

FROM SLAVERY TO PRISON IN *RINKITINK IN OZ*

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When crime goes up, we lock up more people. When crime goes down, we lock up more people. . . . At this rate, in the future, everyone will go to jail for fifteen days.

– Paul Butler, commenting on current American incarceration rates¹

The captives are my father and mother, and I intend to liberate them.

– Prince Inga, speaking to the Nome King who imprisoned his parents, in *Rinkitink in Oz*²

I. INTRODUCTION

L. Frank Baum's *The Wizard of Oz* ("Oz") series contains a criticism of prisons and traditional punishment that connects with Baum's overarching theme of liberation. Within Baum's literary world of Oz, prisons are generally wicked places. Baum's books are filled with attempts by evil creatures to incarcerate and enslave the good characters.³ Prisons are viewed as evil places, and the good characters help liberate the prisoner. Most film viewers remember how Dorothy was captured and enslaved by the Wicked Witch of the West before water melted the witch.⁴ When people or creatures are captured in Oz, the reader inevitably roots for their escape and freedom. The stories are both a journey of psychological self-liberation and a journey to free oneself and others from captivity. The themes of slavery and liberation that run through the stories teach that by incarcerating others, we will hurt ourselves and end up less free.⁵

On the other hand, the good characters of Oz generally do not imprison the bad characters. This is noteworthy because the first book in the *Oz* series, *The Wonderful Wizard of Oz*,⁶ is a quintessentially American book,

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¹ PAUL BUTLER, LET'S GET FREE: A HIP-HOP THEORY OF JUSTICE 25 (2009).

² L. FRANK BAUM, RINKITINK IN OZ 242 (William Morrow & Co. 1998) (1916).

³ See discussion *infra* Part III.

⁴ THE WIZARD OF OZ (Metro-Goldwyn-Mayer 1939).

⁵ This is the theme of Paul Butler's recent book, BUTLER, *supra* note 1, at 25.

⁶ L. FRANK BAUM, THE WONDERFUL WIZARD OF OZ 103–04 (Modern Library Paperback 2003) (1900).

and Americans tend to see mass incarceration as indispensable to our personal safety. Since there are many creatures that set out to harm Dorothy and the other heroes in Baum's works, one would think that massive incarceration would be necessary to right the wrongs, settle the score, and ensure a safe future.

One scene that filled me with horror as a child involved the Winged Monkeys, which capture Dorothy and her friends in the film version of the book, *The Wizard of Oz*.⁷ The book portrays the monkeys as equally ruthless, for they pull all the stuffing out of the Scarecrow, dash the Tin Woodman onto sharp rocks, kidnap Dorothy, and bring her to the Wicked Witch of the West.⁸ These would be heinous offenses under Kansas law, if the justice system considered the Tin Woodman and Scarecrow to be human. Nevertheless, the monkeys are never punished, even after Dorothy and her friends gain control of the Oz kingdom. The defense that "they were just following orders" may not be much of a defense in an American courtroom, but in Baum's world, it is the norm. When Dorothy gains control of the witch's Golden Cap, she controls the monkeys.⁹ This time they carry her through the air, not as a captive, but as a commander.¹⁰ What we see from this scene is that the bad actor is not necessarily a bad person or a bad creature. Change must come from the top, not from those committing nefarious deeds. When the leader changes, the citizens and soldiers fall into line; there is no need to lock them up.

This is not to suggest that all creatures in Baum's books are redeemable. In *The Wonderful Wizard of Oz*, one inherently evil actor is the Witch of the West. Magic takes care of her (along with Dorothy, who throws water on her in a fit of anger).¹¹ Thanks to magic, Baum never has to deal with the messy business of locking up vanquished felons. Yet, for every evil person whom magic destroys, there are multitudes of misbehaving souls whom are forgiven, or at least not punished. Baum created a world where well-organized communities find methods to keep their citizens safe without locking up large segments of the population.

There is only one prison in the Emerald City and it usually lies empty. In fact, one never learns about this jail until Baum's seventh book in the *Oz* series, *The Patchwork Girl of Oz*.¹² In this *Oz* adventure, the jailer is astonished when the young lad Ojo is arrested and brought to the prison to await trial because Ojo is her first prisoner ever.¹³ Next, it is Ojo's turn to be astonished at the kind treatment he receives. He is treated so well that he wonders aloud, "why is the prison so fine, and why are you so kind to me?"¹⁴ The jailer's reply is replete with Baum's philosophy of punishment:

⁷ THE WIZARD OF OZ, *supra* note 4.

⁸ BAUM, *supra* note 6, at 103–04.

⁹ *Id.* at 118–19.

¹⁰ *Id.* at 119.

¹¹ *Id.* at 107. This scene of throwing water on the witch was changed in the film version. In the film, Dorothy's act is an accident as she puts out a fire on the Scarecrow. THE WIZARD OF OZ, *supra* note 4.

¹² See generally L. FRANK BAUM, THE PATCHWORK GIRL OF OZ 196–97 (1913).

