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Joshua Shaw
Osgoode Hall Law School of York University

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Book Review



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Abstract

Laws are experienced, and produced, with and through bodies. By this, I mean the prohibitions, permissions, rights, and duties often understood as shaping the topology of a social community, amount to more than a system of rules incorporated in mental schema. Laws exist in dialectical relation with agents who construct, rely upon, and find meaning in law, and that dialectical relation is a consequence of both the representations agents impose upon social order and the material conditions of their environment that inform or otherwise give shape to their social practices. That environment, in which the legal actor is emplaced, includes both physical and social phenomena in actual space and the corporeality of the body.

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Book Review

***Embodying Punishment: Emotions, Identities, and Lived Experiences in Women's Prisons*, by Anastasia Chamberlen¹**JOSHUA SHAW²

LAWS ARE EXPERIENCED, AND PRODUCED, with and through bodies. By this, I mean the prohibitions, permissions, rights, and duties often understood as shaping the topology of a social community, amount to more than a system of rules incorporated in mental schema. Laws exist in dialectical relation with agents who construct, rely upon, and find meaning in law, and that dialectical relation is a consequence of both the representations agents impose upon social order and the material conditions of their environment that inform or otherwise give shape to their social practices. That environment, in which the legal actor is emplaced, includes both physical and social phenomena in actual space and the corporeality of the body.

Since agents cannot shed their bodies, their representations and social practices are always mediated through their corporeality. In this way, the body is an integral part of the dialectical relations underlying the production and experience of law. Laws are the lived secretions of agents whose bodies are emplaced in a relational, social space. Laws are extensions of, and act upon, agents' bodies, enacting a social order that assigns bodies proper places, experiences, and roles in

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1. (Oxford University Press, 2018).
 2. Joshua David Michael Shaw is a PhD student in law at Osgoode Hall Law School, York University.

the topology of the community. The embodiment of law is thereby a crucial part to the study of law and society, in that the ways in which the body bears the effects of experiences and enacts law fleshes out our theoretical and interdisciplinary understanding. Embodiment challenges perverse ideologies of liberal legal orders that deny laws' corporeal core, and the phenomenological relations undergirding it, allowing us to grasp the contours of its material attachments to sociality and cognize alternate arrangements.

Anastasia Chamberlen's *Embodying Punishment: Emotions, Identities, and Lived Experiences in Women's Prisons*, provides a helpful illustration of laws' embodiment, particularly in the exceptional space of the prison. Chamberlen argues that embodiment³ is integral to understanding social phenomena generally, but that the prison is a site in which the body is preponderate over other features ordinarily salient to experience.⁴ In support of this thesis, Chamberlen describes the ways in which embodiment manifests in the space of the prison and the resulting expressions of self-identity among women prisoners. Critical themes Chamberlen addresses include: (1) how the body mediated the experience of the prison, particularly prisoners' sense of autonomy and the experience of pain and resilience; (2) the contribution of the body to identity formation and ways the spatial organization of the prison were inscribed on prisoners' bodies; and (3) how prisoners' self-harm manifested as a creative response to the denial of autonomy within correctional space. These themes address the "somatic unity"⁵ of prisoners' social experience, in that "temporal, spatial, social, and affective dimensions of social environments"⁶ are lived through the body.

I. AN EMBODIED SUBJECTIVITY

Chamberlen principally relied upon "personal conversations [and] semi-structured interviews [with], and brief observations of the everyday lives of"⁷ twenty-four ex-prisoners in the United Kingdom. All of her participants identified as women. Research participants were asked about their experience of prison, including their experience of their bodies within the prison. Participants were also asked about

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3. Chamberlen, *supra* note 1. Chamberlen defines embodiment as "aspects of subjectivity as constituted and felt on the bodily level" and the body as "simultaneously object and subject" (*ibid* at 2). I think of embodiment—inclusive of law's embodiment—similarly to Chamberlen.
 4. *Ibid* at 56-57, 191.
 5. *Ibid* at 4.
 6. *Ibid*.
 7. *Ibid* at 199.

