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## 'Business as Usual?'

### Britain's First Women's Convict Prison, Brixton 1853-1869

Neil Davie<sup>1</sup>

#### Abstract

This article concerns the 16 year penal experiment at Brixton, Britain's first convict prison for women (1853-1869). From the start, the regime at Brixton was seen by Home Office officials and prison staff alike as a second-best solution, since contemporary views on 'appropriate' women's work ruled out the hard physical labour of the men's public works prisons, felt to bring salutary effects to both body and mind. The emphasis was placed instead on inculcating those domestic, 'womanly' values felt to be under threat from the social forces unleashed by the Industrial Revolution. However, a combination of the enforced sedentary lifestyle, together with women's supposedly 'impulsive' and 'excitable' natures, were blamed for creating an unexpected problem of discipline in the prison. Despite removing some of the worst cases to Millbank for a dose of separate confinement, the prison authorities felt continually frustrated and powerless in the face of persistent rule-breaking at Brixton. Caught between the conflicting demands of the reformatory project and calls from outside to tighten the penal screw, and clearly divided on the question of just what punishments were suitable for women prisoners, they saw no solution except to build a new prison and try again.

**Keywords:** Female convict, Brixton Convict Prison, Millbank Prison, Victorian prison and penal policy

#### Introduction

The Victorian prison, writes penal historian Philip Priestley,

was a man's world; made for men, by men. Women in prison were seen as somehow anomalous: not foreseen and not legislated for. They were provided with separate quarters and female staff for reasons of modesty and good order - but not otherwise dealt with all that differently.

In fact, he concludes, women prisoners tended to be treated like '*rather difficult men*'.<sup>2</sup> We shall see in this article that from the foundation of Brixton women's convict prison in 1853, inmates were indeed frequently considered 'rather difficult' (to put it mildly), but certainly not as '*rather difficult men*'. In fact, staff at Brixton and their Home Office superiors were more or less continuously preoccupied during the

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<sup>2</sup> Philip Priestley, *Victorian Prison Lives: English Prison Biography 1830-1914*, (2<sup>nd</sup> edn., London, 1999) pp. 69-70 [my emphasis].

prison's sixteen-year existence with the penal implications of what they referred to as 'the essential difference between the mental and physical conditions of the sexes'.<sup>3</sup> It was a concern which, as Lucia Zedner has shown, coloured the whole of official thinking on the subject.<sup>4</sup> The focus here will be on the way in which prison staff and government officials interpreted such perceived 'essential differences' at Brixton when it came to explaining and seeking to contain the behaviour of violent and otherwise disruptive prisoners. It will be suggested that reactions among prison officials were structured both by their pre-existing experience of penal administration – largely of male convicts – and more generally by widely-shared and deeply-rooted conventional assumptions about women's nature and role in society. When the demands of those two forces, one bureaucratic the other ideological, pulled in opposite directions, compromises needed to be made. The results often left prison officials disappointed and frustrated, and their Home Office superiors itching to try something different.

## **1 Confining the Problem of Female Confinement**

The origins of Brixton Convict Prison can be traced to that major shift in British penal policy at the beginning of the 1850s which saw the beginning of the end of transportation as a penal remedy for the country's more serious criminals. The writing had been on the wall for some time in fact, with mounting criticism at home and one Antipodean door after another slamming shut in the face of the Mother Country's criminal export trade.<sup>5</sup> The announcement in 1852 that Van Diemen's Land too would henceforth refuse to take female transportees meant that an alternative solution needed to be found quickly for the country's 1,000 or so women convicts.<sup>6</sup> The result was the purchase of Brixton Prison, a former local gaol, which was rapidly converted for convict use. By November 1853, just a few months after the passage of the Penal Servitude Act 1853 had created a legal alternative to transportation, a full complement of staff had been recruited (including the widow of a prison chaplain as superintendent) and the first batch of prisoners installed in the old part of the prison. By July of the following year, the building work was completed, and the prison up to its full strength of about 650.<sup>7</sup>

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<sup>3</sup> 'Reports of the Directors of Convict Prisons', 1854, Brixton Prison (London: Eyre and Spottiswoode, 1855) [hereafter RDCP 1854-5, etc.] p.367.

<sup>4</sup> Lucia Zedner, *Women, Crime and Custody in Victorian England* (Clarendon Press, 1991) ch.3, 5. Zedner's book remains the best general treatment of the subject.

<sup>5</sup> Leon Radzinowicz and Roger Hood, *The Emergence of Penal Policy in Victorian and Edwardian England* (Oxford: Clarendon Press, 1990) pp.474-85.

<sup>6</sup> Zedner, *Women, Crime and Custody*, p.177.

<sup>7</sup> RDCP 1853-4, 305-6; RDCP 1854-5, 366.

