused “grossly disproportionate hardship, so excessive as to outrage standards of decency” (*Guérin v. Canada*, 2018, p. 33). While an analogy to slavery may not hold, fellow applicant and author Bariteau, further analyzes the relation as one of *indentured servitude*: often involuntary labour in which some sort of a loan is paid back by working for the lender without or with little wage for a period of time. Prisoners are seen to have a debt owed to society for the “crimes” they have supposedly committed, while dominant society takes no responsibility for the poverty and intergenerational trauma (specifically of Indigenous peoples and women) that cause the marginalization that leads to imprisonment (Chartrand, 2019; Manual and Derrickson, 2017). Rather, the CSC and CORCAN purport that the labour programs they run are ‘rehabilitation’ – the active encouragement and assistance to prisoners to become law-abiding citizens (CSC, 2012). Indeed, as imprisonment and labour have from the beginning been inextricable, so has the conflation of prison labour with rehabilitation. In the Canadian context, the current ideology put forward by CSC/CORCAN represents the maturation of a neoliberal “paradigm” shift since 1981 that places greater emphasis on ‘rehabilitation’ over worker status. This marks a move away from the

possibility of labour rights for prisoners and further justifies the arbitrary cutting of prisoner¹ pay such as that initiated by the Harper government in 2013 which worsened conditions of imprisonment and thus gave rise to the court case, *Guérin v. Canada* (2018). The applicants argued that they *must* work to comply with their corrections and release plans, sustain themselves while inside, stay connected to their families and community, and save money for their future personal objectives in life (just like every other worker in society), and yet they are forced to accept a lack of labour rights that enable excessively low pay and dramatic pay cuts.

While we are in solidarity with prisoner organizing on issues that are key to their survival including support for their labour rights, we also delve into the violent history of the private property and wage labour² system within colonial-capitalism.³ In proposing that *all* wage-labour is coerced, we see the *indentured servitude* of prison labour as on the extreme end of the spectrum of ‘unfree labour’ (LeBaron, 2012). Furthermore, the condition of indentured servitude negates the possibility of rehabilitation. We conclude with an analysis of how prison labour activism is relevant to our abolitionist praxis: supporting short term wins arising from prisoner agency and activism, and an increase in prisoner resources while maintaining long term goals of freeing us from all systems of oppression including prison *and* wage labour.

HISTORICAL CONTEXT OF PRIVATE PROPERTY WAGE LABOUR AND COLONIAL CAPITALISM

While the Canadian government says that prisons protect society by ‘rehabilitating’ prisoners, the fact that approximately 7-8 out of 10 prisoners have prior convictions when entering the prison indicates these claims to be largely untrue.⁴ Prison programs, more than being completely unsuccessful at preparing people for survival on the outside, take place in the deeply traumatizing prison environment (Hansen, 2018; Hannah-Moffat, 2001; Horii, 1994; Pollack, 2012). At the cost of \$115,000 per prisoner per year (John Howard Society of Canada, 2018), it is baffling that prisons cost more than social safety net programs that would keep people out of prison in the first place, such as social housing, affordable higher education, adequate social assistance, access to healing and transformative justice. So why prisons? The answer has little to do with the ‘safety of society’ from

‘criminals’ and more to do with social control of the population as a whole. Prisons exist as a threat to the working classes, forcing people to conform to the wage labour-private property system to survive (LeBaron, 2012; Gordon, 2006; Melossi and Pavarini, 1981; Zatz, 2020).

The private property and wage-labour systems arose during the period of ‘primitive accumulation’ in Europe (1500-1700), which involved the enclosure of the commons where peasants hunted, gathered firewood, medicines, wild game, and other resources (Melossi and Pavarini, 1981). In the colonies, Indigenous territories were stolen through war, corrupt treaty processes, and other genocidal strategies. Indigenous peoples’ life ways and cultures were criminalized as the Canadian government attempted to force assimilation into colonial-capitalist relations through institutions such as reserves, residential schools, the Indian Act, and eventually the Sixties Scoop and foster care (Manual, 2017; Razack, 2015; Simpson, 2016). Once separated from the land as a means of subsistence, selling one’s labour became the only available way for the masses to survive. Separation from the land and forced labour were enforced by corporal punishment, vagrancy laws, the institution of welfare, and the establishment of poor houses and workhouses as the earliest forms of imprisonment (Gordon, 2006; Melossi and Pavarini, 1981; Palmer and Heroux, 2016). Over time, wage labour has become the dominant and ‘normalized’ form of survival (Dennings, 2010) that, with globalization, has spread (unevenly) throughout the world. As the preferred form of labour in so-called liberal democracies, wage-labour is “shrouded in consent and legality”, (Fraser, 2016, p. 164) at the same time, it is still based on coercion: the privatization of property produces a condition where one must work to produce value for an employer or starve (Denning, 2010; Lebaron, 2012; Zatz, 2020, p. 498). This is a fundamental corporal threat produced by the colonial-capitalist state that underlies the wage labour relation. Indeed, the wage relation is the basis of class-war.