¹³ *Id.* at 196–97 (jailer saying, "Goodness me! A prisoner at last. But what a small one, Soldier.").

¹⁴ *Id.* at 200.

We consider a prisoner unfortunate. He is unfortunate in two ways—because he has done something wrong and because he is deprived of his liberty. Therefore we should treat him kindly, because of his misfortune, for otherwise he would become hard and bitter and would not be sorry he had done wrong. . . . You see, it is kindness that makes one strong and brave; and so we are kind to our prisoners.¹⁵

Moreover, asks the jailer “Isn't one punished enough in knowing he has done wrong?”¹⁶ Thus, there is a prison in Oz built by the good characters, but it is most notable for its kindness and disuse.

Ojo's crime is that he picked a six-leaf clover without permission.¹⁷ This is hardly an offense on par with the Winged Monkeys' violence. Moreover, Ojo is an extremely likeable soul and the hero of the adventure tale.¹⁸ To make his imprisonment even more surprising, Ojo has a good reason for picking the flower: he is trying to gather together the ingredients to make a potion that will save his uncle, who has been turned into marble.¹⁹ Ojo reasoned that it was a foolish law and saving his uncle was more important.²⁰ Naturally, Ojo's stay in prison is short; after a trial where Princess Ozma serves as the judge, she forgives him.²¹ Princess Ozma is the judge and she decrees that “although you have committed a serious fault, you are now penitent and I think you have been punished enough.”²² Ojo's imprisonment serves two purposes. It teaches young readers that there may be a good reason for rules that seem foolish to “people who do not understand them”²³ and showcases a different model of punishment. This message—that lengthy incarceration and harsh punishment are alien to a good society—resonates strongly in the modern age of mass incarceration.

Nowhere are these themes of punishment more interwoven with liberation from slavery than in Baum's tenth *Oz* novel, *Rinkitink*.²⁴ As this Article will discuss, *Rinkitink* creates a storyline that flows seamlessly from slavery to imprisonment, which is suggestive of modern theories that depict American prisons as direct descendents of slavery.

¹⁵ See *id.* (stating that “Ozma thinks that one who has committed a fault did so because he was not strong and brave; therefore she puts him in prison to make him strong and brave. When that is accomplished he is no longer a prisoner, but a good and loyal citizen and everyone is glad that he is now strong enough to resist doing wrong.”).

¹⁶ *Id.*

¹⁷ *Id.* at 195.

¹⁸ See *id.*

¹⁹ *Id.* at 56, 62, 195.

²⁰ *Id.* at 229. Ironically, this resonates with one of psychologist Lawrence Kohlberg's moral hypotheticals where children are asked about a man stealing medicine to save the life of his wife. See CAROL GILLIGAN, IN A DIFFERENT VOICE: PSYCHOLOGICAL THEORY AND WOMEN'S DEVELOPMENT 25–26 (1982).

²¹ BAUM, *supra* note 12, at 225–31.

²² *Id.* at 230.

²³ *Id.* at 229.

²⁴ BAUM, *supra* note 2.

II. CRITIQUES OF THE MODERN AMERICAN PRISON SYSTEM

The scarcity of prisoners in Oz may seem odd to a modern American reader. After all, the United States currently leads the world in incarceration rates, locking up more people per capita than any other country in the free world.²⁵ Currently 2.3 million people are in prison in the United States; one out of every thirty-two Americans is enmeshed in the criminal justice system, which includes probation, parole, and incarceration.²⁶ By the 1990s the United States was opening up one new prison or jail every week.²⁷ The unprecedented incarceration rates are exponentially higher for black men than for other groups.²⁸ By the end of the 1990s, more black men in their thirties had been to prison than graduated from a four-year college.²⁹ By 2000, nine percent of black children had a father in prison or jail, giving “time on the outside”³⁰ to over one million children under the age of eighteen.³¹

Most modern readers likely perceive prison conditions and incarceration rates as entirely distinct from slavery. While Americans recognize slavery as an abhorrent system, which amassed wealth for one group of people at the expense of another, they generally view the current American penal system as a necessary response to crime.³² In contrast, some current civil rights leaders and sociologists argue that the current practice of massive incarceration bears many similarities to slavery.³³ The massive incarceration, they argue, must be understood as a recent manifestation of the same impulses that began with slavery and continued with Jim Crow laws.³⁴

²⁵ Robert Batey, *The Costs of Judicial Restraint: Forgone Opportunities to Limit America's Imprisonment Binge*, 33 NEW ENG. J. ON CRIM. & CIV. CONFINEMENT 29, 29 (2007) (citing THE SENTENCING PROJECT, NEW INCARCERATION FIGURES: THIRTY-THREE CONSECUTIVE YEARS OF GROWTH (2006), http://www.sentencingproject.org/doc/publications/inc_newfigures.pdf).

