



SOLIDARITY BEYOND BARS

UNIONIZING PRISON LABOUR

JORDAN HOUSE AND ASAF RASHID

ADVANCE PRAISE

“This book is a timely and important contribution to scholarship on abolition, prisoners’ rights and labour organizing. The urgent topic of prison labour unionization has rarely been articulated or proposed. The authors discuss the intricate links between capitalism and imprisonment, showing how unionization of prison labour can ameliorate some of the harms of incarceration, is compatible with larger projects of prison abolition and how prisoners’ inclusion in workers struggles will be beneficial to broader struggles against capitalist exploitation.”

— Jessica Evans, Toronto Metropolitan University

“From Amazon to COVID, from racial justice struggles to housing, workers have been the backbone of collective struggle. In this book, Rashid and House take us behind bars to explore the histories and contemporary struggles of incarcerated workers and the possibilities for organizing. A must read for all interested in abolition movements, workers’ struggle and the urgent need to collectively organize for a better world.”

— El Jones, author of *Abolitionist Intimacies*

“*Solidarity Behind Bars* should be read by social justice and labour scholars and activists. House and Rashid take the reader through the byzantine bureaucratic, labour and punitive structures that render prisoners’ work invisible, denying them the same rights as free labourers. Well researched and engagingly written, *Solidarity Behind Bars* not only describes the current (and deplorable) state of prison labour but also explains how legal paradoxes and capitalist impulses brought Canada to this point and what the paths forward may be.”

— Melissa Munn, co-author of *Disruptive Prisoners* and *On the Outside*

“A solid piece of scholarship exploring carceral customs in Western capitalist societies, grounded in a coherent political economy.”

— Bob Gaucher, co-founder and previous editor of
the *Journal of Prisoners on Prisons*

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To all the workers struggling to get free.

LIST OF ACRONYMS

ACLRC	Alberta Civil Liberties Research Centre
CBI	Collins Bay Institution
CCC	Canada Car Company
CCRA	Corrections and Conditional Release Act
CCRR	Corrections and Conditional Release Regulations
CAFW	Canadian Food and Allied Workers Union
CIRB	Canadian Industrial Relations Board
CLU	Canadian Labour Union
CORCAN	Correctional Service of Canada's prison industry agency
CPP	Canada Pension Plan
CPLC	Canadian Prisoners Labour Confederation
CSC	Correctional Service of Canada
EEP	Employment and Employability Program
FCA	Federal Court of Appeal
FSRS	Fonds de soutien à la réinsertion sociale / Social Reintegration Support Fund
GCC	Guelph Correctional Centre
ILO	International Labour Organization
ISO	International Organization for Standards
LCO	Law Commission of Ontario
MP	Member of Parliament
MPP	Member of Provincial Parliament
NDP	New Democratic Party
NELOF	Native Extraordinary Line of Furniture
NRCC	Nanaimo Regional Correctional Centre
OAI	Offender Accountability Initiative
OCI	Office of the Correctional Investigator
OLRB	Ontario Labour Relations Board
OMIP	Outside Managed Industrial Programs

PDFS	Post-Doctoral Fellows
PPE	personal protective equipment
PSLRA	Public Sector Labour Relations Act
PSLRAB	Public Service Labour Relations Board
PUC	Prisoners' Union Committee
RCMP	Royal Canadian Mounted Police
SAWP	Seasonal Agricultural Workers Program
SCC	Supreme Court of Canada
STG	Security Threat Group
TFW	temporary foreign worker

INTRODUCTION

PRISON LABOUR AND PUNISHMENT

Canadian prisons don't work. But Canadian prisoners, for the most part, do. This book follows many others in arguing that, not only are Canadian prisons ineffective in their stated goals of public safety, they are, in fact, a source of harm that makes our society worse off.¹ Common sense holds that prisoners work as part of their punishment. However, according to the law and correctional policy, prisoners don't work *as punishment*. The stated reasons that prisoners work are related to "rehabilitation."² However, as we will argue, there is not sufficient evidence that prison labour programs are very effective in their rehabilitative potential.