Against this backdrop of coerced labour, Fraser (2016, p. 169) describes how “the racializing dynamics of capitalist society are crystallized” in the division between the privileged “free subjects of exploitation” (who can negotiate their wage) and the “dependent subjects of expropriation”, those whose labour is forcibly extracted (or sometimes prohibited in the case of Indigenous peoples) by means of unabashed “naked repression” (pp. 172, 167). Alongside prison labour, forms of expropriated labour include slavery, child labour, indentureship, sex trafficking, migrant,

informal, and gendered social reproduction labour such as housework and childrearing. Indeed, expropriated BIPOC labour was integral to the colonization and development of these lands,⁵ a history that has cemented into a persistent white supremacist labour aristocracy at the top (Maynard, 2017; Sakai, 1989; Zatz, 2020), and the over representation of racialized, queer, trans, disabled, and gender oppressed peoples at the lowest levels of the wage labour market – if not excluded from it altogether. The legacy of these historical forms of genocide, slavery, and labour expropriation persist today in the form of hyper-incarceration of Black and Indigenous folks in both Canadian and US prisons (Gilmore, 2007; Davis, 2003; Maynard, 2017). Despite international legal sanctions against forced labour, expropriative labour relations persist in and around exploited wage-labour, most notably in Canada, with temporary migrant labour, sheltered workshops (for people with disabilities), and in the prison context discussed here (Hansen, 2018; LeBaron, 2012).

Colonial-capitalism is a totalizing system where the modes of living and relations to land alternate to the private property/wage labour system are criminalized in diverse and intentional ways that specifically target poor people, those who are at the bottom end of the economic system (Chapman et al., 2014; Davis, 2003; Gilmore, 2007; Gordon, 2006; Hansen, 2018; Maynard, 2019; Wacquant, 2009). This is evident in the criminalization of Indigenous sovereign relations to their lands, to hunting, trapping, farming, and fishing rights (Manual, 2017), as well as the criminalization of squatting, encampments, and autonomous informal forms of labour (panhandling, squeegee, busking, street sales, sex work etc.) (de Angelis, 2004; Gordon, 2006; Dennings, 2010). Those on the margins of the economy who cannot (for a multitude of reasons) sell their labour, or compete successfully on the market, must survive through accepting welfare, unemployment, pension, disability, and/or through criminalized labour. Zatz (2020, p. 503) points out that, in dominant society, one's worth is derived from having a job and thus, those excluded from the job market are seen as a kind of "toxic waste", as sub-human, uncivilized and slated for faster or slower death (see also Denning, 2010; Gidwani and Reddy, 2011; Inayatullah and Blaney, 2010; Razack, 2015). The criminalization of poverty is evidenced in a *Toronto Star* (Gibson and Yousif, 2021) article that states 1 in 4 people sent to Toronto detention centers in 2020 were homeless, a growing trend from previous years.

Furthermore, institutions and welfare are purposefully calculated to be “inhumane” in order to maintain a constant pressure on the sale of labour as the primary way that people can access resources for life (Chapman et al., 2014, p. 4; Palmer and Heroux, 2016; Russel and Malhotra, 2002): poor food, low pay, lack of access to education and relevant programs, segregation as a tool of punishment, arbitrary rules, corrupt guards and administration who manipulate and punish prisoners as per their whim (OCI, 2019). The dehumanizing impacts of incarceration are known to accelerate the ageing process, with federal prisoners serving two years to life having a life expectancy of ten years below the national average (Iftene, 2020).

Despite human rights laws against forced labour, we argue, that *all* labour is forced, wage labour included. LeBaron (2012) suggests that instead of seeing ‘unfree’ labour as distinct from ‘free’, that all labour should be seen on a spectrum of unfreedom with neoliberalism being the historical movement of all labour towards increasingly unfree forms. If the terms of labour are not contributing to increased profit, forms of coercion become increasingly expropriative: the undermining of union strength, pay freezes and cuts (regardless of the cost of living), layoffs leading to labour intensification, increases in precarious, racialized, feminized and especially migrant labour (Lebaron, 2012). Indeed, the carceral can be seen as core to the wage labour relation itself; once wage labour is transgressed, the prison expropriates labour while construing it as ‘rehabilitation’.

