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Standardizing 'Corrections': The Politics of Prison Expansionism and Settler Colonial Representations of Punishment in Nunavut

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Abstract

In the past few years there has been much governmental and media attention paid to the dismal conditions of penality in Nunavut, which has been explained by colonial representations of Indigenous penality as non-standard. In this article I draw on field research and document analysis to discuss an Inuit ethos of community-centred penality in contrast to settler colonial state-administered penality. My research problematizes these mainstream representations of Inuit justice and critiques the institutionalization of inequalities and colonial legacies of carceral penality in Nunavut. I examine the dilemma resulting from a decontextualized demand for standardized penality in the midst of deeply entrenched social and economic deprivations. I demonstrate, contrary to widely accepted beliefs that penal standards produce ethical forms of punishment, how penality in Nunavut is (at best) characterized as substandard. However, this substandard penality should be understood as a combined product of the ongoing colonial dominance of the Canadian state in Nunavut and Canada's carceral norm and not as something inherent to Nunavut as portrayed in government reports and mainstream media. I argue that penal government and carceral expansion in Nunavut ought to be understood as a political strategy of settler colonialism that works to maintain the structures of domination and a politics of elimination foundational to settler Canadian modes of government. Whereas, penal reforms led by Indigenous (Inuit) peoples and guided by Inuit conceptualizations of justice and punishment would operate as a tactic to decolonize the politics of penal government in Nunavut.

Keywords:
Indigenous justice, prison expansion, penal government, Nunavut

Introduction

In Canada the assumption of the Correctional Service of Canada (CSC), and for many Canadians, is that Canadian penality is aligned with the human rights treatises and penal norms found within the international canon of penal standards (such as the UN Standard Minimum Rules for the Treatment of Prisoners, or SMRs, the UN Rule of Law Indicators, and the International Committee of the Red Cross Standards). As such, the Canadian penal system is generally viewed by its government and the Canadian public as a shining standard for others to emulate. In this article I examine the federal investigation into Nunavut Corrections (NU.C) and the treatment of Inuit prisoners in Canada, demonstrating how such assumptions—the taken-for-granted standard nature of Canadian penality—are fallacious. In 2013, just 14 years after the establishment of the territorial government and the Nunavut Correctional Plan, the conditions of imprisonment were so abhorrent that the director of NU.C called for a national inquiry into the state of corrections. These local calls for a penal investigation involved negotiations of the politics of corrections through enlisting the Office of the Correctional Investigator of Canada (OCI) in the administration of a comprehensive and scathing investigation of NU.C. The 2013 OCI report was followed by significant Canadian media attention (see CBC News 2014a, 2014b and Weber 2015 as examples) and further reports on the dismal conditions of punishment in Nunavut (such as the 2015 Auditor General's Report). To many these representations of penality in Nunavut produced evidence of substandard punishment (punishment that mobilizes the carceral norm while failing to meet relevant standards for the protection of prisoner rights) attributed to an Indigenous *non-standard* logic of punishment (punishment that mobilizes an entirely different penal logic from the standard carceral norm). In this article I problematize representations of substandard punishment in Nunavut as belonging to an Inuit ethos of penality, and instead, I demonstrate how substandard penal conditions in the territory are in fact the result of the colonial politics of carceral punishment.

I analyze the contestations over and representations of punishment in Nunavut as an instantiation of settler colonialism, paying particular attention to how punishment has become, following Audra Simpson (2016: 440), another space seized away from Indigenous peoples in the process of settler state-making and the ongoing struggles over sovereignty in the Canadian Arctic. Rather than a series of discrete events, too often framed as having happened in the past, my work mobilizes a conceptualization of settler colonialism[1] as a structuring formation (Simpson 2016 and Wolfe 2006) that no longer exclusively targets the corporeal body[2] but the capacity of Indigenous communities to manage their own affairs—Indigenous self-governance. In his work on settler colonialism and elimination, Patrick Wolfe (2006: 388–392) explains that settlers "come to stay," so colonial invasion results in a complex social formation that mobilizes a comprehensive range of agencies in a land-centred project with a view to eliminate Indigenous societies. Penal government and especially carceral expansion in Nunavut needs to be understood as a political strategy of settler colonialism (Coulthard 2014: 41–47 and Nichols 2014: 441) that works to maintain a politics of elimination (Wolfe 2006 and Simpson 2016) and the structures of domination foundational for colonial state building, settlement, and capitalist development in the territory.

Since its establishment in 1999 Nunavut has faced severe economic and social disparity, which has been reinforced by processes of prison building (beginning in the early 1990s) and the establishment of a carceral continuum (Davis 1998; Foucault 1977/1995; and Wacquant 2008), whereby incarceration has become a tool of dispossession and social stratification, and settlement is maintained through the force of law and the total institution of the prison. While the politics of prison expansion and settler colonial representations of punishment in Nunavut reinforce a deeply unequal local politics, I also examine the

[1] Grounded in the work of settler colonial studies. See John Borrows (2002); Glen Coulthard (2014); David Milward (2012); Robert Nichols (2013, 2014); Shiri Pasternak (2014, 2015); Audra Simpson (2011, 2016); and Patrick Wolfe (2006) as examples.
[2] For a discussion of the bio-politics of settler colonialism see Pasternak (2015).

impacts on Indigenous modes of punishment. I begin with a discussion of an Inuit ethos of justice which, similar to other non-western societies (for example, Haiti; Brisson-Boivin 2016), is community-centred and promotes socially located practices of crime control and order maintenance. However, the value of local social controls in Nunavut has been eroded by the Canadian state's colonial project to extend its sovereignty in the North.

