



Places of Justice? Representations of Law in Canadian Court Museums

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Abstract

There is little scholarship on museums and heritage sites that memorialize courts, judges, and law. Engaging with literatures on penal history and law and culture, we explore representations of law and power in court museums across Canada. Based on observations and interviews, we examine the meanings of the artifacts curated at court museum sites. In a post-Truth and Reconciliation Commission context, where heritage sites have been called upon to account for the atrocities experienced by Indigenous peoples in colonial institutions, we show how court museums in Canada continue to be curated in ways that naturalize the Canadian state and law, deny colonialism, and reproduce myths regarding the Canadian penal system. In our discussion, we reflect on the implications of our findings for literatures on representations of penalty and law. We contend penal history museums must learn from critical, decolonizing trends in museological studies.

Keywords: courthouses, museum studies, colonialism, criminalization

Résumé

Il existe peu de recherches sur les musées et les sites patrimoniaux qui commémorent les tribunaux, les juges et le droit. En nous intéressant aux écrits en « droit et culture » et aux écrits qui portent sur l'histoire de la justice pénale, nous explorons les représentations du droit et du pouvoir dans les musées judiciaires à travers le Canada. Sur la base d'observations et d'entrevues, nous examinons les significations des artefacts conservés dans les musées judiciaires. Dans un contexte *post* Commission de vérité et réconciliation, où les sites patrimoniaux ont été appelés à représenter les atrocités subies par les peuples autochtones dans les institutions coloniales, nous montrons comment les musées judiciaires du Canada continuent d'être organisés de manière à naturaliser le droit et l'État canadien, à nier le colonialisme et à reproduire les mythes concernant le système pénal canadien. Dans notre discussion, nous réfléchissons aux implications de nos découvertes pour les écrits portant sur les représentations de la pénalité et du droit. Nous soutenons que les musées d'histoire pénale doivent tirer des leçons des tendances critiques et décolonisatrices des études muséologiques.

Mots clés: tribunaux, études muséales, colonialisme, droit, criminalisation

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Introduction

For over a century, the Canadian government systematically denied Indigenous children access to their cultures and languages through the so-called residential school system. The Truth and Reconciliation Commission of Canada's (TRC) final report (2015a) used the term "cultural genocide" to describe this atrocity (also see Starblanket 2020). The attempted erasure of Indigenous peoples extends beyond residential schools and continues through the work of other institutions across Canada, including museums.

As a first step towards justice and change, the TRC (2015b) issued ninety-four *Calls to Action* to "redress the legacy of residential schools and advance the process of Canadian reconciliation" (p. 1). Included in the *Calls to Action* is a section on "Justice" featuring eighteen recommendations to end the legal discrimination that has underpinned genocidal institutions and to address the intergenerational trauma that has led to the "overrepresentation of Aboriginal people in custody" (p. 3–4). Also noted in the *Calls to Action* are recommendations for heritage sites to account for this genocidal past and empower Indigenous communities. Among the recommendations was "a national review of museum policies and best practices to determine the level of compliance with the *United Nations Declaration on the Rights of Indigenous Peoples* [UNDRIP] and to make recommendations" (United Nations 2021, p. 8). As Philips (2017) documents, there are numerous UNDRIP articles that ought to guide the operations of Canadian museums. For instance, article 11.1 notes that "Indigenous peoples have the right to practice and revitalize their cultural traditions and norms," which "includes the right to maintain, protect and develop the past, present and future manifestations of their cultures."

These calls to action echo decades of research into museums and cultural institutions by Indigenous and non-Indigenous scholars (Phillips 2011; Ziff 1996; Harrison and Trigger 1988). In addition to showing how these entities often attempt to dislocate Indigenous people from their material and cultural heritage, research has noted that museum displays and interpretation tend to sanitize difficult knowledge of past injustices by positioning violent and oppressive events as relics of the past, rather than a present reality (Dean and Failler 2021; Ott, Aoki, and Dickinson 2011). While literature has emerged on the monumental Canadian Museum for Human Rights as a site where difficult histories are examined (Milne 2015), smaller local museums scattered across the country have received less attention.

Taking into consideration the obligations noted in the TRC (2015b) and literature on penal history museums in Canada (e.g., Walby and Piché 2015a) and internationally (e.g., Welch 2013; Wilson 2008), this paper examines how law, the penal system, and the Canadian state are depicted through preservation and historical interpretation in court museums, and how these representations may uphold myths of colonial justice (Furniss 1999). Based on observation and interview data from these penal heritage settings across Canada, we examine the meanings of the artifacts curated at these sites, while assessing absences in these settings that point to gaps in curation about the role courts have played in settler colonialism.

Consistent with other penal history sites located in prison (e.g., Walby and Piché 2015a) and police (e.g., Walby, Ferguson, and Piché 2021) museums in Canada, a focus on architecture and authenticity (Gordon 2016) is one prominent trend in these settings. Some court museums include holding cells in attached lock-ups as well. Building on Lowenthal's (1993) argument about sterilizing knowledge of colonialism, we uncover a colonial discourse that positions the Canadian state as benign and bias free, and other tropes based on the idea of the rule of law. This runs contrary to the focus on Indigenous resurgence and empowerment that is now central in political, legal, and curatorial discussions across the settler colonial country of Canada (Palmater 2014). In addition to displays that seem to naturalize settler common sense (Rifkin 2013)—and consistent with Furniss's (1999) argument regarding museums, mythmaking, and the penal system apparatus—we also find there are many narratives of justice and so-called criminality that reinforce stereotypes regarding criminalized persons and the rule of law as neutral. These museums depict “crime” as a natural phenomenon or an individual pathology that courts simply adjudicate on, rather than representing transgression as a construct shaped by social, economic, and political forces. Taken together, our analysis of courthouse museums offers a window into Canada's culture of justice, one that depicts criminalization and punishment as integral to the nation, while diminishing the role the penal system plays in on-going settler colonial injustices, including the mass incarceration of Indigenous peoples (Arbel 2019).

