

## **Working together against the criminal justice system, forced treatment, interlocking oppression, and common sense: *Disability, Criminal Justice and Law and Decarcerating Disability***

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### **Abstract**

This piece reflects on some resonances between *Disability, Criminal Justice and Law* and *Decarcerating Disability*, suggesting that they are part of a shared political and intellectual project that a) interrogates common sense practices of penalty and disability care through an interlocking oppression lens centring colonialism, racism, disability, and capitalism, and b) helps us to question the lines between violence and nonviolence in response to distress and disability.

I would like to start with a personal story – the story of first meeting Liat Ben-Moshe, at least as I remember it: We were both attending a Society for Disability Studies conference, which must have been 2008 in New York City. I attended her talk because her topic sounded incredible, and I asked some question of her. Later she came to my paper and after I was done, she came up to me and said, “I know why you’re interested in my work. It’s because we’re doing the same thing!”

This was a little baffling to me, because she was discussing things I’d honestly never considered: the relationship between deinstitutionalization and prison abolition activism. And she was doing so by intersecting anti-Black racism analysis with disability studies. My paper had an unruly title of 26 words and was about a residential treatment centre in which

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I worked, trying to make sense of how legacies of eugenics and Indian Residential Schools came together in my work with disabled Indigenous children in micro-practices like teaching “pro-social skills” – drawing primarily on anticolonial Indigenous analyses and disability studies (later published as Chapman 2012). Our projects were hardly the same, at first blush, but Ben-Moshe was right that we were both chipping away at a larger political and intellectual project to better understand and challenge the institutions that we live with today that can’t be made sense of fully without an interlocking oppression analysis. And I think that’s what enabled our subsequent edited collection with Allison Carey *Disability Incarcerated* (Ben-Moshe, Chapman, and Carey 2014) - a book exploring various ways that practices and sites of confinement interlock with disability oppression, colonialism, racism, and capitalism - to be and do what it is and does – or at least what it was and did in the historical moment of 2014. In conversation last summer, Ben-Moshe described *Disability Incarcerated* as now an “artefact,” given the incredible amount of activist and scholarly energies that have gone into that larger political and intellectual project since that time, especially under the (sometimes overlapping) banners of Disability Justice and Black Lives Matter organizing. We certainly weren’t the first, and we most certainly weren’t the most important artefact in that ongoing trajectory of struggle, but I think we contributed something that made a difference to the extent that projects like scholarly edited collections can do so.

*Disability Injustice: Confronting Criminalization in Canada* (Fritsch, Monaghan, and van der Meulen 2022) is another edited collection with a wide array of chapters that cover arenas and theorizes well beyond what was done in *Disability Incarcerated*. Ben-Moshe wrote the final chapter (Ben-Moshe 2022), and I had the great privilege of reading it before it was released. This book is an excellent collection that in some ways does work that *Disability Incarcerated* couldn’t yet do in 2014, thanks to eight years of activism and scholarship that pushed what was possible to do and say and imagine. All of that is an introduction to me saying that I believe that *Decarcerating Disability* and *Disability, Criminal Justice and Law* also “do the same thing” and are part of this much larger political and intellectual project – as can also be said of *Disability Injustice*.

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*Disability, Criminal Justice and Law* and *Decarcerating Disability* are very different projects in many ways. Linda Steele's book brilliantly explores court diversion as a means of increasing the carceral control of people's lives – particularly poor, racialized or Indigenous, disabled people's lives; Ben-Moshe's just as brilliantly explores the relationship between prison abolition and deinstitutionalization – focusing on anti-carceral activism and counter-organizing. These are hardly the same thing. But both are attempting to trace out how race, colonialism, disability, and class create and restrict possibilities for life and means of understanding, accepting, imagining, and critically engaging. They are very much part of the same larger project. They both ask us to deeply question things that tend to be taken for granted; they both argue that the changes we need are much more far-reaching than simple reforms.

