Special Edition
Understanding from the past

Gender Responsive Governance: From Elizabeth Fry To Baroness Jean Corston

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This article provides an analysis of gender responsive discourses governing female offenders in England and Wales, from the 19th century penal reform endeavours of Elizabeth Fry to the 21st century proposals of Baroness Jean Corston. Despite a gap of nearly 200 years between the work of Fry and Corston, and some clear differences between their conclusions and recommendations, there are significant ideological and discursive continuities that should be addressed in order to illuminate the construction and impact of gendered penal strategies for women. Three discursive continuities are discussed here. First, that women who offend have intrinsic problems or deficiencies that must be addressed in order for reform/rehabilitation to occur. Second, that these 'deficiencies' require (what are presented as) 'gentle' or 'benign' gender specific institutional regimes. Third, that offending women must take personal responsibility for their own reform/rehabilitation by engaging with, and endorsing, these regimes. Finally, it is also argued that these regimes, whilst presented as individually beneficial and personally empowering, in reality reflect and serve broader social, economic and political interests.

Constructions of Femininity in the 19th Century

Over time stereotypical depictions of femininity have been informed by the dominant discourses of pathology, respectability, domesticity, motherhood and sexuality, all of which have been continuously utilised to explain women's behaviour, and to identify non-conforming 'deviant' women.[1] During the 19th century two stereotypical depictions of femininity were evident. First, was the ideal of the respectable, 'virtuous', middle class wife and mother, who adhered to the norms associated with acceptable female behaviour; docility, passivity, asexuality and morality. Second, in direct opposition, was the idea of the 'fallen woman', who was constructed as corrupt, polluted, and entirely without innocence. The descent of the 'fallen woman' was usually attributed to 'inappropriate' sexual behaviour, criminality and alcohol consumption, and thus whilst the Christian doctrine espoused the idea that we all had fallen from an original state of grace, the fallen woman was considered to have fallen into a state of depravity that exceeded this to a far greater extent.[2]

Such notions were evident in the literature of the time. For example, Ryan in the opening statement of his text *Prostitution in London*, considered prostitution to be a 'monstrous crime' alongside seduction, bastardy and adultery.[3] Prostitutes were depicted as the 'army the devil keeps in constant field service, for advancing his own ends'.[4] Sexual naivety was therefore regarded as a vital trait of respectable womanhood, and sexual relations were considered appropriate for women only within marriage for the procreation of children.[5] Women were thus required to adhere to normative, idealised, depictions of femininity in order to prevent their construction as 'immoral' and thus 'fallen'.[6] For unmarried women a loss of chastity had a multitude of negative outcomes, primarily expulsion from 'moral' society.[7] Indeed, during the 19th century women who bore illegitimate children frequently found themselves in the workhouse, mental hospital or asylum.[8]

One significant notion associated with women is that they are best suited to roles placing them firmly in the domestic realm. As Heidensohn has highlighted, the idea that women are more caring than their male counterparts derives from the biological differences between men and women, primarily women's capacity to bear children.[9] Therefore notions of care,

1. Barton, A. (2005) *Fragile Moralities and Dangerous Sexualities: Two centuries of Semi-Penal Institutionalisation for Women*. Hampshire. Ashgate.
2. Zedner, L. (1991). *Women Crime and Custody in Victorian England.* Oxford. Oxford University Press.
3. Ryan, M. (1839:vi) *Prostitution in London*. London. H. Bailliere.
4. Logan, W. (1871:221) *The Great Social Evil: It's Causes, Extent, Results and Remedies.* London. Hodder and Stoughton.
5. Conversely, explicit sexuality in men was encouraged and accepted as part of normal male behaviour.
6. Barton (2005).
7. Zedner (1991).
8. Barton (2005).
9. Heidensohn, F. (1985) *Women and Crime.* London. Macmillan. These biological differences further informed the idea that 'criminal' women were inherently inferior, and physically and mentally weaker than their male counterparts. These views were prevalent in the work of positivists, for example Lombroso and Ferrero who claimed that 'criminal' women were morally deficient and less evolved than men. See Lombroso, C. & Ferrero, W. (1898) *The Female Offender.* New York. D. Appleton & Co.

