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Prisoning Indigenous Women: Strength and Resilience in the Face of Systemic Trauma

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Abstract: *The overrepresentation of Indigenous peoples in the Canadian criminal justice system is an enduring and systemic issue that must be addressed. Over the past 10 years, the proportion of women behind bars has increased by almost 30 percent; for Indigenous women, this number is 60 percent (Office of the Correctional Investigator 2017). Using a critical feminist criminological lens, this paper explores the ways in which colonial legacies, patriarchy, trauma, and systemic victimization inside and outside the criminal justice system contribute to the criminalization and (over)prisoning of Indigenous women and questions the practice of prisoning an already marginalized and oppressed group of people. Drawing on critical feminist criminological research and empirical studies, I theorize a victimization–criminalization–incarceration cycle concept to explain the ways in which societal-, institutional-, and individual-level factors intersect and impact Indigenous women’s journeys through the criminal justice system in tangled and complicated ways. Future research could provide additional insights into the potential value of this concept for policy and practice.*

As I listened to “Sadie,” an Indigenous woman currently serving the last part of her federal prison sentence at a local prison, speak to my fourth-year Sociology of Punishment students, I fought back tears.¹ She shared with us the details of her life (best characterized as rife with physical and sexual abuse, victimization, racism, discrimination, violence, and substance abuse) and the factors that contributed to her second-degree murder conviction in the death of her husband. She talked about her experiences with incarceration and her determination to turn her life around. The last time she received early release, she was sent to a halfway house. There, she was housed with male offenders and barely slept at night for fear of being sexually assaulted. The halfway house was located in the shadiest part of the city, where prostitution, homelessness, and crime were prevalent. The ready availability of drugs and alcohol in the area meant that, if tempted, she could have used within seconds. Struck by Sadie’s situation – representative unfortunately, of many women and of many Indigenous women involved in the criminal justice system – I asked myself, “Why was she in prison?” The question, when taken at face value, may seem silly. The answer is obvious: She killed a man. However, without dismissing the fact that he lost his life in a violent manner, leaving many to mourn his passing (including Sadie), my query was more about the pathways, or, in Comack’s (2018) terms the “trauma trails” that led Sadie to this point. Comack (2018) uses the term to describe the ways in which multi-

¹ ‘Sadie’ is a pseudonym. Sadie, who granted me permission to use her story in any reports or academic works I might write, was granted an Escorted Temporary Absence to visit my class.

ple forms of victimization impact and influence women's journeys into and out of prison. The vast majority of the women she talked to identified as Indigenous; colonization,² victimization, marginalization, and patriarchal³ practices combine with and compound each other in ways that are particularly disadvantageous and traumatizing for Indigenous women involved in the criminal justice system.

Women who are involved with the criminal justice system present histories, needs, and challenges different from those of their male counterparts.⁴ Research shows that men's and women's pathways into crime differ. For women, victimization and trauma are, in many cases, a precursor to criminal involvement; research has shown the significance of the multiple sources of oppression and marginality that contribute to their criminal behaviours (Comack 2018; Turnbull and Hannah-Moffat 2009) and criminalization (Balfour and Comack 2014; Monchalin 2016). Crimes committed by women are often "survival" crimes – crimes linked to their marginalized status; victimization and subsequent trauma; and their experiences with substance abuse, mental health issues, and family violence (Sheehan and Trotter 2018).

Women are the fastest-growing population in Canadian corrections (Office of the Correctional Investigator [OCI] 2017). Over the past 10 years, the proportion of women behind bars has increased by almost 30 percent. The situation is worse for Indigenous women; the number of Indigenous female offenders has increased by 60 percent over the same time period. Moreover, 38 percent of the federal inmate population (both male and female) is Indigenous (OCI 2017), yet Indigenous peoples make up only about five percent of the Canadian population. Indigenous overrepresentation in the criminal justice system is an enduring, systemic problem in Canada – so much so that the Truth and Reconciliation Commission (TRC) has called upon "federal, provincial, and territorial governments to commit to eliminating the overrepresentation of Aboriginal people in custody over the next decade" (TRC Final Report 2015, 3). Indigenous peoples are overrepresented and fare worse at all stages of the criminal justice system process: They are overpoliced, more likely to go to court and receive harsher sentences, and less likely to be paroled (Adler et al. 2012). The Correctional Investigator, the watchdog and ombudsperson for federal corrections in Canada, reports that most Indigenous offenders are released from custody on their

2 I use Mario Barrera's definition of colonialism: 'a structured relationship of domination and subordination, where the dominant and subordinate groups are defined along ethnic and/or racial lines, and where the relationship is established and maintained to serve the interests of all or part of the dominate group' (as cited in Monchalin 2016, xxxi).

3 The use of terms like 'patriarchal practices' and 'patriarchy' throughout this article refer to 'the systematic and individual power that men exercise over women' (Brownmiller 1975; Comack 2014; Kelly 1988).

4 This is not to discount the fact that many men who are involved with the criminal justice system also have complicated histories and experiences. Indigenous men, particularly, face unique challenges. However, the stance I take in this paper is that Indigenous women's experiences are complicated by the intersections of race, gender, social class, motherhood, and other factors in ways that result in multiple oppressions and, for that reason, require special attention.

statutory release date (after having served two-thirds of their sentence);⁵ 79 percent of these individuals are released directly into the community from a maximum or medium security institution “without benefit of a graduated and structured return to the community” (OCI 2017, 48). It should come as little surprise, then, that the rates of recidivism for Indigenous offenders is high absent the active support of release and reintegration programming in the community. Indigenous offenders are more likely than non-Indigenous offenders to return to prison (OCI 2017). Just over 70 percent of the women in Comack’s (2018) study had a history of incarceration; 40 percent had served time as youths.

