The Canadian Experience

Re-entrenched Correctionalism

Transformative Justice Versus

Introduction

Patrick Faith
Current Trends in Women’s Imprisonment

family. By contrast, until the mid-1990s, only one prison had been constructed for federally sentenced women who were serving prison terms of two years to life. Prior to 1934, when the Prison for Women (P4W) in Kingston, Ontario, was opened, women were confined to small, dark, cold, bug-ridden attics and cells in men’s prisons.

The anachronistic P4W, a large, foreboding, domed, limestone structure surrounded by eighteen-foot-high stone walls, the interior a dark maze of cells and corridors, offered little improvement in terms of comfort or civility. Between 1938 and 1978, eleven of twelve government-appointed investigative bodies agreed that P4W should be closed and the women dispersed to minimum security regional facilities in order to be closer to their families.

In 1979, Simon Fraser University sponsored the first Canadian conference on women in prison, organized by Margit Nance, a director of continuing studies, and Curt Griffiths, a professor of criminology. One of the speakers was the Honorable Jean-Jacques Blais, then the Solicitor General of Canada; he prematurely announced, to cheers, that P4W would soon be phased out. Claire Culhane, now a Canadian legend as a researcher-advocate-activist on behalf of prisoners’ rights, was then newly involved in prison work. She, Lorraine Berzins (a long-time prisoners’ rights activist), Marie-Andree Bertrand (a Montreal professor whose research produced the first scholarly Canadian article on gender and crime), and others among us organized a radical caucus. We lobbied other conference attendees to contribute to a critical analysis of prisons with sensitivity to gender issues. We didn’t use diplomacy in exposing violations of women’s rights within the prison; we spoke forthrightly in the presence of correctional officials. In 1981, spurred by feminist activists, the Canadian Human Rights Commission concurred that the physical structure and custodial practices at P4W were discriminatory. Correctional Service of Canada (CSC) funded cosmetic improvements, but nothing changed substantively.

The landmark 1979 conference set in motion a small but growing national network of activists, former prisoners, advocates, and academics whose work is meant to serve the interests of women in prison. This work has had very mixed results, as will be discussed later in this chapter. The work whose goal is to serve the interests of women in prison will be discussed later in this chapter.
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1. We recognize that the offender has the potential to live a healthy, productive, and fulfilling life beyond incarceration.

2. We recognize that the offender has the potential for human growth and development.

3. We believe that our strength and our major resource in achieving our goals is our staff and that human relationships are the cornerstone of our endeavor.

4. We believe that the sharing of ideas, knowledge, values, and experience, nationally and internationally, is essential to the achievement of our mission.

5. We believe that living and working in a community where openness and integrity are the norm is essential to the success of our mission.

The CSC mission statement includes five core values, none of which was honored in the actions of the ERT. These core values are:

1. We respect the dignity of individuals, the rights of all members of society, and the potential for human growth and development.

2. We recognize that the offender has the potential to live a healthy, productive, and fulfilling life beyond incarceration.

3. We believe that our strength and our major resource in achieving our goals is our staff and that human relationships are the cornerstone of our endeavor.

4. We believe that the sharing of ideas, knowledge, values, and experience, nationally and internationally, is essential to the achievement of our mission.

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The atrocities, the clear helplessness of the women, naked in their vulnerability to armored, faceless men, aroused Canadian public interest in women prisoners in a way that nothing had before. On the video, the frightened women are stripped not only of clothing but also of dignity. They are degraded. In later televised interviews, they are well dressed, poised, some very young, small, feminine, all articulate, not the least bit fearsome. They describe how the assault brought back memories of rape and other painful events in their lives.

Gayle Horii, a former prisoner at P4W who watched the strip-search on television, said “Please understand that the events of April 1994 at P4W were not as shocking to those of us who had already experienced prison, as to those who have not. However, the immediate condemnation by humanist groups across Canada, who easily recognized that women forced into positions of degrading submission is sexual violence, helped to legitimize our feelings.”

That prisons often operate outside the law did not come as a revelation. But correctional critics and journalists were nonetheless surprised at the willingness of CSC representatives to tell blatant lies in televised interviews, such as the warden's insistence that none of the men with the emergency response team had removed women's clothing, and contradicting herself as to whether she had seen the video at the time of making that statement. As one observer summed up the conclusions of the Arbour report: "Left to itself, the CSC is incorrigible."

13 The Arbour recommendations included numerous demands that the legal and criminal justice systems increase surveillance of prison wardens and staff. Everyone under the continuous, multidirectional gaze of the postmodern era is expected to perform. The will of the women is represented in the women's own voices, not in the voices of outsiders. The will of the women is heard, not the will of the men.