The purchase of Brixton presented the prison authorities with a whole range of novel problems. For male convicts, an alternative to transportation was already available in the form of the recently-built public works prisons at Portland, Portsmouth and Dartmoor. However, the only previous provision for female convicts had been at Millbank, where women had been subject to several months' separate confinement before being shipped overseas. True, from 1816 up until the early 1840s, Millbank, still retaining its original nomenclature of *General Penitentiary*, had also been available as an alternative - rather than a prelude - to transportation, with one of its pentagons having been given over to women convicts. But as in other penal regimes of the period,<sup>8</sup> it would appear that little thought was given to the specific needs of women prisoners. As for any lessons learnt at the General Penitentiary in subsequent years, they seem to have been forgotten in the unseemly rush to condemn the Millbank experiment as an unmitigated disaster. Repeated bouts of rioting, together with an outbreak of epidemic disease in the 1820s so serious the premises had to be temporarily evacuated, were credited to management failures. With the prison believed to have been placed in the hands of incompetent, if well-meaning amateurs, it was decided that the time had come to bring the experiment to a close, and in 1843 Millbank was ignominiously converted into a convict *depot*.<sup>9</sup> Thereafter, its inmates would be merely passing through its gates, initially on the way to Australia, or later to other British convict prisons.<sup>10</sup>

The appointment of Sir Joshua Jebb in 1850 to head the new Convict Prisons Directorate would mark a turning point, ushering in a period of intense reflection on the subject of female imprisonment. Home Office officials were well aware that they were entering uncharted waters. As Jebb and his colleague Captain Donatus O'Brien noted in the first of their reports on Brixton, a fundamental shift was required in the organisation of the country's provision for women convicts. 'Until very lately', they wrote,

female convicts were taught to regard expatriation as the inevitable consequence of their sentence, and when detained in Millbank, usually for some months, waiting embarkation, they were reconciled to the discipline, however strict, by the knowledge that it would soon cease... On the same

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<sup>8</sup> Lucia Zedner, 'Wayward Sisters', in Norval Morris and David Rothman (eds.), *The Oxford History of the Prison: The Practice of Punishment in Western Society* (Oxford University Press, 1995) pp.295-304.

<sup>9</sup> Neil Davie, 'Des 'Corps Dociles'? Le *Panoptique* en théorie et en pratique', in Michel Prum (ed.), *L'Un sans l'Autre : racisme et eugénisme dans l'aire anglophone* (Paris: L'Harmattan, 2005) pp.207-230; David Wilson, 'Millbank, The Panopticon and Their Victorian Audiences,' *The Howard Journal*, 41(4), ( 2002) pp. 364-381.

<sup>10</sup> Sean McConville, *A History of English Prison Administration: Volume I 1750-1877* (London: Routledge, 1981) ch.6.

grounds, this treatment at Millbank being only a portion of a general plan, was of a temporary and penal, rather than a lengthy and reformatory character.

Both of these sets of assumptions were now going to have to change:

...the circumstances being materially altered, and discharge from prison in this country becoming the rule, it is essential that a corresponding change in the treatment takes place, with a view to preparing them to re-enter the world.<sup>11</sup>

But how could this 'preparation' best be achieved?

What was quite clear to Jebb and his colleagues was that the new system being put in place for male convicts in lieu of transportation – a two-stage system of nine months of separate confinement followed by heavy, manual labour in specialised public works prisons on British soil – was wholly inappropriate for women convicts:

Whereas male convict prisons were primarily concerned with inculcating discipline, orientated as they around arduous labour at public works, the predominant role of the female prison was the psycho-medical treatment of women, aimed at moral regeneration. ... The punitive element [in the women's convict prison] was legitimated as an unfortunate but necessary precondition to moral treatment intended to restore criminal women to honesty, propriety, and 'womanliness'.<sup>12</sup>

While the contrast with male convict prisons before the 1860s may be slightly overdrawn in this passage,<sup>13</sup> Zedner's point remains valid. The concerns she highlights need to be placed in the broader context of changing gender perceptions in early and mid-Victorian Britain, and in particular the existence of deep-seated fears that the twin effects of industrialisation and urbanisation were placing traditional 'womanly' virtues under threat amongst the country's working class population. As the public outcry surrounding the publication of the Sankey Commission's investigation into labour in the mines in the 1840s illustrates, new patterns of labour and social relationships in Britain's towns and cities were held to blame for a whole host of social ills.<sup>14</sup> The apparently spiralling crime rate was one among many of the sinister repercussions of this moral canker.

Imposing a regime of heavy, physical 'male' work on female convicts was out of the question in this context. What was needed instead was an appropriately domestic

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<sup>11</sup> RDCP 1853-4, 307.

<sup>12</sup> Zedner, *Women, Crime and Custody*, p.185.

<sup>13</sup> See Bill Forsythe, 'Women Prisoners and Women Penal Officials, 1840-1921,' *British Journal of Criminology*, 33(4), (1993) 525-40 for this point.