²⁶ *Id.* (citing Lauren E. Glaze & Seri Palla, *Probation and Parole in the United States, 2004*, U.S. DEP'T OF JUSTICE, BUREAU OF JUSTICE STATISTICS I (2005), <http://bjs.ojp.usdoj.gov/content/pub/pdf/ppus04.pdf>). See also Adam Liptak, *Inmate Count in U.S. Dwarfs Other Nations*, N.Y. TIMES, Apr. 23, 2008, at A01 (stating that “[i]f you count only adults, one in 100 Americans is locked up”).

²⁷ BUTLER, *supra* note 1, at 27.

²⁸ Gary Ford, *The New Jim Crow: Male and Female, South and North, from Cradle to Grave, Perception and Reality: Racial Disparity and Bias in America's Criminal Justice System*, 11 RUTGERS RACE & L. REV. 323, 333 (2010) (citing Marc Mauer & Ryan S. King, *Uneven Justice: State Rates of Incarceration by Race and Ethnicity*, THE SENTENCING PROJECT 1–2 (July 2007), http://sentencingproject.org/doc/publications/rd_stateratesofincbyraceandethnicity.pdf).

²⁹ BRUCE WESTERN, PUNISHMENT AND INEQUALITY IN AMERICA, at xii. (2006).

³⁰ See Joseph E. Kennedy, *The Jena Six, Mass Incarceration, and the Remoralization of Civil Rights*, 44 HARV. C.R.-C.L. L. REV. 477, 486 (2009) (citing DONALD BRAMAN, DOING TIME ON THE OUTSIDE: INCARCERATION AND FAMILY LIFE IN URBAN AMERICA 10 (2004)) (alluding to those outside of prison but affected and impoverished because of family members in prison).

³¹ WESTERN, *supra* note 29, at 5.

³² See Barry C. Feld, *Unmitigated Punishment: Adolescent Criminal Responsibility and LWOP Sentences*, 10 J.L. & FAM. STUD. 11, 25–27 (2007); Robert M. Entman & Kimberly A. Gross, *The Court of Public Opinion: The Practice and Ethics of Trying Cases in the Media: Race to Judgment: Stereotyping Media and Criminal Defendants*, 71 LAW & CONTEMP. PROBS. 93, 103 (2008) (citing Franklin D. Gilliam, Jr. & Shanto Iyengar, *Prime Suspects: The Influence of Local Television News on the Viewing Public*, 44 AM. J. POL. SCI. 560, 560, 571 (2000)).

³³ See discussion *infra* Part IV.

³⁴ See Loïc Wacquant, *From Slavery to Mass Incarceration: Rethinking the 'Race Question' in the U.S.*, 13 NEW LEFT REV. 41–60 (2002) available at <http://newleftreview.org/A2367> (last visited Sep. 22, 2010). See generally MICHELLE ALEXANDER, THE NEW JIM CROW: MASS INCARCERATION IN THE AGE

Sociology professor Loïc Wacquant asserts that mass incarceration is one of “several ‘peculiar institutions’ [that has] successfully operated to define, confine and control African-Americans.”³⁵ Wacquant has articulated a direct line or link between the earlier “peculiar institutions”: from slavery to Jim Crow and the segregated ghetto, to massive imprisonment.³⁶ This view challenges some deeply-rooted notions about the American justice system. Slavery is often perceived as entirely distinct from incarceration. Americans recognize slavery as an abhorrent system, which amassed wealth for one group of people at the expense of the other group, but generally do not view massive imprisonment as a form of economic exploitation. While the institution of slavery is understood to be racist, the modern American penal system is not viewed as inherently racist even though it continues to incarcerate minorities at a hugely disproportionate rate. As Joseph E. Kennedy writes: “The mass incarceration of African Americans has come to seem normal in the same way that segregation once seemed normal.”³⁷ In Oz, harsh imprisonment is no more normal than slavery, and slavery is depicted as a grave and horrible injustice.³⁸

III. THE SMALL BOY EMANCIPATOR IN *RINKITINK IN OZ*

Dorothy Gale, the lead character in *The Wonderful Wizard of Oz*, is well known for her desire to fight for justice against great odds. Dorothy has been called “the Great Emancipator” because she frees the Munchkins from the Wicked Witch of the East, liberates the Scarecrow from his pole, saves the Tin Woodman from his predicament, and frees the Winkies after killing the Wicked Witch of the West.³⁹ “In many ways, the fictional Dorothy is like the real-life Great Emancipator John Brown,” write Jason Bell and Jessica Bell in their essay within *The Wizard of Oz and Philosophy*.⁴⁰ John Brown would have been in the minds of readers in Baum’s time, holding a fascination for them. Like John Brown, Dorothy fights against strong odds, figuring: “Better to die than to tolerate slavery.”⁴¹

Any doubt a reader might have about the parallel between Dorothy and John Brown, or between Baum and the anti-slavery crusade, is dispelled on reading *Rinkitink*. *Rinkitink*, the tenth novel in the *Oz* series, was published

OF COLORBLINDNESS (2010); Benjamin Todd Jealous, *The New Jim Crow Mass Incarceration in the Age of Colorblindness: Editorial Reviews*, AMAZON (2010), <http://www.amazon.com/New-Jim-Crow-Incarceration-Colorblindness/dp/1595581030> (last visited Nov. 24, 2010) (Benjamin Todd Jealous, president and chief executive officer of the NAACP reviewing Alexander’s book and stating that: “[f]or every century there is a crisis in our democracy, the response to which defines how future generations view those who were alive at the time. In the 18th century it was the transatlantic slave trade, in the 19th century it was slavery, in the 20th century it was Jim Crow. Today it is mass incarceration. Alexander’s book offers a timely and original framework for understanding mass incarceration, its roots to Jim Crow, our modern caste system, and what must be done to eliminate it.”).