The P4W assault event was a historical milestone in public education in Canada regarding women's prisons and that event is bracketed by other significant events in the 1990s, most of which have promised changes in the way “corrections” are done to women in this country.

Other Significant Events of the 1990s

1. In 1990, a task force appointed by the Solicitor General to evaluate federal corrections for women produced its report, Creating Choices. This document represented the work of hundreds of people, primarily women — many feminists; First Nations women; and representatives of many national women's organizations. Prisoners were also involved in the research. Like the previous task forces, this task force recommended the closure of the federal prison for women (P4W) in Kingston, Ontario, an archaic structure situated thousands of miles from most women's families. To replace it, the task force recommended regional, low-custody facilities that would draw on noncarceral community resources to assist women in rebuilding their lives.

2. In 1993, the Burnaby Correctional Centre for Women opened in British Columbia (capacity of 120), with responsibility for both provincially and federally sentenced women from British Columbia and the Yukon and Northwest Territories. In an exchange of services agreement, the federal government helps fund the new prison, which is built on the site of the former prison for women. It is a small, modern, low-security facility, designed to meet the needs of women who have been involved in the criminal justice system.
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houses both women prisoners serving up to two years provincial time (including weekends) and federal prisoners serving up to life sentences. The provincial authorities govern the prison according to provincial regulations, which are often more punitive and restrictive than federal regulations, and which deny long-term prisoners their rights under federal law. The concern is that other regional prisons will be similarly abandoned by the federal government to the control of the host province to the detriment of federally sentenced women.

4. By 1995, P4W was still crowded with women but the new prisons were under construction. The rhetoric of the five newly appointed wardens was generally in the direction of community involvement and allocation of attention and resources to the issues women face in and out of prison concerning children; employability; housing and transportation; drug and alcohol dependencies; and unresolved issues such as rape, battering, or childhood sexual abuse. When the evidence of abuse at P4W was televised, CSC rushed completion of the new prisons. It was announced that when the remaining prisoners were transferred, P4W would definitely close.

5. In 1995, spurred by the public outcry over the televised strip-searches, the Solicitor General commissioned an official "Inquiry into Certain Events at the Prison for Women," chaired by an appeals court judge, the Honorable Louise Arbour (who later became the chief justice in the United Nations war tribunal court). As commissioner, Judge Arbour was meticulous in her investigation, seeking perspectives and information from the prisoners, guards, and management on the inside and from researchers, activists, lawyers, and academics on the outside. In documenting the events before, during, and after the assaults, Judge Arbour and her two assistants, Dr. Tammy Landau and Dr. Kelly Hannah-Moffat, presented abundant evidence of law-breaking on the part of the correctional service. The very act of the ERT entering the segregation unit was illegal because with women in bed in their cells, there was no emergency.

Although Judge Arbour's focus was primarily on the particular need of prison authorities to observe and strictly adhere to the law and to function under the direct eye of the judiciary, she also examined evidence of prac-
tices that were legal but nevertheless inhumane. For example, she was outraged at the abuses permitted through extended segregation practices and she referred to corrections as a "deplorable defensive culture." CSC's defiance in responding to so few of the recommendations has been met with scorn. For example, Saskatchewan Member of Parliament Chris Axworthy wrote to the deputy commissioner with two pages of examples of human rights abuses in women's prisons, in particular the transfer of women to men's mental hospital prisons. He concludes, "My astonishment at CSC's disregard for the observations and recommendations of the many task force reports, most notably the Arbour Commission Report and Creating Choices, cannot be overstated."

On 1 April 1997, the Elizabeth Fry association issued a public "report card" on the performance of CSC in the year since the Arbour review. The CSC got an F-minus, especially for the racist policy of excluding Native women from the Healing Lodge on the grounds of classification. On 18 April 1997, Ovide Mercredi, the national chief of the Assembly of First Nations (AFN), said that the CSC is "going back a hundred years in its treatment of women prisoners." Although feminists opposed the action, the CSC did heed another recommendation from the Arbour report: They created all-female emergency response teams. This is regressive because it wrongly assumes that women, as men's "equals," have need for these teams. Women prisoners themselves should be the ones to decide how they want to respond to emergency situations.
Community coalitions have also pushed for proactive reduction of the numbers of women who are incarcerated. In a discussion paper, the deputy commissioner affirmed her agreement with this principle, making reference to one of the key recommendations of the 1990 Creating Choices Task Force, namely “the development of a release strategy which would enhance community resource and support networks for women released from federal custody,” with the valid implication that parole boards may release women earlier if practical resources are awaiting them. With practical support, women are also less likely to violate parole and be returned to prison. Because the government itself is cutting rather than increasing funds for such resources while investing increasing resources in prisons, such pronouncements may be heard as a self-rebuke.