their “background before imprisonment and their current lifestyles, essentially asking the participants to place their prison experience within their broader life narrative, by mapping crucial ‘moments’ in their lives.”⁸ Chamberlen characterized her questions as open-ended in that she invited participants’ testimonies about their “life-histor[ies],”⁹ not just their time in the prison and did not attempt to impose structure upon participants’ stories. This meant listening, uncritically, to participants, irrespective of irregularities in their accounts. The life-history approach also encouraged participants to avoid relying upon logics disconnected from their experience, engaging in an “emotionally reflexive discussion.”¹⁰

Interviews were transcribed, coded qualitatively, and then synthesized to develop and ground Chamberlen’s theoretical description of the effects of the prison on prisoners’ embodiment. Chamberlen describes this as a case study method, in that the interviews and Chamberlen’s observations allowed her to construct theoretical accounts of “‘how’ and ‘why’ certain experiences or phenomena occur”¹¹ from the “subjective stories of each participant.”¹² Importantly, Chamberlen was not attempting to construct an “objective” account of the prison, but instead relied upon the case study method to describe a plurality of subjective experiences of the prison. The plurality of participant perspectives was, in part, relied upon to evaluate her theoretical interlocutors. Chamberlen also collated those experiences, allowing their synthesis and distinction to elucidate novel or unattended concepts that could account for the effects of the prison on prisoners in particular contexts. In her words, Chamberlen attempted to “create a cohesive story that expressed a clear picture of changing bodies in prison, as well as the changing identities of women as a result of imprisonment and other patriarchal pressures.”¹³ While intersubjective experience was the basis of theory building, Chamberlen leans into the subjectivity of the case study method, noting that theory must be open to the indeterminacy of social life and recurring correction.¹⁴

The method was also phenomenological, in the sense of understanding “that the body is not only our source of existence and connection with the world; it is also the vehicle through which we make sense of the world.”¹⁵ Chamberlen

8. *Ibid* at 207.

9. *Ibid*.

10. *Ibid* at 208.

11. *Ibid* at 206.

12. *Ibid*.

13. *Ibid* at 219.

14. *Ibid* at 206.

15. *Ibid* at 216.

attended to: (1) the participants' bodies and their expressions or gestures; (2) her own body in relation to the participants and accounts of the prison; and (3) the "empathetic interconnection and non-verbal communication" between Chamberlen and the participants.¹⁶ Reflexive observation of the somatic features of others and oneself were thereby important methodologically for Chamberlen to ensure that bodies formed part of the interpretive practice of research. In a description of her method, Chamberlen connected this embodied reflexivity to Pierre Bourdieu, who was opposed to pure theory cleaved from experience, not only because it served her disciplinary and theoretical position, she also "found it essential to engage in this form ... because, on many occasions, [her] participants used [her] body as a comparative tool to express themselves."¹⁷ Reflexivity also allowed Chamberlen to attend to the ways in which her research participants' experiences were reflected in her body—a phantasmal effect of intercorporeality. In this way, there was a mimetic event experienced by both Chamberlen and the participants in conversation, which augmented the subjective accounts provided by situating the interview within a deeper sensory and perceptual experience. This facilitated communication by having a reference point and allowed Chamberlen to draw from her body to refine the interpretations reached. To this end, Chamberlen kept a diary and field notes that documented her reflections on her embodied experience.

Although less central, Chamberlen also relied upon a drawing method to assist some participants with communicating during the interviews. This was not systematically used, but she reports that some participants offered to draw to express concepts or experiences that were difficult to put into words. For example, a participant "drew a picture at the end of the interview depicting a female figure with an amorphous and asymmetrical body constrained and barred within a box."¹⁸ Alternatively, participants showed Chamberlen their scars or referred to songs to express themselves.¹⁹ Chamberlen does not explain how this information was specifically incorporated into the theory-building, but it appears that she does not distinguish between it and other information. In this way, the open-ended approach to interviews was used to generate theory from the lived experiences of prisoners, irrespective of how that was communicated, suggesting that drawing and reference to other sensory experiences could assist in the study of embodiment.