In the next section I provide an analysis of the investigation into substandard penality in Nunavut based on my interviews with penal agents working on the case for penal reformation. Of particular importance to the investigation in NU.C was Baffin Correctional Centre (BCC), the main penal institution in Nunavut and one of Canada's worst prisons. The final section focuses on dilemmas resulting from a decontextualized demand for standard penality within the unequal social and economic conditions in Nunavut. Despite evidence of inhumane and cruel punishment, penal reformation is not a high priority for the federal or territorial governments, since, as my respondents explain, money would be best spent elsewhere (on housing, healthcare, education, and so on). As a result, carceral penality and prison expansion in Nunavut continues to ride roughshod over Indigenous social controls, which are more relevant and meaningful to the social history and juridical principles of local communities and would arguably command greater compliance with the law. Following Shiri Pasternak's (2014: 156) argument regarding Indigenous legal orders and jurisdiction, as a strategy to decolonize the politics of penal government in Nunavut I ask not *which* punishment (as is the case with carceral regulation or standardization) but *whose* punishment. My central argument is that penal reform in Nunavut must be led by Indigenous (Inuit) peoples and guided by Inuit conceptualizations of justice and punishment.

An Inuit Ethos of Community-Centred Justice

Contestations over Arctic sovereignty in Canada are unremitting, owing to a pervasive narrative that the Arctic has endured as a 'no-man's land' (see Morrison for Historica Canada 2006). The Government of Canada (2013) attributes the Canadian Arctic Expedition (1913–1918) as a turning point in Canada's Arctic territorial history: "By asserting Canadian control over thousands of square kilometres and confirming Canada's modern Northern border, the Expedition and its activities laid the foundation for the future of Canada's development in the Arctic." Descriptions of the "unparalleled...scientific and cultural discoveries...as well as the establishment of new settlements" suggest that the history of the Arctic began somewhere in the late 19th or early 20th century (Government of Canada 'Arctic Expedition' 2013). Similarly, Historica Canada (Morrison 2006) frames contestations over Arctic sovereignty as occurring amongst Canadians, Americans, Scandinavians, and the British, with no mention of contestations on the part of the Inuit living in these regions prior to colonial exploration. However, Inuit narratives of Arctic territorial history are quite different, suggesting that the Inuit have occupied the Arctic for thousands of years before colonial 'discovery.' For example, Inuit Tapiriit Kanatami (2004: 5), the national Inuit organization in Canada, explains that if we were to go back in time 8,500 years we would find small communities living along the stretches of land between what is today the Nunavut, Alaskan, and Siberian Arctic coasts. Not only are there contested historical narratives about the 'discovery' of the Canadian Arctic, but the very meaning and application of history are significantly different within Inuit and *Quallunaat* (non-Inuit) narratives. For example, many Inuit conceptualizations of history do not divide the past from the present: "today, no matter where we choose to travel, hunt, or camp we find the traces of our ancestors. From these, we have come to understand that our life is a continuation of theirs and we recognize that their land and culture has been given to us in trust for our children" (Inuit Tapiriit Kanatami 2004: 4). Nevertheless, disputes over legal and

juridical authority became a key governmental tactic in assertions of Arctic sovereignty and the establishment of settler law.

The Inuit have three Inuktitut words for law: *maligaq,* meaning that which has to be followed—*maligaq* is often translated as Canadian law, but the term is relational; *pigugait,* meaning what has to be done; and *tirigusuusit,* meaning what not to do (Interviewing Inuit Elders 1999). Inuit legal orders are characterized by an "informal nature, flexibility, and a reliance on social pressures to ensure people act appropriately" (Pauktuutit Inuit Women of Canada 2006: 10 and Tomaszewski 1997, 2009). According to Loukacheva (2012: 204), Inuit legal orders "[are] oriented towards the restoration of peace and communal reconciliation rather than the exercise of justice through punishment." Living life on the land meant that Inuit communities were interdependent, demanding a great deal of cooperation and coordination, since members relied on one another for survival (Tomaszewski 2009: 2). Similarly, Sidney Harring (1989: 41) explains, "there is no emphasis on the meting out of 'justice' in Inuit society only on restoring social harmony, hence, no attempt is made to impose a uniform, individualized, 'just' sanction." Inuit sanctions seek to aid the offender rather than impose a punishment: the determination of guilt and subsequent restitution are measured on the grounds of the offender's situation and not on the basis of an act or offence (Loukacheva 2012: 204 and Tomaszewski 1997: 106). If there was any question as to the penalty to be applied, community Elders would be consulted regarding how a similar situation was handled in the past (Pauktuutit Inuit Women of Canada 2006: 8). Inuit legal orders are not codified, meaning written down (Tomaszewski 2009); they are orally passed down amongst generations, and rather than a single authority, the entire community is responsible for the maintenance of peace and order. Following the work of Garland (2000: 354) on the culture of crime, the Inuit ethos of justice is one in which criminal wrongdoings are a collective experience whereby what is and is not understood as criminal takes

on different meanings for different Inuit collectivities at different times.