Following a review of the literature on penal history museums and courts, culture, and heritage, we provide a note on research design and methods. We then contend that court museums in Canada are curated to provide guests with a pleasant, enjoyable experience that naturalizes the Canadian state and law. We show how a focus on local history, as well as the authenticity of architecture and artifacts, takes the place of public education regarding the role of law in colonial rule in Canada and the relationship between colonization and criminalization. Lowenthal (1993) refers to this practice as the creation of oblivion, since it entails purposeful neglect or forgetting. We argue that these court museums, curated in ways that obscure analysis of colonialism and law, not only naturalize settler colonialism in Canada but legitimize punitive justice as a way of responding to transgression. These museums as currently curated thus fail to raise questions about violence, the penal system, and colonialism, and we explore some of the reasons why. In conclusion, we reflect on what our findings mean for scholars interested in law and culture, as well as representations of penality. We also reflect on the need to decolonize court museums as a means of challenging misrepresentations of law and power.

Cultural Representations of Courts and Law

Most scholarly work on museums and memory addresses museums outside of the “criminal justice” context. Arnold-de Simine (2012) argues it is essential to examine the memory politics of museums, which refers to how the memorialized content is incorporated into and framed in displays while other information is omitted. Many museums strip their collections of context and background (Ott, Aoki, and

Dickinson 2011), while comparatively few others grant a voice to perspectives that are left out of dominant discourses of history (Fiander et al. 2016). This raises questions about which voices are included in museums, along with the voices that are excluded from the displays. Duffy (2001) similarly examines museums that focus on tragic events, suggesting museum analysts must examine how human rights and suffering are positioned. They argue museums have a responsibility to highlight human rights, requiring these institutions to contest dominant state narratives rather than simply reproduce them, an issue we return to in the conclusion. Though Duffy's work focuses on large, publicly funded museums, we contend smaller museums that are not well-funded or as professionally organized, such as Candlin's (2016) micro-museums, must still take this responsibility seriously, as they remain important sites of popular meaning-making.

Our approach builds on scholarly works in the field of penal heritage (Welch 2013; Brown 2009; Wilson 2008) that shed light on issues of museum practice and symbolic displays of state power. Turner and Peters (2015) examine the displays of penal history in prison museums and assess the carceral atmosphere these displays generate. They argue the curation of visual and material clues is a political process that must be interrogated. Brown (2009) argues that such settings, along with other forms of popular culture, foster "penal spectatorship" in so far as they allow people to consume degrading narratives about criminalized and incarcerated people (p. 8). She contends that such ways of engaging meanings of penalty create social distance between authors of and people subject to punishment, making the criminalization and incarceration of the latter possible. Similar observations have been made in Canadian prison museums (Walby and Piché 2011) and police museums (Ferguson, Piché, and Walby 2019), where displays either do not address the role the penal system plays in settler colonialism or characterize police and prison relations with Indigenous peoples as based upon mutual respect rather than repression (Ferguson et al. 2020). There is a parallel literature on human rights museums (Lehrer 2015; Failler 2015) that raises questions about power and representations. These perspectives build on the work of Bennett (1990, 2013) who conceptualizes museums as sites for the operation of governmental power insofar as they use specific knowledges to reorder objects within their collections and evoke a particular subjectivity for the viewer.

Literature on law and culture, which reveals how representations of law inform public views and acceptance of legal frameworks, also informs our study. While most of this scholarship is focused on popular culture representations (e.g., Bainbridge 2009), some of this work examines court museums. Douglas (2011) examines the role of monumentalism and counter-monumentalism that manifests in the memorialisation techniques of the District Six Museum in Cape Town and Johannesburg. Douglas suggests that museum displays representing big ideas such as rights and freedom reveal the limits and contradictions of these concepts. These ruptures can challenge both visions of the past as well as the organization of law and politics in the present. Douglas further argues the memorialisation techniques of court museums must be examined to assess how they convey ideas of law-abiding and law-breaking citizens, and how these ideas may be aligned with the interests of the state and corporate capital. Elsewhere, Douglas (2013) explores how museums

create political communities while simplifying some political views. Museums can thus align subjectivities in ways that may create or protect social and political power.

Scholarship examining representations of law in popular culture provides a parallel to depictions found in court museums (see Small and Puddister 2020). There may be feedback between popular culture views of law and what museum visitors expect to see in these sites. Curators may create entertaining displays of law to sell tickets or to lure visitors in the same way that courtroom dramas and reality-based TV shows are designed to attract audiences. With regard to the latter, such programs communicate ideas about how law operates, as well as who are deserving and undeserving subjects of legal regulation (Kohm 2006). Bainbridge's (2009) analysis of how lawyering is constructed in American television legal shows also shows how popular representations of law naturalize and sanitize courts and lawyering. His study found that these programs position lawyers and judges as truth seekers and experts, a perspective that upholds the view of law as a specialized form of knowing. This representation works to naturalize a power imbalance that is all too apparent in the museums we examine: there are the "users of law" who are usually styled as agents of the system (e.g., lawyers, judges, police, etc.) and those to whom law is applied (e.g., criminalized people). We assess whether court museums position judicial actors as experts and law as specialized knowledge, as this creates a mythology that can play a role in perpetuating the institution and its injustices (Furniss 1999), while at the same time latently promoting the settler colonial order.