Prisoners work for two main reasons: first, because of the widely held ideological commitment to the idea that work is a moral virtue. Canada is a capitalist country and, as such, work and labour lie at its very heart. Modern prisons emerged alongside industrial capitalism. The Industrial Revolution dramatically reshaped society. It drastically changed the way people lived and worked. The growth of factories fuelled urbanization, encouraged immigration and also caused social dislocation, disorder and a rise in crime — or at the very least a perception in the rise of crime.³ Prisons, in the form of the penitentiary system, were one of the responses to this. But, as historians have demonstrated, penitentiaries were as much about creating good, docile workers as they were about fighting crime.

The second, and perhaps most important reason why prisoners work is to offset the costs of their incarceration. In the earlier years of the penitentiary, some of their advocates believed that if properly managed, prison industries could do better than simply recoup some costs and generate profits.⁴ Today there are some enterprising business own-

ers that make money off of Canadian prison labour but, in the grand scheme of things, this isn't that significant of a factor. Only a handful of Canadian prisoners work in programs that involve private employers. For example, the contract between Correctional Service of Canada (CSC) and Wallace Beef, a private meatpacker that operates the abattoir at Joyceville Institution, states the company shall provide "training" for a minimum of ten prisoners at any given time. In fact, the company routinely employs fewer prisoners than that — and at times the company has operated without any prisoners working at all.⁵ The vast majority of Canadian prison labour is institutional maintenance work — the cooking, cleaning, clerical and other work necessary for prisons to function. Similarly, most of the goods and services produced by prison industry programs are for "state use," meaning they are sold exclusively (or near exclusively) to government departments and agencies.

As such, the most significant reason Canadian prisoners work is because correctional systems rely on unpaid or poorly paid prison labour to subsidize their operations. Due to their status as "offenders," prisoners are coerced — sometimes explicitly, sometimes in roundabout ways — to work and they perform this work without any of the normal legal rights protections that we expect workers to have. This creates a situation where prisoners work in dangerous conditions, for little pay, all in the name of their own rehabilitation. As we'll also discuss in detail, there isn't much evidence that prisons effectively rehabilitate prisoners — and lots of evidence indicating the opposite.

The concept of rehabilitation should be problematic for anyone who takes the position that prisons need to be challenged and even abolished as part of contesting the conditions of capitalist society as a whole. The way this concept has been used by correctional administrators makes it a huge barrier to employee status and prisoner unionization, clouding the employment relationship between prisoners and their institutions. It should be inescapable to anyone who observes the cleaning, cooking, maintenance, manufacturing, as well as the production and vocational work in the Correctional Service of Canada's prison industry agency (CORCAN), that the work is, well, work! If free workers were brought in to do the work that prisoners do, suddenly the same activities, called "rehabilitation" for prisoners, would be transformed into employment. There is no clear distinction, or even any basis for why there should be one, between rehabilitative work programs and employ-

ment. How is cleaning a toilet or making furniture for use by government departments, manufacturing licence plates or personal protective equipment (PPE) part of rehabilitation or self-improvement? When the work of prisoners is called rehabilitation, minimum employment standards and rights required for employees are lost, including the prospect of unionization. Terrible pay and poor working conditions are excused because prisoners are told they are only doing programming and their pay is nothing more than a “privilege.”⁶ Indeed, the problems of rehabilitation have been acknowledged by the government itself. As the 1977 *MacGuigan Report* states:

we do not recommend imprisonment for the *purpose* of rehabilitation. Even the concept is objectionable ... It implies that penal institutions are capable of adjusting an individual as if he were an imperfectly-operating mechanism ... We prefer to approach the problem with a new term — “personal reformation” — which emphasizes the personal responsibility of prisoners instead.⁷

While rehabilitation sounds positive, especially when contrasted with punishment, claims of rehabilitation serve as a powerful cudgel against prisoners’ rights. We will elaborate on overcoming the barriers of the rehabilitative construct in Chapter 6.

