

Carol Bacchi\*

## ***MAKING GOOD: LAW AND MORAL REGULATION IN CANADA, 1867-1939***

**Carolyn Strange and Tina Loo**

**University of Toronto Press, Toronto 1997**

**170 pp**

**ISBN 0 80207 869 9**

**T**his cleverly titled book documents the efforts of the Canadian government, between 1867 and 1939, to make its citizens "good". The dominant themes include the need to recognise the active role of the state in moral regulation, the targeting of marginalised groups for regulation, and the importance of considering the resistance which took place to this project. The reader is offered a nuanced record of efforts at moral regulation in the form of controls over prostitution and alcohol consumption through to the shaping of immigration and relief (welfare) policies in ways designed to produce desired population characteristics. "Moral" is defined broadly to encompass sexual and social behaviours, as well as ideological conformity. It is here that the other meaning of "making good" works to effect, for it is indeed those who "make good" by conventional standards of economic success who are held to *be* good.

The book details the ways in which regulation was intended to create a homogenous citizenry associated with the norms of whiteness, respectability, family life and heterosexuality. The laws put in place to create this vision marked as deviant: homosexuals; aboriginals; non-white foreigners; women who challenged conventional sexual and social mores; and dissidents who challenged the ideological and political status quo. For example, the authors detail the use of immigration law during the Depression to deport communists and the unemployed.

At the same time the authors present the full complexity of the regulatory enterprise. They emphasise lack of fit between laws 'on the books' and laws 'in action', concerned to challenge any impression of unilateral

---

\* PhD (McGill, Montreal); Associate Professor of Politics, Adelaide University.

success in the imposition of moral regulation. Along related lines, the authors highlight variability in enforcement, stressing the very different configuration of state-church relations in Quebec. The state's efforts at regulation are presented as uneven, inconsistent and contradictory. For example, there were conflicts between racist and capitalist objectives in the case of the decision to integrate aboriginals through making them farmers. When they started to do "too well", acreage was cut back.<sup>1</sup> We are not offered a model of simple class control. The authors explain that the police were in many instances members of the working class themselves;<sup>2</sup> nor did the courts or the police always act in accordance with the wishes of the federal government.<sup>3</sup> In this account a model of the state as unitary is illusory.

Theoretically the book indicates a commitment to Foucauldian insights into regulation.<sup>4</sup> We are told that the intent is to challenge a belief central to liberal democratic theory that secular laws are disconnected from morality, that laws "do not interfere with the enjoyment of life, except to curtail pleasures that may threaten the safety or security of others".<sup>5</sup> The object is to show, counter to this vision of a distant state, that the state "put religiously inspired moral reforms into legal form".<sup>6</sup> Referring to Foucault, the authors suggest the usefulness of referring to this agenda as "regulation" rather than "social control", a "net" rather than a "hammer",<sup>7</sup> rescuing resistance and agency along the way. Consistent with a Foucauldian analysis, the authors stress the creation of other agencies, for example, child welfare, social work and medicine, as partners in the regulation process. The term "socialized justice" is invoked to describe the efforts of this combined band of legal and extra-legal actors.<sup>8</sup> While there is an emphasis upon the biased targeting of marginalised groups and hence the partiality of regulatory efforts, there is a recognition that "the unprosecuted are likewise regulated, if only by the *threat* of enforcement".<sup>9</sup>

---

1 Strange & Loo, *Making Good: Law and Moral Regulation in Canada, 1867-1939* (University of Toronto Press, Toronto 1997) p 46.

2 At p 42.

3 At p 18.

4 At p 5.

5 At p 6.

6 At p 11.

7 At p 5.

8 At p 95.

9 At p 6 (emphasis original).

I would have liked more detail about the interpretation of Foucault on offer. The impact of targeted regulatory laws on the general citizenry, influencing 'everyone's behaviour', is unfortunately under-developed. There is little explicit mention of the ways in which laws and the professional allies of the state produce citizens as self-regulating, through the regulation of conduct. In fact, I was disappointed at the extent to which the book lapsed into conventional understandings of state intervention. The explicit focus on law left the impression that regulation takes place only when the state *does something*. I would have expected some attention to the regulatory impact of inaction, through failure to provide social supports for particular groups, for example. The problem I have with the emphasis on law is apparent in the discussion of the "unintended effects" of anti-seduction statutes which we are told were meant to protect women and girls but "ended up" policing their behaviour.<sup>10</sup> Given the state's desire for traditional families and marital roles for women, I would suggest that the effects were hardly unintended. The enshrining of a protection/policing dichotomy seems odd in a book which acknowledges a theoretical debt to Foucault. I would suggest that the book offers more insights into the obvious disciplinary efforts of the Canadian state, defined broadly, than into the subtle regulatory shaping of its citizenry. This, of course, is not a bad thing, as too much of an emphasis on the latter can produce an underestimation of the size and power of disciplinary instruments.

The book is written for undergraduates. Hence, the simplicity of the message is probably deliberate. It seeks to challenge the easily made assumption that law has nothing to do with morality. We are therefore offered descriptions of numerous legal and extra-legal interventions designed to produce a citizenry committed to something designated a "Canadian way of life". The harsh and sometimes brutal extrusion of those deemed "misfits" clearly establishes the state's role as moral regulator. Despite its target audience, I would have liked elaboration of the theoretical questions framing the investigation. I must also admit to annoyance at the complete lack of footnote references, which, in a book designed for undergraduates, seriously undercuts attempts to get students to use appropriate scholarly referencing techniques. Here my gripe is more with the publisher than with the authors.