³⁵ Wacquant, *supra* note 34, at 41.

³⁶ *See id.*

³⁷ Kennedy, *supra* note 30, at 507.

³⁸ *See generally* BAUM, *supra* note 6.

³⁹ Jason Bell & Jessica Bell, *Freeing the Slaves in Oz*, in *THE WIZARD OF OZ AND PHILOSOPHY: WICKED WISDOM OF THE WEST* 49, 53 (Randall E. Auxier & Phillip S. Seng eds., 2008). Dorothy even liberates herself. *Id.*

⁴⁰ *Id.*

⁴¹ *Id.* (discussing the third book of Baum’s *Oz* series, *OZMA OF OZ* (1907), where Dorothy frees the royal family of Ev).

in 1916, but it was actually written in 1905.⁴² Because *Rinkitink* was originally intended as a free-standing adventure novel, its characters and setting are different from the other books in the *Oz* series. Dorothy appears only briefly, appended as an afterthought onto an ending that was rewritten so that *Rinkitink* would count as part of the *Oz* series.⁴³ Unquestionably, the Great Emancipator in *Rinkitink* is the young Prince of Pingaree, a male version of Dorothy, a young version of John Brown, or perhaps even a young version of Moses.

Rinkitink begins as a story of the enslavement of one people by another and then morphs into a story about imprisonment.⁴⁴ It is soon apparent that the young boy will be the unlikely savior of a people. Inga grows up on the utopian island of Pingaree until one day, invaders from the Islands of Regos and Caregos capture and kidnap almost everyone on the island.⁴⁵ This includes the prince's father and mother, the reigning King and Queen on the island.⁴⁶ Although Baum never names the age of the young prince, he is old enough to read but young enough to be described as the King's "little son."⁴⁷ The Prince is left with two incompetent companions, a foolish character named King Rinkitink who happened to be visiting from a nearby island and Rinkitink's surly talking goat, Bilbil.⁴⁸ These two provide comic relief throughout the book in the Shakespearean mold of the fool and companion, and they guarantee little help in Prince Inga's quest to free his enslaved people.

The depiction of the prince as a John Brown type of liberator is hardly subtle. After the invaders have wrecked the island, the prince unearths three magic pearls.⁴⁹ The white pearl speaks and advises the prince to "go to the Islands of Regos and Caregos, where you may *liberate* your parents from slavery."⁵⁰ Written twenty-five years after the Civil War, it is not hard to recognize the allegorical nature of *Rinkitink*. Like Brown, Inga is so outnumbered that his quest appears suicidal, except for the three magic pearls. One pearl provides "a strength so great that no power can resist him"; the second pearl protects "its owners from all dangers"; and the third pearl, which sent him on his mission of emancipation, "can speak, and its words are always wise and helpful."⁵¹ Unlike John Brown's suicidal raid on Harpers Ferry, though, readers know that justice is on the side of the young prince and that good will surely triumph in such a tale. Indeed, although Prince Inga sets out in a quest to liberate his parents, he ends up liberating a nation of people.⁵²

⁴² Peter Glassman, *Afterword to L. FRANK BAUM, RINKITINK IN OZ* 317, 317–18 (William Morrow & Co. 1998) (1916).

⁴³ *Id.* at 318.

⁴⁴ See generally BAUM, *supra* note 2.

⁴⁵ *Id.* at 49–50.

⁴⁶ *Id.*

⁴⁷ *Id.* at 22–23.

⁴⁸ *Id.* at 106–07 (describing when King Rinkitink came to the Island of Pingaree to escape having to rule his people and when the boy asked the king, "Can you fight," the king answers "'I have never tried. . . . In time of danger I have found it much easier to run away than to face the foe.'").

⁴⁹ *Id.* at 85.

⁵⁰ *Id.* at 88 (emphasis added).

⁵¹ *Id.* at 26.

⁵² *Id.* at 88, 203.

Baum does not tread lightly when discussing the horrors of slavery. Slavery is depicted as brutal within *Rinkitink*, although tempered to be appropriate as a children's book. When Prince Inga and his odd traveling companions arrive at the islands that kidnapped the Pingaree people, he finds the people enslaved.⁵³ Families are separated, and everyone is made to work.⁵⁴ The men are enslaved in the mountains of Regos, forced to work mining gold and silver.⁵⁵ They are "confined in dark underground passages," dark caverns "in which they lived and slept, never seeing the light of day."⁵⁶ "Cruel overseers with whips stood over these poor people, who had been captured in many countries by the raiding parties . . . and the overseers were quite willing to lash the slaves with their whips if they faltered a moment in their work."⁵⁷ The women and children were separated from the men and became the slaves of Queen Cor.⁵⁸ Most farmed her land while others waited on her.⁵⁹ The child prince's observations of slavery and his repeated determination to free his parents and his people pull the reader through the story.