The massive scale and racial disparities evident in the US prison system has made the question of mass incarceration a key issue of social justice in that country. As a part of the public debate over the nature and role of prisons in US society, prison labour has also received renewed public attention. Prison labour has been the topic of documentary films and has been featured in television shows based on prison life — for example, “The Farm: Life Inside Angola Prison” (1998), “13th” (2016), “American Jail” (2018), “Oz” (1997–2003) and “Orange Is the New Black.” The links between slavery and modern prisons in America have been explored by academics, journalists and filmmakers, and activists — both inside and out of prison — and have drawn attention to the phrasing of the 13th amendment to the US Constitution, which abolished slavery “except as a punishment for crime whereof the party shall have been duly convicted.”⁸

Canada’s prison systems have many similar problems, but prison labour in Canada has not come under nearly the same scrutiny. While

books on incarceration in Canada are published regularly, there has been no book dedicated to the subject of prison labour in contemporary Canada. This book is an attempt to fill what we see as an important gap in discussions of prisons in Canada.

In writing this book, we aim to shed light on incarcerated peoples' struggles for better conditions. We also suggest ways that the prison justice and labour movements can work together, because as we argue in this book, they are intricately related. Most importantly, this book is written in support of prisoners who want to improve their working conditions — and by extension, their lives. We argue that prisoners' exclusions from labour protections cannot be justified on the grounds that their work is rehabilitative. Prisoners' exclusion from legal protections can be understood as incompatible with our basic understanding of work in a society governed by liberal capitalist values. Prisoners are subject to forms of coercion that would be rightly understood as intolerable in other circumstances. Given that their employer is also their jailer, prisoners' rights as workers are of the utmost urgency. We believe that working prisoners should have all the same rights and responsibilities that workers have in the "free world" — they should be covered by employment standards and health and safety laws, and they should be able to join and form unions and engage in collective bargaining. We refer to this as the "normalization" of prison labour. Moreover, we argue that an immediate goal of both prison justice and labour movements should be supporting prisoners in unionization efforts.

In making this argument, we do not want to be misunderstood: again, we reject the idea that prison labour is "rehabilitative." We do not think the normalization of prison labour will necessarily make prisons more effective in their rehabilitative aims. We are not primarily (or even significantly) concerned with improving the rehabilitative outcomes of prison labour schemes. Instead, we see the normalization of prison labour as a strategic reform that can advance the goals of prison justice.

Second, we do not believe normalizing prison labour will change the fact that Indigenous people are massively overrepresented in the prison population. It also won't end torturous practices of solitary confinement or increase much needed access to health care. As such, assertion of prisoner labour rights must occur in concert with many other changes, including those that will result in decarceration, such as sentencing reform and expanded parole. Still, we think the assertion of prisoners' labour

rights is particularly strategic from the point of view of the prison justice movement. Prisoners' work — and the potential to refuse that work — is a powerful tool to back prisoners' voice with real power. Despite how often unions have been hostile to prisoner workers out of concerns that prison labour might undermine the wages and conditions of "free" labour, there are also historical examples of solidarity between unions and prisoners. If prisoners were to be successful in winning formal unionization and collective bargaining rights, as some provincial prisoners in Ontario did in the past, they may be able to use the rights afforded to unionized workers to check the power of prison administrators. Collective bargaining over labour issues would be a clear opportunity to challenge the unilateral control of administrators over prison labour programs. But there are also broader implications. Despite the limits of what labour scholars refer to as the "industrial pluralist" model of labour relations in Canada, a certified union of prisoners could, for example, strategically assert the rights of prisoners to attend union meetings. This happened in the case of unionized prisoners at the Guelph Correctional Centre, who were able to receive temporary leave to attend union meetings in the community.⁹ In the United States, prison union organizers fought critical battles around free communication and censorship on the basis of labour rights, albeit mostly unsuccessfully.¹⁰ Finally, a prisoners' union could form the basis to link activists and organizations involved in labour, anti-racist and decolonial struggles, contributing to building a broad political coalition around these and other issues.

We are aware that some comrades within the prison justice movement may argue unionizing prison labour would further entrench prisons as an appropriate response to crime and social ills. While we understand this point, for the reasons we've laid out above, we argue the right of prisoners to unionize is an important structural reform that supports the goals of the abolitionist movement.