PRISON LABOUR

While the CSC and CORCAN advocate that prison labour is rehabilitation and not work, it has certainly often acted like work with its claims of being rehabilitation ringing hollow. Prison labour has taken various forms according to shifting historical and economic moments and contexts: prisoners have been employed to “build their own cages” (McEilligot, 2017, p. 106). In 1853, for example, Kingston Penitentiary was largely built by prison labour which was also seen as integral to its operation. According to the CSC (2013a), prison labour fed the prison industry as the new penitentiaries incorporated space for prison workshops. An industrial centre grew up around the penitentiary that employed prisoners in prison run industries including farming, carpentry, machine shops, blacksmiths, rope making, stone cutting, shoe making, and printing. Prison work programs in

prisons for ‘women’ have also historically infused gender ideologies through training and educational programs that focus on teaching domesticity skills such as needlework, cooking, cleaning, esthetics, hairdressing and sewing (Allspach, 2010; Corrections Services Canada, 2013a; Hannah-Moffatt, 2001; Hansen, 2018). Prison labour was ultimately seen as competition by tradespeople and the business community, which forced the CSC to curtail the markets on which prisoner-produced commodities could be sold (CSC, 2013a). This history also includes moments in the late 1970’s where provincial prisoners *have* shared workplaces with non-prisoners, done the same jobs, had labour code rights, been part of a union (House, 2018) and have gone on strike regarding labour and pay conditions.⁶ However, workers in prison are among the most vulnerablized⁷ in society as their bosses are also their captors (Melossi and Pavarini, 1981; Rashid, 2018).

In these early days of the prison industries the ruling powers and the CSC made many propagandistic claims about the nature of prison labour that persist today: hard work was a significant contributor to a person’s rehabilitation. Thus, today CORCAN claims to “increase employability” by engendering good “work habits like getting up and going to work every morning and working as part of a team” and promoting “employability through interpersonal skills and work habits” (*Guérin v. Canada*, 2018, p. 9). CSC claims that work programs contribute to “safe communities” by discouraging recidivism (CSC, 2018), however, empirical data proving this claim is lacking.

CORCAN constitutes a neoliberal initiative to expand and explore the future potential of commodity and services production by prison labour. CORCAN is managed according to a business model seeking to “strengthen partnerships with private sector firms”, and “build capacity for program delivery” (Correctional Services Canada, 2013b). Collaborations with private sector enterprises include Lyman’s Lures, Louis Hebert Uniforms, Premier Security Products (aka Mr Wrought Iron) and ZCL Composites. In 2018, CORCAN restarted prison farm programs at several penitentiaries that were cancelled during the Harper era, which it hopes to expand with corporate contracts for factory farmed dairy (Innes, 2019; Correctional Services Canada, 2013a). CORCAN also offers apprenticeship and occupational certification programs, for which some prisoners are charged (*Guerin v. Canada*, 2018, p. 9). Prisoners produced nearly \$60 million worth of products and services in 2010/2011; the projected income for

2020/2021 was \$70 million, however, due to Covid, the actual earnings were \$43 million (CSC Departmental Results Report, 2020-21).

Using incarcerated labour, CORCAN has built prisons and continues to produce goods (metal furniture, prisoner clothing, uniforms and bedding etc.) and services (printing, laundry, office supplies distribution, construction, agriculture etc.) sold mainly through their website catalogue to any department, branch or agency of the Government of Canada (the Department of National Defence, Public Works, the provinces and municipalities) as well as charitable, non-profit, religious or spiritual organizations, as well as the general public. Through the specialty items section of the website catalogue, in what is profoundly ironic given the colonial role of the prison system, CORCAN also sells hand-made traditional Indigenous cultural items, including moccasins, beadwork, leather bags, headbands and drums. While CORCAN sells products made by prisoners, the prisoners themselves are only allowed to sell their own cultural works in a very restrictive fashion, if at all.