According to Tomaszewski (2009: 2), "[i]ndividuals responded when the infraction was considered less serious and not a threat to the community, while the community responded as a whole to acts that presented a danger to the wellbeing of the community." Punishment is individualized in Inuit legal orders, in order for a decision to be reached that best fits the community. For example:

> in cases involving serious threats to the community, adults would meet to discuss the matter publicly and arrive at a *group decision* regarding what should be done. Individuals considered to be of particular value to the community, such as a hunter, would be treated with greater leniency since the imposition of a serious penalty in this case would not be in the best interest of the community. (Pauktuutit Inuit Women of Canada 2006: 15, emphasis added)

Some of the most common—yet contested, and certainly not uniformly applicable to all Inuit communities—types of behaviour considered improper are: lying, stealing, laziness, excessive mocking or gossiping, volatility, jealousy, and excessive bragging (Pauktuutit Inuit Women of Canada 2006). When a community member engages in any form of collectively understood improper behaviour, these actions are made common knowledge within the community so that community members can participate in the collective decision-making process regarding how to respond to the improper conduct. Such responses typically involved forms of locally applied social pressures or controls including ignoring the situation, mocking, public ridicule or shaming, gossiping, fist fights or wrestling, song duels, banishment, and Elder counselling (see Tomaszewski 2009; Pauktuutit Inuit Women of Canada 2006; Harring 1989: 45; and Inuit Tapiriit Kanatami 2004). The idea of fate also plays a large role in deterring the Inuit from acting violently or outside the commonly accepted social rules, since the Inuit believe that the wrongdoer's

family will suffer the consequences of their actions (Interviewing Inuit Elders 1999: 5).

The power to punish rests with the Inuit community as a collectivity, reinforcing the value of local social controls for managing conduct rather than the work of a designated penal authority. Proper social conduct is upheld in the commonly held values, behaviours, and actions expected of all members of the community (see Tomaszewski 1997, 2009). Inuit law is contextually bound within the local milieu, the study of which requires either asking the Inuit about their legal cultures—which is especially difficult to capture in non-Inuit language and cultural meaning—or by observing Inuit law in action. Studying Inuit legality is further complicated by the history of settler colonial dominance that eroded an Inuit ethos of justice as traders, missionaries, lawyers, academics (trained in disciplines that deny the existence of Inuit legality), and the RCMP began to establish a common law, state-administered system of justice in the Arctic. As Harring (1989: 2, 41) argues, "Inuit law was understood by RCMP and early Anthropologists [including Franz Boas and E. Adamson Hoebel] as uncivilized and therefore needing to be subsumed, like its people, into Canadian society to make the Arctic safe for white developers." It was through these ethnocentric and *terra nullius* (meaning 'the land is empty') justifications that Canadian settlers would roll out a machinery of state-administered justice in Nunavut whereby the Canadian federal government and the CSC would be the protectors of Inuit communities from the "evil influence of crime,"[3] according to Eurocentric common law practices, erasing Inuit collective culture in the process. A closer examination of the development of state-administered penality in Nunavut will uncover the ways in which an Inuit ethos of justice had to adapt to the coded, regulated, and authoritative forms of social control mobilized by the structuring formation of settler colonialism.

[3] House of Commons speech, Canada 1924, in Inuit Tapiriit Kanatami 2004: 14.

Penal Standards: A Tool for Colonizing the Inuit (Ethos of Justice)

The history of penal standardization began with the birth of penal codes in the late 18th century as a response to the absolute authority of the sovereign and an attempt to limit the spread of disorder through standardized and publicly disseminated codes linking crime(s) and punishment(s). As the international network of penal government expanded and more diverse sets of codes were developed, the costs of uniformity and the security afforded by swift and certain punishment escalated dramatically, ushering in a concentration on standardized procedural norms and assessments of penal administrations and institutions—aligned with international human rights and the rule of law.[4] However, rather than legally binding, penal administrations voluntarily consent to adhere to penal standards. While a myriad of different organizations contributes to the development of penal standards, this research focuses on the United Nations Standard Minimum Rules for the Treatment of Prisoners (1957), or the SMRs, and the national penal standard legislation and codes pertinent to Canadian penal government (such as the Corrections and Conditional Release Act (CCRA) and the directives of CSC). According to penal standard documents (see SMR 1957: 2 and Ouimet et al. 1969: iii, 1), standards aim to facilitate the various objectives of punishment (from incapacitation to rehabilitation) in ways that protect the human rights of prisoners. However, while penal standards espouse the principles and morality of human rights, they also validate the use of 'confinement and containment,' or incarceration as a globally accepted punitive response to crime. In Nunavut efforts to colonize the Inuit ethos of justice utilize standard conceptualizations of punishment as carceral to extract the power to punish from socially-embedded, community-centred controls into a state-administered, colonial machinery of penal government.

[4] For a more fulsome discussion of the genealogy of the international rule of law, see Brisson-Boivin and O'Connor (2013).

European encounters with the Inuit began in the late 1500s when the first explorers sailed into the Davis Strait, Hudson Strait, and Hudson Bay. The arrival of Martin Frobisher, an English seaman and licensed pirate, along with other explorers in 1576 drastically changed the map of the Arctic and the cultural landscape of the Inuit (Inuit Tapiriit Kanatami 2004: 10). With each new mission the map of the Arctic became more European as the land was claimed by settlers. Frequently occurring encounters with settlers changed the materials, tools, and weapons utilized by the Inuit rendering their communities more southernized as "populations became increasingly dependent on the government and southern institutions for survival" (Watt-Cloutier 2015: 65). The establishment of year-round whaling stations created a permanent presence of outsiders, particularly the RCMP who in the early 1900s maintained Arctic sovereignty through the creation of police posts. According to Inuit Tapiriit Kanatami (2004: 13–14): "It was simply up to the trader, missionary, and police to look after our lives and always on their terms and not ours."

Inuit legal orders were disregarded by settlers because they did not fit into the settlers' standard conceptualizations of how laws should work. As Foucault (1977/1995: 78–79) has argued, the early work of penal reformers was to correct badly regulated distributions of juridical power, inconsistent applications of the law, and a multiplicity of legal authorities. In the eyes of Arctic settlers all of these juridical 'corrections' applied to the Inuit ethos of justice. As a result, settler law enforcement drastically shifted the power to punish, from a collective experience to an experience of crime and legality that was re-embedded in a central, authoritative structure with little to no community consultation. The Inuit were forced to comply with such alien legal concepts as "conducting public confrontations between lawyers and people accused of crimes in order to establish guilt; placing accused people in jail; and the punishment of guilty people in order to repay their debt to society—a new conceptualization of restitution" (Inuit Tapiriit Kanatami 2004: 20).