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responsibility and an innate predisposition to nurturing tendencies have typically been associated with dominant constructions of femininity.[10]

A focus on motherhood/maternalism was prevalent throughout the late 18th to early 20th centuries, and the presumed moral and spiritual power of motherhood was used for social influence purposes. Throughout the 19th and early 20th centuries the 'sanctity' of motherhood was utilised to enable female reformers to enter institutions that had typically been dominated by men in order to 'better' correct 'deviant' women through gender specific 'corrective' regimes.[11]

19th Century Gender Specific Institutional Regimes

Prison reformers, administrators and politicians, at various points, have all attempted to meet the specific needs of women in conflict with the law by implementing seemingly 'soft' and 'gentle' techniques.[12] Given the existence of an idealised notion of femininity and womanhood, these attempts were not surprising. Indeed, whilst female 'offenders' were frequently regarded as depraved and wretched,[13] their roles in the home, or as domestic servants, rendered them worthy of some specific attention and protection, primarily to ensure that they were better able to fulfil these important duties.

The reformist critique of state responses to women's deviance, and the perceived inability of the state to appropriately provide for 'fallen sisters', prompted reformers to attempt to accomplish this themselves through 'their own good will and charity'.[14] Elizabeth Fry was one of the first reformers to devote her attention to the situation of women in prison. Her ideas would initiate significant changes in the administration of women's penal regimes. As Hannah-Moffat has argued, Fry identified what she considered to be core problems with women's prison regimes, primarily that they did not respond to the needs of women.[15] The task for Fry, therefore, was to instate a programme of woman centred governance, and she thus created the Association for the Improvement of Female Prisoners in Newgate. Women were regarded as corruptible and as such the separation of women prisoners from men was vital in order to prevent the potential contaminating impacts of male prisoners.[16] Fry further argued that women in prison should only have female attendants and proposed the development of institutional regimes that would 'normalise' criminal and 'deviant' women.[17]

Many of Fry's ideas and methods were founded on Quaker principles so, primarily, her methods utilised religious instruction[18] and an emphasis on self-correction and paternalistic forms of governance, whereby women inmates were governed by men in authority. However, Fry also utilised *maternal* governance strategies, through the advocacy of female attendants in women's prisons.[19] She argued that the matron could be considered 'a wise and sympathetic friend',[20] and was an effective means of 'correcting' unruly women:

> Much attention has been successfully bestowed by women on the female inmates of our prisons; and many a poor prisoner, under their fostering care, has become completely changed, rescued from a condition of depravity and wretchedness, and restored to happiness, as a useful and respectable member of the community.[21]

It was deemed that the involvement of middle-class women and, particularly, 'respectable' working class women, would be an effective means of

> ## Women were regarded as corruptible and as such the separation of women prisoners from men was vital in order to prevent the potential contaminating impacts of male prisoners.

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10. Koven, S. & Michel, S. (1993) *Mothers of a New World: Maternalist Politics and the Origins of the Welfare State.* London. Routledge & Kegan Paul.
11. Hannah-Moffat, K. (2001) *Punishment in Disguise: Penal Governance and Federal Imprisonment of Women in Canada.* Toronto. University of Toronto Press.
12. Hannah-Moffat (2001:19)
13. See Fry, E. (1827) *Observations on the Visiting, Superintendence, and Government of Female Prisoners.* Piccadilly. Arch, Cornhill & Son.
14. Hannah-Moffat (2001:49)
15. Hannah-Moffat (2001).
16. Carlen, P. & Worrall, A. (2004) *Analysing Women's Imprisonment*. Devon. Willan Publishing.
17. Hannah-Moffat (2001).
18. Dobash, R. P., Dobash, R. E. & Gutteridge, S. (1986). *The Imprisonment of Women.* Oxford. Basil Blackwell Ltd.
19. Hannah-Moffat (2001).
20. Fry (1827) cited in Barton, A. (2011:5) 'A Woman's Place: Uncovering Maternalistic Forms of Governance in the 19th Century Reformatory', *Family & Community History,* Vol. 14 (2) 3-18.
21. Fry (1827).