The staggering statistics related to criminalization are mirrored in patterns of victimization. Indigenous women and men experience violent victimization at a rate double that of their non-Indigenous counterparts (160 incidents/1,000 population compared to 74 incidents/1,000). The violent victimization rate among Indigenous women is almost three times that of other women: 219 incidents per 1,000 compared to 81 (Mahony, Jacob, and Hobson 2017). This higher rate persists even when other victimization risk factors are taken into account (Boyce 2016), suggesting that there is something about being an Indigenous woman that plays an important role in these disturbing statistics. The thousands of missing and murdered Indigenous women and girls in this country tragically and powerfully illustrate this point.

Disturbing as they are, these statistics flag broader, structural processes that discriminate against Indigenous women and contribute to their victimization and criminalization. The ongoing tragedy of missing and murdered Indigenous women and girls is an example of the systemic discrimination, based on colonial and patriarchal processes, that impacts this group. Cases like that of Pamela George⁶ and Cindy Gladue⁷ are shocking reminders that criminal justice is a process that affects people differentially based on intersections of race, class, gender, social and physical locations, the use of space (urban and rural), and perceptions of whose merit and life circumstances are considered more worthy in a patriarchal society marred by the ongoing effects of colonialism. Both Pamela George

5 A presumptive release by law, statutory release applies to most offenders (there are some exceptions). Offenders must be released by the Correctional Service of Canada after serving two-thirds of their sentence. In the last third of their sentence, served in the community, they are required to report to a parole officer and meet other standard conditions (<https://www.canada.ca/en/parole-board/services/parole/types-of-conditional-release.html>).

6 The case of the brutal murder of Pamela George in 1995 by two young white university athletes who were subsequently given light sentences is analyzed by Sherene H. Razack in her 2000 article “Gendered Racial Violence and Spatialized Justice: The Murder of Pamela George.” *Canadian Journal of Law and Society* 15, no. 2: 91-130. In it, she shows how the case is an example of gendered racial violence and the ongoing colonization of Indigenous peoples, arguing that, through the interaction of bodies, race, and space, places exist where ‘universal justice does not operate’ and ‘violence remains invisible in the law’ (130).

7 The death of Cindy Gladue in 2011 and the trial of Bradley Barton are part of a history of colonial terror. Using a framework of gendered and racialized disposability, Razack shows how sexualized violence is key to Indigenous women’s expendability in settler colonialism (Sherene H. Razack. 2016. “Gendering Disposability.” *Canadian Journal of Women & the Law* 28, no. 2: 285-307).

and Cindy Gladue were Indigenous women who worked in the sex trade. In both cases, white men were implicated in their murders. What was striking in these cases, and the reason they are discussed here, is that, during the court proceedings, in the words of their killers and in public discourse surrounding the cases, both women's victimization experiences were overshadowed by their racialized and criminalized statuses. They were constructed as somehow almost "deserving" of their victimization because of prevailing stereotypes. One of George's killers confided to a friend that he and his friend had "beat the shit out of an Indian hooker" (Razack 2000, 111). Razack, discussing the case of Helen Betty Osborne, another Indigenous woman brutally murdered by white men, draws on the words of the Commissioners of the Aboriginal Justice Inquiry of Manitoba (1991), who were tasked with investigating the case. The Commissioners state that "It is evident that the men who abducted Osborne believed that young Aboriginal women were objects with no human value beyond [their own] sexual gratification" (as cited in Razack 2000, 105–6). Razack (2000) adds, "Such assumptions often appear to be operating when the police fail to respond to the disappearance of Aboriginal women, citing their involvement in prostitution and their practices of moving from place to place" (106). Although these women are *victims*, stereotypes and assumptions foreground assumptions about their *criminalized* status. Stereotypes and criminalization trump victimization, making their victim status less important in the eyes of offenders, actors in the criminal justice system (e.g. police, members of the court), and members of the public.

These stereotypes, rooted in colonial processes, combined with the criminalized status of "hooker" or street worker, result in a construction of the women that places their race and involvement in the sex trade as factors more relevant to court and public discourse than their brutal victimization and murder. While this discussion is not directly about the incarceration experiences of George and Gladue, it does implicate broader processes of race, gender, and criminal justice system processes and biases that reveal the complicated, entangled nature of the criminalization and victimization of Indigenous women in this country. As research shows, for Indigenous women especially, victimization and criminalization are often intimately linked (Comack 2014; Maidment 2006; Sheehan and Trotter 2018). Indigenous women face bias and marginalization when they are *victimized* and when they are *criminalized*. The implications for incarceration experiences are discussed later in this article.

In this article, I aim to explore these processes and their interconnections further. Writing from the perspective of a white settler, I acknowledge that there is much I do not know or understand about the experiences of the women I write about. As a critical feminist criminologist, my objective is to provide an intersectional, critical analysis of the ways in which colonial society and the criminal justice system work to perpetuate systemic discrimination that profoundly affects Indigenous peoples in this country, the impacts of which are magnified for Indigenous women. In this literature review and synthesis of research, I use an intersectional lens to build on the concept of a victimization–criminalization continuum (Balfour and Comack 2014, 7) to examine the treatment of Indigenous women

in society and in the Canadian criminal justice system. This examination is not exhaustive but, rather, focuses on “snapshot” examples of how the system, while often “intending” to be progressive, in fact exacerbates the discriminatory treatment of Indigenous women, resulting in more trauma and disadvantage for this already marginalized, oppressed, and traumatized population. My contribution is that of bringing together literature on the topic and theorizing a broader picture of the victimization, criminalization, and incarceration of Indigenous women. Ultimately, I suggest that the relationship between victimization and criminalization for Indigenous women is perhaps more accurately described as a cyclical process that perpetuates both victimization, criminalization, and incarceration in a tangled reciprocal manner. I propose a conceptualization of the involvement of Indigenous women in the criminal justice system that is cyclical, building on the linear process suggested by the concept of “continuum.” I theorize the use of a *victimization–criminalization–incarceration* (VCI) cycle concept to describe and explain the experiences of Indigenous women in the criminal justice system and suggest that this concept may help to more systematically direct efforts to reduce the trauma and oppression of this population, in both the short and long term. I question the use of prison as a response to trauma created by settler colonialism, capitalism,⁸ and patriarchy. Acknowledging that change will take time, I suggest that using the VCI cycle concept in examining the processes and effects of the current operation of the criminal justice system can direct us toward positive, harm reduction-based interventions and supports that might mitigate some of the damaging and traumatizing effects of colonialism, patriarchy, victimization, criminalization, and involvement with the criminal “justice” system. I suggest that this cyclical conceptualization of Indigenous women’s involvement in the criminal justice system opens up multiple avenues for ways to intervene in the cycle and effect positive change at the individual, institutional, and societal levels.