In late 1995, the Okimaw Ohci Healing Lodge was opened to thirty First Nations women. The brochure for the opening states: “Healing for Aboriginal women means the opportunity, through Aboriginal teachings, spirituality and culture, to recover from histories of abuse, regain a sense of self-worth, gain skills and rebuild families.” Planned and designed by members of various First Nations, the buildings are arranged in the shape of an eagle seen from the sky, situated in a beautiful prairie setting near aspen woods and green hills; they are staffed mostly by Native people who have no history with corrections. The Healing Lodge posed a significant challenge to punishment models, yet CSC gave considerable latitude to the planning committee and did not object to the plans for healing circles; the steady availability of elders for personal counsel; or the absence of locks, fences, and walls.

For two years following its opening women testified about the nurturing they received at the lodge and the spiritual strengths they gained that have assisted them since their departures. In the past few years, however, more women have been reporting that it has become “more like a prison,” more punitive than healing. Rather than CSC being itself less of a prison, more punitive than healing, rather than CSC being itself less of a community, more women have been reporting that this is because more, rather than a community, more women have been reporting that this is because more.

In 1996, shortly after the opening of the new prison in Edmonton, a woman was killed. She had been suicidal and had made several attempts. This time she persuaded a friend who was also in prison to help her. The friend was convicted of manslaughter; the event was interpreted as an act of institutional violence because the suicide was not a solitary act.

Through the use of euphemisms, CSC has avoided clear communication about the nature of the new prisons; the segregation units, for example, are called the “enhanced” units. Pastel walls and “living units” notwithstanding, the negative consequence of these new prisons is the impossibility of creating a “community” involving freedoms, responsibilities, and choices within a “correctional” penological enterprise. These new prisons serve as both empirical and symbolic evidence that punishment and healing practices are incompatible.
herself. Jo-Ann Mayhew, a former prisoner, reports that "the staff responded by using pepper spray, placing the woman in shackles and handcuffs, locking her in an isolation unit, stripping her naked, repeated use of pepper spray, then left her in the shackles, handcuffs, naked on a steel frame without a mattress or blanket for several hours."  

The Board of Investigation concluded that all this punishment, force, and restraint was "not seen as excessive and appears reasonable." They did say that the prison system was not responsible for "other aspects of corrections, including the treatment of inmates." Prison is a complex and often oppressive institution, in charge of many aspects of corrections, including health, safety, and security.

In charge of many aspects of corrections, including health, safety, and security, is the Canadian Correctional Service. Their role is to maintain order and ensure the safety of both inmates and staff. The service is responsible for the design, construction, and maintenance of correctional facilities, as well as the provision of programs and services to support the rehabilitation of offenders.

Effective and Ineffective Practices

Ineffective practices in the correctional system often result in the perpetuation of harmful cycles for inmates. For example, the use of solitary confinement is a common practice that can result in the isolation and segregation of inmates, leading to negative psychological and physical effects. Effective practices, on the other hand, focus on rehabilitation and reintegration of inmates into society.

Progressive Practices

In 1998, Solicitor General Andy Scott and Commissioner of Corrections Ole Ingstrup spoke in various public venues about the effectiveness and limitations of imprisonment. Scott acknowledged the negative impact of prisons on offenders and argued for the development of community-based programs. Ingstrup, in charge of over 500 correctional facilities, argued that harsher penalties do not lead to safer communities and that restorative justice methods are more effective.

In his report evaluating the performance of CSC over the previous year, the then Solicitor General Andy Scott concluded decisively that imprisonment is a failure and that community-based programs are a more effective way to address crime.

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In 1986, the then Solicitor General Andy Scott conducted a detailed review of the performance of CSC over the previous year. His report concluded that imprisonment is a failure and that community-based programs are a more effective way to address crime.
Keeping offenders in prison for long periods of time is costly. There does not, furthermore, appear to be any clear link between crime in society and levels of incarceration. In addition, community-based interventions appear to equal or outperform institutional measures in the safe reintegration of offenders. There is a growing acceptance of the principle that incarceration should be reserved for higher risk offenders who have committed violent crimes, and that non-violent offenders are best managed through community-based supervision and programs.