The book's transition from slavery to imprisonment occurs two-thirds of the way into the adventure tale. Armed with the magic pearls, Prince Inga is eventually able to scare the evil King's army into surrendering.⁶⁰ Unfortunately, however, the evil King and Queen have escaped with Prince Inga's parents and have sailed to Nome to ask the ruler there to confine the good King and Queen as a favor.⁶¹ Nome is a mountainous island that contains an extensive system of cells within its caverns.⁶² Prince Inga decides he must rescue his parents from the dungeons of Nome.⁶³ This is where a story of slavery turns into a story of imprisonment. Modern readers may be reminded of the controversial practice known as extraordinary rendition, where another country transfers its captured prisoners to another country for imprisonment.⁶⁴

There are several clues to alert the reader to the fact that Nome is a prison and not another slave station. Most obvious is the fact that there are only two captives now, not a community of captives. In addition, while Prince Inga's parents were forced into slave labor during their first confinement, they do not need to work in their second confinement.⁶⁵ Meals are provided; there is little to occupy their time.⁶⁶ The rocky confinement appears similar to a modern American prison cell, what Paul

⁵³ *Id.* at 109–12.

⁵⁴ *Id.* at 112.

⁵⁵ *Id.*

⁵⁶ *Id.* at 109, 110.

⁵⁷ *Id.* at 110.

⁵⁸ *Id.* at 111, 188.

⁵⁹ *Id.* at 111.

⁶⁰ *Id.* at 130–32.

⁶¹ *Id.* at 230.

⁶² *Id.* at 227.

⁶³ *Id.* at 276.

⁶⁴ See Leila Nadya Sadat, *Symposium on the New Face of Armed Conflict: Enemy Combatants After Hamdan v. Rumsfeld: Extraordinary Rendition, Torture, and Other Nightmares from the War on Terror*, 75 GEO. WASH. L. REV. 1200 (2007).

⁶⁵ BAUM, *supra* note 2 at 235–36.

⁶⁶ *Id.* at 235.

Butler calls a “long-term storage locker.”⁶⁷ Nome is qualitatively different from slavery, although equally far from freedom. The Nome King does not need their labor; he is simply charged with keeping them in custody and making sure they do not escape.⁶⁸

My favorite clue that the story has transitioned from an anti-slavery message to an anti-prison message is when the evil King and Queen pretend that Prince Inga’s parents deserve punishment. When the evil King Gos and Queen Cor bring Inga’s parents to the land of Nome, they ask the King of Nome to keep the good King and Queen locked up.⁶⁹ They bring gold and gems to exchange for the service that Nome is providing.⁷⁰ Although the exchange is monetary, during the negotiations, King Gos explains that the good King and Queen must be held to protect society from their evil deeds. “The prisoners,” explains King Gos, “are very evil people and came to our islands of Regos and Coregos to conquer them and slay our poor people. Also, they intended to plunder us of all our riches.”⁷¹ “If they get out of prison,” warns King Gos, they will “continue their wicked deeds.”⁷² When the good King hears that he is to be locked up to protect others from his wickedness, he protests to the King of Nom: “do not believe this tale, I implore you. It is all a lie!”⁷³ “I know it,” the Nome King responds, but “I consider it a clever lie, though, because it is woven without a thread of truth. However, that is none of my business.”⁷⁴

To the Nome King, a prison is a business. He houses prisoners to increase his wealth and power. His honesty is as refreshing as it is unhelpful, for he responds to the good King by admitting that his imprisonment has nothing to do with deserved punishment:

In my heart, King Kitticut, I sympathize with you, but as a matter of business policy we powerful Kings must stand together and trample the weaker ones under our feet. . . . The fact that you are a prisoner, my poor Kitticut, is evidence that you are weaker than King Gos, and I prefer to deal with the strong.⁷⁵

In this way, the story of imprisonment and the story of enslavement are strikingly similar. The first imprisonment in *Rinkitink* was a classic depiction of slavery. The people of Pingaree were brought by ship in order to work for free so that the owners could live off their labors. Notwithstanding the depiction of Queen Cor as a sadist, most of the conquering people of Regos and Caregos view slavery as just a cruel business that allows them to prosper. Baum depicts slavery as a business that financially benefits some at the expense of others. The second imprisonment in *Rinkitink* is a depiction of a prison system that operates as

⁶⁷ BUTLER, *supra* note 1, at 30.

⁶⁸ BAUM, *supra* note 2, at 230–31.

⁶⁹ *Id.*

⁷⁰ *Id.*

⁷¹ *Id.* at 231.

⁷² *Id.*

⁷³ *Id.*

⁷⁴ *Id.*

⁷⁵ *Id.* at 232–34.

a business. There is a pretext of deserved punishment in the prison, but that pretext is exposed even to the youngest readers.