PRISON JUSTICE AND LABOUR ORGANIZING

Our goal is a more just world. Prisons are a particularly ugly form of injustice within Canadian society. However, for the most part, they are not the cause of injustice but rather a symptom of the inequalities produced by the systems of power — social, economic and cultural — that define

this country. As such, we must have a clear grasp of the purpose of incarceration in Canadian society. In our view, this means a reckoning with the capitalist system and the particular ways it has developed in Canada. Prison is a capitalist institution — which, in the Canadian context, cannot be disentangled from colonialism. Prisons, along with the broader criminal justice system, play a key role in asserting the sovereign authority of the Canadian colonial state and maintaining the conditions necessary for the continued accumulation of capital. We say more about the relationship between prison and class in Chapter 1 and explore the historical development of the penitentiary alongside industrial capitalism in more detail in Chapter 4. For now, we would like to emphasize that absent something like prisons, it would be necessary to find some other means to allow for what Massimo Pavarini has termed the “inclusion of the outcasts in the labor market.”¹¹ While it is possible to imagine a society that could accomplish this task without institutions of state coercion, we do not believe it is likely to be possible within a capitalist economy — even one that exists alongside a robust welfare state. Capitalism is inseparable from the coercion of market forces and the state institutions that maintain those markets. For these reasons prison (and police) abolitionism is impossible within the bounds of capitalism.

Many of our abolitionist friends may agree with this statement and, as such, our disagreement with some in the prison justice movement may merely come down to differences of opinion over rhetoric.¹² The prison justice movement cannot be divorced from broader movements for egalitarian social change; to quote pioneering Canadian prison justice activist, Claire Culhane, “We can’t change prisons without changing society.”¹³

This book is about prison labour. To keep our focus, we do not explore grand debates about reform and revolution too deeply. Rather, we want to emphasize the necessity and urgency of including prisoners in the labour movement, winning labour rights and successful unionization. These demands are winnable. All too often, radical rhetoric (for example, “fire to the prisons,” or “free them all”) substitutes for strategic, winnable demands that can be supported by a (broad) political coalition powerful enough to win them. It is exactly because prisons are so oppressive and abhorrent that political rhetoric and strategy matter so much.

Indeed, many of the activities taken up by prison abolitionist groups — books to prisoners projects, pen pal programs, noise demonstrations — could be criticized through an abolitionist lens as merely re-

formist (or performative) and actually functional to the existence of prison by providing outlets and coping mechanisms for prisoners who could otherwise be revolting. Such activities are, in themselves, unlikely to lead to meaningful change. But we see all of these activities as potentially useful and often necessary to negate the worst forms of harm and isolation that is inflicted upon prisoners.

Those doing abolitionist work are engaged in important agitational and education work, and even activities as modest as pen pal programs are incredibly valuable to those who directly benefit from them. Still, we argue it is beneficial to the prison justice movement to: 1) win reforms that immediately improve the lives of prisoners; and 2) win what some have referred to as “structural,” “revolutionary” or “non-reformist” reforms.”¹⁴ These are strategic reforms that not only win improvements in the lives of prisoners but have the potential to shift power within the prison system and broader society.

Broad political coalitions are necessary to accomplish these goals. Given the centrality of wage labour, the inequality between bosses and workers in capitalism, and the labour movement’s history as a force for progressive change, we see the labour movement as a potential key component of a more muscular movement for prison justice. Prisoners, of course, must be central to such a movement.

We understand that some abolitionists might object to the need for prisoners’ labour unions on the grounds that a basic aim of any trade union is to protect the jobs of its members and, as such, a prisoners’ union might serve to deepen prisoners’ dependency on the prison system and act as an impediment to decarceration. But this has not been a concern for the many incarcerated workers who have fought for unionization over the past five decades; the history of existing prisoner unionism demonstrates that prisoners’ unions, even in their most conservative “bread and butter” form, have resulted in the creation of a countervailing force to the power of guards and administrators and expanded rights and freedoms for prisoners. It is for this reason that we argue prisoners’ unions should be characterized as a kind of “non-reformist” reform in the struggle for prison justice.