In the panel on their books at the Law and Society Association last year in which I participated, someone (maybe me) said that both books use a Foucauldian analysis (meaning one based partly on the work of Michel Foucault; although it might be more accurate to say that they both do so in the tradition of Jasbir Puar's (2017) reiteration of a Foucauldian analysis, as well as other recent work that centres the relationship between disability oppression and racism, such as that of Nirmala Erevelles (2011), Rachel Gorman (2013), Ameil Joseph (2015), and Louise Tam (2013)). At any rate, during the panel someone said, "Foucauldian analysis" and the closed-captioning captured the phrase as "accordion analysis" – hilarious, maybe, but this enabled me to *ad lib* one of the things that I most appreciate about these two important and wonderful books. In the first volume of *The History of Sexuality*, Foucault describes what he calls his method and includes what he calls "the rule of double conditioning" (Foucault 1990, 99). According to this "rule," micro-practices shape large-scale societal structures and discourses at the very same time that large-scale societal structures and discourses shape micro-interactions and even thoughts and feelings. We squeeze the accordion to look at how the large scale (partly) determines action, thought, interaction and so on; and then we pull it apart to explore how the micro-level cumulatively shapes the macro. Back and forth, taking both equally seriously, we make the music of critical analysis. The "accordion analysis" that Ben-Moshe and Steele both do so seamlessly is the tracing of this rule of double-conditioning: they move from the very

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local and specific – whether a specific person’s experience of court diversion or a specific community’s mobilization around deinstitutionalization – to the broad-scale socio-economic, settler colonial, white supremacist, disablist, cisheteropatriarchal, and capitalist structures and discourses that both shape the local and specific and are cumulatively and forever shaped and reshaped by so many locals and specifics.

For me, this is essential. Many years ago now, I was actively involved in anti-capitalist/ anti-globalization street protests and I was also working therapeutically with men who perpetrated violence against their female partners. I wondered about how people in the IMF or World Bank could sleep at night; I wondered whether their strategies for being at ease with what they did might be similar to those of the men I was working with; I wondered if, like many of the men I worked with, they might have glimmers of shame, self-doubt, and responsibility-taking that usually didn’t go very far but had some potential to take them elsewhere. I wondered if there might be a relationship between individual “ethics” and feelings and the kinds of interactions that might help someone take their glimpses of accountability seriously, on the one hand, and possibilities for large-scale societal transformation, on the other. I wondered about “accordion analysis”, or the rule of double conditioning, without having the language at the time to quite realize it.

These two books can help us to find the language to realize how important the “personal is political” is to both changing our world fundamentally and living our most loving and nonviolent lives. They accordion between the “big P” Political and the interactional, legal, or bureaucratic.

They also both ask us to deeply critically engage with what might seem like goodness or benevolence or progress, as I hope some of my work also invites of readers (Chapman 2014; Chapman and Withers 2019). *Disability, Criminal Justice and Law* explicitly and centrally does this by upending the commonsense in which diverting criminal penalty toward (nonvoluntary) treatment and surveillance increases a person’s possibilities for life and freedom. *Decarcerating Disability* does so, for example, in its interrogation of “mental health treatment” in prisons. And I too have tried to demonstrate ways that professional care, treatment, and support – especially when nonvoluntary – are very often experienced

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as violence, denigration, and oppression by those subjected to them. Perhaps it's another way that it might be said that we're doing "the same thing" – or at least that we're part of a much larger and very diverse common project.

Thinking with that resonance across these books, I'd like to end with a question: how might *Disability, Criminal Justice and Law* and *Decarcerating Disability* both help us to respond to the well-intentioned notion that police responses to crisis might be fruitfully and non-violently replaced by social work or mental health professional responses? What are the dangers in assuming that one is violent and the other is not – or even is less violent by virtue of the respondent presumably not being armed? If the aim is to eliminate violence and oppression, are helping professionals a good enough alternative to policing and prisons?

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