As a result, Inuit offenders became less dependent on a small circle of kin for both their social and economic security.

The colonial erosion of an Inuit ethos of justice illustrates (following Garland 2000: 367) the "cultural effects" of state-administered penality. While Garland (2000) was speaking to increased urbanization and technicization in industrialized societies, colonization produced significant shifts in the Inuit collective experience of crime and punishment. Radical changes to a community's way of life alter how "the community thinks and feels...what they talk about and how they talk about it...[and] their values and priorities" (Garland 2000: 367). Despite colonial allegations that Inuit communities were devoid of legal foundations, the Inuit have strongly resisted these claims. For example, Elder Imaruittuq explains (in Law Commission of Canada 2006: 9):

> [Before the court system] came into our lives and before the RCMP we always had rules in our camps, misbehaviour has always been a part of life and when there was misbehaviour, the Elders would gather together and deal with that individual...Nothing was written, what was said all came from the minds of the Elders.

However, in Nunavut state-administered forms of penality, rather than being grounded in the shared wisdom of Elders, is "expressed and embodied in the conduct of governmental actors" (Garland 2006: 421). Further, these juridical practices are the product of what Garland (2006: 424) calls "penal transplants," which refers to the process of transplanting legal terms and criminological concepts from "one culture to another," which tends to "change their character and connotations as they become embedded in the new cultural setting." Before moving on to my analysis of the effects and ongoing struggles over 'penal transplants' in Nunavut, I want to discuss the strategic games of power (see Hindess 1996) at play in the creation of the territory of Nunavut, which exacerbates the social marginalization

experienced by Inuit communities and creates a major obstacle to penal reform in the territory.

Under the Enfranchisement Act of 1876 and the Indian Act of 1880, Indigenous systems of government were rendered "knowable, legible, and manageable" within the settler colonial band council system[5] that placed control over Indigenous peoples and communities in the domain of the federal government (Law Commission of Canada 2006: 11). Since 1870 the land and resources now belonging to the territory of Nunavut were part of the Canadian Northwest Territories. It was not until April 1, 1999, that the territory was subdivided with new borders formed to create Nunavut (to the east) via the Nunavut Act and the Nunavut Land Claims Agreement Act. Nunavut is the most financially dependent and under-resourced political jurisdiction in Canada.[6] In 1993 the Nunavut Land Claims Organization (*Nunavut Tunnagavik,* or NTI), along with the Canadian federal government, was given ownership of all cash, lands, resources, royalties, and powers provided in the Land Claims Agreement, but no responsibility to provide services to the people of the territory (Mifflin 2009: 92–93). At the time of the creation of the territory, the federal government put off devolution of land ownership to Nunavut citing governmental capacity issues (White 2009: 68). On resource availability in the North, former Canadian Prime Minister Stephen Harper has said, "in the far North, we have to be realistic—there is no possible way, in the vastness of the Canadian Arctic, that we could have all of the resources necessary close by. It's just not possible" (Harper in Fournier 2012: 2). However, former premier of Nunavut, Paul Okalik (in White 2009: 68), rejected this argument, calling the

[5] The Aboriginal peoples of Canada continue to be subject to the band council system, whereby a band council is chaired by an elected chief, and sometimes also a hereditary chief. As of 2013 there were 614 bands in Canada. Membership in a band is controlled by criteria developed within the Aboriginal community and, for most bands, membership is obtained by becoming listed on the Indian Register maintained by the Canadian federal government (Government of Canada "Indian Band Council" 2015 and Government of Canada "Tribal Council Funding" 2012).

[6] See Pasternak (2014) for a discussion of jurisdiction as a technology of settler colonial power.

federal government paternalistic and describing the Indian and Northern Affairs department as "reviled by Aboriginal peoples." Nevertheless, the federal government has retained the title to crown lands in Nunavut, and the bulk of the territory's land is crown land.

The Government of Nunavut differs from provincial governments in significant ways. As Mifflin (2009: 94), a resident of Iqaluit and an employee with the Department of Environment in Nunavut, explains, "under the terms of the Constitution Act of 1867, provincial governments are given exclusive powers for the exploration, development, conservation and management of natural resources." A fundamental attribute of all Canadian provinces is the ownership of land and resources (and the resulting royalties) within their borders; however, territorial governments are not extended these same rights and governmental powers without decades of negotiation with the federal government.[7] The result is that the Government of Nunavut, without any significant resources of its own, almost completely depends on the Canadian federal government to fund the most basic governmental operations (such as education, healthcare, and housing). As University of Toronto political scientist Graham White (2009: 59) explains, "in no other jurisdiction, save the National Capital Region, does the influence of the federal government loom so large." In 2015–2016 the Government of Nunavut received $1.5 billion (Canadian) dollars through federal government transfers, the highest in the territory's history (Department of Finance Canada 'Federal Support to Provinces and Territories' 2015). As Mifflin (2009: 93) argues, "in Canada, all governments seek financial independence because of the greater control it affords them to provide culturally or regionally appropriate services to their citizens." However, Nunavut's financial dependence on the Canadian federal government has significant consequences for the amount and types of public services the government can offer its citizens, including 'corrections.'

[7] For example, control over land and resources was granted to the Yukon in 2002.

