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BOOK REVIEW

Punishment in Disguise: Penal Governance and Federal Imprisonment of Women in Canada

BY KELLY HANNAH-MOFFAT

(Toronto: University of Toronto Press, 2001)¹ 250 pages.

For years, I wore a button with the slogan "I dreamed I visited the Prison for Women and nobody was home." When the Prison for Women was closed, I stopped wearing that button. And yet there was no triumphal political event which meant that I could throw it away. Women's prisons continue to exist. *Punishment in Disguise*, Kelly Hannah-Moffat's analysis of women's penalty from the early 1800s to the present, offers a sobering examination of the state of women's imprisonment and why the dream evoked by that button must be kept alive.

Recently, there was a review of Peter Oliver's contribution to Canadian penal historiography in this Journal. It lamented the lack of "analytically ambitious projects" that focus less on prisons *per se* and more on penalty, or the complex of knowledges, techniques, forms, and strategies that frame the broader context of carceral institutions.² Hannah-Moffat's *Punishment in Disguise* is an answer to that challenge. Hannah-Moffat presents her work as "a genealogy of some current forms of penal governance."³ In this endeavour, history plays a critical role. An important part of Hannah-Moffat's book is devoted to disrupting whiggish views of women's imprisonment, by showing how different regimes of governance do not simply arise and replace previous practices, but that multiple knowledges, techniques, and strategies overlap and intertwine at any given time. As Hannah-Moffat argues, "multiple expressions of power coexist in penal settings."⁴

Hannah-Moffat uses women's penalty as a lens through which to examine a broad range of theoretical concerns. Most directly, she is interested in the specific historic development of women-centred prisons

¹ [hereinafter *Punishment in Disguise*].

² C. Strange, Book Review of *Terror to Evil-Doers: Prisons and Punishments in Nineteenth-Century Ontario* by P. Oliver (1999) 37 Osgoode Hall L.J. 703 at 709. On penalty as a concept, see D. Garland, *Punishment and Modern Society: A Study in Social Theory* (Chicago: University of Chicago Press, 1990)

³ *Supra* note 1 at 14.

⁴ *Ibid.* at 33.

in Canada, which she aptly characterizes as a “paradox.”⁵ Thus, the book is organized chronologically, beginning with Elizabeth Fry’s pioneering work in Newgate Prison in the early nineteenth century.⁶ From there, it moves to the late nineteenth and early twentieth century maternal reform movement for women-only reformatories that found expression in the 1879 establishment of the Andrew Mercer Ontario Reformatory for Women (Mercer Reformatory).⁷ The next two chapters switch the focus to federally sentenced women in Canada, and the various efforts to relocate female prisoners from the Kingston Penitentiary to the Prison for Women (P4W), opened in 1934.⁸ Chapter four is particularly interesting for its focus on the attendant shift of women’s roles in women’s penalty. The establishment of P4W dislocated maternal administrators whose expertise was established *qua* women and gave rise to the professionalization of prison personnel. This shift transformed women’s prison reform politics into a politics that was carried on outside the prison walls, increasingly through prisoner advocacy groups like the Elizabeth Fry Societies.⁹ The final two chapters offer a more contemporary account of the P4W in the context of the rise of rights-based feminism after 1970, including insightful analysis of the 1990 Task Force Report *Creating Choices*¹⁰ and its co-opted implementation over

⁵ *Ibid.* at 18.

⁶ “Mothering the Flock: Maternal Discipline and Pastoral Power” in *Punishment in Disguise*, *supra* note 1.

⁷ “Mother Knows Best: The Development of Separate Institutions for Women” in *Punishment in Disguise*, *supra* note 1.

⁸ “Finding a New Home: From Kingston Penitentiary to the Prison for Women” in *Punishment in Disguise*, *supra* note 1.

⁹ “Laywomen’s Expertise: Women’s Prison Reform, 1945-70” in *Punishment in Disguise*, *supra* note 1.