<sup>14</sup> Sophie Hamilton, 'Images of Femininity in the Royal Commissions of the 1830s and 1840s,' in Eileen Yeo, (ed.), *Radical Femininity: Women's Self-Representation in the Public Sphere* (Manchester: Manchester University Press, 1998) pp.79-105.

setting for the gradual restoration of womanly qualities, at least among those inmates whose degree of moral and physical degradation was not considered to have rendered such aspirations hopeless. Like their male counterparts, women convicts at Brixton would begin with a period of 'probationary' separate confinement of four months, a considerably shorter period than for male convicts. At the end of this period, rather than being transferred to a different establishment for the remainder of their sentences, they would remain on the same premises, benefiting (if that is the right word) from a regime permitting limited – and always closely-watched – association in the school, chapel, exercise yard and while working. The range of work on offer was limited by contemporary conceptions of 'appropriate' employment for women. It thus tended to revolve around sewing, cooking, cleaning and laundering: precisely those 'feminine' skills the absence of which were considered responsible for getting women convicts into trouble in the first place. Minor 'improvements' to the prison environment, like whitewashing the walls and growing flowers, were also encouraged to nurture 'womanly' virtues.

During this second phase of closely-watched association, there would be, Jebb and O'Brien noted, 'appreciable advantages for good behaviour', with prisoners able to move up through three 'classes', each providing slightly better conditions than the last. These privileges could be rescinded in the event of bad behaviour, and the offender demoted, snakes-and-ladder style, to the previous class. She could even, if necessary, be required to recommence the probationary period of separate confinement.<sup>15</sup> In some respects, the regime put in place at Brixton was less harsh than that pertaining in the male convict prisons because the period spent in separate confinement was shorter and at its end, many prisoners progressed rapidly to so-called 'Second Class' status. Once this had been achieved, the women were allowed to converse in pairs during exercise, and to enjoy certain privileges like drinking tea in the evening and wearing a better quality uniform. For those displaying the requisite qualities of contrition, honesty, docility and industriousness, further promotion might be offered to the 'First Class', which after 1855 meant transferral to the significantly-named 'Fulham Refuge'. The Refuge was intended to provide a less punitive regime than the one in place at Brixton. It was hoped that when the time came to leave this 'benevolent institution' (as Fulham's first chaplain called it), and enter domestic service (seen as the most respectable employment for working-class women) the former inmates would have been washed clean of the stigma of their convict status.

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<sup>15</sup> RDCP 1853-4, 307-9.

Release was also governed by a more generous system of remission than for men, with sentences reduced by up to a third for good behaviour.<sup>16</sup>

## 2 More Criminal, More Degraded, More Vicious?

The regime at Brixton and Fulham was never considered to offer anything more than a second-best solution, however, lacking as it was in the salutary effects for body and mind of heavy, manual, outdoor labour. Thus in his evidence to the House of Commons Select Committee on Transportation (1856), after briefly detailing the system of public works prisons for male convicts, a senior Home Office official was forced to admit that

for females nothing of that sort has yet been discovered; therefore it is necessary to keep them within the walls of the prison, and the difficulty, under those circumstances, of doing any good either to their minds or their bodies is extreme.<sup>17</sup>

Indeed, as early as 1853, Brixton's new superintendent, Emma Martin, was putting on record her concerns. These were that 'Their habits being necessarily so much more *sedentary* and *monotonous* than those of male convicts', inmates would be particularly susceptible to a 'sore depression of spirits' and even 'an endangering of their reason, irritability of temper leading them often to do wrong when they would fain do right'. Both the prison's chaplain and medical officer provided corroboration for this view. The former wrote of the fact that 'violence of temper' was 'one great evil among female prisoners', while the latter noted repeatedly the 'greater irritability' of female as distinct from male convicts, and the 'marked way in which these prisoners act from *feeling* and from *impulse*, and that to an extent altogether unknown to men.'<sup>18</sup>

It was the force of such emotional, intellectual and behavioural inadequacy, Zedner reminds us, that was widely assumed to have got Brixton's inmates into trouble in the first place.<sup>19</sup> A combination of environmental pressures – identified as neglectful parents, vicious male associates, low wages etc., – and inherent moral failings which made 'work inordinately irksome to their natures, and pleasure inordinately agreeable

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<sup>16</sup> The previous paragraph is based on Zedner, *Women, Crime and Custody*, pp.177-85.

<sup>17</sup> *Select Committee on the Provisions and Operation of the Act to Substitute Other Punishment in lieu of Transportation*, First Report, Minutes of Evidence, Parliamentary Papers, 1856, p.11. See also Sir Joshua Jebb, quoted in Zedner, *Women, Crime and Custody*, p.183.

<sup>18</sup> RDCP 1854-5, 379, 388; RDCP 1856-7, p.338 [my emphasis].

