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**Review of Fritsch, K. Monaghan, J., and van der Meulen, E. (2022).  
*Disability Injustice: Confronting Criminalization in Canada*. UBS Press  
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## **Introduction**

*Disability Injustice: Confronting Criminalization in Canada* is an edited collection of socio-legal and critical disability studies chapters that unpack the often-under-studied nexus of disability and criminalization in Canada. The collection analyzes historical and contemporary examples of the criminalization of disability, which are separated into three sections: *Practices and Processes of Criminalization*, *The Criminal (In)Justice System*, and *Reconceptualizing Disability and Reframing Justice*. This expansive collection features a range of disability and sociolegal scholars, who take up a mix of theoretical and applied analyses. Unique about the text is that it squarely places the analysis on systemic and structural factors that lead to the criminalization and marginalization of disability, never on individual minds or bodies. The collection also aims to center the experiences of disabled people; they are subjects of agency, not objects of analysis. This text will be of use and interest to researchers, undergraduate and graduate students alike who want to learn about the medicalization of disability; the criminalization of HIV, mental illness, and disability; the policing of non-hegemonic people and bodies; the intersections between disability, sexuality, racialization, class, and gender; and alternatives to carceral

punishment as we collectively work towards the promise of and need for decarceral futures.

As a faculty member in Sociology who teaches and researches critical health and Disability Studies, I found this book to be an important and unique addition to the field. Not only does it center its analysis on systemic and structural systems (laws, carceral programs, and institutionalization), it highlights intersectionality throughout the readings and the ways in which marginalized disabled people are at increased risk for social, economic, and political isolation. I would use this book in its entirety in a course on critical disability and/or critical criminology. I would also use specific chapters for courses related to equity and justice; intersectionality; racialization, gender, and disability; medicalization and mental health stigma. This edited collection presents ideas and issues in ways that 1) carefully consider the lives of the people most affected, 2) analyze the systems that *produce and reproduce* injustice and inequality, and 3) with a fierce conviction on how to dismantle them.

As an undergraduate student in psychology, minoring in sociology with a specialization in critical criminology, I first encountered this book in my third year while writing a final paper for a critical criminology course. I found each chapter accessible in terms of welcoming junior-level scholars into the sometimes-complex ideas raised in critical disability and critical criminology studies. Despite only using parts of the book due to limited time and page limitations for my final paper, I decided I wanted to delve further into this book as it sparked my interests in disability, criminology, and health. Prior to encountering this book, my understanding of disability criminalization was limited. I had

encountered some of the ideas raised in this book in other courses but did not realize the extent to which disabled populations face maltreatment within Canadian carceral institutions. As I am about to embark on an MA program focusing on the sociology of health, the ideas raised in this collection will surely help guide my thinking around health and disability injustice.

In the introductory chapter, *Resisting the Criminalization of Disability*, the authors set the theoretical and conceptual frameworks for the text, bringing together critical criminology and critical disability studies to argue against the continued incarceration and institutionalization of disabled people in Canada. The chapter toggles between a historical grounding of disability injustice and an application to contemporary issues. It traces a history of the present, while rooting its analysis in ongoing systems of settler colonialism, disableism, and inequality. The introductory chapter also unpacks the often-fraught categories and definitions of disability.

## **Part 1**

Part 1 of the book heavily explores past and present issues surrounding the criminalization experienced by disabled people. While exploring criminalization, the authors delve into a range of experiences, exploring sexual health, gendered experiences, personal expression and sex work, incarceration, impacts on racialized groups. The authors address how the autonomy of a disabled person is affected by past and present social and political practices. The authors explore varying historical and current contexts of disabled people's experiences. Part 1 is set up to appeal to wider audiences, such as new undergraduate students who are interested in learning about the historical and

current climates of people with disabilities and the criminalization of those perceived differences.