I aim to do the following in this paper. First, I discuss the victimization–criminalization continuum (Balfour and Comack, 2014, 7) and provide context and evidence for the ways in which victimization and criminalization are particularly “entangled” for Indigenous women in Canada. Second, I provide some “snapshot” examples of the ways in which the criminal justice system metes out gendered and racialized (in)justice when it comes to Indigenous women, illustrating systemic bias and the ways in which the “normal” operations of the Canadian criminal justice system systemically marginalize Indigenous women and contribute to their further victimization. Third, again through the use of examples, I show how Indigenous women’s involvement in the criminal justice system leads to further *criminalization and victimization* of this group. Finally, I question carceral logic and present the concept of a VCI cycle as a more accurate way of theorizing Indigenous women’s involvement in the criminal justice system. I suggest that the key value of this reconceptualization is that it has the potential to provide researchers, policymakers, and frontline workers with a theoretical construct the practical implications of which reveal

⁸ I take the stance that capitalism, an economic system in which a country’s industry and trade are controlled by private owners for profit, works in conjunction with both colonialism and patriarchy in ways that marginalize and oppress racialized and other subordinate groups, to the benefit of dominant groups.

multiple locations – physically, socially, specially, temporally, and culturally – where opportunities, supports, resources, and interventions could occur. Although the VCI cycle concept might seem to focus on the individual, it is informed by the recognition that broader systemic processes must also be addressed. Above all, it adds to the discourse around Indigenous, criminalized women that shows how incarceration exacerbates prior and ongoing victimization and criminalization and directs our attention to the critical importance of breaking the VCI cycle.

The Victimization–Criminalization Entanglement

The context within which individuals live and make choices must be taken into account when attempting to understand their criminal behaviour and, importantly, must be acknowledged when addressing rehabilitation and community re-entry post-incarceration. The specific contexts within which many Indigenous peoples live and within which some end up involved in the criminal justice system are well-documented (Comack 2018; Monchalín 2016; RCAP 1996). Comack (2018) uses a “trauma lens” in her study on incarcerated women. This sociological framing of trauma makes sense of women’s stories by focusing on the structural barriers (e.g. race, class, gender) that have influenced their life pathways, choices, and behaviours. When one takes into account systemic barriers, the term “choice” itself becomes a loaded term. As she states, “trauma is understood not as a psychological disorder or disease but as the lived experience of residing in a settler colonial, capitalist, patriarchal society” (28). Without discounting that individuals of all genders who are involved with the criminal justice system share many of the indicators of marginalization and victimization, there is strong evidence for the gendered and racialized experiences of these indicators. Comack (2018) writes about the trauma, conflicts, and dilemmas that bring women into the fold of the criminal justice system; the women’s accounts of these experiences “expose the often-blurred boundaries between ‘offender’ and ‘victim’ and the limits of law’s official version of events” (29). One of the many lingering effects of colonial processes is the “double victimization” of Indigenous women, who are “disempowered and oppressed within both the Euro-Canadian mainstream and the Indigenous collective” (Fontaine 2014, 117). Many criminalized women have histories of victimization and trauma that make it difficult to untangle the two.

Victimization and trauma take many forms. Prison populations are characterized by various indicators of social structural disadvantage, including unemployment, low educational levels, homelessness, substance abuse, histories of family violence, child abuse, and victimization (Jones et al. 2019). These are groups of people who typically experience varying degrees of marginalization. The indicators of marginalization are more pronounced for women prisoners, who in addition deal with oppressions related to gender, and more so for Indigenous women, who are faced with the ongoing impacts of colonization and the accompanying systemic racism and discrimination. The nature of prison populations has caused prisons to serve as a social welfare safety net for marginalized groups, which have slipped through the cracks of other societal institutions (see Irwin 2013). One

example concerns mental health. As Pedlar et al. (2018) and others have explained, the de-institutionalization of provincial mental health facilities has resulted in the re-institutionalization of many of these individuals in correctional facilities. Our prisons have become places where people with myriad needs – mental health, addictions, poverty, homelessness, under-education, unemployment – congregate. However, prisons are not adequately equipped to deal with these issues, which have roots outside their walls, and the result is often the “warehousing” of individuals until they can be released.

Rates of mental illness diagnoses among Canada’s female incarcerated population are alarming (Kilty 2012). Females admitted into federal institutions are twice as likely as men to have a mental health diagnosis, and more than half of women entering prison are in need of a mental health assessment (Pedlar et al. 2018). It is likely that rates of mental illness are underestimated as a result of stigma surrounding the topic and because many of the women who end up in the criminal justice system may not have been able to access mental health support. As Kilty (2012) shows, even in cases where diagnosis has occurred, incarceration presents additional challenges for women when it comes to interactions with medical and other staff in ways that can severely impact their mental health, including overmedication as a form of management. The women prisoners she interviewed recounted instances where they were denied medications they were taking in the community pre-incarceration, were switched to new medications, or were over-medicated and felt like “walking zombies” (Kilty 2012, 169). They also emphasized the lack of access to counselling services (long wait lists), and their lack of trust in counsellors, whom they perceived more as correctional staff than psychological supports. Kilty (2012) concludes that treatment “becomes interwoven with risk rather than therapeutic discourses” (174).