¹⁰ Correctional Service Canada, *Creating Choices: Report of the Task Force on Federally Sentenced Women* (Ottawa: The Task Force, 1990) [hereinafter *Creating Choices*]. The mandate of the Task Force was to examine the “correctional management of federally sentenced women ... and to develop a plan which would guide and direct this process in a manner that is responsive to the unique and special needs of this group” (see *Creating Choices* at 1, cited in *Punishment in Disguise*, *supra* note 1 at 142). The Task Force Committee was made up of forty-one members, two-thirds of whom were women, and was driven by a “woman-centred approach” (see *Creating Choices* at 83, cited in *Punishment in Disguise*, *supra* note 1 at 143).

the past few years.¹¹ The book ends on a somewhat pessimistic note on the future of women's penalty.

Although this book will be of great interest to historians, and especially to prison and women's historians, this is not primarily a historical study. Hannah-Moffat writes: "It is not my intention to provide a detailed historical account of Canadian women's imprisonment. Instead, I use specific historical periods to demonstrate the dynamics of a gendered form of penal governance."¹² Indeed, historians may be slightly bothered by a few historical errors. Twice, Hannah-Moffat states that the Mercer Reformatory opened in 1874 when, in fact, it opened its doors in 1880.¹³ This is, of course, a relatively inconsequential error.

What is more problematic is that Hannah-Moffat seems unaware of some of the recent debates in women's history, particularly those in the field of American women's history pertaining to the politics of maternalism. In her first two chapters, she argues that maternalism was an essential "enabling logic" (I will discuss this argument below) in early prison reform initiatives. Hannah-Moffat asserts that, in itself, maternalism is relatively empty of content, and is better conceived of as a strategy that, in combination with other forms of knowledge and techniques of governance, can produce something relatively unique, such as, the woman-centred Mercer Reformatory.

It is important to Hannah-Moffat to disentangle the terms "feminism" and "maternalism" for, she argues, when these terms are used coterminously, "[t]he power, flexibility and contradictory aspects of these distinct rationalities are obscured."¹⁴ This is not quite as original a point as Hannah-Moffat presents it to be. There can be no doubt that maternalism can have multiple meanings and usages. Indeed, as Hannah-Moffat herself demonstrates, maternalism occasioned different types of strategies when deployed by Elizabeth Fry in the early 1800s and by Canadian maternal reformers in the latter part of the century. At the same time, it is not quite the case, as Hannah-Moffat claims, that "[i]t is widely recognized that there

¹¹ "Breaking with Tradition: Feminist Reformers and the Empowerment of Women? 1970-86" in *Punishment in Disguise*, *supra* note 1; "Empowering Prison: Neoliberal Governance" in *Punishment in Disguise*, *supra* note 1; "Conclusion: Stumbling Blocks, Growing Pains, or More of the Same?" in *Punishment in Disguise*, *supra* note 1.

¹² *Punishment in Disguise*, *supra* note 1 at 15.

¹³ *Ibid.* at 48, 56; see also *An Act respecting the Andrew Mercer Ontario Reformatory for Females*, S.O. 1879, c. 38; C. Strange, "The Criminal and Fallen of Their Sex: The Establishment of Canada's First Women's Prison, 1874-1901" (1985) 1 C.J.W.L. 79 [hereinafter "The Criminal and Fallen"]

¹⁴ *Punishment in Disguise*, *supra* note 1 at 25.

is more than one type of feminism; however, the multiple meanings of maternal logics and maternal politics are not so widely understood.”¹⁵ A significant amount of debate has occurred concerning the politics and meanings of maternalism, especially as this was a part of women’s activism in turn of the century United States politics. Most of the scholars who have participated in this debate tend to agree that there is no single meaning for maternalism, although some are more likely to equate it with a form of feminism than are others.¹⁶

