

Adelina Iftene

Punished for Aging: Vulnerability, Rights, and Access to Justice in Canadian Penitentiaries. Toronto: University of Toronto Press, 2019, 264 pp.

How are the rights of incarcerated people upheld, or not, in Canada? Which concrete strategies could and should be deployed to improve conditions of confinement or facilitate prisoners' release in the community? As Adelina Iftene concedes, such questions "are not new" (242). But by answering them through a novel and timely case study, specifically the "extreme situation of older prisoners" (32), her book *Punished for Aging: Vulnerability, Rights, and Access to Justice in Canadian Penitentiaries* makes a valuable intervention into ongoing debates about the promises and perils of prison reform.

Iftene is one of a few scholars to have been granted research access by the Correctional Service of Canada (CSC) in recent years. Her book therefore offers exceptional insights into the realities of 197 older prisoners she recruited and interviewed in seven federal correctional institutions. In Chapter 1, readers are introduced first to Canada's federal prison system with an overview of CSC's organizational structure and then to the problem of aging in prison with a succinct review of prior research. Chapter 2 presents the bulk of the qualitative and quantitative data the author gathered in federal prisons, which underlines older prisoners' many aging-related struggles. Here and in later chapters, the stories of two interviewees, John and Eric, provide a narrative thread for Iftene to weave in other pieces of evidence. They and other interlocutors report experiencing varied and worsening health problems and facing multiple situational, infrastructural, and policy-legitimated barriers to accessing proper care or being released. The book warns that seniors represent a growing population that is both higher-need and more vulnerable than other prisoners, yet whose particularities CSC appears ill-equipped, if not resistant, to address.

Empirical evidence of older prisoners' self-described hardships and of the correctional practices that exacerbate them constitutes a significant contribution to the literature on Canadian imprisonment. But *Punished for Aging* goes beyond reiterating what numerous critiques have already identified as the federal system's flawed approach to accommodating the needs of older groups of prisoners. Studying the (mis)treatment of older individuals in federal prisons is instead a starting point for Iftene to explore how CSC's practices "may also be against the law" (79). In the rest of the book, the author thus engages in a meticulous analysis of the institutional, administrative, and judicial means that are allegedly within prisoners' reach to rectify instances of neglect or abuse.

In Chapter 3, readers learn that health services and accommodations for seniors are deficient in federal prisons, yet that these prisoners are unlikely to be released. Chapter 4 shows that oversight mechanisms may serve to denounce correctional practices but otherwise lack "the power to order meaningful and enforceable remedies" (136). Chapter 5 demonstrates that CSC's internal grievance system is lengthy, bureaucratic, and inept at yielding solutions and, in turn,

that judicial reviews of its outcomes in Federal Court are possibly “the least useful court procedure for prisoners” (162). Iftene expresses more optimism about the capacity of human rights complaints to bring about individual—or even systemic—remedies. In Chapter 6, she is also explicit about her specific investment in “the potential benefits of direct court intervention” (180) through *Charter* challenges, *habeas corpus* applications, and tort claims and damages.

However, as Iftene writes, “[h]aving a right on paper is only as good as the mechanism that enforces that right” (177–78). Against the backdrop of her interview data, the author’s appraisal of policy documents, legislation, case law, and preceding investigations into prison conditions paints a grim picture of redress mechanisms’ effectiveness. In response, she ventures into doing what few prison scholars dare to do: offering recommendations for incremental improvements and broader reforms. The book’s in-depth look at non-legal and legal strategies, its documentation of each option’s shortcomings, and its pragmatic advice on how to enhance “the legitimacy of the penal system and the protection of prisoner rights” (243) together make Chapters 3 to 6 highly teachable materials for any course on prison law or Canadian criminal justice.

In light of *Punished for Aging*’s overwhelmingly negative assessment of CSC’s capacity and willingness to change, some readers may nonetheless question Iftene’s faith in reform and, especially, in the power of tribunals and courts to instigate it. This is because the book proves so efficient at illustrating CSC’s high level of impunity in administering federal institutions, as well as the fact that tribunals and courts have repeatedly exhibited a marked tendency to grant prison administrators undeserved deference. The various obstacles limiting prisoners’ access to justice—let alone the question of whether legal processes can actually produce “just outcomes” (177) for complainants—also cast doubts on the capacity of tribunals and courts to safeguard prisoners’ rights. The aftermath of two cases the author presents as success stories moreover indicates that the federal prison system benefits from near-total latitude in developing and implementing new policies when ordered to do so.

The first case resulted in what Iftene calls a “groundbreaking” (169) 2001 decision by the Canadian Human Rights Tribunal, which instructed “CSC to modify its policies regarding transsexual individuals.” Yet, it took Canada’s federal correctional system more than fifteen years to substantially modify its trans policy regime. Further, the policy review process CSC finally launched in 2017 is only partially attributable to human rights complaints, trans advocates and political actors having also played a key role in prompting reform.¹ The second case pertains to a 2018 British Columbia Supreme Court decision that determined CSC’s regime of administrative segregation (i.e. solitary confinement) was in violation of sections 7 and 15 of the *Charter* (187).² The legislation the federal government subsequently tabled and passed, Bill C-83, pledged to abolish segregation, but has since been

¹ William Hébert, “Trans Rights as Risks: On the Ambivalent Implementation of Canada’s Ground-breaking Trans Prison Reform,” *Canadian Journal of Law and Society* 35, no. 2 (2020), 221–244.

² *Canadian Charter of Rights and Freedoms*, Part I of the *Constitution Act*, 1982, Schedule B to the *Canada Act 1982* (UK), 1982, c 11.

critiqued for entitling CSC to continue segregating prisoners through the development of a reformed model called Structured Intervention Units. The constitutionality of the bill and of these units will have to be determined through a new court case that will likely, as Iftene herself explains in a recent opinion piece (co-authored with Senator Kim Pate and Debra Parkes), “take years to wind its way to the Supreme Court.”³ As these cases respectively show, even when tribunals and courts live up to their reputation as the “strongest protectors of our rights and the last resort mechanism that can force change” (245), resulting reforms may be slow to materialize or may in fact re-entrench the unlawful practices they purport to replace.

Still, what Iftene’s commitment to increasing existing legal remedies’ accessibility and efficacy denotes, ultimately, is her “deep sense of responsibility” (32) towards the older prisoners she interviewed. In this sense, the book captures one of the conundrums confronting prison scholars and advocates, whether they consider themselves reformers or abolitionists. Writing about another population of vulnerable prisoners, namely LGBT persons, philosopher Perry Zurn describes it as follows: “[A]s many activist efforts led by incarcerated people will attest, things must be done today while one works for a new tomorrow.”⁴ This is the difficult challenge Iftene admirably undertakes with *Punished for Aging*, and one its readers will be inspired to accept.

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³ Adelina Iftene, Kim Pate, and Debra Parkes, “Solitary Confinement and the Supreme Court: Missed Opportunities,” *Vancouver Sun*, 11 May 2020, vancouversun.com.

⁴ Perry Zurn, “The Politics of Anonymity: Foucault, Feminism, and Gender Non-Conforming Prisoners,” *PhiloSOPHIA* 6, no. 1 (2016): 38.