Related to this issue is dependence on substances. Women (and men) who are incarcerated report high rates of substance abuse (80 percent); many (over half) admit to having been under the influence of substances when committing the offences for which they are serving time (Pedlar et al. 2018). Rates of self-injury are also higher among women in prison (compared to their male counterparts), and the rate is much higher still among Indigenous women (Pedlar et al. 2018). An example of prisons being ill-equipped to deal with this and the resulting re-traumatization of women by prison experiences is the link between cases of self-injury and use-of-force interventions, with Indigenous women over-represented in both (Pedlar et al. 2018). Rates of self-injury for Indigenous women prisoners are 17 times higher than those for other women in prison, and, as the Correctional Investigator reports, over the past 10 years, “inmate assaults involving Aboriginal women have almost doubled while use of force incidents have more than tripled” (OCI 2015, 51). This is but one example; there are many other ways in which prisoning is harmful that are beyond the scope of this article. For women, the impact of prison on mothering (Scheuneman Scott 2019), children, family relationships, and the perpetuation of intergenerational trauma through the loss of children to Child and Family Services are particularly traumatic (Eljdupovic and Bromwich 2013). Prison, and the collateral damage it can cause women and their families, means that, for many women, involvement in the criminal justice system – and prison specifically – are sources of (re)traumatization that perpetuate and exacerbate the victimization–criminalization cycle.

Systemic Bias

As stated earlier, prison is ill-equipped to deal with many of the social structural and socioeconomic challenges faced by many people behind bars. This is made worse by a political-economic climate that has contributed to the increased use of mandatory minimum sentences, the construction of more prisons, and the popularity of a “get tough on crime” approach. The effects of neoliberalism on how the state governs, the discourse surrounding the need for deficit reduction, and cutbacks to social programs are disproportionately felt by those most marginalized in society. Its effect on state restructuring – the shift from the idea that citizens are entitled to government support to meet basic needs towards an emphasis on individual “responsibilization” and self-reliance – trickles down to the criminal justice system and impacts the ways it operates and treats its wards. Specifically, criminals are expected to take responsibility for the choices they make absent any consideration of the social structural factors that may (and do) structure those “choices.” Concomitant with this approach to crime control – one of responsibilization and individualization – is a shift in emphasis from a concern with the welfare and rehabilitation of offenders towards an emphasis on risk management: “identifying and managing unruly groups” (Feeley and Simon 1992, 455).

Risk management is one example, one representation, of a criminal justice system that was created by and for (white) men, which has serious implications for the ways in which other groups experience it. The premise behind risk management is that it is an evidence-based, scientific approach to crime control; risk is measured through “checklists of risk factors and actuarial tools” (Comack 2018, 15). But risk management is rife with issues, many of which impact Indigenous women in counterproductive and harmful ways. What is risk? What is an acceptable amount of risk? Who determines what risk is in the first place (O’Malley 2010)? Aside from cultural differences in constructions of risk, there are challenges with the use and implementation of risk assessment instruments because they affect diverse populations differently. The RNR (Risk, Need, Responsivity) model is a well-known risk assessment instrument used in corrections. Briefly, the “risk” principle refers to “matching the level of service to the offender’s risk to reoffend” (Comack 2018, 15). The “need” principle centres on an offender’s criminogenic needs – factors like employment, substance abuse, community functioning, family, that are linked to criminal behaviours and should be addressed in treatment programming. “Responsivity” refers to the type of treatment approach best suited to the offender’s personal characteristics (Comack 2018, 15).⁹

One of the issues critics have with the use of risk assessment models and instruments such as the RNR is that, while they are touted as scientific and evidence-based, this is not the case. Feminist critics point to the gendered nature of such instruments (Comack 2018; Hannah-Moffat 2009; Pollack 2010). Given their histories of victimization and

9 For more on RNR, please see D. Andrews, J. Bonta, and R.D. Hoge. 1990. “Classification for Effective Rehabilitation: Rediscovering Psychology.” *Criminal Justice and Behavior*, 17 and J. Bonta and D. Andrews. 2007. “Risk-Need-Responsivity Model for Offender Assessment and Rehabilitation 2007-06.” Ottawa: Public Safety Canada (http://publications.gc.ca/collections/collection_2012/sp-ps/PS3-1-2007-6-eng.pdf).

trauma, many criminalized women are more likely to be *at risk* as opposed to risky, but this tends to be lost on risk assessment instruments (Hannah-Moffat 2004). Feminists also point out that using assessment tools created based on male prisoner populations exaggerates the risk to the public that criminalized women pose. As Hannah-Moffat pointed out years ago, when it comes to criminalized women and risk assessment, risk and need are conflated. Histories of abuse and victimization indicate a need for treatment and support; when used as an indicator of risk, the (inadvertent?) result is that women are expected to take responsibility for their own victimization (if they want to improve/minimize their risk rating). For women, victimization is linked to offending. Therefore, to reduce future criminal behaviour, the criminalized woman must take responsibility for her victimization! In essence, “women’s gendered experiences are transformed into potentially foreseeable risks” (Hannah-Moffat 2004, 247).