Neither of these criticisms detract from the more important arguments of the book. Hannah-Moffat makes two salient arguments that will likely influence future scholarship. The first is her use of a Foucaultian-inspired governmentality approach that stresses the relationship between knowledges, power, strategies, and techniques of governance.¹⁷ This theoretical approach focuses on the multiple articulations of power and on the insight that power is neither wholly repressive nor a monopoly of the state. This brings Hannah-Moffat to her second major contribution: a focus on the roles played by women, usually as non-state actors, in forming, transforming, and reforming women’s penalty. These two concerns are brought together through an analysis of what Hannah-Moffat calls “enabling logics.” Enabling logics are the rationalities, the knowledges, and the techniques brought to bear upon women’s penalty. Through her analysis of enabling logics, the book can be divided into three parts. The first two chapters look at maternalism as an enabling logic; the second two chapters look at the rise of a positivist notion of “rehabilitation” as an

¹⁵ *Ibid.*

¹⁶ See e.g. M. Ladd-Taylor, *Mother-Work: Women, Child Welfare and the State, 1890-1930* (Urbana: University of Illinois Press, 1994); “Maternalism as a Paradigm” (Social Science History Association Meeting, Chicago, 1992) (1993) 5:2 *J. Women’s Hist.* 95ff; S. Koven & S. Michel, eds., *Mothers of a New World: Maternalist Politics and the Origins of the Welfare States* (New York: Routledge, 1993). The Canadian debate on the relationship between feminism and maternalism occurred earlier and less intensely. For a work that links feminism and maternalism (or “social feminism”), see N. Black, “Introduction” in E.G. MacGill, *My Mother the Judge* (Toronto: Peter Martin Associates, 1981) xi; for the distinction between maternalism and feminism, see W. Roberts, “‘Rocking the Cradle for the World’: The New Woman and Maternal Feminism, Toronto 1874-1914” in L. Kealey, ed., *A Not Unreasonable Claim: Women and Reform in Canada, 1880s-1920s* (Toronto: Women’s Press, 1979) 15; and W. Roberts, “Six New Women: A Guide to the Mental Map of Women Reformers in Toronto” (1977) 3:1 *Atlantis* 145.

¹⁷ For an expanded discussion of governmentality, see G. Burchell, C. Gordon & P. Miller, eds., *The Foucault Effect: Studies in Governmentality* (Chicago: University of Chicago Press, 1991); N. Rose & P. Miller, “Political Power Beyond the State: Problematics of Government” (1992) 43 *Brit. J. Soc.* 173; A. Hunt & G. Wickham, *Foucault and Law: Towards a Sociology of Law as Governance* (London: Pluto Press, 1994).

enabling logic; and the final two chapters examine the feminist-inspired terms of “empowerment,” “choice,” and “responsibility” as enabling logics. Each of these rationalities is shown to be flexible and adaptable, and, as each was grafted onto women’s prisons, each had multivalent and often contradictory effects. Of equal importance, enabling logics produce their own knowledges of that which they seek to govern; that is, of women prisoners.

Maternalism was the strategy deployed by early women reformers. In Hannah-Moffat’s account, maternalism is more a “mobilization of a maternal image or narrative,”¹⁸ than a politic or ideology in its own right. In the case of ordained Quaker minister Elizabeth Fry, Hannah-Moffat examines the way in which maternalism was combined with, or was complemented by, “pastoral power.” Pastoral power is a Foucaultian term, referring to a non-disciplinary form of power that draws on shepherd-flock metaphors, in which salvation, confession, and self-improvement guided by moral example are key. Through their combination, pastoral and maternal strategies allowed Fry to position herself as the shepherdess of a flock in need of benevolent guidance. Thus, the role of both reformers and the objects of reform are simultaneously constituted.

In the latter part of the nineteenth century, women reformers again called upon maternal strategies as part of a broader moral reform program that insisted on gender specificity, and especially on middle class women’s relation and responsibility to women as women. This later incarnation of maternalism employed “a reformative maternal logic that incorporated some elements of evangelical maternalism but that was largely reliant on moral definitions of criminality and on secular interpretations of women’s natural expertise as mothers.”¹⁹

These ideas were institutionalized in the Mercer Reformatory, the first model reformatory in North America and, as Hannah-Moffat argues, its “institutionalized maternal logic was a unique innovation.”²⁰ Central to this new form of women’s penalty was the employment of women who were to act as maternal role models. To punctuate this role, early women prison employees not only worked in the reformatory, but lived there as well, thus constituting a facsimile of familial relations. Again, the role of reformers and the objects of reform were simultaneously constituted through this strategy: prisoners were the “daughterly subjects” of the

¹⁸ *Punishment in Disguise*, *supra* note 1 at 25.