The CSC continues to reproduce the gender-binary by streaming ‘women’ into pink collar jobs that are low-paying, precarious, and dangerous in their exposure to toxic substances, such as cleaning, hairdressing, and kitchen work. CORCAN also provides programs for first aid and dog training, flagging (a feminized job within the masculinized work of road construction), and industrial sewing contracts, a sector long outsourced to the global south. These programs confine ‘women’ to jobs that symbolize the racialized, classed, and gendered structures of the outside labour market (Allspach, 2010).⁸

Participation in work programs is expected for prisoners to meet “the objectives of their Correctional Plan” (Corrections and Conditional Release Act, 1992) which has great importance for achieving parole. While people often do not have employment skills before entering prison, those they may acquire via prison jobs are often sub-par, garner low pay, and do not translate to adequate employability in any field but the most low-end precarious work on the outside – especially for those in prisons for ‘women’. Furthermore, Bariteau (2021) reports that in prison, work becomes another tool of punishment and control. If a person shows that they really like their job, instead of being supported, they become more vulnerable to the exertion of administrative punitive power: the removal of a person from their job for arbitrary reasons not necessarily related to the

work program. Such arbitrary abuse especially targets those who fight for their rights. At the same time, prisoners face real world expenses staying in touch with family and community, making phone calls, support payments, supplemental food, training, and education programs for which they might pay fees. Furthermore, we assert that this condition of forced labour without any labour rights constitutes a labour relation of indentureship, masked by a rhetoric of ‘rehabilitation’. Under these conditions, rehabilitation becomes one more abuse suffered by prisoners.

JUDICIAL REVIEW, *GUÉRIN V. CANADA*

Whether and how much prisoners are paid for their labour has been a constant issue in modern prisoner activism motivating work stoppages and hunger strikes. In the aftermath of a prison strike against the Harper government’s slashing of wages in 2013 (Innes, 2019), nine prisoners⁹ who worked for CORCAN and CSC launched a Federal Court judicial review¹⁰ that challenged the CSC/CORCAN ‘inmate’ pay system, and the lack of Canadian Labour Code rights accorded to prisoner workers (CLC). The applicants argued that:

A) the restructuring of the pay system which came in the form of a surcharge for room and board that drastically reduced their take home is inconsistent with the letter, spirit, and objectives of the Corrections and Conditional Release Act (CCRA), (one of the legislative acts that governs the CSC). The CCRA stipulates that the CSC provide prisoners with “*the most effective programs at the appropriate time in their sentence to rehabilitate them and prepare them for reintegration into the community*” (15.1, p. 11). B) The applicants further argue that the 2013 prisoner pay cuts violate the Canadian Charter of Rights and Freedoms *a breach of the liberty and security of the person and the right not to be subjected to any cruel and unusual treatment or punishment*; C) And, that the pay cuts are inconsistent with the United Nations Standard Minimum Rules for the Treatment of Prisoners which states that *prisoners must be fairly compensated for their labour*, and with Conventions 29 and 105 of the International Labour Organization, which state that *prisoners should not be coerced into labour*. Finally, D) that there is, in fact, an employer–employee relationship with CSC such that the Canadian Labour Code (CLC) should apply to prison workers.

Part of the applicants' argument was that pay is subject to continual change and policy amendments according to the whims of the CSC and the Canadian government. Before 1981, good conduct and participation in programs garnered pay, rather than for work at an assigned job (*Guérin v. Canada* 2018, p. 36). Then, in 1981 CSC amended the pay system and different pay scales were created for different jobs, security levels, vocational programs, and education. Those who worked earned a minimum of \$3.15/day in maximum security institutions and up to \$7.55/day in minimum security institutions. The minimum wage of \$3.15 per day was meant to correspond to the disposable income of a single person on the outside earning the federal minimum wage of \$3.50/hour in 1981 and was the highest in terms of prisoners' spending power, to date (*Guérin v. Canada*, 2018). In 1992, however, CSC changed to a new system, what Justice Roy referred to as a "paradigm shift" (*Guérin v. Canada*, 2018, p. 33) "where payment for work performed" became "payment for participation in programs promoting social reintegration" (*Guérin v. Canada*, 2018, pp. 16-17) and this came with legislation allowing for up to 30% deductions to pay for room, board and the administrative costs of phone service (*Guérin v. Canada*, 2018).