reforming 'deviant' women back to acceptable standards of femininity through providing an example of appropriate female behaviour.[22] The governance of women by women was considered to reflect 'normal/natural' relationships found in the home (such as between parent and child), maternal power was therefore deemed to be caring and gentle, and penal institutions for women were considered to lack the harsher characteristics associated with institutions for men.[23]

In her influential text *Punishment in Disguise,* Kelly Hannah-Moffat highlighted that maternal forms of power have generally been disregarded in analyses of women's imprisonment, stating that typically analyses have relied on a 'masculinist' model of power, whereby power within institutions, organisations, or from individuals, flows solely in a 'top-down direction'.[24] Hannah-Moffat has thus acknowledged that whilst this may fit well with an analysis that examines relations of power within patriarchal and paternalistic frameworks, it does not allow for an analysis, and understanding, of power relations within seemingly benevolent relationships, such as between women.[25] She has therefore argued that a Foucauldian analysis of power is fruitful, since it acknowledges that power is dispersed widely in society and is imminent to everyday relations and, as such, the 'complex set of relations that emerge when women play a role in the discipline and governance of other women' can be appraised.[26]

Whilst Fry's efforts did result in improved living conditions for women prisoners, women's prisons evidently did not become 'benign institutions, organised primarily for the 'gentling' of recalcitrant 'hussies' or the 'training' of 'unfortunate' women'.[27] As Carlen and Worrall have argued, Fry's concerns expanded from a desire to improve the living conditions of women prisoners and the provision of useful work and education to 'developing a technology of reform which would involve constant surveillance, the erasure

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of individuality, and strict programmes of discipline', marking a movement from prison reform to prisoner reform.[28] As such, the perception that the involvement of women in the governance of female prisoners resolved the coercive and disciplinary functions of imprisonment was misguided, instead 'the disciplinary aspects of maternal strategies are concealed'.[29] Whilst maternal strategies appear less invasive, they are nonetheless an exercise of power. As Barton highlights, maternal governance involved instilling self-discipline in prisoners, with regard to behaviour, mind and body, and 'its primary aim was to produce self-regulating and self-reliant women'.[30] Elizabeth Fry advocated the disciplining of women prisoners through training, with the expectation that they should become good mothers. Women working within the prison were encouraged to use their status to influence the behaviour of prisoners, invariably infantilising them in the process. Thus, like young women leaving the family home, women prisoners were expected to adopt the responsibilities placed upon them in order to demonstrate the 'autonomy and *self-sufficiency* necessary for their future domestic/maternal roles'.[31] Importantly, as Barton has further argued, this did not mean that women were encouraged to foster aspirations of self-determination, instead they were encouraged to be accepting of their roles as 'docile' wives and/or servants. As the following section discusses, these modes of maternal disciplinary governance have persisted alongside contemporary neoliberal feminized strategies of governance.

21st Century Gender-specific Governance: The Corston Report (2007)

What has remained consistent within gender specific reform programmes, regardless of whether deviant behaviour has been considered a product of a faulty mind or body, is the idea that it is the individual

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22. Barton (2011).
23. Hannah-Moffat (2001).
24. Hannah-Moffat (2001).
25. Barton (2011:5).
26. Ibid.
27. Carlen & Worral (2004:7).
28. Carlen & Worrall (2004:8).
29. Hannah-Moffat (2001:21).
30. Barton (2011:9).
31. Barton (2011:10).

woman who is 'faulty'. What has further remained evident, in contemporary neoliberal society, is a lack of focus on the socio-economic factors that impact the lives of women in conflict with the law. One significant contemporary example of this is the highly influential Corston Report, which was published in 2007 in response to a number of controversial self-inflicted deaths of women in prison in a 12-month period (between 2002 and 2003).[32] The self-inflicted deaths of six women in HMP Styal had compelled the government to reflect upon the number of women in prison, and to consider the significant impacts that this had on them and their families.[33]