Building Prisons, the Punitive Upsurge, and Colonial Scripts of Punishment in Nunavut

It was during the creation of the territory of Nunavut that the NU.C was established, leading to a 'punitive upsurge' (Wacquant 2008) and unprecedented prison expansion. The building of prisons began in 1990 in Iqaluit with the conversion of a halfway house into the Baffin Correctional Centre (BCC). In 1999 several outpost camps for offenders opened, followed by the Uttaqivik Community Residential Centre in 2000, the Kugluktuk Centre in 2005, the Nunavut Women's Correctional Centre (in Iqaluit) in 2010, the Rankin Inlet Healing Facility in 2013, and the Makigiarvik Correctional Centre in Iqaluit in 2015 (Ferguson, Auditor General's Report 2015: 8). Each of the seven prison facilities in Nunavut is a territorial facility, operating within the jurisdiction of Nunavut, meaning none of these facilities is meant to hold federally sentenced (maximum security) prisoners. However, NU.C and CSC have a memorandum of understanding (MOU) that allows the territory to hold federal prisoners in exceptional circumstances (such as in cases where prisoners are awaiting trial or awaiting a transfer to a southern federal institution—typically in Ontario) for limited periods of time. The recent establishment of this network of penal infrastructure in the territory marks a pivotal development in the colonization of an Inuit ethos of justice, whereby the emergence of carceral infrastructure solidifies the settler, state-administered monopoly over the authority to punish. The consequences of prison expansion in Nunavut "flow-over" (Massumi 2009: 162) into the local milieu, or as Wacquant (2008: 23) argues, the prison-industrial complex is a "convenient pretext and propitious platform for a broader redrawing of the perimeter of responsibility of the state operating simultaneously on the economic, social welfare, and penal fronts." This re-drawing of the responsibility to punish puts added pressure on Nunavut's already constrained government, which first has to contend with deeply entrenched social inequalities (such as unemployment and a lack of adequate housing) before making a case for penal reform.

As of January 1, 2015, there were 36,702 individuals living in Nunavut and 1,700 people were unemployed (Nunavut Bureau of Statistics 2015). In 2012, the Canadian mean income for families was $74,540; however, in Nunavut the mean family income was $65,530 (Statistics Canada 2015b). On several different occasions my interviewees compared social life in Nunavut to that of a small village: everyone knew everyone else; there are limited options for places in which to socialize; and there is an extreme lack of mobility due to inclement weather, lack of public transportation, and a lack of navigable roadways (OCI Interview 1 and 2 June 2015 and Police Officer Interview November 2014). In an interview with a southern Canadian police officer working in Nunavut, they described the 'challenges' faced by Nunavummiut in this way:

> ...lack of resources is obvious, since many communities are remote, frozen and only reachable by airplane. Lack of leisure activities leads to alcohol and drug abuse. Lack of opportunity leads to low self-esteem...lack of females leads to high rates of sexual assaults which destroys generations of families. Daily life in the Arctic depends on the weather which regularly shuts a village down and delays the arrival of resources. Lack of role models within the community...Clear segregation of classes between the whites who are well paid and the locals who rarely hold important positions. These challenges are unique to extremely remote Arctic communities. (Police Officer Interview November 2014)

Not only does this respondent connect 'culture' to location and environment, in which harsh weather conditions limit the opportunity of the Nunavummiut, but this lack of opportunity is presented as directly correlated with social disorder and crime; in particular, an assumed propensity amongst the Inuit to abuse drugs and alcohol and commit sexual assaults—as if Inuit men are animals competing over scarce females.

This sort of prejudicial representation of the Inuit as criminogenic references a similar "primitivist ideology of Blacks [specifically men] as animalistic," as described by Patricia Hill-Collins (2004: 103) in her work on Black sexual politics and racism, and Kelly Welch's (2007: 276–281) work on Black criminal stereotypes and the "[B]lack typification of crime," which stereotypes young Black men as "criminal predators." In her work *Looking White People in the Eye,* Sherene Razack (1998: 69) explains: "the stereotype of Black men as bestial, violent, and criminal has an Aboriginal counterpart in the 'bloodthirsty Indian.'" Colonial accounts of 'daily life in the Arctic' mobilize these historical explanations and racialized cultural scripts that represent Inuit men as innately criminal and not, for example, as oppressed, "confirming the superiority of white men," as Razack (1998: 69–70) explains, and the so-called need for more punishment meaning more prisons. The resultant prison expansionism is a political strategy (Nichols 2014: 441) that increases external government regulation, buttresses the structures of settler colonialism, and engenders the conditions of inequality that maintain the carceral continuum in Nunavut.

The Inuit have a very different explanation for occurrences of violence and social disorder within their communities. For example, Sheila Watt-Cloutier (2015: 62–64), a well-known Inuit environmental activist and human rights advocate, describes witnessing "the breakdown of Inuit society [or] 'the wounded hunter spirit': years of pent-up anger and frustration [are] finding an outlet in alcohol abuse, addiction, and violence." Rather than looking for individualistic, stereotypical justifications for such behaviours, Watt-Cloutier points to the historical traumas and 'cultural effects' of colonization that are changing, as she says, the very spirit of the Inuit. Moreover, contestations over representations of crime, criminality, and penal justice in Nunavut are not simply narratives of colonial privateers from centuries past but contemporary depictions of life in Arctic Canada. The next section examines how punishment is contested in the investigation of NU.C, paying particular attention to

how Inuit culture is being reproduced in the context of struggles over penal justice in Nunavut.