As Comack (2018) points out, not only are these risk assessment tools gendered, they are also racialized constructions. She draws on the work of Haudenosaunee scholar Patricia Monture (1999) to elaborate: “when the ‘criminogenic needs’ categories in the RNR model are applied to Indigenous peoples, they guarantee a poor score” (Comack 2018, 16). What the instrument is measuring is the fact that Indigenous peoples and communities have been negatively and traumatically impacted by colonization and colonialism. To illustrate, when assessing community functioning as a risk factor, Monture explains, “Aboriginal people do not belong to communities that are functional and healthy (and colonialism is significantly responsible for this fact)” (Monture 1999, 27, as cited in Comack 2018, 16). The result is a higher risk assessment for the individual. A similar argument can be made for other risk categories, such as substance abuse. “Scoring higher on these categories is predetermined for Aboriginal prisoners because of the very structure of the instruments. What is being measured is not ‘risk’ but one’s experiences as part of an oppressed group” (Monture 1999, 27 as cited in Comack 2018, 16). As in the case of women discussed earlier, where victimization and risk become tangled, the instruments also conflate risk and oppression. Therefore, to reduce future criminal behaviour, the criminalized Indigenous woman must take responsibility for the impacts of colonization as well as her victimization. These processes – the gendering and racialization of risk – produce a particularly damaging result for Indigenous women, who experience both processes and who are, already, a marginalized correctional population.

It is beyond the scope of this article to delve deeper into the harmful impacts of risk assessment on Indigenous women, but it is not much of a leap to ask the next logical question: If these *instruments* are gendered and racialized, how are they used *in practice*? Hannah-Moffat found that standardized risk assessments were applied differently by practitioners, sometimes in ways that discriminated against women by treating them more harshly than their male counterparts. Even in cases when practitioners had received gender sensitivity training, applications of the tools differed (Hannah-Moffat 2004). This raises questions about *cultural* sensitivity training and how this might affect the use of risk assessments by individual practitioners, and what that impact might look like for Indigenous men and

women. While cultural sensitivity training has the potential to impact how individual practitioners approach the populations they work with, they are still working within a colonial, patriarchal institution that exerts powerful formal and informal control over the people who work and live under its control.¹⁰

Risk assessments have implications for security classification, another system designed with men in mind. Specifically, one result that is especially pronounced for Indigenous women is over-classification – “higher than necessary security classifications” (Pedlar et al. 2018). A higher than necessary security classification impacts Indigenous women negatively in three main ways. First, they are overrepresented in segregation. In 2016, Indigenous women made up 50 percent of the population in segregation (Pedlar et al. 2018, 52). Second, they are overrepresented in maximum and medium security institutions. Third, they are underrepresented in minimum security institutions. Immediate effects include unnecessary restrictions on movements behind bars as well as an inability to access services, resources, and programming that would benefit the women. The long-term effects are that the women are slower to cascade down to lower security levels and work towards eventual release from prison. In fact, Indigenous women are less likely to receive temporary absences or parole and are more likely to remain in prison until they reach statutory release (Pedlar et al. 2018).

Once in the community, whether on statutory release or parole, Indigenous people, and Indigenous women especially, face more hurdles, one of which comprises the non-association conditions commonly applied to people on parole. These conditions, which prevent people on parole from associating with others who might be criminally involved or otherwise engaged in behaviours considered problematic, are believed to encourage successful reintegration into the community by helping to keep parolees on a path devoid of temptation or criminal influences. However, non-association conditions mean that, for many women, associating with family and friends becomes risky behaviour in violation of their parole conditions. In effect, non-association conditions may be harmful to women as they reintegrate because they prevent the women from accessing important sources of support, including housing and emotional support. Research shows that social connections with those who share a history of incarceration can be critical in providing support and encouragement to women as they reintegrate (Heidemann, Cederbaum, and Martinez 2016; Opsal 2015; Turnbull and Hannah-Moffat 2009), yet parole conditions can and do restrict the circle of those with whom women can associate. As Turnbull and Hannah-

10 Research on the power of subcultures (e.g. the correctional officer subculture, police subculture) to influence individual behaviours and promote an ‘us’ versus ‘them’ mentality has been ongoing for decades (see for example, the classic work by Gresham M. Sykes, *The Society of Captives: Study of a Maximum Security Prison* (1958, Princeton University Press). See also Caitlin G. Lynch, “Don’t Let Them Kill You on Some Dirty Roadway: Survival, Entitled Violence and the Culture of Modern American Policing” (2018, *Contemporary Justice Review*, 21, no. 1: 33-43). Recent allegations and incidents continue to confirm that the criminal justice system is complicit in racialized and gendered violence. The murder of George Floyd and the resulting outpouring of stories of similar abuse at the hands of police and other criminal justice system personnel suggest that the problem is endemic and systemic. Black Lives Matter and Indigenous Lives Matter is a response to the pervasiveness of these issues and problems.

Moffat (2009) explain, these conditions often subject women to extensive penal control that extends into the community upon release, impacting and controlling their systems of support as well as family and intimate relationships.

The overrepresentation of Indigenous people in the criminal justice system increases the likelihood that an Indigenous woman will have people in her circle of support who have a criminal record or are involved in what the system considers dysfunctional behaviour. For example, formerly incarcerated women in Opsal's (2015) research describe how parole officers routinely disapprove of their post-release housing options because of the presence of negative factors (e.g. a gun in the home). The alternative becomes a halfway house or shelter; ironically, these places present a number of criminogenic influences of their own, which the women must navigate.

Questioning Carceral Logic

Despite these structural problems, which work to discriminate against Indigenous women, there are success stories. Compared to male federal offenders, women have more successful completion rates, are less likely to be revoked for a new offense, and are less likely to be revoked for breach of conditions (Pedlar et al. 2018, 52). One legacy of *Creating Choices*¹¹ has been the transformation of women's corrections, and, although the transformation has not been as dramatic as originally hoped, the idea of women-centred policy, practice, and programming thrives, as does the recognition of the importance of taking into account the needs and perspectives of Indigenous populations. In her response to the Correctional Investigator's 2017–2018 report, the Commissioner of the Correctional Service of Canada relays some of the successes achieved over the past few years. She reports a substantial decline in the federal custody population, a rise in Indigenous and non-Indigenous offenders on supervised release in the community, and, notably, a shift in women's corrections that has seen more women under community supervision than in prison (Kelly 2018). Further, she states that "efficient preparation for safe release and effective case management for women has resulted in fewer days spent incarcerated overall" (Kelly 2018). The Commissioner also reports an increase of 23 percent in the number of women who have upgraded their education level. Also noteworthy are the changes with regard to administrative segregation, which can no longer be used with certain groups; the rate of admission is down by 12 percent, including for Indigenous and women offenders (Kell 2018).