Corston's 2007 *Review of Women with Particular Vulnerabilities in the Criminal Justice System* made some important, albeit longstanding, acknowledgements about the women's prison population.[34] She highlighted that women in prison had experienced a range of difficulties, noting that they were often drug users and/or alcoholics, that they had experienced sexual, emotional and physical abuse, that they were often poor, and that they had experienced difficulties with their mental health. She further acknowledged that women in prison were disproportionately drawn from black and minority ethnic groups. Her report thus repeated what feminist researchers had been highlighting some thirty years prior to its publication, that women in prison are socially and economically disadvantaged.[35]

As part of her review Corston highlighted that her consideration of women's vulnerability focused on three 'core' areas, which comprised several risk factors. These were: domestic circumstances, such as domestic violence; personal circumstances, such as low self-esteem, mental illness, eating disorders and substance misuse; and finally, socio-economic factors such as isolation, unemployment and poverty.[36] It is important to acknowledge here that she primarily focused on domestic and personal circumstances. As Kendall has highlighted, Corston paid very little attention to socio-economic factors, nor did she fully draw attention to the ways in which socio-economic disadvantage impacts upon domestic and personal circumstances.[37] Nonetheless, Corston provided 43 recommendations to address these vulnerabilities, which she considered to be a blueprint for 'a distinct, radically different, visibly led, strategic, proportionate, holistic, woman-centred approach'.[38] This approach, for Corston, did not mean that men and women should be treated the same, but instead she argued that equality could only be achieved when the differential needs of men and women in conflict with the law were met, this she argued constituted a gender responsive approach.[39]

Some of the main recommendations of her report included the implementation of the gender equality duty, stating that this duty would ensure that men and women were treated with equal respect, according to need. She argued that the duty should encompass notions of fairness and inclusivity.[40] Corston also recommended that a mainstreaming of services for women would be more fruitful in reducing their risk of re-offending, arguing that agency partnerships would be more effective and efficient in providing services for women.[41] Corston also argued that the government should immediately establish an Inter-Departmental Ministerial Group for female offenders, and those at risk of offending. This, she stated, should also be of cross departmental structure.[42]

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32.   Moore, L. & Scraton, P. (2014) *The Incarceration of Women: Punishing Bodies, Breaking Spirits.* Hampshire. Palgrave Macmillan.
33.   Hedderman, C. (2011) 'Policy Developments in England and Wales'. In: Sheehan, R., McIvor, G. & Trotter, C. (2011). *Working with Women Offenders in the Community.* Oxon. Willan.
34.   Elfleet, H. (2017) 'Empowered to be Resilient: Neoliberal Penal Rhetoric and The Corston Report' *Prison Service Journal,* no 230. 33-38.
35.   See Smart, C. (1976) *Women, Crime and Criminology: A Feminist Critique.* London. Routledge; Carlen, P. (1983) Women's Imprisonment. London. Routledge; Heidensohn (1985); and Worrall, A. (1990) *Offending Women.* London. Routledge.
36.   Corston, J, (2007: 15) *The Corston Report: A Report by Baroness Jean Corston of a Review of Women with Particular Vulnerabilities in the Criminal Justice System*. London. Home Office.
37.   Kendall, K. (2013) 'Post-Release Support for Women in England and Wales: The Big Picture'. In Carlton, B & Seagrave, M. (2013). *Women Exiting Prison: Critical essays on gender, post-release support and survival.* London. Routledge.
38.   Corston (2007: 82).
39.   Elfleet (2017).
40.   Corston (2007:24).
41.   Elfleet (2017).
42.   Corston (2007:48).

One of Corston's most radical, and progressive, proposals was her suggestion that the government should announce, within six months, a strategy to replace current women's prisons with, in her view, more suitable, well dispersed, small, multifunctional custodial units within a ten year period.[43] Corston envisaged that these smaller units would offer a clear alternative to custody through the provision of support to women at risk of offending, and the supervision of community sentences for those who had offended.[44] Her proposals for these centres adopted long standing misconceptions regarding the presumed benign nature of maternal governance. Like Elizabeth Fry, Corston contended that these centres should be staffed by women only, as part of a woman centred programme of governance. Her presumption, also, therefore was that the governance of women by women produces a less austere and coercive environment.