Baum also raises the issue of prison labor, one of the pressing questions in his day. Although the Nome King has agreed to house the prisoners howsoever he wishes, Queen Cor utters these words to him after the deal is sealed: "Make them work . . . They are rather delicate and to make them work will make them suffer delightfully."⁷⁶

On one level, this exchange reveals the character of the two speakers. The Nome King's benevolent treatment contrasts with Queen Cor's sadistic words. The Nome King has no desire to inflict unnecessary pain. Rather, he is an opportunist governed by the human failings of greed and a desire to maintain his power. When Prince Inga comes to him, the Nome King treats him like an honored guest but begs him to leave.⁷⁷ It is only when the young prince insists on liberating the prisoners from their cells that the Nome King tries to kill the child and his companions.⁷⁸ This instructs the reader that captivity can have many forms. One can be enslaved by evil-minded sadists such as Queen Cor, or one can be simply imprisoned by unsympathetic, powerful men like the Nome King. In both instances, the lack of freedom harms the captive and breaks families apart. Also, in both instances, the enemy is motivated primarily by financial gain and the liberators are justified in using force to free the captives.

On another level, the dialogue between the evil slaveholder and the opportunistic ruler may be taken as an allegory. Although the ex-slaves are white people, the story intentionally reminds readers of the treatment of America's freed blacks. Baum has drawn a direct line from slavery to prison, depicting the imprisonment of two former slaves turned to prisoners. This suggests that Baum viewed turn-of-the-century prisons as direct descendents of slavery; it was another institution to accomplish similar ends. This is the same line that critics have tried to draw from slavery to the current prison situation. Baum wrote at a time when prisons were changing and their purpose to effectuate Jim Crow policies was more readily apparent. In particular, the issue of prison labor was of high importance to those that sought to better the plight of black men in the Southern states.

IV. THE PRISON SYSTEM AFTER THE CIVIL WAR

At the time *Oz* books were written, the American prison industry was changing. Some of the issues of Baum's day are reflected in *Rinkitink*, such as the relationship of labor to servitude and the expanding use of the penitentiaries in the South to house freed slaves.

Before the Civil War, the Southern penitentiaries housed white inmates and not slaves since slave punishment was handled by the individual

⁷⁶ *Id.* at 235.

⁷⁷ *Id.* at 244–50.

⁷⁸ *Id.* at 247, 255–64.

plantation owners.⁷⁹ After the Civil War, both the racial demographics of prisoners and the form of penal institutions changed. A practice known as “convict leasing” was gradually established throughout the South, whereby the state handed the prisoner over to private companies in return for a fee.⁸⁰ In convict leasing, the private company was in charge of care and custody of prisoners as well as their work and work product.⁸¹ Initially, the legislatures in the North and South had instituted prison work with the goal of rehabilitating prisoners through “the redeeming power of hard labor.”⁸² The lease system, however, was clearly designed for financial profit and to enable the continuation of white control over Southern blacks.⁸³ Specifically, the lease system brought in revenue at a time when the Southern states could no longer pay for their prisons.⁸⁴ Additionally, the Private companies bore the cost of housing inmates in return for keeping the profit gathered from the prisoners’ labors.⁸⁵ As Baum illustrated in his tale of the Nome prison, there was a political dimension to this trade. “Lawmakers supported the lessees with contracts and convicts, and lessees supported the lawmakers with contributions.”⁸⁶ As depicted in Baum’s *Rinkitink*, prisons were a business, like slavery, in which many profited.⁸⁷

Some scholars believe the lease system was worse for convicts than slavery was for blacks.⁸⁸ Stephen Garvey wrote about the brutality experienced by leased convicts.⁸⁹ Prisoner deaths were reported to be as high as 40 percent of the convict population in some years.⁹⁰ Asked about life expectancy of prisoners in the South in 1883, one doctor estimated that most convicts in Alabama “died within three years.”⁹¹ In Mississippi, the mortality statistics were equally revealing: “Not a single leased convict ever lived long enough to serve a sentence of ten years or more.”⁹² The brutality makes sense on a financial level. As Garvey noted, while a “slave owner had a long-term economic interest in the slave’s well-being [I]essees knew they would eventually lose control over an inmate’s labor, either at the expiration of the lease or when an inmate’s term of imprisonment came to an end.”⁹³

⁷⁹ Stephen P. Garvey, *Freeing Prisoners’ Labor*, 50 STAN. L. REV. 339, 353 nn.95–96 (1998).

⁸⁰ *Id.* at 355.

⁸¹ *See id.* at 357.

⁸² *Id.* at 341.

⁸³ *See* DAVID M. OSHINSKY, “WORSE THAN SLAVERY”: PARCHMAN FARM AND THE ORDEAL OF JIM CROW JUSTICE 56–57 (1996).

⁸⁴ Garvey, *supra* note 79, at 355.

⁸⁵ *Id.* at 355–56.

