

Feminized not Feminist Justice at the Toronto Women's Court

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Amanda Glasbeek, [Feminized Justice: The Toronto Women's Court 1913-1934](#) (Vancouver: UBC Press, 2009).

This terrific book, coloured hot pink, has a black-and-white photograph of the Toronto Women's Court on its cover. The photograph is filled with a lot of men, at least a dozen, all wearing suits, and only two women. Where were the women lawyers, women judges, women clerks and bailiffs, not to mention the female defendants who occasioned the gathering of all this officialdom? The court had a male judge for its first eight years. The small number of women in the photograph and the initial lack of a female judge points to the same kind of contradiction [Amanda Glasbeek's](#) book is most concerned to highlight, namely, the way that this movement to create a female-friendly space for the "right" kind of woman (young ones who had temporarily lost their moral compass and needed to be protected) ended up mostly coercing, disciplining, and punishing a very different kind of woman (e.g. older veterans with persistent drinking problems who were deemed effectively non-reformable).

The maternal feminists who brought the court into existence and eventually got their female magistrate, Margaret Patterson, to preside over it, are subjected to the kind of discussion that leaves no doubt in one's mind about the kind of reform they intended and achieved, not one with a paradoxical or unintended outcome for some women but one, Glasbeek argues, that did precisely what was intended, namely, "to separate the erring from the hardened, the daughters from the daughters of the night, and the women in need of protection from the women from whom the city needed protecting" (p.176). It was "an ideal reflection of the politics of the middle-class, white feminists of the TLCW [the Toronto Local Council of Women]" (p. 13). These women were moralistic, usually racist, and used the law to further a state-sponsored evangelical mission. Patterson herself, a physician by training, had been a missionary in colonial India who worked with the Indian army on venereal disease (p. 38). This pretty much says it all: "sexually active women [were] a moral and physical danger" (p. 155).

Glasbeek shows that while the court might have brought a gentle "maternal" touch to the treatment of some young women, if they had the right kind of family background and could show the requisite contrition in something like a first-time shoplifting offence or a border-line vagrancy charge (e.g. being out late at night in the company of men), it slammed women defendants who challenged its authority (see Chapter 6 for dramatic examples of this) and brought down straight-forward coercive power on repeat offenders who were among the poorest and most marginalized (see Chapter 3). Most women charged with drunkenness, for instance, were over the age of thirty-five, overwhelmingly Roman Catholic, and worked as prostitutes from time to time (p. 120). It probably treated them more harshly than the regular system would have (see pp. 43-44, 150). The special "maternal" treatment women were supposed to receive did not work on the recidivists and indeed the coercion of "bad" women in the women's court, those who did not comply or act appropriately deferential, "raised the possibility that feminized justice was unjust" (p. 170).

Patterson and the TLCW (was this acronym supposed to connote "tender, loving, care"?) argued that a separate court for women was needed in order to protect women from the prying eyes of men in the ordinary police courts, noisy, smelly places where women (at least the right kind of woman) would feel uncomfortable. Unsavoury men, they claimed, would attend and take down the names of women who appeared, marking down their length of sentence, meeting them when they came out of jail, and taking them down a road of immorality and vice (p. 2). The need to protect women from predatory men was also invoked in similar projects elsewhere, e.g. the establishment of a Women's Court in Los Angeles (p. 33) and separate night courts for women in New York City (p. 34). This concern sounds a lot like a boogeyman from stock-in-trade white slavery arguments. Surely, institutionally and administratively, more minor measures than the establishment of a separate court for women could have been used to deal with this

problem. And, indeed, it is probably telling that the standing committee of the TLCW most involved with the Women's Court, the "Equal Moral Standard" committee had been called the "Equal Moral Standard and Prevention of Traffic in Women" committee in 1914 (p. 57).

Glasbeek has produced an extremely interesting and thought-provoking study for anyone interested in issues related to women-in-the-law, especially those related to women judges and whether they make a difference, the history of female crime and criminology, and generally good law-and-society legal history. My sense is that there was a period of time when feminist or feminist-friendly academics felt it was some kind of betrayal of path-breaking feminists to point out just how outrageous some of these early initiatives were. See, for example, Glasbeek's discussion of what counted in this court's estimation as "occasional prostitution" (see p. 97-98) or what could happen to you if you were arrested for petting in the park on a date (see p. 101). However, outrageous is not a characterization Glasbeek would use, as she is always very careful in the book to outline the logic of maternal feminist ideology without dismissing it outright. I take it that the choice in the title reflects Glasbeek's judgment at the end of the day, *feminized justice* not *feminist justice*. This is far from anyone's ideal feminist justice even if it was the (deeply flawed) product of the feminists of its day.

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