In 2013, CSC enacted this new legislation resulting in the drop in earnings that ignited the Judicial Review. Beyond the deductions, the incentive pay that ranged from \$0.25 to \$1.00 an hour for CORCAN programs was also eliminated. Currently, prisoners are provided a day rate for program participation, not for the specific work they perform, with the day rate increasing for 'good behaviour': A) \$6.90/day; B) \$6.35/day, C) \$5.80/day; D) \$5.25/day; and E) \$2.50/day. The current day rate levels are actually less than they were in 1981. Very few prisoners actually make the top rate; the average prisoner wage is currently \$3.00 per day (Brosnahan, 2014). For persons who are unable to participate in any programs for reasons outside their control an allowance of \$1.00 a day is paid. If a prisoner is sick, rather than be given time off, they may be suspended from their work assignment. Prisoners can be paid for a maximum of five days a week regardless of overtime (unless authorized) and will generally not be paid if they do not show up for their assignment (authorized absences allow for \$2.50 per day). If overtime is authorized, it is only after ten days per two-week period and at a lesser rate. Usually, overtime occurs when CORCAN needs labour to fulfil a contract that is due, or if CSC needs snow to be shovelled, or there is an accident in the prison such as a burst pipe. CSC claims that such drastic

deductions represent “real world” expenses (for which they do not receive real world wages) and would thus make prisoners more accountable. According to the Office of the Correctional Investigator (2005-2006), “the canteen basket that cost \$8.49 in 1981, cost \$61.59 in 2006”, a cost hike of 725%. The OCI further stated that the “per diem amounts are insufficient and should be raised immediately” (*Guérin v. Canada* 2018, p.10).

In *Guérin v. Canada* (2018), applicant Bariteau (2021) reports that prisoners must pay for many life necessities. The per diem is used to pay for: phone cards, paper, envelopes, and stamps in order to maintain contact with family and community; to pay for groceries to feed your family when they visit; health care costs; commodities available from the CSC catalogue (at vastly inflated prices) such as clothes, gifts and specialty products often bought for family/community; vocational certificate programs so that one can adhere to one’s parole and release plans; preparing for release which involves finding a job, a place to live, and paying for a phone and transportation; groceries and canteen foods to supplement their grocery list and inadequate portions of pre-prepared cook-chill meals¹¹; and canteen items that are sometimes traded for food (*Guérin v. Canada*, 2018, p. 12; Brosnahan, 2014). Substandard wages and a shortage of work positions available at all levels of security classification make prisoners’ needs increasingly difficult to meet. Indigenous folks are less likely to get jobs due to lack of transferable skills, higher level security classifications, lower education levels, and so forth.¹² Applicant Joly testified that the 2013 reduction in pay left prisoners in a condition of “slavery”. Due to the reduction in pay, Joly refused to work, he was ordered into “isolement cellulaire where he had to remain in his cell with the door locked during the hours when other inmates were working” (*Guérin v. Canada*, 2018, p. 79). The government claimed cuts to prisoner pay would save about \$4 million out of CSC’s more than \$2.6 billion annual budget, 70% of which goes towards CSC personnel pay and benefits (Office of the Parliamentary Budget Officer, 2018), personnel who have a union to represent them.

In response, the Attorney General (2018, p. 52) argued that there is no constitutional recognition of minimum pay for “work performed while incarcerated” that could have resulted in violation of the Charter sections: *right to life, liberty and security of the person* and *freedom from cruel and unusual punishment*. They also argued that, because of a structural

technicality, that there is no employer-employee relationship and thus, there cannot be a violation of the CLC. The international agreements were also argued to be non-binding in the Canadian context, and indeed, the convention against forced labour makes an exception for prisoners. While the AG claimed that CSC adequately meets the needs of all imprisoned people in their custody, in cross examination it was found that seven of the nine applicants could not meet their food, clothing, and hygiene needs adequately. One of the two applicants were only able to meet their needs due to outside/family financial help. One applicant testified that his wages dropped from \$300 to \$90 a month for his work in the kitchen. Another applicant testified that pay cuts made him feel “broke and depressed and insecure with his child”, while another “lost motivation” and was “taking antidepressants”. A third applicant said that he “couldn’t afford postsecondary courses” (*Guérin v. Canada* 2018, p. 79). The outcomes cited by complainants are those that could very likely negatively affect quality of life inside, and successful reintegration upon release.