<sup>19</sup> Zedner, *Women, Crime and Custody*, p.186.

to them',<sup>20</sup> were considered by many mid-Victorians to be the main causes of crime among women.<sup>21</sup> It was not surprising therefore that women's impulsive, excitable and influenceable natures were assumed to continue exerting their destructive influence after conviction. In his evidence to the Royal Commission on Penal Servitude (1863), Sir Joshua Jebb observed that women convicts were

not so amenable to punishment, because their offences are of a different character, and *depend very much upon impulse*. If they quarrel one with another they will set to work and break the windows in their cells, and tear up their clothes, all without any assignable reason, and then they will sit down and burst out crying.<sup>22</sup>

This was a view shared by Brixton's superintendent. As Mrs Martin told journalists Henry Mayhew and John Binney when they visited the prison in the mid-1850s:

When I first came here, I'm sure it was like living in another planet. As a clergyman's wife, I used to see all kinds of people of course, but never any like these. Oh, they are most peculiar! There are many of them subject to fits of the most ungovernable fury; very often there is no cause at all for their passion except their own morbid spirits; perhaps their friends haven't written, so they'll sit and work themselves up into a state of almost frenzy, and when the officer comes they will give way.... When they are in these fits they're terribly violent indeed; they tear up and break everything they can lay their hands on.<sup>23</sup>

Unsurprisingly, the existence of such spectacularly disruptive behaviour, offering as it did a sinister mirror image of the Victorian womanly ideal, both repelled and fascinated contemporaries.<sup>24</sup>

One of the most widely-discussed accounts of a female prison was ostensibly written in the form of memoirs by a retired prison matron, but was in fact the work of journalist Frederick Robinson. This was *Female Life in Prison*, published in 1863. Robinson devoted considerable space to the unruly prisoners to be found at Brixton and Millbank. 'In the penal classes of the male prisons', he wrote,

there is not one man to match the worst inmates of our female prisons. There are some women so wholly and entirely bad, that the chaplains give up in despair, and prison rules prove failures, and punishment has no effect, save to bring them to 'death's door', on the threshold of which their guilty tongues still curse and revile, and one must let them have their way, or see them die.

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<sup>20</sup> Henry Mayhew and John Binny, *The Criminal Prisons of London and Scenes of Prison Life*, (London: Griffin and Co., 1862) p.455.

<sup>21</sup> Zedner, *Women, Crime and Custody*, pp.50-62.

<sup>22</sup> 1863 [3190-I] *Royal Commission to Inquire into the Operation of the Acts Relating to Transportation and Penal Servitude*, Minutes of Evidence, p.69 [my emphasis].

<sup>23</sup> Mayhew and Binny, *Criminal Prisons*, p.188.

<sup>24</sup> Zedner, *Women, Crime and Custody*, p.27.

There are some women less easy to tame than the creatures of the jungle, and one is almost sceptical of believing that there was ever an innocent childhood or a better life belonging to them.<sup>25</sup>

Robinson's account provided a new outing for a long-standing stereotype of the female criminal, according to which the extent of her departure from prevailing norms of womanly behaviour made her somehow *more* criminal, *more* degraded, and *more* vicious than her male counterpart. Thus, Mary Carpenter, another respected authority on female convicts in the 1860s, described how

The very susceptibility and tenderness of woman's nature renders her more completely diseased in her whole nature when this is perverted to evil; and when a woman has thrown aside the virtuous restraints of society, and is enlisted on the side of evil, she is *far more dangerous to society than the other sex*.<sup>26</sup>

What, after all, could be more different from the ideal of domesticity and respectful submission than the conduct of such women? They were 'deceitful, crafty, malicious, lewd, and void of common feeling'; and either 'sullen, dogged [and] vindictive' or 'fiery-tempered...go[ing] madly to work at everything breakable and tearable within range at the moment'.<sup>27</sup>

It had been hoped that the system of privileges and gratuities put in place at Brixton in order to encourage orderly habits and moral improvement would be sufficient to wean inmates off their former impulsive and destructive behaviour. However, prison officials quickly reached the conclusion that there existed a category of prisoners impervious to both the promise of improved conditions and the threat of punishment. Thus, in his evidence to the Select Committee on Transportation (1856), Captain O'Brien estimated that more than 36 per cent of Brixton inmates fell into the troublesome category, though only eleven per cent were considered fully 'incurable'. The rest he described as 'impetuous; with violent passions, not absolutely bad, but very difficult to restrain or manage'. Such women, O'Brien suggested, 'do best in separation, because when associated they encourage each other in all species of irregularities'.<sup>28</sup> Such views, already expressed in the 1830s by the Reverend Nihill (the last governor of Millbank in its days as a General

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<sup>25</sup> A Prison Matron, *Female Life in Prison*, 2 vols., (London: Hurst and Blackett, 1862) vol. 1, pp.45-46, 134-135.

<sup>26</sup> Mary Carpenter, *Our Convicts*, 2 vols., 1864, (repr. Montclair, New Jersey: Patterson Smith, 1969) vol.2, pp.31-32 [my emphasis].

<sup>27</sup> Prison Matron, *Female Life in Prison*, pp.45-6, 224, 54.

<sup>28</sup> 1856 (244) *Select Committee on the Provisions and Operation of the Act to Substitute Other Punishment in lieu of Transportation*, First Report, Minutes of Evidence, p.69.