⁸⁶ *Id.* at 356–57. *See also* EDWARD L. AYERS, VENGEANCE AND JUSTICE: CRIME AND PUNISHMENT IN THE 19TH-CENTURY AMERICAN SOUTH 195 (1984).

⁸⁷ *See* BAUM, *supra* note 2, at 231 (describing how King Kaliko profits from the imprisonment of the good King and Queen).

⁸⁸ *See* OSHINSKY, *supra* note 83, at 46, 48–49 (detailing the unsanitary and fatal conditions for the convicts).

⁸⁹ Garvey, *supra* note 79, at 357.

⁹⁰ *Id.*

⁹¹ *Id.* at 357 (quoting Christopher R. Adamson, *Punishment After Slavery: Southern State Penal Systems, 1865–1890*, 30 SOC. PROBS. 555, 566 (1983)).

⁹² OSHINSKY, *supra* note 83, at 46.

⁹³ Garvey, *supra* note 79, at 357. One proof that this was a financial calculation is that convicts were generally worked hardest at the time their lease was about to expire. *Id.*

Although the lease system was largely driven by profit, it also served another purpose. Southern prisons became part of the Jim Crow era's methods of controlling blacks and ensuring that they stayed in the South working for depressed wages.⁹⁴ Although slavery was prohibited, blacks could still be held in bondage through the criminal justice system.⁹⁵ "Of course," wrote Garvey, "the lease system was formally based on criminality, not on race, but the distinction was often lost in the realities of criminal justice under Jim Crow."⁹⁶ Thus, prison had become the new form of slavery in many Southern states at the time Baum wrote *Rinkitink*. Whether a particular prisoner actually deserved punishment was immaterial because the whole enterprise was based on exploiting a class of persons.

At the time Baum was writing, debates raged in the South about the Southern leasing system.⁹⁷ There were similar debates about the Northern prison system regarding the use of convict labor. Unlike the Southern prison system, however, "inmates in the North labored behind prison walls manufacturing goods for sale to the state."⁹⁸ Fifteen years before Baum wrote *Rinkitink*, a famous exposé of Southern prisons was published, cataloguing unspeakable brutalities.⁹⁹ At the end of the twentieth century, some Southern states were ending convict leasing. The death of convict leasing occurred in part due to humanitarian sentiment, in part to the rise of a labor movement, but mostly due to the system becoming unprofitable for private companies that leased the prisoners.¹⁰⁰ Convict leasing was replaced by state farms and chain gangs. Though superior to convict leasing, these punishment schemes also served to control black labor and continue white domination.

This is the background for understanding Queen Cor's comment that the royal couple should be made to labor while held in the caves of Nome. The brutality of the Southern work system persuaded many that work was not a road to moral reform of the prisoner's soul.¹⁰¹ *Rinkitink* accurately illustrates that the United States prison system at the turn of the century was an extension of slavery and only nominally based on criminal misbehavior.

⁹⁴ *Id.* at 355–56.

⁹⁵ See OSHINSKY, *supra* note 83, at 45 (showing that the lease system and the slavery system were practicably indistinguishable in terms of social recognition—one planter wrote to ask for convicts, saying "[w]hen you get a moment . . . won't you send a slave out to fix my cemetery fence?").

⁹⁶ Garvey, *supra* note 79, at 355 (citing ALEX LICHTENSTEIN, *TWICE THE WORK OF FREE LABOR: THE POLITICAL ECONOMY OF CONVICT LABOR IN THE NEW SOUTH* xvi (Mike Davis & Michael Sprinker eds., 1996)).

⁹⁷ See, e.g., Garvey, *supra* note 79, at 365; OSHINSKY, *supra* note 83, at 48–52.

⁹⁸ Garvey, *supra* note 79, at 365.

⁹⁹ See *id.* at 363 (referring to GEORGE W. CABLE, *THE SILENT SOUTH TOGETHER WITH THE FREEDMAN'S CASE IN EQUITY AND THE CONVICT LEASE SYSTEM* (1885)).

¹⁰⁰ Garvey, *supra* note 79, at 364. See also OSHINSKY, *supra* note 83, at 52 (arguing that class anger by poor Southern whites was also responsible for ending leasing in Mississippi, the state where it began).

¹⁰¹ *Id.* at 364. For a discussion about the reformer's concern with the prisoner's soul, see George Fisher, *The Birth of the Prison Retold*, 104 *YALE L.J.* 1235, 1279–81 (1995).

V. ALTERNATIVE PUNISHMENTS

In *Rinkitink*, the slave-holders on the Island of Regos behave terribly toward Prince Inga and his people.¹⁰² Yet, when the army is defeated, no punishment is administered to the former soldiers or overseers.¹⁰³ In place of the evil King and Queen, Inga substitutes a kind woodsman¹⁰⁴ whom he met on the island to rule them. Like the Winged Monkeys who obey anyone with the Magic Cap,¹⁰⁵ the switch of the leader of the slaveholders suggests that evil is situational and that honest leaders bring forth improved behavior better than any punishment could.