While the applicants’ arguments were dismissed by Justice Roy for “lack of evidence and proof”, he did agree that “there is no doubt as to the harshness of deductions of 30%, which affect persons’ ability to set funds aside to facilitate their reintegration” (*Guérin v. Canada*, 2018, p. 32). Ultimately, though, Justice Roy failed to perceive the devastating impacts of imprisonment and labour expropriation claiming that they do not involve the “degree of severity” that would constitute “cruel and unusual punishment” (*Guérin v. Canada*, 2018, p. 35). That prisoners experience additional confinement for not working is not considered by Justice Roy as punitive within a setting where “physical restraint is inherent in imprisonment” (*Guérin v. Canada* 2018, p. 40). Justice Roy also asserted that there is no “state obligation to guarantee adequate living standards” in the Human Rights Code (*Guérin v. Canada* 2018, p. 44). As for international law, the United Nations Standard Minimum Rules for the Treatment of Prisoners *does* state that prisoners should be equitably remunerated and allowed to buy what they need while incarcerated, send money to their family, as well as to have funds set aside for their release, however, this is considered “aspirational” not binding (*Guérin v. Canada* 2018, p. 50-51). Furthermore, the complaint that ‘rehabilitation programs’ fail to meet their own objective of reducing recidivism is seen as prioritizing the objective over the law as it stands. In effect, we argue that the judicial review upheld a

very contradictory, unclear, arbitrary, backward, and problematic condition of prison labour designed by the Government of Canada.

PRISON LABOUR AS INDENTURED/EXPROPRIATED LABOUR

Justice Roy's ruling in *Guerin v. Canada* (2018) exposes and solidifies that prison labour is a form of indentureship. Indentureship of prisoner labour is historically exemplified by the 'Houses of Correction' in 18-19th century England, where prisoners worked for free in the trades; the sentencing of convicts to deportation to the colonies to work as indentured servants (LeBaron, 2012); and poor-houses here in Canada where the unemployed were put to work for no pay at all (Palmer and Heroux, 2016). Zatz (2020, p. 506) suggests that because part of a person's sentence is coerced labour, both within prison and upon release, that a prisoner is not only convicted of the crime on the books, but also for the underlying crime of "failing to find a job, for quitting or refusing a job, or for working at a job that fails to maximize earnings".

Currently, the logic of indentureship is further evidenced by what McElligott (2017, p. 92) describes as the Harper government's call "for a rebranded system of 'earned parole' that uses 'economic pressure' (longer work, lower pay, and more deductions) to make 'privileges' like decent housing dependent on prisoners' attitudes to work, obedience, and self-improvement". At the same time, the Harper government advocated for legal decisions that "reduced prisoners' Charter Rights". This was done "in order to compel 'active' participation in programming, reinforce respect for prison authorities, and curtail 'frivolous and vexatious grievances'. While the intention is to expose prisoners to the "harsh realities of the outside world" (as if they are not well aware), in effect, the CSC/CORCAN is pushing prisoners closer to the expropriated labour end of the spectrum (McElligott, 2017, p. 92).

The impacts of indentureship of prison labour are, as the applicants argued, contrary to the purported objectives of rehabilitation, reintegration, and curbing recidivism. The John Howard Society (2021) reports that 30% of people become homeless after leaving prison. Arrest will disrupt employment (if one has a job to begin with), while incarceration will impede job market participation by "degrading skills and work habits,

blocking opportunities to gain work experience, and severing social networks that facilitate employment” (Zatz, 2020, p. 502). Providing a job plan is a necessary part of one’s parole and probation; however, it is “widely documented” that employers have an “aversion to hiring people with criminal records” (Zatz 2020, p. 501). In Canada, “After an average of 14 years post release, most individuals were underemployed with a median income of \$0” (Babchishin et al., 2021, p. 2). Zatz (2020, p. 507) finds that “pressure from” parole officers “to get to work or go to jail” pushes “workers into ‘bad jobs’ that they otherwise might avoid”: exclusion from the liveable level of the job market is complemented by coercion into its lowest levels (Zatz, 2020, p. 509). This leads to a vicious cycle where “[n]ot only does prior criminal legal contact lead to labour market exclusion, but prior exclusion leads to criminal legal system involvement” (Zatz 2020, p. 502). Thus, Zatz (2020, p. 514) points out that the job market is tiered with those “not marked by the criminal legal system” hoarding the upper levels, while those “undeserving” are driven into more extreme forms of “exploitation in worse jobs”, which are touted as “allowing them to achieve the holy grail of work, in any form”. Fraser (2016, p. 166) notes that “the subjection of those whom capital expropriates is a hidden condition of possibility for the freedom of those whom it exploits”. Thus, it is evident that the overarching purpose of prison is actually to pressure people to accept the bottom end of the wage labour system: low paid, insecure, highly exploitative, dangerous, immiserating jobs by threatening incarceration as a weapon in the class war (LeBaron, 2012; Zatz, 2020). If one chooses to do sex-work or trade in criminalized substances instead of work at McDonalds for minimum wage, then one will face the indentured labour discipline of prison. Furthermore, can labour in prison really be rehabilitation? Rather, the ‘rehabilitation’ that CSC and CORCAN claim to provide is pathologizing, creates widespread cynicism, and is coercive (Allspach, 2010; Hansen, 2018; Pollack and Brezina, 2008).¹³