Note on Methods

Over a period spanning more than a decade, our research team has conducted fieldwork in penal heritage sites across Canada, including police, courthouse, and prison museums. With research ethics approval, our research team conducted over one hundred interviews as part of this work, which were each forty-five to ninety minutes in length. Each interview was recorded and transcribed. Archives and collected documents were consulted, and observations were undertaken at each of the museums, including participation in guided tours where they were offered. To augment observations, photographs of the objects on display at each site were taken. The photographs were used as visual cues for describing the contents of the museums.

For this paper, we focus on the Argyle Township Courthouse Museum and Archives (Tusket, Nova Scotia), King's County Museum (Kentville, Nova Scotia), Albert County Museum (Hopewell Cape, New Brunswick), Charlotte County Museum (St. Stephen, New Brunswick), Old Carleton County Museum (Upper Woodstock, New Brunswick), Queen's County Heritage Courthouse Museum (Gagetown, New Brunswick), Brome County Museum (Knowlton, Quebec), Owen Sound Historic Courthouse and Jail (Owen Sound, Ontario), Parry Sound District Museum (Parry Sound, Ontario), Kerrobert Museum (Kerrobert, Saskatchewan), Cardston Courthouse and Heritage Museum (Cardston, Alberta), and the Granum Old Jail and Court Museum (Granum, Alberta).

These museums are situated in old courthouses and offer cultural representations of law. These sites were selected as they were the only court-themed museums located in decommissioned courthouses in Canada. At each of these sites, we conducted one interview with a staff member or volunteer involved in curation, tour guides and/or administrative work. This dataset focuses on museums occupying the space of historical courthouses mostly located in rural areas. A close reading of these museums allows for insight into how the penal system is interpreted for visitors in small museums.

We collated textual and visual data pertaining to the twelve court museums noted above. This data was analyzed to generate themes using open coding (Attride-Stirling 2001). Once themes were generated, the data was reanalyzed to ensure no examples or themes were missing. The data pertaining to each theme was then analyzed using discourse analysis and semiotic analysis. Discourse analysis was used to examine how dominant discourses pervade visual culture in the museums in terms of the ideas and values promoted and who is depicted as authoritative and legitimate versus who is demonized in these settings (Smith and Foote 2017). Drawing from social semiotic analysis (Valverde 2006), we also examined the material and visual positioning of certain artifacts and architecture. Social semiotics examines the arrangements of signs and communications that establish and convey meaning in our social world. Semiotic analysis helps us examine the visual rhetoric and politics in these exhibits, including how certain subjects are positioned and how certain signs convey latent meaning in visual displays. We also assessed the data for absences (Ott, Aoki, and Dickinson 2011) in the museums that point to gaps in curation. The authors coded these empirical materials together to arrive at common interpretations that appear in our analysis.

Below, we present our data by theme, examining the discourses and the semiotic dimensions of the displays found in Canadian court museums. We begin by providing a description of the museums' operations before moving onto a discussion of the narratives presented. One limit is that we did not interview visitors about their interpretations of the meanings of these displays and we acknowledge they could have interpretations of these sites that diverge from our own, informed by the literatures previously noted.

Courthouse Museums in Canada

All courthouse museums in our dataset were situated in historical buildings. In all cases, ownership of the structures was transferred to local municipalities once they were no longer used as operational courthouses. Most of the museums (8/12) had at least one full-time paid employee, and almost all accessed provincial or federal funding to hire seasonal student workers. Most of the museums had one member of staff with a university degree (7/12), and six of these were in relevant areas (Anthropology, Museum Studies, Archival Studies). All museums in this sub-sample of penal history sites received some form of funding from a level of government. Many sites supplemented grant funding with fundraising and events. In addition to preserving a historical building, some museums curated collections of historical artifacts including items either related to the penal system or of local

significance deemed worthy of preservation. Others also served as archives of legal documentation and genealogical records.

In addition to being architecturally significant, these courthouses were often the oldest buildings in their towns. The impetus for the preservation of courthouse buildings stems from their symbolic value. Centrally placed, architecturally stunning, and adorned with symbols of state power and Canadian national identity, these buildings are understood by townspeople as having served an important role in their communities that makes the sites worthy of preservation. A staff member of the Argyle Township Courthouse Museum said the following about founding the museum: “a couple of people from the community got involved because they hated to see this building just fall to pieces—so, they actually started the process of having it restored, and at that point they decided: let’s make this into a museum.”

Community members rallying to save a local landmark from destruction is a common theme. A volunteer from Granum Museum, a preserved jail and court, expressed a similar sentiment: “I just felt that it was so important that our history be preserved, and all this would be lost if someone hadn’t taken up the torch and said, ‘we have to do this, we have to preserve this.’ There was talk of tearing this building down, and I just couldn’t handle that; it had to be preserved.”