Similarly, the young prince fashions no punishment for the Nome King even though he had tried to kill the prince and his companions and lock up his parents indefinitely.¹⁰⁶ Instead, all is put to right when the prince survives tests that would make a Greek hero proud,¹⁰⁷ and Dorothy arrives in time to scold the King. “You must be more wicked than I thought you were,” Dorothy tells him, demanding that he release his prisoners.¹⁰⁸ Instead of punishing the Nome King, they “bade good-bye” and Dorothy warns him “not to be wicked any more than he could help it.”¹⁰⁹ In keeping with Baum’s themes of liberation, one can read the *Oz* series for a long time without coming across punishment for criminal conduct.

The Wizard of Oz himself, when revealed as a lying scoundrel in the first *Oz* book, suffers no punishment other than embarrassment. Despite the Wizard escaping punishment—or as Baum might write, because the Wizard escaped punishment—the Wizard becomes a reformed citizen of Oz.¹¹⁰ One clear theme throughout the *Oz* series is that people do not always need to be punished for their misdeeds.

One example of an alternative type of punishment appears in *The Lost Princess of Oz*.¹¹¹ There, an enormous speaking frog is traveling with a woman named Cayke as she seeks her jeweled, magic baking pan.¹¹² When the pair arrives at a river, the ferryman cannot hear Frogman but can hear Cayke all too clearly and scolds her for talking too loudly.¹¹³ Eventually, the ferryman explains that he cannot hear animals speak because that was a punishment for his acts of cruelty to animals, such as cutting off the tail of a fox:

So the Emperor of the Winkies—who is the Tin Woodman and has a very tender tin heart—punished me by denying me any

¹⁰² See BAUM, *supra* note 2, at 109–10.

¹⁰³ *Id.* at 220.

¹⁰⁴ Prince Inga calls this woodsman named Nikibob a “charcoal-burner.” *Id.* at 218.

¹⁰⁵ BAUM, *supra* note 6, at 118–19.

¹⁰⁶ BAUM, *supra* note 2, at 230–31, 247, 255–64.

¹⁰⁷ *Id.* at 254–64.

¹⁰⁸ *Id.* at 284. The King almost weeps in despair, but explains that he promised King Gos that he would keep Inga’s parents captives. *Id.* at 286–87. Eventually, he agrees to release the prisoners but only because he was threatened by a dozen eggs, something the Nome King apparently feared. *Id.*

¹⁰⁹ *Id.* at 290.

¹¹⁰ BAUM, *supra* note 12, at 180.

¹¹¹ L. FRANK BAUM, *THE LOST PRINCESS OF OZ* 194 (1917) (explaining that a ferryman is punished by denial of “communication with beasts, birds or fishes”).

¹¹² See *id.* at 208–10.

¹¹³ *Id.* at 193.

communication with beasts, birds or fishes. . . . Every time I meet one of them I am reminded of my former cruelty, and it makes me very unhappy.¹¹⁴

In response to the ferryman's story, Cayke expresses sympathy for his plight but declares the punishment to be just, explaining that "the Tin Woodman is not to blame for punishing you."¹¹⁵

This creative punishment fits Baum's central theme that individuals are happiest when they connect with others to find community and common purpose. Because the punishment denies the ferryman full integration into the community, it is a veritable penalty. Cayke's remarks serve to articulate Baum's view that punishment is just when tailored to the crime. That the punishment fills him with remorse indicates that it serves a valid purpose. One may wonder why the punishment continues after there is full repudiation and remorse, but it is far less cruel than the prison in Nome. The scene indicates that Baum was not against all punishment, but he believed it should be selective and tailored to the offense.

VI. CONCLUSION

The inhabitants of Nome in *Rinkitink* are unhappy, living as they do in dark caves. Baum illustrates that imprisoning others turns one's own home into a prison. Additionally, when a society unjustly imprisons people, the practice has an adverse effect on that society. In all the *Oz* books that I have read, the reader roots for the imprisoned. Baum's work showcases a quest for liberation, on the personal level and for subjugated groups. His anti-slavery message applies equally to incarceration. Baum's ideal world is not devoid of all punishment, but it is devoid of long prison terms and punishments that do not help the individual fit back into society.

Prince Inga's adventures in *Rinkitink* teach readers young and old to be wary of lies when people benefit from imprisoning others. It teaches adult readers that there was a direct line from slavery to the disproportionate imprisonment of blacks in the early 1900s. Baum wrote at a time when incarceration in some states was worse than slavery. The *Oz* books resonate today as modern reformers make similar arguments to those made in time, namely that the system of massive incarceration is a means of profiting at the expense of poor minorities, a direct descendent of slavery and Jim Crow.¹¹⁶ If we could just find the magic pearl that always speaks wise and helpful words, it might direct us to end mass incarceration in this country, thereby liberating ourselves as well as those suffering in the current regime.

¹¹⁴ *Id.* at 194.

¹¹⁵ *Id.*

¹¹⁶ See generally ALEXANDER, *supra* note 34 (discussing mass incarceration as replacing Jim Crow and racial segregation).

