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Cover Page Footnote

Adelina Iftene published her book, *Punished for Aging: Vulnerability, Rights, and Access to Justice in Canadian Penitentiaries* in 2019 and on October 2, 2019, she introduced her work at a book launch at the Schulich School of Law.

Adelina Iftene*

The Bad, the Ugly, and the Horrible:
What I Learned about Humanity
by Doing Prison Research

* Adelina Iftene published her book, *Punished for Aging: Vulnerability, Rights, and Access to Justice in Canadian Penitentiaries*¹ in 2019 and on October 2, 2019, she introduced her work at a book launch at the Schulich School of Law.

I would like to acknowledge that we are seated on the traditional, unceded, and ancestral territory of the Mi'kmaq people. I would also like to acknowledge that the postcolonial harm done to Indigenous people across this country continues and that the criminal justice system—the topic of today's talk—has been playing an important role in perpetuating this harm. This should be at the forefront of our minds whenever we talk about change or reform. We ought to remember that whatever failure of the criminal justice system we engage with (be it solitary confinement, lack of health care in prisons, or inadequate access to justice) it has a significantly bigger impact on Indigenous people than on everyone else. That is because Indigenous people are overrepresented in prison, overclassified, and over punished.

I have been asked why I chose to research and write about the aging of prison populations. Where did this idea come from, given that there are so many well-known prison issues that perhaps have a more direct line of advocacy and more straightforward solutions (such as solitary confinement, infectious diseases, harm reduction in prisons, etc.).

I'd say that's precisely why I started looking into it—because it hadn't been explored, because it was new territory, and because I was intrigued. When I started my research, back in 2011, a recent report of the Office of the Correctional Investigator (the federal prison ombuds) had just been released. The report discussed the increase in the number of people aging in prisons over the previous decade (a 50 percent increase, reaching nearly 20 per cent of federally incarcerated people) and it raised concerns about the preparedness of the prison system to respond to the potentially higher needs of this prison demographic.² The Correctional Investigator warned at the time that the number would continue to grow. This has proven

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1. Adelina Iftene, *Punished for Aging: Vulnerabilities, Rights, and Access to Justice in Canadian Penitentiaries* (Toronto: University of Toronto Press, 2019).

2. Canada, Office of the Correctional Investigator, *Office of the Correctional Investigator Annual Report 2010–2011* (Ottawa: OCI, 2011) at 20-25, online: <<https://www.oci-bec.gc.ca/cnt/rpt/pdf/annrpt/annrpt20102011-eng.pdf>> [<https://perma.cc/7ZP8-ASF2>].

correct. In 2019, individuals over 50 constitute 25 percent of the federal prison population.³

Back in 2011 there was no Canadian independent research study available, from any discipline, looking into the causes of the growth in the number of older prisoners, into why old and sick individuals were not released in higher numbers, or into the challenges older people face in prisons. Yet, American and English literature were documenting, since the '90s, the marked challenges older prisoners faced in terms of accommodation, health, and dying in prison.⁴

Thus, my work with aging prisoners started with a scholarly interest in understanding the aging of the prison population in Canada and filling a knowledge gap. But that is not why I persevered with this project for what has now been my entire professional life and it is not why I ended up writing the book. I hope this talk will give you some idea as to why this topic is so important, and how the issues discussed in the book, through the lens of older prisoners, are in fact telling of general dysfunction within the criminal justice system.

Let me start my explanation as to why I persevered in this work by reading a couple of introductory paragraphs⁵:

December 2014. I was sitting in a little room in the “programs” building of Collins Bay Institution, a medium security penitentiary in Kingston, administered by the Correctional Service of Canada [CSC], the agency in charge of the federal correctional system. It was my second day of interviews and I was thrilled to be there. It had taken me a year and four months to receive approval to conduct research with older prisoners in federal penitentiaries as part of my doctoral work and I was feeling a bit like David who fought the Goliath of correctional bureaucracy and came out successful. How little did I know!