These types of institutional changes, while positive, are not enough. Fortunately, a number of groups and individuals are deeply committed to assisting women who are caught up in the criminal justice system and who are working towards re-entry post-

11 *Creating Choices* (1990) is the final report of the Task Force on Federally Sentenced Women. It called for significant changes to women's corrections in Canada, including the closure of the Prison for Women in Kingston, Ontario, and the construction of new regional facilities and a healing lodge. The report and its recommendations were women-centred and called for programming and an approach to women's corrections that would be women-centred and empowering (<http://www.csc-scc.gc.ca/women/toce-eng.shtml>). Please see Hayman, 2006, for a critical look at the history, creation, and implementation of *Creating Choices*.

incarceration. Programming within the institutions aims to assist women and prepare them for life outside prison walls, and, while they may not be perfect (for example, they have been critiqued for not being gender-responsive), many women do benefit from them. In addition to prison programming, there are many groups and programs – many run by volunteers or non-profit organizations – that operate within and outside prisons to help women as they leave prison and re-enter communities. Fortune et al. (2010) and Pedlar et al. (2018) have written extensively about Stride Circles, which provide support and friendship within prison walls and then continue to support women post-release. Researchers have also examined the effect of engaging in Indigenous cultural traditions while in prison (Yuen 2008), as well as programs such as the Inside-Out Program (Freitas, McAuley, and Kish 2014). However, working within the system, without broader systemic change, is like putting a Band-Aid on a broken leg.

These community groups and non-profits are a stopgap for much bigger, systemic issues. Elizabeth Comack, in *Coming Back to Jail: Women, Trauma, and Criminalization* (2018), poignantly makes the point when she sets up the book's content in the first chapter. This book, a follow-up to her 1996 monograph, *Women in Trouble*, begins with a conversation with one of the women in her original sample, Sarah, whom she is now interviewing again, 22 years later. Comack asks her, "So what have you been doing since then?" Sarah replied with a chuckle, 'Coming back to jail'" (2018, 9). Stories like those of Sarah and Sadie are stories of resilience and survival. Despite 22 years of participating in the revolving door of prison and release, Sarah survived and could joke about her situation. At the conclusion of Sadie's talk in front of my university class, she quietly presented me with an eagle feather, shared with me the significance of this gesture, and thanked me for having her come to visit and share her story. About a month later, I received an invitation, through her prison caseworker, to attend her parole hearing. These women, and so many others like them, exhibit remarkable strength and resilience in the face of unfathomable hardship. There *are* success stories, but at what cost? What we need is a systemic, structural response, and one that questions why we are sending these women to prison in the first place. Systemic problems require a systemic response.

Victimization, Criminalization, and Incarceration

I would like to return for a moment to my opening comments about Sadie. Why was Sadie in prison? By delving deeper into her story and the stories of too many other Indigenous women, we find complicated tales of the effects of settler colonialism, patriarchy, capitalism, and racism, tales rife with trauma – tales of "structural violence, the social injustices and systemic barriers that prevent individuals from realizing their full potential" (Galtung 1969, as cited in Comack 2018, 87), which result in the incarceration of individuals whose situations and needs might be better served on this side of the prison wall. When taking these systemic processes and the trauma that they create into account, what is apparent is that stories like Sadie's are also stories of strength, resilience, survival, and hope. The question then becomes: How can we build on the remarkable strengths these women have while also working to expose and ameliorate the broader structural and systemic processes discussed above?

If we heed Balfour's sage advice, we would do well to "reconsider the victimization-criminalization continuum in the context of colonial and gendered structural conditions of endangerment" (2008, 116). If we look more closely at the impacts of victimization, criminalization, *and* incarceration on Indigenous women's lives, a more tangled, complicated picture emerges – one that I suggest is more accurately conceptualized as cyclical in nature. Sadie's life was marked by several journeys through the system. From a young age, she was involved in prostitution, drugs, and gangs, all of which resulted in revolving-door experiences with the criminal justice system. Incarceration must be implicated in the victimization and criminalization of these women's lives since it is a contributor to both. Incarceration contributes to victimization through, for example, harsh and traumatizing experiences such as solitary confinement, separation from children and families, overmedication, and exposure to physical violence. Incarceration contributes to criminalization through, for example, criminal records, punitive risk assessments, over-classification, and over-incarceration. It can be a messy, complicated, roundabout, back-and-forth type of process, with each of the three (victimization, criminalization, incarceration) feeding off and contributing to the other. As I have tried to show throughout this article, for many incarcerated individuals – and certainly in the case of most Indigenous women who are in prison – trauma and victimization interplay with their criminalization, which then draws them into a system that further marginalizes, oppresses, and victimizes them: It is difficult if not impossible to consider these processes separately. What is the goal of sending women with histories of abuse and trauma (sexual, physical, and emotional), substance abuse problems, mental health challenges, educational and employment difficulties, and homelessness to prison? Can we realistically expect our prison system to address the harm and trauma caused by colonization, patriarchy, capitalism, and systemic discrimination? It seems unreasonable to expect a system built to punish to also heal and empower. That is a tall order for an institution with a mandate to also exact retribution. Pat Carlen (2004) writes about "penal probity," the process of operating prisons according to moral principles that strive to "limit the damage done to prisoners and the harm done to society" (262). To act with penal probity means to call "a women's prison a prison" and not pretend it "is something else (for example, a hospital, an addictions rehabilitation centre, an education establishment, or a women's refuge where the powerless can be 'empowered' and the impoverished learn to take responsibility for their own impoverishment) (260)."

