

The Frontiers of Punishment and Gender

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[See table of contents](#)

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Carolyn Strange

Anne M. Butler, *Gendered Justice in the American West: Women Prisoners in Men's Penitentiaries* (Chicago: University of Illinois Press 1997).

Joy Damousi, *Depraved and Disorderly: Female Convicts, Sexuality and Gender in Colonial Australia* (Cambridge: Cambridge University Press 1997).

AT FIRST GLANCE, *Gendered Justice* and *Depraved and Disorderly*, two recent histories of women sentenced to penal servitude, seem suspiciously old-fashioned. Both books are inspired by a commitment to show that women were there too: they were prisoners in the first penitentiaries built in the Western United States, and they numbered among the convicts transported from Britain to its penal colonies. But dismissing these books as add-women-in-the-stir penal histories would be unfair. Both take up the analytical challenges recently embraced by scholars of gender history, and each author asserts that her book will inspire readers to question existing histories of the wild west in Butler's case and convictry in Damousi's.

According to Butler, historians of the US West have interpreted the region's history as a rough-and-tumble story of gunslingers, outlaws, and desperados. Such masculinist preoccupations, she contends, have romanticized the public violence of the West and ignored its domestic dimensions. In Butler's eyes, the West was indeed a haven of male violence, but not the kind that would have translated easily into a Tom Mix screenplay. Butler's west is a dangerous place where suitors, husbands, the courts, and the prison system asserted and enforced masculine dominance over women. Accordingly, she contends that studying women who ended up in prison exposes the oppression that all women faced in the mid-19th century: "the issues surrounding [the woman prisoner] inextricably bonded to all matters of femininity and womanhood in American society. Gender constraints imposed by the social, economic and political order touched the woman criminal before and after her involvement with illegal activity." (24)

Carolyn Strange, "The Frontiers of Punishment and Gender," *Labour/Le Travail*, 44 (Fall 1999), 217-21.

Damoussi also removes masculinist blinkers from interpretations of the convict past. In a familiar historiographical and criminological gripe, she complains that the sheer force of men's numbers has encouraged scholars to interpret convict history through men's stories without problematizing masculinity. Her work offers a corrective. Not only does she focus her attention on women convicts (about one-sixth of the total transported to Australia between 1788 and 1868) but she argues that female convicts' experiences and the concerns they inspired were fundamentally different from men's. As she declares in her introduction, her purpose is "to make gender and sexual difference the basis of cultural analysis, rather than simply 'adding' women to the narrative." (3) Unlike Butler, however, she takes a few pokes at feminist historians of convictry as well. In response to historical caricatures of "damned whores," feminist historians of convictry asked whether the women were worse or better off after their convict experiences; whether their marriage prospects improved or diminished; whether they were more or less virtuous than other women, etc. Damoussi sidesteps these moral evaluations by pursuing a cultural analysis of the female convict. While Butler, the social historian, investigates the hidden history of women in predominantly male prisons, Damoussi is guided by the sensibility of a cultural anthropologist intrigued more by signs than statistics.

Butler makes good use of prison records, her principal source. Her rather elastic definition of the "West" (the northern and southern states wedged between the Mississippi and the Rockies) led her to nineteen jurisdictions in which penitentiaries were erected in the post-Civil War era with male prisoners in mind. In each of these institutions, small numbers of women prisoners (disproportionately black women, some of whom were ex-slaves) also ended up incarcerated, typically for theft. Once incarcerated they entered an overwhelmingly male environment: "[in-mates' and guards'] manhood defined the cast and tone" of prison life. (69) Inside these crudely constructed and corruptly managed institutions, "anything could and did happen, usually to the most vulnerable behind bars." (71) Serving prison time was no picnic for men, as Butler recognizes, but for women forced to serve their time without separate sanitary facilities, without gynecological medical care, and without their children, it was horrible. The separate prisons for women movement, spearheaded by female campaigners in eastern states as early as the 1850s did not gel in the West until the early 20th century. By 1915, the point where Butler ends her study, most western penitentiaries at least employed matrons to oversee women prisoners, but until that time, females experienced a "penal burden" greater than men's. (6)

Damoussi agrees that punishment's intentions and effects were gendered, but she analyses the female convict experience in terms of sexual difference, rather than evaluating who had it worst. Beginning with women's embarkation to Australia, she examines convicts aboard ships, in prisons (or "factories" as they were typically called), on domestic assignment, and on the streets of the penal colonies. In probing

the cultural meanings of the female convict in each of these contexts, she takes her cue from official overseers and the colonial press, who described convict women as agents of disorder, transgression, and pollution. Colonial authorities' views of convict women (spoken of as wild animals, bubbling over with rage and sexual passion) replicated their representations of Aboriginal women. But because they were white, "convict women challenged the distinction between 'civilized' and 'savage'; they represented the capacity within all of us [sic] for disintegration." Thus, both the forms of punishment devised to "tame" them (particularly the humiliating penal ritual of headshaving) and the nature of their resistance (anything from sulking to murder) differed from men's.