16. *Ibid* at 219.

17. *Ibid* at 217.

18. *Ibid* at 177.

19. *Ibid*.

Altogether, the combination of interview, observation, and drawing methods is shaped by a feminist methodology. Chamberlen relies upon a feminist methodology in that her subject matter is a gendered experience of social phenomena. Her feminist methodology also attends to the ways in which power is differentially structured between the researcher and research participants, assumes a self-critical perspective entailing ongoing introspection and revision, and takes the lived experiences of its subjects seriously in the construction of theory.²⁰ Chamberlen also notes that a feminist methodology is one that is concerned with the positionality of the researcher, drawing from their lived experience in the course of research and in their interpretation of results.²¹ As a result, Chamberlen's feminist methodology is "politically conscious,"²² seeking to identify and intervene in structures that produce and reproduce gender inequality. A feminist methodology, then, is an approach to planning, synthesizing, and finding meaning within research that gives effect to a politically conscious project of emancipating society from relations of violence and domination exacted by men: a structure salient to the experience of women in prisons.

II. THE SOMATIC UNITY

Chamberlen challenges the idea of the prison as merely a machine of confinement. Instead, she considers the "prison as a fluid, leaky phenomenon, and an institutional practice that incorporates more than confinement within the walls of a specific establishment."²³ Prisoners are imbedded in a carceral mesh, to borrow from Loïc Wacquant,²⁴ that is continuous with sociality external to the prison's built environment. The built prison is indeed porous, in the sense that it is part of a broader socio-spatial system that ceaselessly mediates prisoners' experience and self-understanding. Correctional staff, visitors, and artefacts of media exchange norms with prisoners, always tethering them dialectically to spaces outside the prison's walls. The prison also forms part of a time-space assemblage, in that the prisoner does not come to the prison denuded of prior, embodied experience, allowing prisoners to bring experiences that affect their encounters with the prison and the encounters of others. Further, the constellation of spatializations at

20. *Ibid* at 219.

21. *Ibid* at 190, 217-18.

22. *Ibid* at 220.

23. *Ibid* at 1.

24. See "Deadly Symbiosis: When Ghetto and Prison Meet and Mesh" (2001) 3 *Punishment & Soc'y* 95.

work in the prison do not end upon release—the effects of the prison are retained through embodiment, and homologous structures and practices external to the built prison re-inscribe those effects. In this way, prisoners form part of a dynamic temporal and spatial order irrespective of their confinement, which continuously shapes and reshapes their relations to their bodies. Although Chamberlen does not use the terminology of “assemblage,” I believe her use of descriptors “leaky” and “fluid” indicate she would agree that the prison, and prisoners, forms part of an assemblage that extends across space and time.

The prison’s dynamism was demonstrated in the interviews with the prisoners who referred to changes in their bodies across their life-course to bring their “bodies and identities” into focus.²⁵ Prisoners also reported hypervigilance with respect to their bodies because the socio-spatial organization of the prison marked a significant transformation in experience. Prisoners often came to prison with substance dependence suddenly cut off during incarceration, or in states of nutritional deprivation satiated by routine provision of food, resulting in changes that heightened awareness of their bodies. For example, some prisoners reported experiencing menstruation after a prolonged absence because of relatively nutritious food and distance from drugs within the prison.²⁶ Prisons also deprived prisoners of activities and mobility, and introduced unending and loud noise, which focused prisoners’ attention on their embodied responses within the prison. Some prisoners said they felt desirable for the first time in a long while, but greater awareness of one’s body was not altogether a positive experience.²⁷ Chamberlen argues that the “prison refocuses the attention of women on their bodies, and invites the prisoner to start thinking of herself and lifestyle in embodied ways,” but the “medicalizing focus, and paradoxical combination of care and punishment in custody, combine[d] to exacerbate [a] painful experience.”²⁸ This produced ambivalent, at best, or harmful experiences of the body, in that prisoners were constantly reminded of “their spatial and temporal regulation and incapacitation, [and] of the pathologization of their bodies.”²⁹ Further, the “perpetual changeability”³⁰ of the body within the prison, prevented self-control in the sense of forming boundaries to define one’s self in relation to others. Chamberlen relied upon Drew Leder’s concept of the

25. Chamberlen, *supra* note 1 at 58.

26. *Ibid* at 67-70.

