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***PRIVATIZATION, LAW, AND THE CHALLENGE TO
FEMINISM***

**Edited by Brenda Cossman and Judy Fudge
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We are not alone! Canada too has had an attack of the neo-liberals, the neo-conservatives and fathers' rights groups. All these and more are explored in this collection, *Privatization, Law and the Challenge to Feminism*, edited by Brenda Cossman and Judy Fudge.

The book opens and closes with overview chapters by the editors. The first sets the scene, defines terms and introduces us to the strategies of privatisation explored throughout the rest of the book. The final chapter focuses on the implications of privatisation for feminist strategies in law. For a non-Canadian, it quickly becomes clear from these chapters that there are real commonalities, and issues of obvious relevance. Here we are directly given the intellectual tools to analyse our own situation. Many of the area-specific chapters resonate with what is happening in Australia, but there are also some differences.

In their opening chapter, Cossman and Fudge point to a set of related characteristics of privatisation as the phenomenon has developed since the 1980s. These include a related set of beliefs and assumptions: First, that the market rather than the state is the best way to distribute economic resources; in turn, the role of the state is to be responsible for supporting citizens to help themselves, rather than providing social welfare itself; and thirdly, that the 'social citizen' has given way to the 'market citizen'.

Cossman and Fudge suggest that these moves are pursued through a series of strategies that they outline as follows: 1) '*Reprivatization*' refers to the processes whereby once public goods and services' become reconceived as 'more appropriately', even 'naturally', 'located in the private spheres of market, family, and/or charity'.¹ 2) '*Commodification*' describes the processes involved in turning once publicly provided goods and services into market provided goods and services. 3) '*Familialization*' is the process of reconceiving goods and services as located

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¹ Brenda Cossman and Judy Fudge (eds), *Privatization, Law and the Challenge to Feminism* (2002) 20.

within the family. 4) '*Individualization*' explores how the individual is reconstituted as the cause of his or her own failings, and the locus of a solution to it. 5) '*Delegation*' refers to a process whereby decision-making authority is transferred from visible public authorities to less visible private ones. Finally, 6) '*Depoliticization*' describes the process whereby matters are removed from public contestation. Cossman and Fudge identify the chapters in which each of these themes is explored, giving the reader a 'map' to the rest of the book, and thus giving the book a conceptual coherence.

The editors are responding to the social phenomena of globalisation and privatisation. While the state's role may well be transformed (or at least transforming), it is simplistic to suggest that the state has vacated the field of social regulation. That is, there is no straightforward diminished role for the state. Rather, as the editors emphasise, the move to neo-liberalism from the Keynesian welfare state, has ushered in profound social changes which lead to uncertainty and calls upon the state to take a greater role in (re)regulation. For example, the editors note the Canadian calls, which we will of course find familiar, for the state to control migration and to respond with vigour to a rising crime rate. The fact that there is no evidence of either a mass invasion by the teeming hordes, or a massive increase in crime seems to be irrelevant. The state must respond to the invasions from within and without, despite the ostensible emphasis under privatisation discourses on the diminishing role of the state. These complexities are pursued throughout the book, with a recurrent theme of change in the form of regulation, rather than a vacation by the state. So, for example, Roxanne Mykitiuk suggests, '[h]ealth is increasingly being regulated as a commodity rather than a public good, health care as a business rather than a public service'.² Or, in her focus on the tax system and what has happened to it under privatisation, Lisa Philipps argues that it is not so much a matter of deregulation as 'a new regulatory project, one of the core features of which is to reprivatise social reproduction, the work of sustaining and nurturing human life'.³

One of the most interesting chapters is that by Cossman, comparing and contrasting the trajectories of a neo-liberal discourse and a neo-conservative one in the context of family and social welfare law. The chapter contains a very careful analysis of the similarities, overlaps and mutually reinforcing nature of neo-conservative and neo-liberal projects, together with a detailed exposition of the fundamental conflicts and contradictions between the two projects. So while both approaches are concerned to denigrate the role of the welfare state, neo-conservatism is concerned to have the state continue to support a traditional heterosexual family form, while neo-liberalism is opposed to any form of state intervention in the family. A neo-conservative approach will support gender differentiation, while neo-liberalism is committed to the notion of the abstract individual. Cossman uses this analysis in three case studies: challenges to the definition of 'spouse' by gay

² Ibid 335.

³ Ibid 41.

men and lesbians, the strengthening of child support obligations and the moves in social welfare law to constitute single mothers as workers rather than carers. The strength of Cossman's analysis lies in her unpacking of the ways in which these two discourses have worked in particular areas in order to challenge our sometimes unthinking elision of the two. What makes it interesting to an Australian audience is not just that we can recognise the fathers' rights discourses or the emphasis placed on the notion that single mothers should be in the paid workforce instead of being dependent on the state, but the nuanced nature of the examination.

Another chapter which resonates very strongly with recent Australian experience, not so much at the level of detail, but at the broad level of analysis, is that on migration and 'illegal entry' to Canada. Here, Audrey Macklin argues that the (Canadian) state's focus on "illegal immigrants" deflects attention from the state's diminishing role as protector of all Canadians from unpredictable market forces'.⁴ She concludes that

[t]he privatization trend may entail some quantitative reduction in entitlements for migrants in general and for women in particular, but it manifests itself chiefly in the qualitative reallocation of resources to surveillance, apprehension, and criminalization in order to police migrants' physical exclusion from the state or social exclusion from the welfare state.⁵

She could, of course, be writing about Australia.

This short review cannot possibly canvass all the chapters in the book. However, it is important to note that the book is very rich in the depth of its analysis: it has detailed examinations of health, migration, family law, child prostitution, welfare law, pensions and paid work. Almost all of the analysis is unique, though I think there is some overlap in the two health chapters. And while the analysis is detailed, there is one obvious gap — the raced nature of privatisation. Although we do, as canvassed above, have a strong analysis of those Canada is trying to exclude from the body politic, the 'illegal immigrant', we have almost no analysis of the effects of privatisation on First Nation Canadians.

The editors have made a valiant effort to provide an intellectual guide to the book, both through their introductory chapter and in the structure of the book. Since most readers may dip into the book, I don't think I am speaking only as a reviewer when I suggest that an additional way to provide coherence would be by way of an index. Whilst the book has a consolidated and very useful bibliography, an index would provide additional assistance to the casual reader.

I have said little about gender specifically in this review, in part because I think the book has a much broader focus — on the demise of the Keynesian welfare state —

⁴ Ibid 218–9.

⁵ Ibid 261.

and also because one of the aims of the book is to map a project in the making — the restructuring of the gender order — which is very much in flux.

The real strength of this book lies in the tools it gives us to understand what is happening to our society. Perhaps the best expression of it is in Cossman's chapter: she says her aim is to explore 'contradictions in the hope of opening up the political imaginary of the Right, revealing some of its gaps and fissures, and creating more discursive space for oppositional strategies within these ruptures'.⁶ While it might be thought to be a criticism to say of a book that it is 'the gaps' in it which are one of its strengths, it is not. It is the gaps this book reveals in the often seemingly seamless web of the discourse of privatisation, the (dis)junctures it opens up, and the tools it gives us to explore these which mark its real contribution.

⁶ Ibid 180.