These structures have affective connections for community members. The thought of their destruction generates sadness. Both of the heritage sites noted above also have a broader claim to fame: the Granum Museum features the only wooden jailhouse in Canada, while the Argyle Township Courthouse is the oldest extant courthouse in Canada. Those interviewed reported these facts were only discovered *after* the decision to maintain the structures had been made. A volunteer for the Cardston museum explained that she became a volunteer so that “we could have our treasures, so that we could share them with people.” The impetus to preserve these structures stems from the desire to preserve a tangible symbol of the community and, in so doing, preserve a local identity.

Although local identity is an important theme that we revisit below, the museums contain other intersecting narratives. A general concern for local history seems to be a main motivation. A common response to questions of the purpose of the museum and the message they are intended to impart to guests is exemplified by the words of a representative from the Cardston museum, who states, “the biggest message” that she would like visitors to take away is that “history is important” and that “it is important to understand and remember the past because it helps guide the future.” A representative for the Queen’s County Heritage Courthouse Museum went further, reporting they intended to communicate: “the heritage of the building in terms of its significance to the county... to have people to understand what the purpose of the courthouse was, which was for court, but so it was a social gathering place for the county as well... The second message in outlining the significance is the architecture.”

The museum attempts to educate the public on local history and architecture, along with the penal system, but does so by sanitizing (Ott, Aoki, and Dickinson 2011) the history of law, power, and penalty, denuding it of context that would reveal the role of law in establishing and upholding colonial domination. Of these three themes (i.e., local history, architectural authenticity, and penalty),

architecture and justice are more directly relevant to the broader theme of penalty than local history, but, when taken together, the three reveal a metanarrative about the legitimacy of the Canadian state and its penal system. We explore each theme in turn below.

Fetishizing Local Legal Histories

These institutions are as much local history museums as they are about any dimension of the penal system. For example, a volunteer from the Argyle Township Courthouse Museum said, “I’m just excited about all this history that we have in this area and I just love sharing that with people.” Many museums present placards detailing the life history and charitable efforts of judges, magistrates, politicians, and other figures deemed to have been instrumental in the development of local communities. For instance, the Cardston Museum celebrates the Mormon heritage of the town and its founders by displaying portraits and biographies of important local leaders. Cardston and Brome County museums also feature war memorials for locals who served as members of the Canadian Armed Forces. The displays memorialize experiences that locals may have no direct experience of and may in some sense communicate prosthetic memories (also see Landsberg 2018), which are contrived or imported, but are used nonetheless to animate or punctuate life and meaning in the present. These museums thus serve as community hubs, both in a symbolic and practical sense. They are a tangible symbol of local identity and a shared past and a main source of community nostalgia. They also provide event space, advertise local attractions and businesses, and, in many cases, sell the wares of local artisans in their giftshops.

This community orientation is reflected in the artifacts present in museum collections. The Argyle Township and Charlotte County museums also keep archives with records relevant to local genealogical research, whereas the Kerrobert and Cardston museums collect historical artifacts donated by local residents, without much regard to any unifying theme. The Kerrobert Courthouse Museum contains a room featuring local sports memorabilia. When asked why such artifacts were present in a court museum, a site representative replied, “it’s just a big part of Kerrobert.”

The museums are remarkably uniform in their presentation of historical events. All present a history of the building itself and a chronology of the important events that occurred in the structure or on the museum grounds. These events usually include the arrival of European settlers to the area, construction, alteration and demolition of structures, cases that involved scandalous accusations that were tried in the courts, and the decommissioning of the sites as courthouses. The events covered are conveyed in lists, such as the following timeline on a placard at King’s County Museum:

In 1903 a new court house was built to replace the 1850 building and opened in 1904. It cost \$15,895 to build. The town of Wolfville had offered to finance a \$25,000 building in Wolfville rather than Kentville [so it] could be designated as the “Shire town of Kings County,” an offer the Municipal council turned down. They did accept the town of Kentville’s offer to sell, for

\$3,000, land on the south side of Webster Court. It was felt that the old court house site was unsuitable as it [is] too close to the railway tracks. The new building was a modern building for its time, having electric lights and coal fire steam heating throughout and fireproof vaults. In 1965, an addition was added to the back... In 1980, this court house was replaced and the building was taken over by the historical society.

This matter-of-fact approach to historiography is neutral but also narrow. The format of a timeline does not afford discussion of ideas that go outside of mere description of local settler history. This makes it difficult for museum interpretation to engage with issues such as the development of institutions, cultures and ideas, omitting critique or broader engagement with questions about punitive justice or colonialism.

Amplifying Architecture and Authenticity

The architectural features of courthouses are a popular subject at these museums. Sections of tours and placards are dedicated to explaining the personal history of the architect, pointing out unique ornamentation, and explaining the techniques that went into the construction and restoration of the structure. Visitors often seek authenticity when going to museums and heritage sites (Gordon 2016; Walby and Piché 2015b), and the courthouse architecture often attracts visitors for this reason. One page of the guestbook at the Albert Country Museum contained three separate comments praising the preservation of the architecture. Architectural brilliance at these museums is also celebrated by government heritage agencies. Argyle County Courtroom and Charlotte County courtrooms have a bronze plaque from the National Historic Sites and Monuments Board, while the Cardston, Parry Sound and Carleton museums have plaques from similar provincial heritage organizations. These plaques each contain a paragraph focusing on the architectural style of the building and the name of its architect.