27. *Ibid* at 84-86.

28. *Ibid* at 91-92.

29. *Ibid* at 99.

30. *Ibid* at 100.

“dys-appearing body” to explain the paradoxical effect of a body conspicuously felt within the prison—or what Chamberlen refers to as “regained awareness”—whilst simultaneously losing agency to alienation.³¹

Chamberlen concludes the book with a description of how self-harm is demonstrative of prisoners’ embodiment of the punishment-body relation;³² the punishment-body relation is understood as the body’s dialectical relation, materially and discursively, to the prison environment. In particular, Chamberlen attends to how pain—pain of self-harm and of punishment—intersect and affect prisoner’s experience.³³ Numerous research participants reported experiences of self-harm, mediated through and borne by their bodies, as a means of coping with imprisonment or agency. Chamberlen argued that self-harm was “embodied emotion work that simultaneously give[s] meaning to and express[es] the self via the body.”³⁴ It was a “therapeutic practice of self-healing and self-construction, insofar as it [was] an effort to alleviate pain and preserve a sense of self.”³⁵ Prisoners were reminded of their corporeal existence through self-harm, which reaffirmed and produced a claim to autonomy for prisoners despite the denial of autonomy by the spatial organization of the prison itself. It is here that some prisoners offered to draw, or show their scars, to express their feelings, overcoming the incommunicability of such an experience.³⁶

Altogether, studying the embodiment of punishment necessitated a study of the somatic unity of prisoners’ experience, in the sense that the “temporal, spatial, social, and affective dimensions of [the prison’s] social environment...”³⁷ had to be understood as concurrent processes lived through, and inscribed upon, prisoners’ bodies. The combination of interviews, observation, and drawing allowed Chamberlen to engage reflexively with that somatic unity as an emergent property or object of analysis with respect to each prisoner’s subjectivity and translate the summation of those experiences into a theoretical account of punishment. That account acknowledged the inseparability of the body from social experience, and the context-specific ways in which the prison’s organization acted upon, and was inscribed within, prisoners’ bodies.

31. *Ibid* at 61.

32. *Ibid* at 175.

33. *Ibid* at 169-71.

34. *Ibid* at 175.

35. *Ibid*.

36. *Ibid* at 177.

37. *Ibid* at 4.

III. THE PLACE OF LAW

The prison in *Embodying Punishment* appears as a lawless space; not in the sense that illegality pervades the prison, but rather in the lack of reference to law. Chamberlen is a criminologist whose principal interest, in this project at least, was studying prisoners' subjectivity in the prison as a space and as an institution of social practices. Given this disciplinary focus, it is unfair to expect a discussion of law. But from the perspective of law and society scholars, I believe it is important to reflect upon Chamberlen's intervention in the prison as an example of how legal consciousness and experience can be studied through a phenomenological method as an embodied social fact. By understanding that implicit to Chamberlen's study, one's placement, condition of treatment and punishment, and potential release in or from prison, among other things, are in part the product of laws, I think a law and society scholar should be able to sense its methodological utility in studying law. It is from this perspective that I think *Embodying Punishment* is a helpful illustration of laws' embodiment, irrespective of whether Chamberlen specifically raises the question of law in her analysis.