Part 1 of the collection opens with Chapter 2, *From Prisoner to Patient*, which provides an excellent historical overview on the links between asylums, prisons, and contemporary eugenic practices and ideologies. Raymond details the gendered experiences of disabled women who underwent institutionalization between 1880 and 1969 in Canada. She teases out how feminine gender role nonconformity was linked to mental health diagnoses and the pathologization of difference. The chapter also analyzes the coercion and medicalization of women, using electro-convulsive therapies, invasive gynecological surgeries to stop reproduction (i.e. eugenics), and the commonly held belief at the time that women's disabilities were disruptive to the status quo of a functional society.

Chapter 3 *Histories of Living in Negative Relation to the Law* unpacks the resistance to HIV criminalization in Canada in the 1980s and beyond. The intersections between HIV criminalization and disability are discussed through the legal and media analysis of cases of non-disclosure of HIV status. A unique addition to the field of Disability Studies, this chapter raises important questions on the links between chronic illness, disability, and the responsibility to disclose and the risks of criminalization for those involved.

Chapter 4 *The Criminalization of Sex Work: Creating Conditions for Disability* explains the intersections between disability, gender, and sex work, specifically on the assumptions of disabled peoples' inability and/or lack of desire to partake in sexual exploration. The chapter also highlights the exclusion of disabled people from participation

in mainstream labour, leading them to sex work to adapt to the financial constraints of having a disability. Blewett also analyzes how the Protection of Communities and Exploited Persons Act (2014) negatively impacts the lives of sex workers, how it normalizes increased suspicion towards them, and legalizes harm to sex workers, offering a good intersectional critique.

In the last chapter of Part 1, The authors of Chapter 5, *The Judicialization of Everyday Life in Quebec*, summarize their decade long research with intellectually disabled people and their continued isolation in everyday life, including in sexual agency. The authors detail the difficulty of self-determination amidst lower levels of formal education, fewer job prospects, as well as residential, economic, and relational precariousness and how these exclusions render the desexualization of intellectually disabled people rampant in everyday life. Participants highlight invasive risk-management policies, non-private living spaces, as well as rules prohibiting intimate contact between residents as mechanisms that desexualize disabled persons from full and equal participation in intimate and sexual spheres of social life.

## **Part 2**

Part 2 of the book shifts from exploring historical and current context of experience of disabilities to exploring the stigmatization and mistreatment of people with disabilities within different areas of the criminal justice system. The chapters in Part 2 analyze differing encounters of stigma and mistreatment in the hands of police, and the socio-legal system. The authors draw from personal experiences, quantitative and ethnographical methods to explore and enhance critical understandings of disabled peoples' experiences in the

criminal justice system. Due to the focus on the criminal justice system, an audience who is more interested in the intersection between criminology and disability studies might find readings from this section useful to broaden their understanding of disabled and disabling experiences within the realm of the criminal justice system.

Part 2 opens with Chapter 6 *Police Encounters with “People in Crisis”* to explore the relationship between policing practices and their encounters with people who have mental health issues. Mukherjee analyzes the stigmatization of mental health with police. Mukherjee also discusses how normative sanist perspectives lead to a perceived threat posed by those with mental health conditions. The chapter ultimately argues that dominant sanist norms need to be unpacked to fully understand their negative implications on people with mental health diagnoses and how they intersect with other aspects of marginalization, including racialization, sexuality, gender and class.

In Chapter 7, *Therapeutic Justice or Epistemic Justice?*, the authors present their ethnographic research on Mental Health Courts (MHC) in Quebec carried out between 2012 and 2018. Although established to better accommodate disabled people within the criminal justice system, this chapter highlights the ways in which MHCs reinforce notions of individual deficits and personal responsabilization by stigmatizing and scrutinizing the behaviours of mad subjects. Contrary to the therapeutic justice principles upon which MHCs were founded, they work to perpetuate disability injustice by silencing mad persons and their lived experiences and by enforcing unequal control over their lives.