CONCLUSION: AN ABOLITIONIST FUTURE

In this paper we have argued that the period of primitive accumulation that spawned the wage labour-private property system is the root cause of poverty and imprisonment within the history of colonial-capitalism, and thus all

wage labour is coerced. In this light, *Guérin v. Canada* (2018) shows how the conditions of prison labour as outlined here cannot reasonably be construed as ‘rehabilitation’, but are more accurately described as indentured labour. Prisoners are forced to work to increase the possibility of early release while at the same time being denied labour rights and suffering arbitrary cuts in pay that dramatically impact their ability to resource themselves to get release and stay out of prison. The lack of relevant skills being acquired in prison labour programs and the barriers to employment for people on parole or with a criminal record means that homelessness and recidivism continue to plague criminalized folks. As such, prison labour is a vector for further harm to those who are incarcerated.

We take up the important demands of *Guérin v. Canada* (2018) and seek to extend these beyond labour rights and pay, towards a pragmatic solidarity that supports prisoners’ agency and resistance, their access to resources (not just from labour), their valorization as beings, and their healing and self-fulfilment as a ground for further resistance against the carceral state. Indeed, the authors of this paper advocate for prisoners to determine the kind of programming they want and need, including education programs that, in our experience, are widely desired.

The labour issues brought up in *Guérin v. Canada* (2018) represents an important front in the abolition movement that should be engaged by the progressive labour movement and unions: to challenge the current form of prison labour as well as engage with issues of economic exclusion of those who have been marked by the prison system. While abolition must be centered outside of the prison industrial complex, the union movement as a whole *could* have a role in confronting police and guard unions and make the interim demand that they intervene in the abusive work practices that their government employer expects of them, as well as those committed by individual members. Campaigns that target the inflated prices that the CSC charges prisoners for catalogue and canteen items are important to lessen the cost of survival in prison and help scant wages go further. A campaign against the Canadian phone company, Bell, is a case in point where abolitionists and prisoners have launched a class action lawsuit for charging prisoners a much higher rate than what is paid by the public for their phone services (Sotos Class Actions, 2020).

In wanting to disrupt the wage-labour system and the subjection of prisoners to low-pay both inside and out, it is key to create alternate

economies that redistribute resources to prisoners and their chosen or biological families from the outside community. Such economic strategies include work by Joint Effort to provide penitentiary packs – a parcel of necessities such as clothes, shoes, toiletries and so on for people heading into prison as well as out-packs for those leaving prison; the Toronto Prisoners’ Rights Project (on hiatus at the time of this writing) received funds from outside people to directly support prisoners and their support persons; buying prisoner artwork when possible is also a long-standing practice. Also of key importance are broader campaigns from grassroots groups such as VANDU (Vancouver Area Network of Drug Users) and Maggie’s Toronto (advocacy by and for sex workers) that chip away at the state’s ability to imprison people by advocating and practicing decriminalization, harm reduction, transformative justice, and community building among unwaged/unhoused peoples. The publication of prisoner writings by this journal as well as *Briarpatch* and others are important in terms of centering those with lived expertise in the abolition movement. Forms of social reproduction work that keep prisoners connected to their outside community are also vital for prisoners’ survival and healing. Thus, all transportation initiatives to facilitate visits and support the bio/chosen kin of prisoners *is* radical as is letter writing so that those incarcerated have connection and solidarity on the outside to prevent disappearance. Letter writing is also a way for prisoners to inform others of what they are experiencing inside. Such practices create bonds across difference – prisoners and non-prisoners – as a basis for struggle. These practices could be foregrounded theoretically and framed as creating a parallel non-capitalist economic circuit, a decolonized and non-capitalist futurity, beyond wage labour and private property.