Whilst these gender specific proposals were no doubt well intentioned, the implications and limitations of Corston's woman centred approach become apparent when analysing the rhetoric of her report. Indeed, as Elfleet has argued, the rhetoric of Corston adhered to the two core tenets of neoliberalism; individualism and responsibilisation.[45] For example, whilst making her proposals, Corston cited the work undertaken by existing women's centres. Drawing on the work of two centres Asha and Calderdale, she argued the following on their role for women in conflict with the law:

> Their broad approach is to treat each woman as an individual with her own set of needs and problems and to *increase their capacity to take responsibility for their lives.[46]*

Whilst the assertion that taking responsibility for one's action may not appear wholly problematic, the notion of assigning sole responsibility to marginalised women is, especially when considering the role of the state in generating and exacerbating poverty and social exclusion. It is further problematic when one considers that predominantly, the subjects of punishment are derived from those experiencing such deprivations.[47] This construction of women's crime and deviance as a moral problem, as opposed to a structural one, has long been in existence, as was evident in the work of Elizabeth Fry.[48] Gender specific technologies of reform therefore evidently reflect, and serve, broader social, economic and political interests. Primarily whilst hardship is acknowledged, the primary solution to it is presented as a matter of personal/individual responsibility. Inequalities are thus regarded as inevitabilities, as opposed to the products of state manufactured social and economic inequality.[49]

Hannah-Moffat[50] has argued that what has become increasingly evident in analyses of the contemporary neoliberal governance is the governance of individuals from a distance. One of the main aspects of this is self-governance, whereby individuals are constructed as rational, free, responsible consumers, who are capable of negotiating and reducing risk to themselves and indeed others.[51] Of importance to this mode of governance is the idea that the exercise of authority is the outcome of freedom of choice. It has therefore been argued that the responsibilisation of individuals is integral to such notions.[52] As such, Bell has highlighted that neoliberalism should be considered not only in terms of its economic dimensions, such as market deregulation, lowering levels of corporate income tax for the wealthy, and the privatisation of national assets, but also in terms of its social, political, legal and cultural aspects.[53] Crime is constructed as a moral problem, as opposed to a structural one and, as a result, it is regarded to be the outcome of the behaviour of an

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43. This recommendation was however rejected by the government. See MoJ (2008a) *Delivering the Government Response to the Corston Report: A Progress Report on Meeting the Needs of Women with Particular Vulnerabilities in the Criminal Justice System*, London: Ministry of Justice.
44. For a full consideration of the proposals of this report, and the government response to it, see Elfleet (2017).
45. Elfleet (2017).
46. Corston (2007:10, emphases added).
47. For a detailed consideration of the politics of imprisonment as a politics of punishing the poor and powerless, see Sim, J. (2009) *Punishment and Prisons: Power and the Carceral State.* London. Sage.
48. Hannah-Moffat (2001).
49. Elfleet (2017).
50. Hannah-Moffat (2001).
51. Rose, N. (1993) 'Government, Authority and Expertise in Advanced Liberalism', *Economy and Society,* Vol 23 (3), pp. 283-300.
52. Garland, D. (1996) 'The Limits of the Sovereign State: Strategies of Crime Control in Contemporary Society', *British Journal of Criminology,* 36(4), pp. 445-471.
53. Bell, E. (2013) 'The Prison Paradox in Neoliberal Britain'. In Scott, D. (2013) *Why Prison?* Cambridge. Cambridge University Press.

irresponsible minority of the population who, it is deemed, should take responsibility for their actions. Indeed, political agendas, from the 1980s to the present have repeated and reinforced 19th century anti-poor, 'social residuum' discourses, through the presentation of those in receipt of support as idle, evoking notions of a category of persons unable to assimilate a work ethic, and who were happy to live idly off the labour of others.[54] Individuals have therefore continuously been constructed as rational actors who were able to divert themselves from poverty through perseverance and determination to succeed.[55]