The preservation of the structure is important to many museum staff. A number of guides and curators expressed a desire to preserve the architecture and furniture of the courthouses and, where they operate as “hybrid sites” (Walby and Piché 2015a) with prison tourism settings, the attached jails. Where possible, curators reconstruct them with period-appropriate materials and techniques. Many tour guides, including those at Albert County Courthouse and Museum and Argyle Township Courthouse and Archives, showcase the structure’s “original” furnishings, and mention the decoration and layout of the courtroom is “as it was” when the courts were in operation. This fixation on authenticity is also reflected in museum interpretation. For example, a placard in King’s County Museum describes the process of creating imitation wood grain on courtroom fixtures. In many other museums, placards indicate what fixtures are original and which are reproductions.

The quest for architectural authenticity seems to render the interpretation of the courthouse mostly aesthetic, as most other themes are minimized to focus on the material details of the architecture. When asked about what messages they hoped to convey through tours, a guide at Queen’s County Museum stated that one

of two main messages they tried to impart was the significance of the architecture, the other being its significance as a social gathering place. This tactic extends to artifacts as well, whereby books, furniture, judge robes, and manacles serve as accessories for the rooms of the courthouse to better evoke the look and feel of the building when it was in operation. Artifacts are typically interpreted only if they have been owned by notable local people or are aesthetically interesting or unusual. This results in an interesting phenomenon: gavels are present in the reproduced courtrooms of Argyle Township, Queen's County, Brome County, and Old Carleton County, despite having never been used by any Canadian court. Of these, only Argyle Township presents a rationale for why they included a gavel, remarking that voluntary organizations and municipal councils would have used such implements in meetings held at the courthouse. This focus on the symbolism is one of the ways authenticity can be manipulated to valorize official versions of heritage.

A focus on architectural preservation rather than interpretation of the court as a social phenomenon has implications for how the penal system is portrayed in these museums, as management of space plays a crucial role in the operations of court. This layout of the courtroom is designed to organize human bodies into predefined spatial arrangements that assign particular social roles to the people occupying them. Judges sit on a platform above the court, while jurors, lawyers, and the accused are separated from the public by a rail. The accused are often restricted to a small box, where members of the community can watch and judge them from the gallery. The courtroom and trial as a social phenomenon, along with the power relations entrenched therein (Mulcahy 2007), most often goes unexplored at these sites.

There are exceptions to this, however. During a tour at Argyle Township Courthouse and Archives, the guide mentioned architectural features of the prisoner's box that would have made the accused look nervous and "guilty":

...on the theme of how prisoners would have been treated...they were all brought and lined up here when their court day came. And they're cold, and from the dark, they're coming up here and it's very bright, they're probably like, blinking...and they also would have the stove right behind them [on the bench], so it would have been quite warm. So... none of the benches are comfortable, but if you do want to try sitting in this bench, you'll see what I mean. There's actually an extra piece of moulding on the back, so when you sit there it goes across the back and makes it extra uncomfortable....It makes it really hard to sit straight, so you end up kind of slumping a little bit. So, you're probably red in the face, sweating, blinking [chuckles], and you are kind of leaning forward. You would look guilty! So, they weren't giving them a whole lot of chance to even get started.

This more critical perspective was only gleaned from an in-depth conversation with a museum representative. It is unclear whether a tourist visiting the museum would garner the same information from their visit. Nonetheless, even this critical analysis of the penal system failed to address the intersection of criminalization and colonialism, and it is muted by the overwhelming focus on architectural aesthetics and authentic artifacts.

Representations of Penalty and the Presence of Gaols

A number of historic courthouses also contain a lock-up once used to detain individuals awaiting court proceedings and thus double as prison tourism sites. Compared with the ornamented courtrooms, the austere furnishings of the cells invite less interpretation on the architecture, and more on conditions of confinement and how they impact incarcerated people. Tour guides often make note of the poor conditions of the cells, emphasizing their lack of light, warmth, and proper sanitation. A guide at the Charlotte County Museum described the conditions of the cells as follows:

That was the only light that they got from that narrow window in there. One in each cell. And toilet facilities at this end, usually just a chamber pot and that was it. And that would have been changed about once a month....And with just a chamber pot, somebody had to empty it – I don't know if they went outside and just tipped it somewhere [chuckles]. But I'd imagine it was very smelly in here. So that [window] was the only light, and this was the other light down here...that space here where they would put the food. Hand the food through. And their food, in the early days, it was just bread and water. And then they had molasses, bread, water, and tea at night. And they had stew once a week, made by the jailor's wife. So, it was a meagre sort of diet [chuckles]. They weren't allowed to have razors...cut-throat razors, so they must have just got hairy [chuckles].

The conditions of confinement are the central focus of the jail portion of the museum tour. Argyle Township and Charlotte County museums offer to close the cell door so that visitors can experience the conditions of the cell for a short while, which is a common feature of prison (Walby and Piché 2015a) and police museums (Ferguson, Piché, and Walby 2019).

Two of the lock-ups also feature preserved graffiti left by prisoners. At Albert County Courthouse and Museum, a museum representative remarked that the subject matter of the drawings and writing challenges popular perceptions of imprisoned people:

It changed the whole feel of what you got when you were in those cells because it speaks volumes to the character of the people um, we think of criminals, old time criminals as being illiterate or being the scum of society [laughing] but they were literate. Not everybody of course, but they were writing poetry, from memory they were writing poetry onto the walls-counting days, drawings the artistry involved in some of those drawings. The ships, there's a bicycle and horses, there's a vast transportation of the day. It's not unlike what you would see on jail cell walls today. It's just such a different feeling when you see these things. And the jail cell walls, there's not a single thing that is inappropriate for young children today.