Penitentiary)<sup>29</sup> were by now axiomatic. Robinson's 'guilty tongues' were felt to represent a formidable threat to prison discipline.<sup>30</sup>

The only solution, O'Brien argued, was to keep female convicts' minds 'as evenly-balanced as possible'. 'They thrive only in quiet', he added, 'punishment when often repeated tends to harden them, but encouragement is necessary to train them to industry.'<sup>31</sup> The threat to order came when these prisoners began to reflect on their fate once discharged from prison:

They sometimes say: 'What is the use of our leaving prison, when we shall be obliged to do what we have done?' And they sit desponding in their cells till they almost lose their reason; when in this condition, a feeling of recklessness, amounting to despair, comes over them, and they will smash their windows and destroy their cell furniture under its influence.<sup>32</sup>

There was a constant danger, it was felt, that if unduly punished, or sentenced to long prison terms, members of this group would become hardened and sink into the 'utterly vicious' incorrigible class of prisoners. The latter, O'Brien told the committee, was characterised by mainly young women 'continually in and out of prison' and 'neither industrious nor clean'. This 'lowest division', he added, 'would be best represented by a den of wild beasts'.<sup>33</sup>

Such reasoning explains the importance accorded by the authorities at Brixton to the process of separating the most difficult prisoners from what was considered the more orderly – and reformable – majority. It was decided in 1855 that prisoners would undergo the first stage of their sentences in separate confinement not at Brixton but at Millbank, and 'under the strictest discipline consistent with the health of the women'.<sup>34</sup> In addition, particularly disorderly prisoners from other classes at Brixton

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<sup>29</sup> As reported by Major Arthur Griffiths in the 1880s. See Arthur Griffiths, *Memorials of Millbank and Chapters in Prison History* (London, Chapman and Hall, 1884) ch. xi. Griffiths quotes Nihill's journals (unfortunately no longer extant) where the latter had recorded that 'the female pentagon is...a criminal nunnery, where the sisterhood are linked together by a chain of sympathies and by familiar and frequent communications....The communications which many of them carry on with each other are congenial with their former vicious habits, their minds being thus kept in a state at once the most depraved and hypocritical' (p.201). For Nihill's views on prison discipline and reform, see his *Prison Discipline in its Relations to Society and Individuals in Deterring from Crime, and as Conducive to Personal Reformation* (London: Hatchard and Son, 1839).

<sup>30</sup> Zedner, 'Wayward Sisters', p.303.

<sup>31</sup> 1856 (244) *Select Committee on the Provisions and Operation of the Act to Substitute Other Punishment in lieu of Transportation*.

<sup>32</sup> *Ibid.*

<sup>33</sup> *Ibid.*, pp.69-70.

<sup>34</sup> RDCP 1855-6, p.277.

could be removed to Millbank if all other disciplinary measures failed. Twelve were dispatched there in the first year of the operation of the new system, and 29 the following year.<sup>35</sup> It was clearly hoped that these desperate cases would be kept at Millbank until they had 'quite redeemed their characters', but it was grudgingly accepted that such women could not be kept in isolation indefinitely. 'I heartily wish', wrote Brixton's Superintendent to her superiors, '[that] their health permitted them to stay there...but this is not the case, as they are sometimes returned to us while their characters are still 'bad', to the great disturbance of our discipline'.<sup>36</sup> Equally, there were certain prisoners at Brixton whose health was judged too poor to permit them to be sent back to Millbank, 'despite their violent conduct'.<sup>37</sup>

The poor physical and mental health of Brixton's recalcitrant prisoners was a continuing source of concern for the prison's medical officer, Dr James Rendle. This was no mere theoretical question; prison doctors were under a statutory duty to distinguish on a daily basis between those prisoners who were 'fit' for labour or punishment, and those who were 'unfit' for physical or mental reasons.<sup>38</sup> Indeed, on some occasions, such decisions might bring a medical officer into conflict with other members of the prison administration, keen to see malingerers at labour, and disorderly inmates given their just deserts.<sup>39</sup> In his Report for 1855, Dr Rendle expressed his 'fears as to the ultimate effect of lengthened imprisonment on the health of female prisoners sentenced to female servitude'. He reasoned that 'on account of their previous domestic habits of life', women convicts would bear better than men the first eighteen months of their sentence. However, after three years in prison,

the health of many will fail, and I do not think that the whole period of penal servitude can be passed without causing fatal disease in some, and in very many others such a condition of permanent ill-health as will prevent them from again supporting themselves.<sup>40</sup>

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<sup>35</sup> *Ibid*, p.279.

<sup>36</sup> RDCP 1856-7, pp.326-7.

<sup>37</sup> RDCP 1857-8, p.258.

<sup>38</sup> Stephen Watson, "'Malingers", the "Weakminded" and the "Moral Imbecile": How the English Prison Medical Officer Became an Expert in Mental Deficiency,' in Michael Clark and Catherine Crawford (eds.), *Legal Medicine in History* (Cambridge: Cambridge University Press, 1994) pp.223-41.