Echoing Scott, the National Parole Board states in its manual, "The lowest recidivism rates occur when incarceration is used as a last resort and treatment is offered by programs outside the correctional system." And in a discussion paper the Canadian Criminal Justice Association (CCJA) has this to say:

We need to recognize that the retributive approach is not the most effective. The fact that Canada is over-reliant on incarceration as a response to crime is well documented. Canada is outranked only by the United States. While the number of adults charged has decreased, the rate of those charged who end up being incarcerated is still the highest in the world. In 1999, over two-thirds of women incarcerated were inmates of the federal correctional system. In recent years, the number of women incarcerated in Canada has doubled, with an increase in both the number of new admissions and the length of stay for those already in prison. This increase has been driven by a combination of factors, including a rise in the number of repeat offenders and a increase in the severity of their crimes.

Even as the rhetoric of officials has shifted to a decarceration philosophy, the prison population has continued to grow. This is partly due to the continued use of the prison as a last resort for non-violent offenders, who are often referred to the prison system for a variety of reasons, including drug addiction, mental health issues, and family violence. Despite the growing recognition of the need for alternative approaches to punishment, the prison system remains the primary method of dealing with non-violent offenders, with a significant proportion of the prison population being composed of women who have committed non-violent offenses.

In recent years, there has been a growing recognition of the need to address the issue of women in prison. This has been driven by a recognition of the unique needs and challenges faced by women in the correctional system, as well as a desire to develop more effective and humane approaches to dealing with non-violent offenders. There are a number of organizations and initiatives that are working to address this issue, including the Canadian Women's Foundation, which has been advocating for changes to the way women are treated in prison, and a number of community-based programs that are working to provide support and services to women who are incarcerated.

Despite these efforts, however, there is still much work to be done. The prison system remains a major source of suffering and shame for women, and it is clear that more needs to be done to address the unique challenges faced by women who are incarcerated. This will require a commitment from policymakers and community leaders to develop new approaches to dealing with non-violent offenders, as well as a willingness to invest in the programs and services that are needed to support women who are incarcerated.
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Segregated women's section in the psychiatric ward was already under way when four of these women developed a court case against CSC. With public support for the women, represented by Elizabeth Fry Societies across Canada, CSC relented, permitting the women to stay at P4W. Now other women are being returned to P4W if they do not adapt to their new prison, and some new prisoners are being sent to P4W direct from sentencing. As cynics predicted after each new delay of the promised closure, P4W has become the CSC dumping ground for women with maximum security classification, almost half of whom are Native women and most of whom do not represent a threat to public safety. In addition to containing unruly women who assert their rights and those of other prisoners, the maximum classification is assigned to women who have not learned how to be compliant prisoners, but who, instead of "fighting the system," retreat into drugs, injure themselves, or attempt suicide.

Although it continues to expound on a decarcerative philosophy to pacify its more liberal critics, in practice CSC traveled full circle in reenrenching correctionalism in the women's system. Despite its purported commitment to the principles of the Creating Choices recommendations, despite the findings of a federal commission of inquiry that CSC was breaking the law, despite the men at the top who profess a belief in community-based restorative justice, more women are being locked up — without an increase in their crime rate. Instead of giving women choices for turning their lives around, the punishment industry, which leads to a dead end, is thriving as never before.

The Cruel Farce of Classification

The population mix of high security, low security, and medium security — 8 percent of the incarcerated women classified as maximum security — have limited opportunities for prison jobs, study, interaction with others, vocational retraining, and self-help groups. Another issue claiming space from prisoners and advocates is the expression of women with mental health needs in maximum security classification. Women who are "ruthlessly" assigned to the women's maximum security sections are often highly adaptable to prison, being very obedient. They are credited with "institutional adjustment" or "adaptive behavior." Overdependency, the very problem that led to the maximum security designation, has been exacerbated by the prison experience. Officially, classification is constructed from the level of risk represented by each woman: risk that she will attempt to escape and risk that, if she is successful, she will cause harm. But there is no clear way to predict risk. It is the independent, unruly, opinionated women who are more likely to be classified maximum security, along with women who feel defeated. Maximum security women are at higher risk for suicide, and it is primarily Native women who are dying. Collective resistance to the White man's prison, Aboriginal women are disproportionately classified as maximum security, at 41 percent, though they represent less than 20 percent of federal prisoners. Despite the findings of a federal commission of inquiry that CSC was breaking the law, despite the independent review of women in maximum security classification, the women's system is more hierarchical than ever. Although it continues to expound on a decarcerative philosophy to contain imprisoned women, the punishment industry is thriving as never before.
Security women are not characterized as women at risk of committing violence, either inside or outside prison. It is their classification, rather than anything about themselves, that suggests their "dangerousness."