The authors in Chapter 8, *Conceptualizing Jury Representation*, focus on discriminatory judicial processes of jury representation for people with disabilities.

Jochelson and Bertrand specifically focus on the under-representation of people with disabilities and perceptions of the ideal citizen in Canadian juries. Differing from other chapters, this chapter employs a quantitative approach and uses the data to understand people's perceptions of disability, specifically how disabilities are thought to compromise trial information. The authors advocate for the necessity of people with disabilities to partake in decision-making processes within the judicial system.

In Chapter 9 *Punishing Disability and Trauma*, Rusciano exposes the trauma caused using segregation in Canadian prisons. The chapter focuses on the experiences of isolation and segregation marginalized women in prisons face. An overwhelming number of these women are Indigenous women with complex histories of trauma, who also have psychosocial disabilities. As Rusciano troublingly notes, more than half of these women have attempted suicide (p. 212). Their experiences of isolation and segregation only exacerbate their mental health traumas, stymying their health, wellness, and chances of deinstitutionalization. Rusciano argues for the dire need to abolish segregation in prisons and to institute trauma informed care in its place.

### **Part 3**

In the third and final Part of the collection, the authors develop the arguments made from Parts 1 and 2 to think beyond current conceptualization of people's lived experience with disabilities. As such, current conceptualization of disabilities within and beyond the realm of criminal justice system and medical are met with critical thought, challenging current thinking and practices that reproduce harm to disabled people. The authors in this chapter use a mix of historical analysis of past medico-legal cases, with examples from the

criminal justice system to offer readers a more contextualized understanding of disabled people's experiences. This section asks readers interested in disability studies to explore critical questions around the making of the criminalization of disability.

To begin Part 3, Chapter 10, *Disability, Politics, and Collectively Reimagining Justice*, provides a historical critique of the 1969 Canadian Criminal Code reform and its effects on sexual and disabled identities. Specifically, Rossi's historical analysis focuses on the decriminalization of sexual intercourse between same sex participants but continues to erase disability from the framing. Not only is this a historical critique, it also focuses on contemporary sexuality movements and other economic, environmental, and social justice movements that continue to exclude disability from its analysis of sexuality. This chapter encourages readers to look past single-issue identities and look towards multiplicities to necessitate solidarity.

In Chapter 11, *The Politics of Death-Making/Assisted Suicide*, Malhotra provides a Castoriadan reading of medically assisted dying law in Canada. Grounded in an analysis of the historical, landmark case of Tracy Latimer, the 12-year-old girl with cerebral palsy who was murdered by her father in 1993, Malhotra argues for the ways in which assisted suicide practices are dangerous. Not only do they reinforce false assumptions about the quality of life of a person with a disability, but they can also reproduce suicidal ideation for disabled peoples. Reminding readers that disabled peoples exist in every walk of life, Malhotra contends that assisted suicide laws need to be removed if we are to value people across the disability spectrum.

The authors in Chapter 12 *#EndPoliceViolence*, center the concept of hegemony, arguing how disabled people are seen as threats to the status quo of normative society. The authors show how the othering and hierarchization of non-hegemonic bodies in mainstream society perpetuates police violence towards disabled people. This chapter draws on relevant, contemporary examples of police violence using research from the Ontario Human Rights Commission. The chapter also outlines organizations such as the American Public Health Association and Horizontal Alliance of Very Organized Queers who are challenging police violence, pushing for police abolition, and looking for alternatives to carceral systems that would better foster trust and safety of marginalized communities.

Chapter 13 *Refuting Carceral Logics and Their Alternatives* provides a strong and compelling case against the current criminal justice system. It considers non-coercive treatments and community-based approaches to reintegration beyond punishment. Ben-Moshe argues for abolition to halt criminalization, medicalization, hospitalization, and pathologization of disabilities that occur systematically in our criminal justice system. This chapter provides an important discussion of such alternatives, reminding us that alternatives must radically exist outside of current oppressive systems.