This content seems to offer a more critical engagement with the penal system. However, as we address next, such representations can be muted given the overall content of these heritage sites, which reproduce narratives that ignore how colonialism, past and present, is enforced through the mass criminalization and incarceration of Indigenous peoples.

Reproducing the Frontier Myth

The frontier myth is a set of widely held beliefs about North American history that pervades much of mainstream Canadian thinking about the past (Furniss 1999). The standard features of the frontier myth include that Turtle Island was a vast, unoccupied wilderness prior to European colonization (Chartrand 2017; Rifkin 2013), that the natural resources of this wilderness were untapped and free for the taking, and that the taking thereof was done in the name of civilization. This mythic frontier is also constituted using binary oppositions such as savagery and civilization, nature and man, Indigenous and white, stagnation and progress. In the Canadian context, the interactions between these imagined opposites come to be characterized as benevolent, paternal interventions by white, civilized agents onto so-called savage Indigenous wards. This myth operates through narratives and icons (e.g., pioneers, wilderness, etc.) that function as an epistemology helping adherents understand the world by structuring ideas through a colonial lens. This process tends to valorize settler activities while denigrating First Nations, Inuit, and Métis peoples.

Many of the courthouses perpetuate the frontier myth in their readings of history. With courthouses often being the oldest buildings in the community, they symbolize the settlement of Europeans on Indigenous lands. Law has played a decisive role in enforcing settler colonialism (Palmater 2014; Thielen-Wilson 2014), yet one would not know that from Canadian court museums. The museums in Cardston and Granum feature exhibits on the Northwest Mounted Police and Royal Canadian Mounted Police, notable early settlers, and artifacts of frontier living. Text on museum placards presenting a romanticized view of settlement, focusing on the ruggedness of the early settlers and their ability to transform the landscape, can also be found in museums elsewhere in the country (also see Furniss 1998). For example, a placard at the Brome County Museum in Quebec contains the following quotation and text: “Up until the year 1791, the Eastern Townships was an almost unbroken wilderness....Through hard work and determination, the settlers of two centuries ago and their descendants transformed the Brome county landscape from forest to field, creating a rich agricultural tradition that continues today and remains a source of tremendous local pride.”

This text states that a portion of pre-settlement North America was a pristine wilderness until it was improved by European settlers. This implicitly supports the long-held claim that North America was *Terra Nullius*: land that was not used for agriculture nor consistently occupied and which could therefore be claimed by anyone willing to do so. This concept forms the foundation of European claims to the settlement of Turtle Island and the displacing of First Nations, Métis, and Inuit peoples (Reid 2010). Furthermore, it ignores Indigenous systems of land and water protection that have been in place for thousands of years.

First Nations, Métis, and Inuit people are rarely mentioned in interpretive material. When mentioned, they are usually glossed over as the former inhabitants of the lands now occupied by the community, rather than active participants in the writing of history. Cardston and Kerrobert Museums both have cabinets of

Indigenous artifacts donated by settler community members,¹ but these offer little interpretation beyond identification of the objects and what they were used for. These provide some illustration of the Indigenous peoples of the area but offer them no role in any historical narratives within the museum.

As symbols of law, courthouses themselves are a vital part of the process of colonization and the creation of a westernized landscape. Museum placards occasionally recognize that courthouses functioned in this way, but do not critique or problematize the process. For example, a placard at King's County museum in Nova Scotia reads: "The courthouse represented the resources of a region and the abilities of local builders and architects. Prominently located, a courthouse provided a gathering place for political and social functions. Their prominence reflects the importance Canadians have long attached to their courts as instruments of justice and symbols of social stability."

The museum emphasizes the role of the penal system in enforcing "social stability," and the ability of the state to marshal labour and resources. The courts are framed as an instrument of civilization and statehood, generating order in the wilderness by bringing it under the dominion of the Crown and enabling modern life. A representative from Queen's County Heritage Courthouse Museum expressed a similar sentiment in an interview in a different way, stating:

...when New Brunswick was created, the founders wanted a strict hierarchical government structure because they felt they had lost the American colonies because they had let them go their own way for too long. So when New Brunswick was created...at the top was the Crown, and then the province and then the county and then the parishes, and in the parishes were justices of the peace and they were sort of [that] line of authority that was very clear. And then each county had a shire town and...a courthouse to impress you about law and order in the community. You knew that the British Crown was in your community simply by looking at those public buildings.

This statement recasts the role of the courthouse as a performance of Canadian sovereignty pre- and post-Confederation. The physical presence of a courthouse in a community, with its striking architecture, symbols of state and attendant members of the legal profession demonstrated to the townsfolk that authorities and their instruments of punishment were physically rooted in their community. Social stability was gained by ensuring each member of the community was consistently reminded of the state's power and ability to punish "deviant" behaviour. Yet, this analysis of the courthouse is not reflected in museum interpretation, and such accounts of the penal system are often ignored in favour of celebrating the architecture of the building (see Isaac 2008). Colonialism is mainly apparent in these museums as an absence or representational void engendered by an uncritical reproduction of the frontier myth, particularly the idea of the law and settlers as civilizing forces that tamed the Canadian wilderness.