Investigating Punishment in Nunavut

In 1999, at the time of the development of the Nunavut Correctional Plan, the Supreme Court of Canada made a landmark decision on a case involving a young Cree woman who entered a guilty plea to manslaughter after killing her common-law husband. The Supreme Court advised that lower courts take into careful consideration an offender's Aboriginal background at the time of sentencing based on section 718.2 (e) of the Criminal Code of Canada (see Supreme Court of Canada Judgement 'R vs. Gladue' 2015 and Bakht 2005: 239). The legacy of the case was that all persons who self-identify as Aboriginal have 'Gladue rights' and are entitled to prepare a 'Gladue Report' for the sentencing judge's consideration outlining mitigating factors such as the history of colonialism, displacement, and residential schools, and how this history translates into lower income, higher unemployment, higher rates of substance abuse and mental illness, and higher levels of incarceration (see Gladue and Aboriginal Sentencing 2015; Supreme Court of Canada Judgement 'R.Vs. Gladue' 2015; and OCI 'Aboriginal Offenders' 2013).

In an attempt to recognize the 'Gladue rights' of Inuit peoples, the Nunavut Correctional Plan was supposed to capture the social history considerations and systemic discrimination faced by Inuit peoples in Canada. According to the Nunavut Corrections Planning Committee (1999) (and later the strategic plan of Correctional Service of Canada 2006–2011), when the liberty of Aboriginal offenders is at stake (including in security classifications, penitentiary placements, community release, and disciplinary decisions) judicial decision makers must take into account, "racial or cultural prejudice, as well as economic and social disadvantage, substance abuse and intergenerational loss, violence and trauma," and "the least possible use of incarceration consistent with public safety." However, nowhere in these reports are penal administrators provided with the tools for recognizing racial or cultural prejudice, nor the tools for

engaging with Inuit communities to better understand the 'violence and trauma' of settler colonialism. Similarly, the Nunavut Corrections Planning Committee (1999: 9), formulated entirely by governmental officials and public servants, states that the mission of NU.C is to provide a correctional system that promotes "healing" in ways that respect the culture and language of Nunavut and all of its residents via the Gladue decision. However, without direct input and oversight from the Inuit, 'respect for culture' and 'healing penality' are vacuous concepts. I agree with Patricia Monture-Angus (in Nichols 2014: 453), a Canadian Mohawk lawyer, activist, and educator, that "the inclusion of healing lodges and other Aboriginal-centred correctional facilities cannot conceal the fact that these institutions remain within the legal and bureaucratic structure of the Canadian prison system." It remains to be seen how the social history considerations of colonialism can be recognized within settler colonial forms of legality and the institution of the prison, which is in direct contradiction with an Inuit ethos of justice. Despite the intentions of NU. C's correctional plan, the past 25 years of 'corrections' in Nunavut has seen the further entrenchment of a punitive, primarily carceral penality that markedly disadvantages Inuit prisoners.

For example, in 2013–2014, Aboriginal adults accounted for nearly one-quarter (24 percent) of admissions in provincial/territorial prisons and 20 percent of federal admissions, while representing only 3 percent of the Canadian adult population (Statistics Canada 2015a). Between 2001–2011, the average number of Inuit men incarcerated across Canada rose from 94 to 147 (Ferguson, Auditor General's Report 2015: 9). The situation in Nunavut is even more bleak: the vast majority (84 percent) of the population is Inuit (Nunavut Tourism 2016), and 99 percent of incarcerated persons in BCC are also Inuit (OCI Interview 2 June 2014). Statistics Canada projections up to 2017 suggest that the disproportionate representation of Aboriginals will continue to rise in both the federal and provincial correctional systems, particularly in the Canadian West and North

(CSC 2006–2011: 12). This holds consistent with patterns of sentencing for Inuit offenders in which Inuit prisoners are serving some of the most severe and protracted sentences for some of Canada's most serious criminal offences. For example, as of 2011, two-thirds of the incarcerated Inuit population (62 percent) were convicted of sex offences, which is substantially higher than First Nations (22 percent) and Métis (16 percent) (CSC 2006–2011). Aboriginal prisoners are more than twice as likely as non-Aboriginal prisoners to be charged or convicted of a violent offence while under CSC supervision (CSC 2006–2011 and Nichols 2014). Inuit prisoners convicted of a violent offence are systematically targeted at the beginning of their sentence for the most restrictive provisions of the CCRA—typically detention beyond statutory release (or two thirds of a sentence). Furthermore, when released, Aboriginal prisoners are subject to more restrictive forms of release, such as day parole or temporary absences rather than full parole (CSC 2006–2011). According to the OCI report on Aboriginal Offenders (2013), "Aboriginal offenders lag significantly behind their non-Aboriginal counterparts on nearly every indicator of correctional performance and outcome." As a result, Aboriginal prisoners are routinely classified as higher risk (Nichols 2014: 440) and higher need in categories such as unemployment, community reintegration, and family supports; over-represented in segregation and maximum security populations; disproportionately involved in use of force interventions and incidents of prisoner self-injury; and more likely to return to prison on revocation of parole, often for administrative reasons rather than criminal violations (OCI 'Aboriginal Offenders' 2013).

In Nunavut increases in remand, or pre-trial detention, contribute to the growing problem of prison over-crowding. According to the latest Auditor General's report (Ferguson 2015: 9), "in 2013–2014, there were 658 adult male admissions to correctional facilities in Nunavut including 433 at BCC." One interviewee (Native Inuit Liaison Officer [NILO] Interview September 2014) described the "disgusting conditions resulting from overcrowding at BCC: lack of adequate

sanitation facilities to keep up with the number of inmates…lack of beds so that guys have to sleep on the frozen concrete ground…and not enough clean clothes to go around so that guys were sharing dirty socks and underwear." Here we begin to see the ways in which settler colonial (carceral) penality in Nunavut significantly disadvantages and neglects the rights of Inuit prisoners while drastically altering the collective experience of crime and punishment in the Arctic.