Creating Choices set out to do this but came up against a political-economic climate and political minefields that thwarted many of its initial goals (Hayman 2006); the inertia of the federal correctional system proved difficult to overcome. Some might suggest that a women-centred approach to corrections did not stand a chance, as a neoliberal correctional climate dominated by risk-management strategies came to the fore right at the time that Creating Choices was being implemented. There may be a recognition of the unique needs of incarcerated women, including their histories of abuse, but, in the current political and economic climate, the risk of offending overshadows all else. Given what we know about women who are incarcerated, including their needs, histories of

abuse, “trauma trails,” and responsibilities for dependent children, it seems irrational to expect prisons to provide them all they require to address their troubles.

Much of this is not news. The Truth and Reconciliation Commission calls on governments at all levels to commit to eliminating Indigenous overrepresentation in prisons. Decolonization and decolonizing practices are essential to this process. If ending intergenerational trauma, breaking cycles of violence, and reducing suffering is the end goal – and it should be – one important focus should be the criminal justice system, and prisons in particular. However, we have to acknowledge that prison is one part of the puzzle. As Pat Carlen (2004) powerfully and succinctly puts it, “Prison programming cannot provide the magic bullet which will reduce recidivism independently of a change in women’s circumstances outside prison” (260). I am reminded of a story a formerly incarcerated Métis friend of mine used to tell my students during his guest lectures. He talked about his lengthy incarceration and all of the programs he took behind bars to “rehabilitate”¹² himself. One popular program, which he took a couple of times, is the “Anger Management program.” He shared with students how he did really well in the program, passed it, got his certificate, but, when he returned to his unit, he was faced with and had to continue to live with “a bunch of angry, violent, guys” who had not taken the program or were not willing to practice its teachings. Individualized solutions to systemic problems can only go so far. I liken Richard’s experience with Anger Management to the relationship between prison and the broader community: Many prisoners will eventually return to the communities and contexts that are the sources of their struggles, challenges, marginalization, and oppression. If the communities and conditions that structured their lives and behaviours have not changed, how can we expect individuals to change?

Discussion and Conclusion

What should be done? How can we make change so that we reduce suffering and stop inflicting pain on people already experiencing trauma? Conceptualizing the experiences of Indigenous women in terms of a VCI cycle (ideally, there would be double-headed arrows in this continuum) more accurately accounts for the damaging effects of incarceration in their lives. It also directs us towards the multiple points in this cycle where support and intervention opportunities can be offered. Supports and interventions exist and work for many women. However, there is always room for improvement. For example, in the case of Sadie, there were multiple points at which support could have been provided (and perhaps it was) that may have disrupted the VCI cycle in a positive manner. As a young girl, Sadie was sexually abused and bounced from foster home to foster home; she eventually ran away from home, resulting in her entry into prostitution, involvement with street gangs, and multiple addictions. These were all missed opportunities for intervention, help, and support, which could have interrupted what would become the VCI cycle for Sadie. As she was a victim of domestic violence (which in part culminated in the crime for which she was

¹² The quotation marks are used for phrases and terms this individual used in telling his story.

incarcerated), support in the community may have helped stop the abuse and may have prevented the subsequent crime – another missed opportunity for support. She likely received support and programming in prison, but, upon her release, her time at the male-dominated halfway house proved detrimental to her reintegration into the community. Part of the challenge with her time at the halfway house was her worry about her 15-year-old son, who could visit her during the daytime but was forced to live on the streets at night because he had nowhere to live and could not stay with her. The impact of mothers' incarceration on their children is a critical part of the intergenerational nature of state and institutional involvement in the lives of Indigenous peoples (Landertinger 2015; Scheuneman Scott 2019). The VCI cycle necessarily directs us to consider the impact on children and families when mothers are incarcerated. These are victims of the collateral damage of incarceration; this victimization often starts children of incarcerated women upon their own VCI cycle.¹³ Sadie's return to the community provides another opportunity for integrated support and resources in terms of such things as mental health, addiction, and employment support. In the absence of this support, recidivism may occur; it did for Sadie, resulting in her violation of parole conditions, her return to prison, and the ongoing VCI cycle.

How would the VCI concept be implemented in practice? Further research on this topic is required. An integral part of this research will comprise input from Indigenous women who are entangled in the VCI cycle. They are in the best position to provide researchers with insights into the process and input into what is needed to break the cycle. While the VCI cycle concept directs our attention to ways to operate within and "tweak" the system to better serve Indigenous women, it also pushes us to see the need for alternatives to incarceration and decarceration (reducing the use of prison). Arguably, the VCI cycle concept and the situation of criminalized Indigenous women add to the growing support for prison abolition. Prison abolition is not likely to happen soon; in the interim, thinking about the interactions between victimization, criminalization, and incarceration makes a strong case for decarceration for criminalized Indigenous women. Reducing Indigenous women's oppression, trauma, and suffering is paramount; working within the system while broader systemic changes are made – while not ideal from an abolitionist stance – is an approach that will reduce suffering in the immediate and near future.

Working within the system is challenging. Canadian corrections rely to a large extent on checklists, risk indicators and assessments, batteries of tests, and indices to manage correctional populations. The prospect of a measurement "instrument" (akin to risk assessment forms and measures) is antithetical to the premise behind the VCI cycle

13 In Chalas and Grekul's (2017) study of 175 adult (ex)gang members, two-thirds of whom identified as Indigenous, 51 percent had been in the care of social services at some point in their childhood. Of these, 37 percent had three to six foster home placements, and 21 percent had *over 11* foster home placements. Participants were not directly asked about their parents' involvement in the criminal justice system as a possible reason for their social services involvement; however, when taking into account Indigenous overrepresentation in the criminal justice system, it is likely that some of this state involvement was a result of parental incarceration.

concept and would likely lead to the types of issues that occur with the Gladue reports.¹⁴ Perhaps training in applying the VCI concept, mandatory for all criminal justice system professionals, would be a viable option. Again, though, there is always the danger that the concept could be co-opted or applied in unintended ways that might cause more harm than good. Any application of the VCI cycle concept will need to be thought through carefully and critically and in direct dialogue with the women who experience it first-hand and who stand to benefit from its application in a meaningful and impactful manner. What is perhaps more feasible and potentially more useful is utilizing this concept to identify points in a person's life when targeted interventions might assist in interrupting the cycle while also directing attention to the broader systemic patterns that need to be dismantled.