¹⁹ *Ibid.* at 48.

²⁰ *Ibid.* at 52.

motherly reformers.²¹ Here, we are also introduced, for the first time, to those prisoners who threatened to disrupt this regime, the “uncooperative and recalcitrant woman” who was the “antithesis of the maternal ideal.”²² In the effort to control these women, the Mercer Reformatory demonstrated its own paradoxical and impossible task: it was designed both to reform and to punish. Maternalism, secular morality, and disciplinary power coexisted in this experimental institution to constitute something unique in women’s penalty.²³

Rehabilitation as an enabling logic flows out of a strategy based on moral reform: it is the attempt to provide a scientific grounding for moral strategies. Rehabilitation allows for new and different combinations of knowledges and techniques of governance, especially so after the building of the P4W. With the opening of the P4W in 1934, women were no longer considered to have the necessary credentials simply because they were interested in women prisoners, and the building of P4W ended the practice of having matrons living on the premises. In these chapters, Hannah-Moffat makes one of her central arguments:

Many are still inclined to read the history of women’s imprisonment as a series of techniques of governing that neatly and easily replace one another over time. Likewise, it is argued that disciplinary power is connected to expert knowledges that replace nonexpert knowledges. [I show] how a range of knowledges, forms of power, and technologies of governing can exist simultaneously and shape the regime of a particular institution.²⁴

Key to Hannah-Moffat’s argument is the rebuttal of accounts that attribute the inadequacies of women’s prisons to either male negligence or state disinterest. What is often overlooked, she convincingly argues, is the role played by women reformers, albeit now more likely to be outsiders or laywomen. While an analysis of the roles played by women in the history of women’s penalty is a crucial contribution made by this book, there is,

²¹ *Ibid.* at 61.

²² *Ibid.* at 62.

²³ The argument that the Mercer Reformatory was something truly unique and innovative is echoed in the historical literature. See e.g. E. Freedman, *Their Sisters’ Keepers: Women’s Prison Reform in America, 1830-1930* (Ann Arbor: University of Michigan Press, 1981). For a debate about whether reformatories are best characterized as coercive or as benign, see “The Criminal and Fallen,” *supra* note 13; see also P. Oliver, “To Govern by Kindness: The First Two Decades of the Mercer Reformatory for Women” in J. Phillips, T. Loo & S. Lewthwaite, eds., *Essays in the History of Canadian Law: Crime and Criminal Justice*, vol. 5 (Toronto: Osgoode Society, 1994) at 516. Hannah-Moffat examines this debate in *Punishment in Disguise*, *supra* note 1 at 66-70.

²⁴ *Punishment in Disguise*, *supra* note 1 at 91.

perhaps, an over-dichotomization of the difference between “lay” and “expert” knowledges. More precisely, the emergence and authority of “expert” knowledges—criminology, social work, psychology, and so on—is mostly assumed in these chapters, rather than connected to the broader and well-documented processes by which the expertise of an earlier generation of women reformers was marginalized with the growth of the welfare state proper.²⁵

The final chapters of the book are also its strongest. Here, Hannah-Moffat offers insightful commentary on the relationship of feminism to prison reform, and the mixed consequences, at best, of more modern rights-based claims on penal governance. While early modern feminist approaches sought an end to gender-specificity, and argued that women prisoners should have equal access to programs, treatments, and specialized facilities that male prisoners have (the most obvious example is the existence of minimum, medium, and maximum facilities for federally sentenced men, while only the maximum security P4W existed for all federally sentenced women), more recent feminist approaches have returned to the need to consider women’s imprisonment in the context of broader patterns of gender and, as these chapters also argue, race inequities. The federally appointed Task Force, and its report, *Creating Choices*,²⁶ occupy pride of place in this analysis. The reliance on the language of empowerment, choice and responsibility, and the linking of women prisoners with women-as-a-group in their experience of sexism, and thus their differing experiences from male prisoners, occasioned a new enabling logic that was centred in feminist ideals. The efforts of reformers, and of the Task Force itself, resulted in a new logic about women’s imprisonment that stressed the importance of greater opportunities and choices for female prisoners. The thrust of the Task Force’s recommendations was to envision new options for women offenders that were less punitive and more self-empowering.