<sup>39</sup> Neil Davie, *Tracing the Criminal: The Rise of Scientific Criminology in Britain, 1860-1918* (Oxford: Bardwell Press, 2005) pp.70-1.

<sup>40</sup> RDCP 1855-6, pp.296-7.

In his Report for 1856, Rendle turned to the question of the appropriate punishment for 'troublesome' female prisoners. He argued that it would be a grave mistake to seek to apply at Brixton the punishment regime familiar from male convict prisons:

Prison offences are as numerous among women as among men, and equally deserve punishment; but of the inability of women to bear frequent or long punishment by deprivation of food, I think there cannot be a doubt....The fear of bread and water diet will not prevent a troublesome prisoner from continuing a career which must end in placing her among the incorrigibles. And as to the case of the incorrigibles, there is a period beyond which it is unsafe (as well as useless) to punish; for if punishment be continued, some of these unfortunate creatures would either break down in health, and require to be released in consequence, or become affected with diseases of which they would die in prison.<sup>41</sup>

On Rendle's suggestion, seventeen new punishment cells were built at Brixton, intended to isolate disorderly prisoners from the rest of the inmates – and each other – without having to resort either to bread and water rations or the common practice of placing fractious inmates in a darkened cell.

While Rendle's recommendations on the use of the bread and water diet seem to have been followed, at least in certain cases,<sup>42</sup> the prison Superintendent was clearly concerned that some of the most disorderly prisoners were

incurring almost daily reports for violent and insubordinate conduct, knowing that from weakness, either of mind or body, and frequently both, their treatment can only consist of restraint for a few hours, and that the same reasons prevent their removal to the penal class at Millbank.<sup>43</sup>

The convict prison directors also expressed their fears that 'not a few of the worst women [had] committed serious offences almost with impunity, and repeated them, saying that they knew they could not be subjected to punishment diet, lest it should kill them'.<sup>44</sup> In some cases, in fact, it did kill them, or such was Rendle's conclusion. In a lengthy report on prison mortality in 1857, he distinguished a category of young, intractable prisoners particularly vulnerable to disease and death. He considered their poor health to be the result of 'a life of crime and vice, of frequent imprisonments and of long-continued bad conduct in prison', including exposure to cold as a consequence of tearing up clothing and smashing windows. The latter in

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<sup>41</sup> RDCP 1856-7, pp.38-9.

<sup>42</sup> The figures for 1857 reveal that the combination of bread and water diet and the refractory cell continued to be ordered more frequently than isolation on full rations (185 cases against 141): RDCP 1857-8, p.261.

<sup>43</sup> RDCP 1860-1, p.271.

<sup>44</sup> RDCP 1857-8, 255.

turn he linked to the psychological fallout from the menstrual cycle, particularly among 'weak-minded' prisoners.<sup>45</sup>

An increasing sense of frustration and possibly fatalism can be detected in the Brixton reports from the 1860s. In their Report for 1862, Jebb and O'Brien noted laconically that:

The refractory cells are very generally occupied by the same prisoners, who are no sooner released, than they commit other acts of violence, or of wanton mischief, which bring them again under prison punishment, til health breaks down and punishment necessarily ceases to be enforced, before they are either deterred or improved. In many of our reports we have made the same remarks, and we entertain no expectation of being able to say otherwise.<sup>46</sup>

Prison Superintendent Emma Martin's Report for the same year also revealed a sense of impotence in the face of the violent and disruptive behaviour of some inmates. Noting that thirteen prisoners had committed assaults on prison staff, she pointed out that Brixton had no suitable punishment for such 'outrageous and cruel' offences. 'To say truth', she went on,

I wish there were some prison under entirely different discipline, which should punish such savage conduct most severely, and perchance impress upon these miscreants what a heinous crime it is ferociously to injure their fellow creatures, whatever be the motive, and how surely a fearful retribution awaited themselves; which would prove the most forcibly deterring argument with the few who thus misconduct themselves.<sup>47</sup>

Mrs Martin repeatedly expressed her dissatisfaction with the punishment regime at Brixton. She highlighted the fact that with communication possible between inmates in the refractory cells, some would deliberately break prison rules in order to be sent there.<sup>48</sup> It was to be regretted, she wrote in her 1864 Report, that 'by dint of shouting', prisoners in the refractory cells were able 'to communicate...and thus to combine their evil example and influence'.<sup>49</sup> Both the chaplain and the prison doctor voiced similar concerns. Dr Rendle went as far as wondering 'whether prison offences are not positively *increased* by locating women under punishment in one ward'.<sup>50</sup> In

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<sup>45</sup> Ibid, 270-5. See also RDCP 1864-5, p.293

<sup>46</sup> RDCP 1862-3, p.254

<sup>47</sup> Ibid, p.257

<sup>48</sup> RDCP 1863-4, p.219

<sup>49</sup> RDCP 1864-5, p.282

<sup>50</sup> RDCP 1863-4, p.226; RDCP 1864-5, p.293 [my emphasis]