Changes to the common fears, resentments, narratives, and understandings of crime and criminality become what Garland (2000: 368) calls "settled cultural facts." The 'facts' of crime and criminality in Nunavut are sustained by the colonial scripts of punishment I discussed above (that the Inuit are innately criminogenic), reframed by CSC and NU.C as considerations of the social history or violence and trauma of colonialism (or Gladue rights). Presenting these scripts as Gladue considerations is an especially insidious instantiation of the colonial politics of elimination: rather than capturing the systemic discrimination faced by the Inuit, they work to erase structural inequalities and explanations for criminality by placing blame on individual criminogenic subjects (primarily Inuit men). Political elites push 'law and order' ideologies and carceral expansion because "they recognize that these work to solidify hierarchical chains of authority and control over the state apparatus which are successful because large groups of middle-class white people, driven by racist fears, support such policies despite the overwhelming evidence that they do not reduce crime" (Nichols 2014: 442).

Since the late 1990s NU.C has been thrust under a bureaucratic microscope, providing the impetus for several surveys, reviews, and reports on 'corrections' in Nunavut. As one of my interviewees (OCI Interview 2 June 2015) explained, in 2013 the OCI undertook an investigation of Aboriginal corrections in Canada, relying heavily on penal standards and correctional legislation to demonstrate a lack of standard penality in Nunavut and the need for penal reform. Investigators examined sections 81 and 84 of the CCRA—on the

supervision and custody of Aboriginal offenders *within* Aboriginal communities—and grew particularly concerned that there were no section 81 or 84 agreements in Nunavut. The 2013 OCI report on NU.C, while initially kept under wraps by the territorial government, was made public and gained widespread news media attention. One of the investigators explained to me: "At that time, I contacted the director of Nunavut Corrections...and he was very receptive he said; 'yeah sure you can come and visit BCC but I have got to tell you—this is a problematic institution'" (OCI Interview 2 June 2015). I've written elsewhere (see Brisson-Boivin 2016) about these problematic and deplorable conditions at BCC including over-crowding leading to increased instances of violence, extensive mold leading to health issues, and a lack of social and communal supports leading to problems with re-integration and recidivism.

Nonetheless, the director of NU.C was keen to see investigators write a report on BCC specifically since he was trying to build a case to have the prison shut down (OCI Interview 2 June 2015). According to one of the investigators (OCI Interview 2 June 2015):

> I talked to the director and said; "well there are a lot of reports on BCC so what would make our [OCI] report different?" BCC was deemed a fire trap, it was reviewed by engineering firms saying it was problematic, it had mold everywhere...so I eventually suggested to [the director of NU.C] that we could do a report through a human rights lens and we could do a *real* prison inspection.

Rather than a business case, relying on the work of health inspectors and engineers, the OCI (Interview 1 and 2 June 2015) suggested that a prison inspection, utilizing the tools of penal standardization, would be more successful in making a case for the closure of BCC, and penal reform in NU.C generally. One of the investigators conducted the prison inspection in Nunavut while the other concentrated on a review of the policy and legal frameworks for NU.C (OCI Interview 1 June 2015). While the report did not result in the closure of BCC,

there have been efforts to remove mold from the prison, and the Government of Nunavut has recently (October 2016) applied for a federal grant of $76 million for renovations to BCC, which would rebrand the prison Qikiqtani Correctional Healing Centre, bolstering prison expansion in the territory by more than doubling the current prison occupancy, from approximately 50 prisoners to 112 prisoners (CBC News 2016).

Following the OCI investigation (in March 2015) the office of the Auditor-General released a report (to the Legislative Assembly of Nunavut) based on its own investigation of NU.C. According to the report (Ferguson, Auditor General's Report 2015: 10) the audit covered the period of April 2012 to March 2014 and focused on whether NU.C was meeting its key responsibilities for prisoners within the correctional system in Canada including "adequately planned for and operated facilities in compliance with key rehabilitation and reintegration requirements." The report (Ferguson, Auditor General's Report 2015) detailed problems with staffing (including an over-reliance on casual staff and inadequate staff training) and problems with the inclusion of Inuit legal principles and values, concluding that NU.C was not meeting these key responsibilities. However, penal investigation in Nunavut, while making a case for substandard penality, does so in a way that fails to consider Inuit logics and practices of punishment as viable alternatives to incarceration. Instead settler colonial relations of government are reinforced through penal investigations that promote carceral punishment as *the* model of standard punishment with little regard for the unequal effects of these governmental relations that are responsible for substandard penal conditions in the first place.

Enforcing Standard Punishment: Re-enforcing Settler Colonial Government in Nunavut

The abundance of investigative reports providing evidence of substandard penality in Nunavut results in the shoring up of state-administered punishment, which exacerbates many of the problems

facing NU.C, and solidifies the territorial government's dependency on the federal government for the provision of social services in Nunavut, including 'corrections.' However, the current culture of substandard 'corrections' is a marker of shame for the people of Nunavut:

> No one wants [BCC] to stay up. They all want something else built...there is a feeling of shame among people...you don't direct yourself professionally in the [penal] field if it is to be a torturer. (OCI Interview 1 June 2015)

> What I've seen [at BCC] it doesn't make sense. I think a lot of people are scratching their heads about what is going on in Nunavut. (OCI Interview 2 June 2015)

Yet, when I asked interviewees to explain why BCC was still running, despite the widespread agreement that BCC should be shut down, they responded with some variation of an explanation concerning the competition over public funding in Nunavut, whereby prison operations are the least likely of cases for reform:

> Building a new facility in Nunavut is extremely costly...and while [NU.C] had a number of reports made from various stakeholders…showing how problematic [BCC] is… money! money! Try to bring steel there—it's costly. Then it's frozen ground, so all the materials you need to build cost ten times as much as anywhere else...you need to find workers and bed them and feed them...and yet any government situation where you have scarce resources such as education, or hospitals...resources will funnel into [those] things. (OCI Interview 1: June 2015)

Another penal investigator (OCI Interview 2 June 2015) explains:

> The problem in Nunavut is funding…and when there are competing priorities, for example, when the schools have

> mold, public housing has mold, and hospitals are problematic, public works focuses their energy on that. The director of [NU.C] can jump up and down and say the prison is not up to code...he won't get the money to fix it.