For example, when Chamberlen discusses the disempowerment caused by the "prison's refusal to allow women to exercise decision-making over their treatment," she is implicitly referring to the legal complex within English prisons that conveys especial authority to prison physicians to determine the course of medical treatment.³⁸ The legal complex is heterogeneous, formed from disparate processes and powers, which, taken together, have an emergent effect on prisoners' embodiment. Elsewhere, James Woodall, Rachael Dixey, and Jane South describe the systematic deprecation of prisoners' autonomy in prison health care settings where "the structured nature of the regime situated individuals in a routine that relentlessly resulted in feelings of monotony and boredom" and the loss of a sense of control.³⁹ Chamberlen reaches a similar conclusion, and goes further, stating that "women are firstly stripped of their individuality and self-control as prisoners and secondly as patients."⁴⁰ For many prisoners, due to social marginality, the prison is often the first time health services are easily accessible and many undergo changes in their bodies that can demarcate health and pain (*e.g.*, withdrawal from substances, taking up substances, incidence of menstruation). Chamberlen's

38. *Ibid* at 96.

39. "Control and Choice in English Prisoners: Developing Health-Promoting Prisoners" (2013) 29 *Health Promotion Intl* 474 at 477.

40. Chamberlen, *supra* note 1 at 96.

interview participants reported that they, and others, often came to be reliant upon medical intervention as they experienced these bodily changes.

Prison physicians and their health teams were described as contributing to this reliance with the administration of methadone, which was often to prisoners' an "overall rehabilitative disadvantage in order to keep them quiet and thus manageable in the prison environment."⁴¹ The depredation of autonomy and reliance of prisoners on health care interventions operates alongside permissions that establish that English prisoners can only obtain treatment approved by prison physicians, and that mental illness provides maximal authority to administer treatment as physicians assess is needed. The prison setting can thereby be understood as producing a space of "slow death,"⁴² to borrow a term from necropolitics, in that health care is administered in a way that "constitute[s] the prisoner's docile and quietened body" in an enactment of "forced compliance" that constrains their social plasticity.⁴³ This not only leads to the compelling account of how prison, as an architectural and institutional space, regulates the experience and expression of the body, but also suggests for me how sociolegal practices enact law in the prison and their connection to embodiment.

A law and society scholar might rely upon a similar case study, with a similar set of qualitative and phenomenological methodologies, whilst attending to the specific contribution of the legal form to the production of prisoners' embodiment. I suspect that would require additional questions that specifically attempt to apprehend prisoners' lived experience of the processes, powers, and permissions of law, as those are enacted in the sociolegal practices of correctional staff and prisoners. It might also require a theory of law, which can conceptualize the legal form, its production, and its effects on and meaning for social actors. But these are simple reconfigurations of the general methodological project demonstrated by Chamberlen. The corporeality of law is not distant from the corporeality of space or institutions—indeed, as we consider their shared basis in social phenomena, like in the exceptional space of the prison, we come to realize our materiality is imbricated in law, space, and institutions. Chamberlen may not have spotlighted law's constituent part in the picture, but law was latent in *Embodying Punishment* and awaits elaboration by law and society scholars determined to take seriously the embodied experience of law.

41. *Ibid.*

42. Billy-Ray Belcourt, "Meditations on Reserve Life, Biosociality, and the Taste of Non-Sovereignty" (2018) 8 *Settler Colonial Stud* 1 at 4.

43. Chamberlen, *supra* note 1 at 96.

To that end, elaborating upon Chamberlen's work, law and society scholars should embrace research as an embodied fact. By saying this, I mean that the researcher should apprehend senses that arise in encounters with the participant through intersubjective corporeality. Since the law and society scholar, like the participant, is not disembodied, relevant senses might indeed arise from the researcher's body. This is a significant part of the phenomenological method, in that the lived experience of talking to, interviewing, or observing someone else may allow the law and society researcher to reflect on their own bodies and learn about the *nomoi* we inhabit. Diarizing the hot flashes, butterflies, and excrement of our bodies in encounters with others is a meaningful part to describing the dialectical relation of law to our bodies. From there law and society scholars can construct theories of law that are felt, accepting laws' corporeal core.