1865, these concerns were addressed by the construction of a new 'solitary cell', claimed to prevent any communication with the outside.<sup>51</sup>

### 3 Regime Change: The Diet of Punishment or Punishment Diets?

In one sense, the growing sense of frustration expressed by prison officials in the early and mid-1860s should come as no surprise since it reflected a more general disillusion with the reformatory project. There were widespread calls in Parliament and the press in these years for a tightening of the penal screw. With a series of gruesome garrotting attacks in London being blamed (on the basis of very slender evidence) on ex-convicts, there was growing pressure to place renewed emphasis on what a House of Lords Enquiry of 1863 called 'due and effective punishment'.<sup>52</sup> The reformatory hopes of the previous generation of prison administrators were now regularly mocked. One speech in the Lords spoke of 'well-intentioned theorists who thought it practicable to make moral influences a substitute for hard labour'.<sup>53</sup> Two government-backed enquiries in 1863 stressed the central role of separate confinement, punitive labour and a reduced diet in the prison regime.<sup>54</sup>

However, there is evidence that despite growing frustration concerning the refractory prisoners, officials at Brixton remained firmly committed to the reformatory mission of the prison, in the short term at least.<sup>55</sup> They clearly resented those on the outside who sought to belittle their achievements. In a clear reference to unwelcome allegations in Parliament and the press that convicts were being mollycoddled and the hallowed principle of *less eligibility* brazenly flouted,<sup>56</sup> Brixton's Superintendent responded robustly. She argued that the existing arrangements were quite sufficient for 'the promotion of habits of industry, cleanliness and order, which *contrary to the popular notion which would class them under the head of luxury*, form in reality a most irksome part of their punishment'. She added that the system of rewards and privileges encouraging good behaviour, together with the promise of remission

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<sup>51</sup> RDCP 1865-6, p.258.

<sup>52</sup> Quoted in William J. Forsythe, *The Reform of Prisoners 1830-1900* (London: Croom Helm, 1987) p.146.

<sup>53</sup> Lord Carnarvon (1863), quoted *ibid*, p.145.

<sup>54</sup> 'Report from the Select Committee of the House of Lords on the Present State of Discipline in Gaols and Houses of Correction' (the Carnarvon Committee), *Parliamentary Papers*, 1863, vol.IX; 'Report of the Royal Commission on Transportation and Penal Servitude', *Parliamentary Papers*, 1863, vol.XXI.

<sup>55</sup> Zedner notes that in subsequent years there was 'a notable shift in use of vocabulary... By 1878, the stress on kindness and affection of earlier years had all but disappeared' (Zedner, *Women, Crime and Custody*, p.211).

<sup>56</sup> Brixton was not the only convict prison to be on the receiving end of public criticism in these years. See Radzinowicz and Hood, *Emergence of Penal Policy*, pp.507-9.

remained 'great accessories to the rigid fulfilment of the end of penal servitude'. Take these away, she went on, 'and we should have to deal with two extremes, stubborn unimpressionable logs, or furies, giving as much trouble as can be imagined by spirits actuated by no other motive than sullenness or revenge.'<sup>57</sup>

Reverend Moran was also unhappy with the direction penal policy was taking. In this he was expressing a widely-shared view among prison chaplains in these years that the mounting criticism of the reformatory aspirations of the previous decades represented a fundamental challenge to their spiritual and moral influence within prisons.<sup>58</sup> The chaplain's position both within the penal system and at the same time slightly aloof from it may have meant that Moran did not consider himself constrained by the same need for bureaucratic reserve as his colleagues at Brixton. This may explain the tenor of his remarks in his report for 1865, where he wrote how it was 'painful' to observe how 'some of our public writers' were continually 'throw[ing] discredit' and 'affect[ing] to despise and sometimes to ridicule any statements respecting the practical results of religious teaching amongst prisoners'. He also declared himself 'astonished to find that statements made in all candour by those in authority respecting the outbreaks of individual refractory prisoners should be used as an argument to prove that the discipline is altogether faulty.'<sup>59</sup> In an earlier report, Moran had suggested that public debate was being poisoned by 'paper warfare' on the crime question, characterised by ignorance and bitterness on all sides. Indeed, the 'fear of falling into the hands of garroters [had] so agitated the public mind that the subject [could] hardly be considered with calmness'. It was vital, he went on, that the force of 'popular cry' did not lead to a penal policy 'aim[ed] merely at punishing the offender'.<sup>60</sup>

Prison medical officer James Rendle also expressed his concerns about the punitive turn in government penal policy, trying at the same time to ensure that his remarks were not misinterpreted as implying, as he put it in 1866, that he was 'prejudicially opposed to punishment for prison offences'.<sup>61</sup> The issue was the poor physical and mental health of refractory prisoners and the appropriate diet to be provided in the punishment cells; an issue which had, of course, been preoccupying him for some time. He warned his superiors that there was 'a far more serious danger to health

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<sup>57</sup> RDCP 1862-3, pp.256-7 [my emphasis].