Similarly, as the Native Inuit Liaison Officer (NILO Interview September 2014) I interviewed explains, "when it comes to Nunavut tax dollars [the government] is more apt to put in another school or improve something along those lines as opposed to BCC." Even CSC (2006–2011: 7), in its Strategic Plan for Aboriginal Corrections, noted that while Aboriginal communities are interested in the development and implementation of community corrections, "priorities for remote communities, including the North, were focused on more immediate needs such as healthcare, housing, and economic development."

The director of NU.C struggles to convince the government and people of Nunavut that punishment is a worthy social investment because the average Nunavummiut does not benefit from the same social services provided to Canadians in other provinces and territories. However, the inability to build a case for penal reform in Nunavut is the result of decades of enforcing settler conceptualizations of justice and punishment (rather than respecting and upholding an Inuit ethos of justice), which works to reinforce conditions of marginalization and social inequality. Respondents repeatedly referenced the prevalence of the carceral institution in their discussions of 'new facilities' or much-needed prison renovations rather than considering alternatives to imprisonment, particularly more meaningful and relevant Inuit alternatives, that would command allegiance and respect (Napoleon 2007: 13). As Nichols (2014: 450–452)[8] explains, in the Canadian context, colonial domination or "the carceral archipelago of empire has always combined spatial isolation and confinement with linkages and

[8] Building on the work of Ann Laura Stoler (2006) and Michel Foucault (1977/1995)

connectivity highlighted most dramatically by the circuit [or carceral continuum] many indigenous peoples traverse between the reserve [or settlement in Nunavut] and the prison, two sites of physical and spatial containment that are intertwined in one another."

While the penal institution in Nunavut is arguably unethical in its use of substandard conditions and the deplorable treatment of prisoners, the prison remains the *sine qua non* for the standard conceptualizations of punishment that are characteristic of settler colonial government in the territory. This fixation on the prison as standard within settler colonial penal government means that penal reform in Nunavut is at a stalemate, since the structuring formation of settler colonialism—which significantly deprives Indigenous self-governing capacities and intensifies conditions of marginalization and social inequality in the territory—produces other 'more worthy' social institutions in need of investment (such as schools and hospitals). However, as Nichols (2014: 445) argues, "Indigenous sovereignty itself calls forth an alternative normativity that challenges the very existence of the carceral system, let alone its internal organization and operation." An Inuit ethos of justice that advocates non-carceral, community-centred logics and practices of punishment, such as 'on the land training,' Elder counseling, and community sentences,[9] mobilizes a radically different conceptualization of punishment from carceralism and provides viable solutions for penal government reformation in Nunavut. However, if we are to seriously consider Inuit sanctions then we need to learn how to live without the prison, or at least without the prison as the first response to crime and social disorder. Furthermore, until the case for penal reform in Nunavut is presented alongside efforts to recognize and ameliorate the systemic social inequality that permeates settler colonial government in the Arctic, penal reform will not happen. Following Coulthard (2014: 94–95) and Mifflin (2009), what is needed is an understanding of the complex web of oppressive social relations that anchors the Canadian state's colonial relationship in Nunavut, as well

[9] Such as community service, house arrest, and mandatory drug and alcohol treatment.

as the development of penal programming that is meaningful and relevant to the regional politics of Nunavut and the Inuit. Re-engaging an Inuit ethos of justice would work towards decolonizing the politics of penal government in Nunavut.

Conclusion

I have demonstrated that the introduction of carceral penality in Nunavut is part of a settler colonial project that, in its earliest stages, problematized the Inuit ethos of justice for unbalanced, unevenly distributed, and community-centred punishments. Consequently, standardized forms of carceral penality were transplanted into the Arctic giving rise to new collective experiences of crime in which the authority to punish was disembedded from the communal, shared wisdom of community members (particularly Elders) and re-embedded in the conduct of governmental actors. Despite legislative and judicial protections for Inuit offenders, such as the Nunavut Correctional Plan and Gladue Reports, the Inuit are subject to sky-rocketing rates of incarceration in which Inuit prisoners are serving some of the most oppressive sentences in Canada. In the short span in which carceral institutions have existed (and expanded) in Nunavut, the territory has witnessed the actualization of the self-fulling prophecy: if you build them (prisons), they (prisoners) will come.

Just fourteen years after the establishment of the territorial government and the Nunavut Correctional Plan, the conditions of imprisonment were so abhorrent that the director of NU.C called for a national inquiry into the state of corrections in Nunavut. However, my empirical analysis of the penal investigation uncovers how standard conceptualizations of punishment promote the moral virtue of the prison and continue to reinforce carceral punishment as the norm in Nunavut. I explained that a primary impediment to penal reform in Nunavut is the failure of governmental authorities to recognize how carceral punishment is tied to the history of settler colonial state projects, which in turn reinforces social and economic inequality in the territory and works against claims that penal reform

is a worthwhile social investment. In contrast to mainstream representations of the Inuit as criminogenic and Inuit penal justice as intrinsically substandard, I argued that state-administered, carceral corrections are responsible for substandard penal conditions, erode the self-governing capacities of the Inuit, and further entrench southern Canadian, settler colonial modes of government in Nunavut.

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