As I sat in the chair of the small interview room, entering the second half hour of waiting, I listened to four officers having a burping contest in the corridor, their way of combatting boredom. I also wondered how the

3. The Correctional Investigator Canada and Canadian Human Rights Commission, *Aging and Dying in Prison: An Investigation into the Experiences of Older Individuals in Federal Custody* (Ottawa: Her Majesty the Queen in Right of Canada, 2019) at 3, online: <<https://www.oci-bec.gc.ca/cnt/rpt/pdf/oth-aut/oth-aut20190228-eng.pdf>> [<https://perma.cc/H9KR-ULKN>].

4. See e.g. Patricia Colsher, Robert B Wallace, Paul L Loeffelholz & Marilyn Sales, “Health Status of Older Male Prisoners: A Comprehensive Survey” (1992) 82:6 *Am J Public Health* 881; Laura Addison, Delores Craig-Moreland & Connie L Neely, “Addressing the Needs of Elderly Offenders,” (1997) 59:5 *Correct Today* 120; Ronald H Aday, *Aging Prisoners* (Westport: Greenwood Publishing Group, Inc, 2003); Susan Franzel Levine, “Improving End-of-Life Care of Prisoners” (2005) 11 *J Correct Health Care* 31; Elaine Crawley & Richard Sparks, “Older men in prison: survival, coping, and identity,” in Alison Liebling & Shadd Maruna, eds, *The Effects of Imprisonment* (London: Routledge, 2011).

5. *Supra* note 1 at 3-5.

next interview would unfold, especially since a staff member informed me that my next person was “creepy” and that I should be careful. I positioned myself close to the door, my personal alarm system in hand, ready in case my interviewee turned over the desk in a cartoonish attempt to get to me. That’s when John walked in.

John was a man of about 75 years old who moved with considerable difficulty. He wore dirty kitchen clothes and smelled like food. He was a heavy man, breathing loudly, with an exhausted look on his face. He had spent the morning cooking, on his feet since 5 am (it was 11am at that point) and happy to have a seat. He was also happy to talk to someone. The last visit he received was back in 2008 despite having a number of relatives (his mother, nine children, and eight grandchildren). “Miss, I am very happy to have the possibility to get out of my house and talk to someone.” John was the first in a long list of people I heard refer to their prison cell as their “house”.

As it turned out, John was not 75. He had just turned 59 and had been in prison for 28 years. At the age of 31, a first-time offender, he was found guilty of first-degree murder and sentenced to life in prison without possibility of parole for 25 years. [...]

In 2010, his wife of over 35 years was diagnosed with an aggressive form of cancer. He told me that “we had been battling her disease for most of the last decade. But it eventually won.” He applied desperately for all forms of parole so he could be with her through what they understood was her last illness. Only in 2012, after another year in medium and 3 more years in minimum security, would he once again be granted day parole, in time for his wife’s funeral. It took a while for John to tell me this story. He showed me a worn-out picture of his wife. He could not stop crying and I was thinking of this brave woman who raised 8 children by herself and stood by her husband for 26 years of incarceration. She never got to see him redeemed, to see him on the outside, as an accepted member of the community, as someone who paid his due to society. This thought broke his heart.

John took comfort in the fact that he was able to at least go to her funeral. But that, as it turned out, cost him many more years in prison. He said the events of the day of the funeral were somewhat blurry in his mind. He returned to prison in the evening. A few hours later, an officer discovered a \$20 bill in his coat pocket. Prisoners are not allowed to have cash on them, and John was supposed to hand the bill over, with his other personal effects, when he was processed upon returning to the institution. “I had just buried my wife, who [sic] I was not allowed to see while still alive. I was not doing very well, the \$20 bill was a slip.” John was charged with contraband and sent back to Joyceville Medium Security Institution, to solitary confinement. After that, he was sent back to Collins Bay Medium Security Institution where he had been for one year at the time I met him. John was grateful he could work in the kitchen

there. He enjoyed it and it kept his grief at bay. After his wife passed, CSC did not offer him counselling and grief groups were not available. He said he worked his way through pain. He also said he did not care much for being bullied, which happened a lot: hitting, pushing, insults, ridicule, and cutting in line. The only thing he still minded was being called a “kiddie diddler.” And so, from my second day of interviews I learned about ageism in prison: many of the older people are deemed pedophiles, the most hated and targeted prison group. The only chance of shaking that bias is if the individual grows old in the same prison and is known to everyone. This was not John’s case; he had changed institutions every two years for the last decade.