Here we come to an important aspect of Damousi's historiographical critique. Earlier historians effectively defined female defiance out of the picture of convict resistance because they looked in the wrong places for the wrong things. Since convict women rarely attacked authority figures, since they rarely appealed for redress, since they rarely withdrew their labour, and since they rarely asserted their rights, historians have overlooked them in their searches for the origins of Australian working-class consciousness. Damousi, in contrast, sees the slightest act — even something seemingly trivial, such as laughter — as subversive: "in a penal society based on prohibition, any moments of spontaneous pleasure amongst criminals were subversive." (61) In one hilarious incident, a group of convicts greeted a vice regal party, visiting the Female Factory in Hobart. As the governor rose to speak, "three hundred women turned right around and at one impulse pulled up their clothes shewing their naked posteriors which they simultaneously smacked with their hands making a loud and not very musical noise." (59) Their "cheeky behaviour," she claims, undermined authority as much or more than any masculine protest might have. Armed with numerous examples of women's petty thievery, absconding, venturing out on nocturnal sexual escapades, and using grossly insulting language, Damousi proceeds to argue that "many acts that transgressed boundaries were not inspired by 'general principles' but were no less effective in unsettling power relationships." (63) If some historians have taken overtly political acts as the measure of resistance, she is considerably more generous. For Damousi, convict women were actors who strove "to be autonomous and create a space for themselves." (3)

In her introduction Butler makes similar claims for her female prisoners. As a group, their response to imprisonment "underscored the universal refusal of the human spirit to accept a justice without integrity." (18) However, Butler is more attentive than Damousi to the raw deals these women were handed. She presents a grim picture of women behind bars for no good reason and even worse outcomes. She spells out a complicated array of women's responses to incarceration:

Not all women chose open rebellion. Not all cultivated a submissive manner. Some excelled at the dramatic statement, some at the co-operative posture Some resisted for a time and

then yielded, serving out their sentences quietly. Others chose escape through death. Many endured with a day-to-day stoicism until released. (17)

Looking at prisoners' faces (there are over forty photographs) we can imagine how some women spat in the face of authority while others were crushed. Certainly imprisonment did not present the same set of hardships to every woman. For African-Americans in particular, prison meant the almost constant threat of beatings and sexual abuse, particularly when they were assigned as domestic servants or field labourers. In some prison commission reports, Butler uncovered evidence that prison guards and wardens maintained institutional order by allowing male prisoners sexual access to women. Other testimony confirmed that white guards were the chief seekers of sexual services, primarily from light-skinned black women. "The ill-matched power relationships required that women make practical sexual decisions. They literally had their lives to lose if they did not cooperate." Nonetheless, in these situations, Butler argues that women exercised limited scope for choice: *submitting to a guard opened up the possibility of extracting favours, such as protection from beatings, preferred work assignments, palatable food, or small amounts of cash. As one woman who had endured a two-year sexual relationship with an aged guard testified before a Texas prison commission in 1909, "I thought he could do me some good."* (185)

Unsentimental women on the outside might have made the same comment about their husbands. This is one of Butler's key points, but it is also her weakest. In case after case, she claims that women were railroaded and bamboozled by a justice system that cared little about the legal niceties of guilt and innocence but worked hard "to remove offending women from public view." (17) Although it is certainly true that poor women and women of colour were more vulnerable than well-off whites to incarceration, Butler frequently uses sweeping generalizations to underscore her claims of ubiquitous gendered injustice: "the process of arrest and conviction threw women off balance. They exercised limited control in the legal negotiations Town and county officials moved swiftly for arrest and conviction." (91) Without police and court statistics, however, such claims are baseless. Plenty of women, most likely those with claims to rank or respectability, surely inspired lenience, and some guilty women may well have escaped justice entirely. Examining how and why these forms of discretion operated would have been worthwhile to consider.

Damousi does not question whether or not the convict women dumped on Australia's shores were innocent. But neither does she challenge colonial authorities' assumptions that they were prostitutes, given to licentiousness. In her first chapter, a fascinating exploration of the spatial and diurnal dimensions of heterosexual interaction on convict transport ships, she persuasively argues that "mutiny and rebelliousness amongst women were defined on the ship in sexual terms." (16) Like the female inmates in Butler's penitentiaries, convict women were confined

in “quintessentially male” space, but Damousi’s women are “boisterous,” “recalcitrant,” and active negotiators of sexual relationships. When it comes to considering sexual assault, Damousi becomes tentative. For instance, when she discusses the reputed sexual promiscuity of assigned servants she ponders, “to what extent women were pressured, and how far they were willingly promiscuous it is impossible to know.” Yet she follows this with certitude: “Obviously, many of them were prostitutes.” (67) Ironically the first time she mentions sexual violence occurs in her discussion of lesbian prison encounters, disorderly acts that “undermined” penal efforts. This interpretation is consistent with her chief argument: “The assertion of female sexuality was itself a form of resistance, evidenced by the way it was punished with severe retribution.” (66) But if her “cheeky” women were *forced* into sexual acts and liaisons, either heterosexual or homosexual, surely they cannot all be portrayed as spirited transgressors who brazenly defied sexual scripts. Allowing more analytical room for the possibility of coercive relationships would have enriched her secondary argument. Clearly authorities who consigned convicts to six months in punishment cells for getting pregnant did not trouble themselves to inquire if women had consented. Whether or not a convict woman was sexually assertive or victimized, she stirred up cultural anxieties about chaos and pollution.

If historians of punishment read these books (and they should) they will have no excuse to write histories of imprisonment as if gender, sexuality, and race did not matter. Penal historians in both the US and Australia have generally been more attentive to the classist dimensions of punishment. Neither Damousi nor Butler would disagree that penal servitude in the 19th century was the deep end of class exploitation (and in the US south, the remnants of slavery). Taken together their books affirm that a class analysis explores only part of the story.

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