<sup>58</sup> Forsythe, *Reform of Prisoners*, pp.202-3.

<sup>59</sup> RDCP 1865-6, 264. Moran's successor, the Rev. F.W. Batchelor makes a similar point in his Report for 1867 (RDCP 1867-8, p.330).

<sup>60</sup> *Ibid*, pp.266, 268.

<sup>61</sup> RDCP 1866-7, p.260.

and life from long periods or from often repeated short periods, of 'punishment diet', than a non-professional person can really believe'.<sup>62</sup> Rendle may have considered the new so-called 'penal diet', concocted by a Home Office committee of 1864 on which he himself had sat,<sup>63</sup> as preferable to the conventional punishment diet of bread and water. Certainly the 1866 punishment statistics for Brixton suggest that the new diet composed of bread, potatoes and porridge was the preferred option,<sup>64</sup> though his disparaging reference to 'non-professionals' may well indicate that his decisions had come in for criticism. Rendle continued to express his concern about prison diets – albeit in diplomatic terms – the following year, referring to 'the difficulty of stating positively the dietary that is needful and just which permits of judicial punishment without permanent injury to health'.<sup>65</sup> Despite his role on the 1864 dietary committee, Rendle seems to have come to the conclusion reached by a number of other prison doctors, and in the medical world more generally, that prisoners' health was likely to suffer from any reduction in the already meagre quantity and quality of prison food. That conclusion was, however, vehemently rejected by the committee's Chairman, Dr William Guy of Millbank.<sup>66</sup> Rendle appears to have been unable, however, to check a growing tendency to impose bread and water rations on prisoners in the punishment cells at Brixton in subsequent years.<sup>67</sup>

## **Conclusion**

In 1869, the inmates at Brixton were transferred to a new convict prison for women at Woking, and the old prison was converted once again, this time to a light labour prison for men. During the previous sixteen years, Brixton had started off as the only women's convict prison. However, subsequently the probationary and penal classes had been relocated to Millbank, and some of the better-behaved prisoners sent to the new intermediary 'refuge' at Fulham. In 1863, Roman Catholic prisoners were removed to a new wing at Parkhurst, and then just six years later Brixton was closed and Fulham became an ordinary convict prison. As Lucia Zedner concludes after

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<sup>62</sup> *Ibid.*

<sup>63</sup> 1864 (467) *Reports of the Committee to Inquire into the Dietaries of Convict Prisons*, pp.2-8. On the background to this report, and the debate surrounding its publication, see Ann Hardy, 'Development of the Prison Medical Service', in Richard Creese et al. (eds.), *The Health of Prisoners: Historical Essays* (Amsterdam: Rodopi, 1995) pp.64-6; Joe Sim, *Medical Power in Prisons: the Prison Medical Service in England 1774-1989* (Buckingham: Open University Press, 1990) pp.35-7.

<sup>64</sup> Of the 335 days spent by prison inmates in the Brixton refractory cells in 1866, 205 (67%) were accompanied by the penal diet, 65 days (19%) by full rations and the same number by bread and water (RDCP 1866-7, pp.256).

<sup>65</sup> RDCP 1867-8, p.332.

<sup>66</sup> Dr Guy had made his position clear in an 1863 article. See William Guy, 'On Sufficient and Insufficient Dietaries with Especial Reference to the Dietaries of Prisoners,' *Journal of the Statistical Society*, XXVI, (1863) 239-80.

<sup>67</sup> RDCP 1867-8, p.327; RDCP 1868-9, p.358.

reviewing this bewildering series of changes, the continual reorganisation of England's female convict prisons suggests what she calls a fundamental 'dissatisfaction with each attempt to provide a system appropriate to the requirements of the long-term imprisonment of women'.<sup>68</sup>

In fact, as Bill Forsythe argues, in many ways the regime at Brixton was 'a (mal) adaptation of prison regimes for men', and perceived as such.<sup>69</sup> The force of contemporary gender roles ruled out the possibility of establishing public works prisons for women, and the regime at Brixton was consequently seen as fundamentally flawed from the start. Ironically, the very 'sedentary' habits which made it inappropriate to set women convicts toiling out of doors were felt to carry their own risks, leaving women to dwell within the confines of their cells upon their gloomy prospects on release and give vent to their 'impulsive' and 'excitable' natures. Punishment in the refractory cells and/or reductions in diet were the likely outcomes of such disorderly behaviour, but as prison officials at Brixton were forced to recognise, this was hardly a panacea. It manifestly failed to correct the behaviour in question, while at the same time apparently posing considerable health risks for the women in question. It was a vicious circle from which England's prison officials could see no escape, except to build a new prison and try again.

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<sup>68</sup> Zedner, *Women, Crime and Custody*, p.182.

<sup>69</sup> Forsythe, 'Women Prisoners', p.528.