I returned the next day to talk about health care and security with John. With a total of 17 chronic illnesses, 30 pills taken daily, 6 medical devices that he had to pay for himself, insulin shots and a leg ulcer, this turned out to be a long conversation.

Every Canadian academic conducting research with humans must submit an ethics application with their university’s Research Ethics Board. One of the key questions in that application inquired into the level of vulnerability of the interviewees. Filling in that question, I had to check nearly every box: the interviewees were incarcerated, old, under-educated, poor, Indigenous or other racial minorities, and likely had mental and physical disabilities. However, it was not until I met John that I understood what all those boxes actually meant. They were signalling that I was entering a universe of extreme marginalization—the universe of the forgotten. I learned then what we, as a society, look like at our worst, when no one watches, when there is no money to be made and no votes to be gained. Entering this universe has allowed me to identify some broader socio-legal issues, applicable across prison demographics, from gaps in prison health care and punitive carceral responses to health needs, to substantive and procedural access to justice for violations of rights in prisons and the role of health care and access to justice in achieving the rehabilitative and reintegration goals of sentencing.

Thus, the issues I explore in this book are not unique to aging prisoners and the book is not intended to address only the niche issue of aging. Instead, I attempt to offer a view of the failures of criminal justice more broadly, while at the same time lending a voice to a highly marginalized group. The study underlying the book, and the analysis of the quantitative data, were completed as part of my PhD studies at Queen’s University’s Faculty of Law. I developed the legal analysis as a postdoctoral research fellow at Osgoode Hall Law School at York University. I finished this book as a new assistant professor at Schulich School of Law at Dalhousie University. It has been in the works for a long time.

For the empirical portion of this work, I interviewed 197 people, the youngest being 50 and the oldest 82, in 7 penitentiaries with various security levels. All men were incarcerated in federal prisons (i.e. where individuals sentenced to 2 years or more serve their sentence). Half of them were serving a life sentence. Nearly half reported at least one mental illness diagnosis, including dementia; over half reported a significant physical disability. The average person suffered from 6-7 illnesses and 90 percent took prescription medication. Four percent reported a terminal illness diagnosis and 5 percent reported an early dementia or significant cognitive impairment diagnosis.

My biggest regret is that I could not include a similar study with female prisoners. I was twice denied access to interview incarcerated women—instead, the Correctional Service of Canada (the governmental agency administering the federal prison system) invited me to apply my findings from men—who are more numerous—to women. I am not sure what was more upsetting: being denied access or being presented, in 2015, with arguments that have been debunked and highly criticized all through the '90s. Alas, this is why this book draws only upon the experiences of male prisoners. It is not because women do not experience similar or worse regimes.

I was debating whether, for the purpose of this talk, I should review the findings of this book. I decided against it. You may read that on your own, if you are interested, in chapters 1 to 4. I also decided against going into the details of the legal implications of my findings or the legal mechanisms that need further development in order to ensure the protection of all prisoners as holders of substantive rights. For those of you representing incarcerated people, I hope chapters 5 and 6 of the book will be of some value in terms of potential legal action and remedies that could be invoked using the empirical data provided by this and other empirical studies looking into prisoner experiences and carceral practices.

I want instead to provide you with a brief collection of lessons I learned over the six months I spent, day after day, interviewing prisoners for the purpose of this work. I am aware that I am one of the few independent researchers that has been granted permission to enter this space and to interview a fairly large number of people.