¹ A representative of the Cardston museum mentioned the Indigenous artifacts in their collections were donated by non-Indigenous townspeople.

Narratives of Justice and “Criminality”

While the focus on architecture and local history shifts the interpretive focus away from the penal system, it does not eliminate it entirely. Tour guides often use the architecture of the courtroom to explain aspects of the penal system. Many will explain the power of the judge by first pointing out the height of the judge’s platform. Others use the galleries to explain the public nature of trials. However, in most cases, the details of court and courtroom procedure are not covered extensively. A representative from Argyle Township Courthouse and Archives noted:

I find that most people have a lot of interest in the jail portion and a lot of people don’t – are not as interested in the court part. And it’s not even the courtroom; I know that they’re not super interested in the different types of court and that type of thing. So, we might be a little more brief in those sections. We still tell them that there were different types of court, and when they were held.

The penal system is a source of interest to museum visitors. However, the content of the museum caters more to visitors interested in the people that were criminalized at the sites than the functions of the court and the social effects of law.

The demand for digestible, entertaining narratives concerning criminalized people is almost universally represented in museum interpretation. Albert County has an extensive display on the trial and execution of Tom Collins, a convicted “axe-murderer.” King’s County has a similar exhibit on the murder of Theresa Robinson by her husband William Robinson. At Granum, a tour guide related the story of a locally born “bank robber,” and Argyle Township has a placard detailing a notorious local “bootlegger.” Tours at Charlotte County, Queen’s County, and Parry Sound all make mention of local murder trials and hangings. In our dataset, we identified only two court cases mentioned by tour guides or museum interpretation that were not “criminal” in nature: the Cardston museum notes the town was founded on land gained through expropriation, as the former owner had failed to “prove up” on it, while the Kerrobert museum contained information on the Cecil Harris case, where a will and testament he scratched into farm equipment when mortally injured was accepted as a legal document. If visitors are interested in criminalized acts and the macabre, courthouse museums are more than willing to indulge them to attract their dark tourism interest. Interviews at Kerrobert, Parry Sound, Owen Sound, and Albert County museums each produced ghost stories related to the structures, which is often a feature in other penal heritage settings, such as decommissioned prisons (see Luscombe, Walby, and Piché 2016).

Though this focus on “criminality” further shifts attention away from a broader account of the Canadian penal system by individualizing transgression, these narratives do reveal how these museums portray criminalized people, as well as understand social effects of criminalization and punishment. Many of the guides emphasized the poor conditions that prisoners faced. This is also tied to the history of the structure, as poor conditions are cited as the main reason for discontinuing the use of these jails. In so doing, museum interpretation tends to avoid directly speaking to the ethics of jail conditions as, apparently, this is an issue outside the

purview of “local history.” Courthouse museums—like prison and police heritage sites—present poor carceral conditions as a historical issue that is not reflected in the current penal system, and therefore an unnecessary topic of interpretation. Like prison museums (Walby and Piché 2011), courthouse museums with jail spaces can also reproduce misleading conceptions of penal reform through narratives that position past punishment as tougher than what exists in the twenty-first century. A guide from Granum Jail went further, mentioning that “most everybody’s [visitors to the museum] interested in the jail and punishment... And they’re interested in what the rules were and comment on, you know, ‘boy, you should have that now!’ You know, ‘what kind of punishment do they have now?’ I just read in the paper that they have safe injection sites in prisons, you know, in Ontario.”

In court museums with lock-ups, tour guides and interpretive plaques also explain the types of offences accused persons were held there for. Common offences include debt delinquency, drunkenness, and assault. Comments from staff members at Queen’s County and Argyle Township implied that more serious harms, such as rape or murder, were comparatively rare. The guide from Argyle Township suggested that those held in the jail were usually debtors or those awaiting trial, and of a different moral character than a modern prisoner, saying “In today’s standard I’m not sure you would call them “criminals”... a lot of the things they were there for, they wouldn’t be in jail today.” When the researcher noted that most of those jailed today at the provincial or territorial level endure harsh conditions despite being legally considered innocent, the guide agreed but did not voice any judgement on the practice of pre-trial detention. These silences uphold gaps in knowledge concerning imprisonment and state power in Canada.

In our interviews, we have found museums refrain from passing judgement on the ethics of the contemporary treatment of prisoners, perhaps due to the historical distance between the present and the era in which the courthouses and jails were in use. There is one exception to this trend. In the Albert County Museum, their main exhibit focuses on Tom Collins’s case, who is notable for being tried three times for murder before the courts returned a death sentence. The museum also makes reference to a Supreme Court decision to amend the double jeopardy principles in the *Criminal Code of Canada*. At the time of the trial, public opinion was split on the issue of Collins’s guilt, as the case was based on circumstantial evidence. The Albert County museum does not attempt to provide a solid answer but, instead, invites visitors to come to their own conclusions, including an interactive part of the exhibit where people can cast a ballot on Collins’s guilt and see how many ballots have been cast for either option. Although not openly critical of the penal system, the exhibit opens a space where the ethics of the penal process can be discussed.