In the final chapter, Hannah-Moffat details the failure of this vision in its implementation. The decommissioning of the P4W—an objective long advocated but nonetheless likely hastened by the much publicized events

²⁵ See e.g. L. Gordon, *Pitied But Not Entitled: Single Mothers and the History of Welfare, 1890-1935* (Cambridge: Harvard University Press, 1994); Ladd-Taylor, *supra* note 16; J. Lewis, “Gender, the Family and Women’s Agency in the Building of ‘Welfare States’: The British Case” (1994) 19 *Soc. Hist.* 37; G. Wills, *A Marriage of Convenience: Business and Social Work in Toronto, 1918-1957* (Toronto: University of Toronto Press, 1995).

²⁶ *Supra* note 10.

of 1994²⁷ and the subsequent investigation and report by the government²⁸—resulted in the opening of four regional correctional facilities, and an Aboriginal Healing Lodge. But, as Hannah-Moffat demonstrates, these facilities are largely a failure when measured against the ideal of creating choices and empowerment strategies for women prisoners. The concept of empowerment has proven to be a highly flexible logic.

Despite its roots in feminist ideals, in these neo-liberal times this logic has been used as a weapon against female prisoners, ultimately isolating them from their social context and individualizing their responsibility for reforming themselves. Hannah-Moffat aptly terms this co-optation of the ideal of choice and responsibility “responsibilization.”

However, somewhat ironically, in detailing the process whereby empowerment becomes a neo-liberal technique of governance, the state—in its guise as Corrections Canada—appears very much like a hammer. This underscores the very complexity of ideas around penal reform that Hannah-Moffat forces us to confront. Throughout the book, she carefully lays out a theoretical model that stresses the multiple expressions of power. Her insistence is that power is not simply repressive and that penal governance is not simply juridico-disciplinary, but is always combined with other more productive knowledges and techniques of governance. However, this chapter suggests that the current problem of women’s penalty lies largely in the refusal of the state to implement feminist-based principles in the hoped-for de-incarceration of women. Now the state appears as the enforcer of punishment, leaving more progressive groups to lament the failure of less punitive governance. Having demonstrated her thesis that enabling logics are flexible and “resonate with multiple and contradictory goals,”²⁹ Hannah-Moffat insightfully points to these very contradictions. She concludes that “in situations where forms of responsibilizing government-at-a-distance fail, the powers that be often resort to more sovereign or disciplinary exercises of power.”³⁰ In other words, the good

²⁷ In the spring of 1994, after a “brief but violent confrontation,” six women prisoners at the P4W were sent to segregation, where they were strip-searched by a male emergency response team and denied fundamental rights and freedoms. See *Punishment in Disguise*, *supra* note 1 at 178-180.

²⁸ Canada, *Commission of Inquiry into Certain Events at the Prison for Women* (Ottawa: Canada Communications Group, 1996) (Commissioner: L. Arbour).

²⁹ *Punishment in Disguise*, *supra* note 1 at 187.

³⁰ *Ibid.* at 187.

intentions of female/feminist reformers aside, at the end of the day, a prison is a prison. The book is well titled.

Punishment in Disguise is a significant addition to the literature of the politics of penalty. While those readers searching for a focus on women prisoners will not find satisfaction in this book, anyone interested in the politics that shape the institutions that house female prisoners will find the book fascinating. The emphasis on enabling logics and on women's involvement in women's penalty is a major contribution and, as Hannah-Moffat emphatically argues in her conclusions, feminist activists have much to learn from the history of women reformers and must think carefully about charting a new course. The complexity of problems associated with (female) incarceration, let alone de-incarceration, has not been solved. But a big step toward a better understanding of the issues involved has been made by Hannah-Moffat.

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