Lesson 1

The very first thing I learned is something most of us have heard before. We often hear that prison is dehumanizing, that it removes autonomy and dignity, which in turn is detrimental to rehabilitation. Yet, what I learned is that when we say that prison is dehumanizing, it has a very literal

meaning: prisoners are sometimes not seen as people. They are viewed as untrustworthy and as always having an ulterior motive. Yet, they are a good source of entertainment, even more so if they are older. Let me explain.

The first time I stepped foot in a prison, I was told that if I wished to receive proper information, I needed to ask people, not inmates. Subsequent visits were filled with examples that reinforced the spirit behind this statement.

In a maximum-security institution, I witnessed officers slam a metal door into a sick and slow-moving prisoner's head. The laughter that generated stayed with us for half the interview.

In a medium security institution, I was told stories about individuals with physical disabilities who wake up to find their wheelchairs tied up to a table or moved into somebody else's cell, as a "prank" by officers.

Across institutions, I heard of officers yelling in front of people's cells "we all know what he is here for!" because that placed a bullseye on the person's back. There is a myth floating around that all old people are "kiddie diddlers," meaning that they are in prison for molesting children. Such comments perpetuate this myth and make these prisoners highly vulnerable to abuse, because sex offences are "bad beef" that make one fair game for attacks.

At higher security levels, guys sometimes missed their interview with me because, even though they had been issued passes to come and see me, the officers failed to hand the passes to the prisoners or because the officers hid the prisoner's wheelchair. The "disappearing wheelchair" happened three times to one of the prisoners. I had to visit the prison four times before I finally managed to see him.

I regularly heard about people who pushed the emergency button during a terrible stomach-ache, headache or panic attack, only to be told by guards "unless you are dying, you don't push that button."

Nowhere outside of prison would treating someone like this be acceptable. And let's be clear: this is not part of the sentence. Yet, somehow, this behaviour is normalized in prison as an inherent experience of someone who has committed a crime: "can't do the time, don't do the crime" or "prisons are not supposed to be nice." However, leaving aside the nicety of the place and the fact that the former statement oversimplifies the root causes of crime by boiling it down to choice, I don't think one can treat someone else like this, regardless of who they are or what they have done, unless one does not regard them as human.

Lesson 2

By listening to this, you'd think all people working in prisons are horrible. Nothing could be further from the truth. In the words of one guy "there are only a couple bad apples, but it's enough to make a place unbearable." In fairness, it's not malice that makes the place unbearable. It is indifference and ignorance.

For instance, I heard numerous stories of people having heart attacks or other emergencies outside the nurses' work hours. In many institutions, nurses are available only during the day time. Thus, imagine this scenario: individual has a heart attack at 6pm in the yard; officers are not sure if they should perform CPR but decide against it because they are incapable of performing it (even though they allegedly receive a CPR refresher every second year); the ambulance can only be called with permission of the keeper, whom it takes a while to locate; ambulance is called 15 minutes after the heart attack; ambulance arrives 30 minutes later because the prison is in a remote location; ambulance cannot enter the prison perimeters so the individual is made to walk to the ambulance waiting at the main door. This individual was "lucky" because he lived to tell the story. I have heard numerous variations of stories like this, not all with the same outcome.

Other examples include people being placed in humiliating conditions. For instance, some incontinent people are double bunked and placed on the top bunk because the rule is that the last person arriving in the room takes the top bunk. In a more "disability friendly" minimum security institution people were double bunked but with beds side by side, so they did not have to climb up. However, due to the small size of such a room, people in wheelchairs must leave the wheelchair at the door and crawl into the room.

Similarly, I have seen people unable to take care of themselves, so they are assigned untrained peer caregivers who stumble with the wheelchair or steal the food and medication of their charge.

Finally, I also learned that indifference and ignorance extend beyond infrastructure or correctional practices. For instance, I was told by a prisoner that upon receiving his cancer diagnosis, a nurse told him "You're lucky you have cancer. It is one of the few things we treat around here."