Discussion and Conclusion

Contributing to literatures on court museums and heritage, as well as law and culture, we have examined the artifacts and discourses present in Canadian courthouse museums. These museums tend to focus their interpretation on sharing local history, the architecture of the courthouse, and narratives surrounding

“criminality” and punishment. This focus has the unintended effect of naturalizing the penal system and the myths that sustain it, while the cruelties of conditions criminalized people are subject to are presented as artifacts from a distant past, if addressed. The physical symbols of the penal system are couched in cultural myths of justice and the Canadian state. Rather than speaking to the development of the penal system in the area, museums tend to only discuss the penal system as it relates to the structure of the courthouse, as if justice sprang into being when the courthouse first opened. By expounding this myth of justice, these museums present the penal system as an unquestioned fact and as benign in orientation (Furniss 1999). Comparing the present with the cruelties of the past, these museums justify the injustices of Canada’s modern carceral state.

Similar to prison museums (Brown 2009), court museums privilege a set of narratives that lean heavily on spectacles of architecture and “criminality.” Contrasting with Brown, however, a crucial narrative within these court museums is their preservation of local history and reproduction of colonial narratives. In this sense, these court museums express to the tourist that law is not just a relic of the past, but an important part of our future. However, there are many missing accounts and stories in these court museums, pointing to what Lowenthal (1993) calls organized absence.

First, there are many absences regarding colonialism and the role that law has played in colonial power relations in Canada (also see MacDonald 2020; Lonetree 2006; Lowenthal 1993). Federal as well as provincial and local laws have been predominant in the colonization of Indigenous Peoples in Canada. These narratives reproduce the idea that settler occupation of these lands now called Canada is legitimate, and that settler colonial institutions and patterns of governance are natural and unproblematic (see Rifkin 2013).

Second, there is little acknowledgement of criminalization as a political, social, and economic process in these court museums, or acknowledgment that punitive responses to transgression and harm reproduce the conditions necessary for future re-criminalization. The museums position courts as neutral arbitrators of some sort of conflict happening elsewhere, consistent with other cultural depictions of modern legal experts and institutions (Woo 2011; Hudson 2006). The criminalization process creates systemic, generational harms primarily against Indigenous (Monchalín 2016) and Black communities (Maynard 2017). Yet these courthouse museums convey an individualized notion of who is responsible for criminalized acts.

Despite these issues, a number of excerpts from our interviews reveal that museum staff are willing to make pointed critiques of the penal system, usually doing so as a result of probing questions from the researcher. This lack of a critical edge to interpretive signs and standard tours may be a result of an unwillingness to upset museum attendees. Though all museum staff who were asked said there was no external pressure to highlight certain topics, there is some compulsion to appeal to visitors, engendered by the fact that courthouse museums—like prison heritage sites (Luscombe, Walby, and Piché 2018)—often operate as a point of entry into the community, from which outsiders may be coaxed into spending more money elsewhere in the area. To appeal to this audience, the museums promote apolitical

and alluring subject matter, including topics such as murder mysteries and the paranormal. They aim for guests to have an enjoyable visit, making it difficult to present challenging interpretations. This is consistent with Furniss's (1998) analysis of rural British Columbia museums, whose curators reported feeling no pressure to appeal to specific viewpoints of sponsors, yet still reproduced colonial myths of the frontier.

What can be done to extend a critical approach to curation in court museums across Canada? Answering this question requires direction from First Nations, Inuit, and Métis curators and heritage professionals who take seriously the obligations noted in the TRC (2015b) *Calls to Action* to account for the atrocities of the past and contribute to Indigenous cultural, linguistic, and spiritual resurgence.

Inspiration may also be taken from Douglas's (2011) work on South African museums. Douglas argues that redress of injustice and revolution of unjust structures may be spurred by locating a point of *rupture*—a space where the contradictions between the promises of justice and failure to deliver it are readily apparent. Such a site of rupture could expose the ideology that underpins the system, inviting transformation. We see inklings of such an approach in our data. Albert County's exhibit on the trial of Tom Collins provided a point of rupture with an implicit contrast between the courthouse's symbols of court and state, and an exhibit explaining the startling failure of the penal system that resulted in the execution of a possibly innocent man. Despite the unsettling nature of this display, it initiates a dialogue concerning justice in the wake of violence. Interpretation like this offers an experience which may be seized upon to begin problematizing myths of justice and proposing transformative alternatives.

Memorialization has the power to challenge the roots of exploitative practices, so museum curators have a responsibility to provide critical and human rights-oriented views of the world to visitors (Lonetree 2006). Even micro-museums (Candlin 2016) that are not well-funded or that are curated by people without training in museum studies must take seriously the responsibility to promote human rights and challenge myths. They can do so by encouraging reflexivity in interpretation by foregrounding who constructed the museum, why, whose perspectives it represents, and whose perspectives it omits. Not addressing the positionality of the museum and the colonial relationship between settler society, power, and law is a "missed opportunity" (Lonetree 2006) for museums to respond to the TRC (2015b) *Calls to Action* and to engage with the public in a more ethical manner. In the Canadian context, such curatorial omissions will delay changes required to reduce the harm of the penal system such as those noted in the TRC (2015b) *Calls to Action*, including, but not limited to, meaningful decarceration measures and supports for Indigenous peoples (p. 3–4). Identifying how museums reinforce such myths and naturalize the penal system is a crucial first step in developing curatorial strategies that may help challenge long held notions of justice. Canadian court museums need to confront their colonial past, along with the role of the courts in creating injustice. When they do so, these historical courts may finally be able to say that they are places of justice.

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