**The Importance of Place**

The place of incarceration matters to the woman who is locked up. In the 1980s, Gayle Horii, then a lifer at P4W in Ontario, went on a fast that, when it was clear that her life was at risk, resulted in the authorities meeting her demand that she be transferred to an all-male prison across the country in British Columbia so she could be near her husband, who had serious heart trouble. She later successfully avoided transfer to the new Burnaby women's prison in the same region on the grounds that she could not obtain the higher education at the women's prison that was available to her in the men's prison. She currently has a case pending which, if heard, will call on the Supreme Court of Canada to consider gender equality issues in corrections.

Other women have similarly fought successfully to stay in their home province through exchange of services. In a Saskatchewan case, a federally sentenced Native woman was held by the Court to be in danger if sent to P4W, citing evidence of the ill health, disorder, and fear that pervades that institution. For example, it was noted that between late 1988 and early 1992 seven women at P4W committed suicide, and that six of those were Native women. This woman was kept in her home province for her own safety and protection.

A primary reason for building regional prisons is to give imprisoned women closer proximity to their children and extended family. Although the geographic dispersal of imprisoned women has brought some women closer to their children, many others, including those from the far north who are incarcerated in a southern province, are still thousands of miles from their families. Also, the new facilities have not addressed the patenting issues that cause grief to so many imprisoned women; nor have they facilitated unsupervised time for mothers with their children. In every respect, the state persists in withholding consideration for the ultimate victims of incarceration: the children of prisoners.

**Political Signals**

One effect of this string of new maximum security women's prisons in Canada is to falsely convey that we now have many more women committing crimes and that they are dangerous and need to be kept away from us, under guard and behind bars. A likely effect of all the new beds under construction and being built is that drug-free and drug-treatment programs are far more necessary for the women who are incarcerated than ever before. The problems of imprisonment are not solved by building more prisons.

Inhumane, costly changes now occur at a breakneck pace. It is essential that when we learn of a human rights abuse within a prison we seek to end it. But every effort to reform the punitive system of incarceration as a whole is undermined when we learn of human rights abuses within a prison. If prison reform movements are to have an effect on the culture of prisons, they must aim at more than simply building new prisons. The stereotype that prisons are a place where people go to learn about the "real world" is fundamentally flawed. The reality is that prisons are a place where people learn to be prisoners. Reforming specific injustices within prisons is often necessary for the reform of the system as a whole.
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19. Chris Axworthy, Letter to Nancy Stableforth, Deputy Commissioner of Women's Corrections, 18 March 1997 (Copies sent to the National Elizabeth Fry Association).

My appreciation to Sister-friends Liz Elliott, Gayle Horii, Kris Lyons, the late Jo-Ann Mayhew, and Kim Pate for their direct or unwitting assistance with this chapter.


30. Canadian Association of Elizabeth Fry Societies, "WARNING: Letter to the Honourable Herb Gray, then Solicitor General, 6 November 1996, "


NOTES
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38. Ibid.

39. Ibid., 2.


42. Pate, 18-19.


44. Correctional Service of Canada, 17.


46. Ibid., 23.


50. Pate, Executive Director's Report.
be convinced that prisons are unpleasant places.

The major concerns about women's imprisonment in England in the late 1990s are those provoked by: the rapid increase in the female prison population and the consequent overcrowding in the women's establishments; the special plight of imprisoned mothers; and the continuing failure of the prison system to recognize that the needs of women prisoners are different from those of their male counterparts.

Throughout the 1990s, financial restrictions have resulted in a series of cuts in the operating budgets of all English prisons. At the same time, the continuing steep increases in the female prison population together with the security measures introduced after two major and well-publicized escapes from men's prisons have combined to make women's prisons more oppressive. For women in the early-1980s, the discipline of the women's penal institutions centered around a complex of concerns relating to the domesticizing and feminizing of women prisoners; whereas in the early-1990s, the main custodial priorities were the maintenance of high security and the creation of more punitive prison environments. The continuing steep increases in the female prison population together with the security measures introduced after the escapes from men's prisons have combined to make women's prisons more oppressive.

In the 1990s, changes in the women's prisons have stemmed primarily from the introduction of the opposite sex posting policy in 1988, security measures taken after the escapes from Whitemoor and Parkhurst men's prisons, cuts in amenities as a result of decreases in prison operating budgets, and a determination on the part of government that the public should see prisons as a result of decreases in prison operating budgets.

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