Lesson 3

As I learned about malice, indifference and ignorance, and the pain and loneliness they cause, I thought I had seen it all. But soon enough, I learned that there is something worse than that: loss of hope.

I sat in maximum security next to a 60-year-old who was crying in despair because he had just been diagnosed with stage 1 dementia. He knew, and I knew, that he may not remember his name by the time he was

transferred to a lower level institution. He knew, and I knew, that since he had just started serving a life sentence, and since dementia is not a terminal illness, there is no release mechanism available. I also knew something else, because I have seen it in other prisons. This I hoped he did not know: he was not just looking at 20 more years in prison. He was looking at 20 years in isolation for his own protection or 20 years in the prison's general population, subject to physical and mental abuse.

I have seen people burned out by disease and years of incarceration to the point where, when asked why they don't file a complaint about some egregious rights' violation, they simply ask "what's the point?"

I have heard desperation in people's voices, more times than I can remember, at the thought of dying or getting sick in prison.

I have heard pain in people's voices when they talked about their loved ones (spouses, parents, or children) dying while they were in prison.

All these deeply human experiences take on a different shape when experienced from behind prison walls. Forever seems like a particularly long time.

Lesson 4

Finally, I learned that kindness exists even in the most unlikely of places and under the most extreme life circumstances.

I have seen guys put money together to buy Tylenol for a stage 4 cancer prisoner who was under no treatment and was screaming in pain. He had been transferred, but his paperwork did not follow, so he was left without medication for a week.

I have seen parents in their 90s coming to see their 60- and 70-year-old sons, travelling hundreds of kilometers for an hour visit. I have seen wives stand by their husbands for decades, while raising their children by themselves.

I have seen men in medium security fostering stray cats, making shelter for them in the yard, and sharing their food with them.

I have seen people spending hours writing grievances, *habeas corpus* applications, or other legal claims for people who were not able to do it themselves.

I had people come to see me with lists of concerns that did not affect them, but rather their bedridden peers who were not able to come and talk to me themselves.

Against this background, I often wonder: what sentencing goals are achieved by the continuing detention, in such humiliating conditions, of people who are this sick? Who are we trying to deter and incapacitate? How do we rehabilitate people whose only concern is surviving another

day? Do these sentences continue to be legitimate and justifiable when circumstances have changed so drastically? This is a theme in much of my current work.

But beyond these legal concerns, I am also a strong believer in redemption and forgiveness. I believe that with the right support, most people can heal and can better themselves. Many men I talked to were desperate because they knew they would die in prison and they equated that with stigma and lack of redemption. As horrible as experiencing that must be, I disagree with their assumption. I think most of these men had redeemed themselves years prior. They, their parents, their children, their communities have paid again and again for whatever crimes have been committed. I am, thus, not worried about their redemption. I am worried about our redemption. History will not be kind to us. History will remember the torture we are inflicting upon each other, the trauma we create, the cages we use, the abuse we inflict, the double standard we use in the justice system, the way we dispose of our most vulnerable, the indifference, the ignorance, the money we detract from community and health care support and pour into isolation, and the way we criminalize poverty and illness. A day will come when history will frown upon us, when students will learn in schools about our barbarism the way they now learn about the middle ages.

But until that day comes, we have work to do. We can redeem ourselves: we can use our privilege and our diverse skills, our training and our expertise, to contribute to bringing down these walls of pain and loneliness. There are many things we can do. If you are a lawyer, you can take prison cases pro bono. If you are an academic, you can start thinking creatively about law and how law is used to oppress instead of to free and rehabilitate. All of us can use our voices to advocate for sentencing and law reform. We can use our vote to reject platforms that increase mandatory minimum sentences and uphold obsolete notions of punishment.

But the easiest thing we can do is to start shaking down the ignorance by building awareness and by caring. My hope is that this book is a small contribution towards that.