We know several things for certain. The use of the VCI cycle concept in policy and practice requires, first, the acknowledgement that there is a problem, that racial profiling and criminal justice system discrimination against Indigenous peoples – and women especially – are systemic issues. The TRC's recommendations are an important first step in this process. Second, we need to be realistic: Prisons are not going to disappear anytime soon, nor will this issue be immediately dealt with. In the interim, we must devise ways to reduce the number of Indigenous women being incarcerated, improve the conditions of that imprisonment, develop ways to reduce the amount of time they spend in prison, and improve the conditions surrounding transitions from prison to community. This is not unreasonable or unrealistic. The fact that *Creating Choices*, with its women-centred approach to empowering women prisoners, exists gives us hope that steps can be taken toward positive change. Gladue is another example of the acknowledgement of the problem of Indigenous overrepresentation in the criminal justice system and represents a step forward. However, changes to the system must be critically assessed to measure the extent to which the change envisioned in theory have become intended practice. The intent of *Creating Choices* was thwarted significantly by the political and economic context within which it was implemented. Moreover, as Balfour (2008) shows in the case of restorative justice – policies and legislative changes meant to help address Indigenous overrepresentation in the system (Gladue) – Indigenous women were in effect treated more harshly than their male counterparts. Good intentions backfired in practice.

Third, it is possible to effect positive change while working within the system. While many critical feminist criminologists among us will cringe at that statement, evidence abounds of policies and programs that mitigate some of the suffering caused by the trauma

14 Gladue is a sentencing principle, a right that Aboriginal People have under section 718.2 (e) of the Criminal Code, which recognizes the systemic discrimination and racism that they face in society and within the criminal justice system. It attempts to address the problem of overrepresentation of Indigenous people in custody by making possible the creation of a Gladue report that assists judges, when sentencing, to consider 'all available sanctions other than imprisonment that are reasonable in the circumstances, with particular attention to the circumstances of Aboriginal offenders'. The Gladue reports include information about the background of the offender as well as recommendations as to what an appropriate sentence might be. Please see <https://www.nwac.ca/wp-content/uploads/2015/05/What-Is-Gladue.pdf> for an explanation of Gladue and Gladue reports.

trails that bring many women to prison. Programs like the Inside-Out program (Freitas, McAuley, and Kish 2014) and The Walls to Bridges Collection (Pollack 2014), which brings women prisoners and university students together, as well as recent endeavours led by faculty and staff at the University of Alberta Faculty of Native Studies – such as the women’s prison writing group and Humanities 101, which includes women prisoners in a university class setting – are shown to have positive effects on all students involved. Gender-responsive programming behind bars is also necessary but must avoid the pitfalls and problems that have marred its past use in Canadian corrections (see Balfour 2014).

Working *within* the system is one tactic (with which many feminist activists understandably disagree); broader social conditions also require attention and change. When ex-prisoners indicate that prison is preferable to living in their home communities because of the entrenched poverty and lack of supports there (Pedlar et al. 2018), this is a sure sign that we are long past due to address the reasons for this horrible reality. Support for community development is critical, as is support for decolonization. How best to develop healthy communities is beyond the scope of this article, but decolonization, community consultation, and the provision of resources and supports are clearly key in this regard. It costs well over \$100,000 to incarcerate one person for one year. One wonders what could be done if the millions of dollars spent warehousing individuals went into healthy community development instead.

The possibilities are numerous if we look at the work being done by non-profits, university groups, and others. An international lens is also enlightening and encourages creative thinking. Pedlar et al. (2018) draw our attention to the Norwegian system, a more humanitarian approach to incarceration. Unlike in Canada, where “crime legislation is developed largely by politicians, without advice from those knowledgeable in criminal justice policy” (Pedlar et al. 2018, 62 – think of then-Prime Minister Stephen Harper’s 2013 response to a question regarding the need to understand the root causes of terrorist involvement: “Now is not the time to ‘commit sociology’” – in Norway, criminal justice policy and politics are largely separate. The result is a prison system that would be considered “soft” (in contrast to the “tough,” or hard-on-crime, approach many politicians tend to favour here) by Canadian standards but that boasts recidivism rates significantly lower than those in North America (one-half to one-third the U.S. rate). Norway’s well-developed and broad system of social support outside of prison walls has a lot to do with this as well. Decolonization, community development, and healthy communities might be a tough sell in the current political climate but are worth fighting for, for all of the reasons discussed throughout this article.

Ultimately, this all comes back to a question posed earlier in this piece: Why are we sending Indigenous (and other) women to prison? Conceptualizing Indigenous women’s prison involvement as part of a VCI cycle can lead to the development of supports, resources, and interventions that address specific needs, experiences, and histories, thus focusing efforts to reduce harm and suffering and effect positive changes. Importantly, the VCI cycle concept encourages change at the individual, institutional, and societal levels. It is a work in

progress, a concept that requires further development and input from Indigenous women caught up in the cycle, the people who work with them, and the communities to which they belong. Individual-based programming and rehabilitation efforts are worthwhile endeavours, but, alongside these efforts, we should also focus on changing the contexts of and circumstances surrounding women's lives "on the outside," so that prison is no longer an acceptable option for dealing with trauma, victimization, and marginalization.

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