Unions are “sectional” organizations, representing specific groups of workers.¹⁵ As such, the interests of particular unions are not always in alignment with the interests of the working class as a whole or the public more broadly. Recent debates about the role of prison guard and

police unions in the labour movement is a good example of this potential tension between union interest and the public good.¹⁶ There is a well-developed debate about what might constitute a “just transition” for workers in industries harmful to society, such as fossil fuels or the arms manufacturing industry. If the labour movement can conceive of a plan for these workers, we do not think it is unreasonable to say that a prisoners’ union could have a similar conception of “just transition.” Moreover, we believe labour movement support for prisoner unionization could serve as an opportunity for unions to stem and reverse the decline they’ve been experiencing for the last five decades. This book is also a challenge to those in the labour movement to rethink what role unions should play in society — and what would be required to rebuild a labour movement with teeth.

PRISON RESEARCH AND CENSORSHIP

Researching and writing about Canadian prisons is difficult. Bureaucratic opacity is reinforced by safety and security protocols and policies that mean communication with the experts — those inside the prisons — is difficult and expensive. In Ontario, for example, before 2019, provincial prisoners could only make collect calls to landlines and were limited to twenty minutes a call. They had to pay a connection fee and rates that could amount to almost \$30 for a long-distance call. In 2019 a new telephone service provider, Synergy Inmate Phone Solutions Inc., was awarded a contract to handle prison jail phone systems. The government announced that Synergy would “permit inmates to call cellphones and international numbers at lower rates.”¹⁷ Calls are monitored and mail is read, meaning criticisms can potentially result in repercussions for prisoners when they do speak to researchers, journalists and activists. To give one recent example, Jonathan Henry, a federal prisoner who spoke to the media about the federal CSC’s lack of preparedness for COVID-19 in March 2020, had his phone privileges revoked for forty-five days.¹⁸ It is obviously exceptionally risky for prisoners to communicate about collective organizing and unionization. The prison administration sees the efforts of prisoners to collectively raise issues as threats needing to be stopped, often leading to lockdowns and segregation for organizers or the prison population as a whole. For example, in 2013 when prison-

ers in institutions across the country refused work and programming to protest cuts to their wages, authorities responded with lockdowns. In some cases, lockdowns occur in anticipation of prison protest.¹⁹ These punitive responses to organizing occur even in instances where protests are peacefully and orderly.²⁰

Even information that's nominally public can be needlessly difficult to obtain. At the time of writing, the most recent annual reports for a variety of government agencies and departments such as the Canadian Nuclear Safety Commission, the National Film Board and the Canadian Dairy Commission were easily accessible via their websites or the website of the federal government. In contrast, the website for the CSC's prison industry agency, CORCAN, states, "CORCAN is committed to not only reporting on our results as they relate to our mandate and organization, but also ensuring that we highlight our results for Canadians and our contribution to enhanced public safety. Please contact us if you would like a copy of one of our Annual Reports." As forthcoming as that may sound, when one of us requested copies of annual reports listed on the CORCAN website several years ago, it took half a dozen emails and a month of waiting to get them.

This means members of the public with an interest in prison issues must rely on Access to Information processes, which have been widely criticized as slow and often expensive.²¹ Moreover, once access has been granted, released documents are often heavily redacted.

Given this situation, *Solidarity Beyond Bars* is based on a wide variety of sources, including government reports and documents, journalistic and scholarly work, testimony from currently and formerly incarcerated people, documents obtained through Access to Information and more. While we hope to shed as clear a light as possible on the topic of prison labour in Canada, it remains the case that further investigation and analysis of prison labour — and Canadian prisons in general — is needed.

THE BOOK'S STRUCTURE

This book attempts to look at both the history and the current status of prison labour and prisoners' rights in Canada. The first part of this book, Chapters 1–4, cover the problems faced by incarcerated workers and the history of Canadian prison labour. In the second part, Chapters 5–6, we

make our case for the normalization of prison labour and the need for a union for Canadian prisoners.