Whilst the Corston Report acknowledged the hardships experienced by women in conflict with the law, and asserted that a combination of vulnerability factors were likely to lead to imprisonment, the 'solution' to these hardships for Corston was the endorsement of a neoliberal gender responsive approach that asserted that women should be supported, or empowered, to develop 'resilience, life skills and emotional literacy'[56] to ensure that they were able to 'take responsibility for their lives'.[57] Thus, as acknowledged previously, whilst she argued that there were three core factors contributing to women's vulnerabilities (personal, domestic and socio-economic), her report focused on domestic and personal circumstances to a far greater extent, with very little attention paid to socio-economic, structural factors, which reduce life opportunities.[58] As Elfleet has argued, a sole focus on individual/personal responsibility draws attention away from the role of the state, and indeed markets, in generating and exacerbating inequalities.[59] The main concern with this assertion is that women's difficulties are presented as surmountable through the adoption of key neoliberal principles, adaptability, resilience, self-sufficiency and individual responsibility.[60] As such, it can be argued that Corston, like Fry before her, considered women's social and economic difficulties through a narrow lens of personal failure and social inadequacy.[61]

Conclusion

As is evident throughout this article, the construction of women's crime as a result of individual deficiencies has long been in existence. What has further remained evident is the idea that the solution to these 'deficiencies' are gender specific reform strategies, which have consistently been presented as 'soft' and 'gentle' responses. There is ample evidence highlighting that welfare policies and penal institutions have combined to form a systematic mode of gender responsive governance, that has largely been directed at those who are socially and economically marginalised. Whilst these strategies may have been well intentioned, they have nonetheless presented the profound social and economic inequalities experienced by women in conflict with the law as surmountable through the internalisation of stereotypical gendered norms, through engagement and compliance with gender specific governance programmes. A key feature of these strategies has been the presumption that 'offending' women should take individual/personal responsibility for their 'reform'. This responsibilising function of gender specific governance has been present throughout the history of regulating women's crime and 'deviance'.[62] Offending women have consistently been presumed to lack responsibility, which has often been linked to their roles as wives and mothers, and they have been deemed abnormal not only for disregarding the law but for having transgressed the 'norms' of their gender.[63] Finally, this article has highlighted that whilst gender specific strategies have been presented as benign, caring and individually/personally empowering they have, in reality, served broader social, economic and political interests. Therefore, whether gender responsive governance is regarded as a mechanism to train women to be domestic servants or mothers, and/or to instil resilience to ensure that they become compliant neoliberal subjects, the broader/structural agenda that underlies the seemingly 'benign' nature of it must be acknowledged. Primarily gender responsive governance strategies have reinforced and maintained the perception that those most vulnerable women are responsible for their social and economic marginalisation. They have thus paid little, to no, attention to the role of the state in generating and exacerbating the profound social and economic disadvantages that women subject to gender specific governance experience.[64]

54. Cooper, V., & Sim, J. (2013:189) 'Punishing the Detritus and the Damned: Penal and Semi-Penal Institutions in Liverpool and the North-West. In Scott, D. (2013). *Why Prison?* Cambridge: Cambridge University press.
55. Bell (2013); Cooper & Sim (2013).
56. Corston (2007:2, para.1).
57. Corston (2007:10, emphases added).
58. Kendall (2013).
59. Elfleet (2017).
60. Elfleet, H. (2018) 'Women's Centres: Gender Responsive Services for Formerly Imprisoned Women Post Corston Report (2007)'. *The Howard League for Penal Reform ECAN Bulletin,* Issue 35, April 2018. Available at: https://howardleague.org/wp-content/uploads/2018/04/ECAN-bulletin-April-2018.pdf.
61. Kendall (2013).
62. Hannah-Moffat (2001); Carlen & Worrall (2004).
63. Smart (1976); Carlen (2983); Sim, J. (1990) *Medical Power in Prisons.* Milton Keynes. Open University Press; Worrall (1990); Carlen & Worrall (2004).
64. Elfleet (2017; 2018).