ENDNOTES

- * Kim Jackson’s participation in the writing of this article was funded by SSHRC-CMHC Post-Doc award.
- ¹ We acknowledge that for those with lived experience with prison, terms such as ‘inmate’ and ‘prisoner’ can feel reductive and demeaning. We also acknowledge that in the history of prison struggles that ‘prisoner’ was the politicized term referring to someone held against their will.
- ² Wage labour is a system of labour relation where a person sells their labour on the market to employers as opposed to, for example, feudal relations where people worked the land and paid the landowner with a portion of the goods they produced or money earned from selling goods, or slavery where labour is extracted by force.

Alternative forms of labour relations also exist, such as the communal labour and redistribution economies of many Indigenous societies. While wage labour is considered ‘free’, wages that are paid to the worker are less than the value of the goods that the worker produces for the employer, but just enough for them to survive to work another day, and thus the employer makes a profit (Marx, 1990). This relation is considered exploitation because if a worker owned their own means of production (land and tools) they could work less and earn more, and their labour would not be supporting employers, corporations and shareholders at a much higher standard of living than what the labourer themselves can attain.

- ³ The term ‘colonial-capitalism’ refers to the inextricable link between the two historical processes and proposes that neither can be properly discussed without the other (Ince, 2018). Capitalism became the dominant economic system via primitive accumulation during the colonial era and the ongoing theft of Indigenous land and resources. Thus, capitalism cannot escape its illiberal character founded in colonial violence, even when capitalism is the economic system under liberal governments.
- ⁴ The CSC generally measures recidivism as a re-offence within two years, which falsely deflates the recidivism rate and disguises the fact of an actual criminal class of highly vulnerablized people with trauma and disabilities (<https://www.csc-ccc.gc.ca/research/005008-r426-en.sh>).
- ⁵ Indentureship was also used against migrants from China who had to pay the cost of transportation to the colonies by working on the railway – an example of “racial capitalism”.
- ⁶ See House (2018, pp. 9-10): “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 and its success in bargaining collective agreements (...) for incarcerated and non-incarcerated meat cutters employed by a private firm operating out of the Guelph Correctional Centre”. Historically the Wobblies (members of the Industrial Workers of the World) have also supported prison workers.
- ⁷ We use the term ‘vulnerablized’ instead of ‘vulnerable’ to shift emphasis from the perceived weakness of the individual to the actions of the system which create vulnerability in marginalized bodies.
- ⁸ The gender discrimination in programming led prisoner activist Gayle Horii (1994) to launch a court case that argued that she should have the right to do her time in a prison for ‘men’. Horii won her case and was moved to Matsqui Institution where she lived in the hospital wing earning her degree in Anthropology.
- ⁹ Applicants in *Guérin v. Canada*: Jean Guérin, Jarrod Shook, James Druce, John Alkerton, Michael Flannigan, Christopher Rocheleau, Johanne Bariteau, Gaétan St-Germain, and Jeff Ewert.
- ¹⁰ A judicial review can happen when “a decision or an order of a federal board, commission or other tribunal” is seen to have detrimental impacts, to be unfair, unreasonable or unlawful (Section 18.1 Federal Courts Act).
- ¹¹ The Office of the Correctional Investigator (2018-19) reports that meals fail “to meet Canada Food Guide requirements ... 21% of the time”, that menu was “not validated by a registered dietician”, that there is a “lack of hygienic food preparation”, “inconsistent or substandard meal portion sizes”, and a “failure to follow special diet requirements”. The switch to cook-chill food technology has sparked riots in the

prison. It is also true that meals are provided in a number of different ways across different institutional security levels and by gender. In many prisons for ‘women’, folks are provided a weekly dollar amount to shop for their own foods from a prison supplied list of available groceries. In this case, prisoners cook for themselves. For many people who do not have healthy food practices this makes possible a diet of mostly processed foods. On the other hand, institutions with cook-chill do not have access to fresh fruits and vegetables.

- ¹² Prior to 1960, Indigenous prisoners were understood as very negatively impacted by imprisonment and thus given lighter sentences and released earlier. Later on Indigenous prisoners became stigmatized as ‘drunk Indians’ and their sentencing was increased, initiating an ongoing trend in yearly increases of Indigenous peoples in prison to its current rate of around 26.4% (Chartrand, 2019). This is despite many reports outlining the colonial legacy of Indigenous criminalization and incarceration.
- ¹³ Innes (2019) reports that the new plans for the prison farm program will further its industrial character while reducing the previous small scale farm culture where prisoners worked outside, grew their own food and had direct contact with the healing power of animals. This shift to assembly line factory type of work is believed to lessen the ‘rehabilitative’ potential of this program.

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