In Chapter 1, we zoom out and give a broad overview of the Canadian prison system. We explain why people should care about prisoners rights and specifically prisoners' labour rights. We consider the case for prisoners' rights from the perspectives of human rights, public safety and social inequity. While we think there are good reasons to support prisoners' labour rights from a moral perspective, supporting prisoners' unions does not require this. Those who claim to believe in notions of human rights should support prisoner labour rights because holes in human rights protections can be pitfalls for other vulnerable workers. Similarly, we argue against the idea that public safety is undermined when prisoners are given more rights and dignity. If anything, the opposite is true. Finally, we argue that people who are concerned with issues of social inequity should support unions for prisoners. Incarcerated workers are disproportionately Black and Indigenous. They are poor, have high rates of mental illness and have overwhelmingly suffered abuse and mistreatment.²² A prisoners' union could meaningfully empower a population that represents the most oppressed and marginalized people in Canadian society.

In Chapter 2, we map out prison labour in Canada. We cover institutional labour — all the cooking, cleaning, administrative and other work done to make prisons function every day — and prison industry programs. We also look at the prison industries that produce a diverse range of goods and services, most of which are consumed by the prison system itself. We also cover some of the main issues related to prison labour in the federal system and provincial systems, including low wages, lack of work and meaningful work and unemployment, as well as a number of issues specific to racialized prisoners and women, trans and gender non-conforming people. We conclude Chapter 2 with three recent controversies that put prison labour in the spotlight, even if only briefly. These three cases — the 2013 federal prison strike, the debates over Canada's prison farms and prison labour during the COVID-19 pandemic — allow for considerable insight into how prisons manage prisoner labour.

Chapter 3 covers the subject of health and safety in Canadian prisons as it relates to general prison conditions and work. We consider the ways prisoners are excluded from health and safety laws and policies, some of the hazards that prisoners face and a number of cases of illness, injuries

and deaths that shed light on the conditions and consequences of prison labour. We also demonstrate the ways in which, despite their vulnerabilities, prisoners resist their precarious positions.

Chapter 4 places the contemporary situation in historical perspective. Here we consider the role of prison labour in the founding of the Canadian prison system and how prisoner's work has evolved over time. We argue that prison labour has been and continues to be fundamental to Canadian incarceration both for ideological as well as very practical financial reasons. The exact justifications for prison labour have changed, as have the expectations around revenue potential. Despite this — and all the ways prisoners' work has changed — the history of prison labour demonstrates the continuous organizational, humanitarian and criminological failures of prison labour schemes premised on exploiting prisoners who aren't even given the dignity to be considered "real workers."

In Chapter 5 we discuss alternatives to the existing form of prison labour in Canada, considering proposals ranging from abolition and privatization to prisoners' co-ops and sole proprietorships. We look at existing and historical examples of alternative forms, where they have been present, and consider the possibility of expanding on them. We also discuss critiques of unionizing prisoners from both the prison justice and labour movements. While historically unions have opposed prison labour on the basis of fearing competition with incarcerated workers, we assert the labour movement must develop a class analysis if it is going to reverse its decline and once again become a meaningful vehicle to advance the causes of working people. Such an approach would mean understanding prisoners not as "criminal others" or harmful competitors in the labour market but rather as fellow members of the working class with particular needs and capacities. We end this chapter with a discussion of why we believe the unionization of prisoners would be productive to struggles for not only prison justice, but social justice in our society more broadly.

Chapter 6 takes up the question of prisoners' unions in more detail — past experiments in unionization, their successes and failures and the organizational, political, and legal constraints that they faced. We consider the Canadian Food and Allied Workers (CFAW) Union Local 240, which successfully unionized prisoner meatpackers in the Guelph Correctional Centre in Ontario in the late 1970s. This is the clearest

case of a successful effort by prisoners to unionize. While the formation of CFAW Union Local 240 came about under very particular circumstances, it remains an important example of how a prisoners' union can practically exist. We also look at an attempt by prisoners to assert themselves as employees and to unionize during the 2010s. This case reveals the terrain of struggle prisoners face in present and future attempts to unionize. We also examine how the prison system has attempted to conceal prisoner labour under the veil of rehabilitation, how the courts have avoided recognition of prisoner workers under all federal labour boards and the reasons behind this avoidance. Based on these past experiments and struggles, we offer some thoughts about what a prisoners' union could look like, how it could form and some of the potential barriers such a union would have to overcome.