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Introduction

Heather Shipley and Ravi Malhotra

Law, Religion, Disability

Public and policy challenges regarding disability rights continue to be highly contested, even with the recent implementation of policies such as the Convention on the Rights of Persons with Disabilities, the Americans with Disabilities Act and the Accessibility for Ontarians with Disabilities Act. Disability rights advocates point to the continued limitations of existing policy¹ often compounded with the complete absence of considerations for persons with disabilities in multiple spaces – the Pan Am Games in Toronto in 2015 serving as one of many recent examples.² Adding further layers of complexity to the existing challenges of disability rights, the articles in this issue consider comparisons and conflicts when religion, disability and law are woven together. The intersections of religion, law and disability offer a vast spectrum of possible analytical interrogations. Yet the relationship of law, religion and disability is still an emerging research area; the overlapping challenges that are produced by barriers within religious and legal spheres offer insights regarding the lives of persons with disabilities within both religious and legal domains.

Scholarship on religion and disability has included feminist reflections regarding religion and disability³ and analysis of the physical isolation that can result in congregations where

¹ Matthew J. Prince, "Canadian Disability Activism and Political Ideas: In and Between Neo-Liberalism and Social Liberalism," (2012) 1:1 *Canadian Journal of Disability Studies* 1; Randy Johner, "Disability and Poverty: Stories that Resist Attitudinal Barriers to Inclusion," (2013) 23:3 *Canadian Journal of Disability Studies* 30.

² See for example, Christina Stevens, "Pan Am Games app deemed failure by advocates for people with disabilities," Global News, June 19, 2015, Online: <http://globalnews.ca/news/2065601/pan-am-games-app-deemed-failure-by-advocates-for-people-with-disabilities/>; Christina Stevens, "Pan Am spectator with a disability finds challenges accessing event," Global News, July 17, 2015, Online: <http://globalnews.ca/news/2118002/pan-am-spectator-with-a-disability-finds-challenges-accessing-event/>.

³ Meredith Minister, "Religion and (Dis)Ability in Early Feminism," (2013) 29:2 *Journal of Feminist Studies in Religion* 5.

accommodations are made but without reflection on the communal aspects of integration.⁴

Further, health care providers working with disabled individuals negotiate and navigate their own religious identities in their professional sphere.⁵ The contributions to this issue have been brought together to open dialogue about the realities of: intersectional identities (religious and disabled); spaces of inclusion and exclusion (secular and religious); the systems of regulation that impact, either positively or negatively, persons with disabilities (legal and religious).

Contributors to this special issue challenge assumptions about both religion and law by exploring the ways law constructs person with disabilities and, alternatively, how particular religious groups have offered care and compassion as part of their religious values. While religious institutions have come under critique for their lack of consideration of members with disabilities,⁶ Timothy Lillie and Thomas McMorrow (in this issue) offer case studies where religious groups have created spaces of inclusion unavailable via legal frameworks. Further, Marie-Eve Gagné compares the obstacles faced by students in Québec seeking recognition of their rights based on religion and based on disability. Gagné asserts that the requirements for religious freedom claims for students ought to be mirrored in the requirements for students with disabilities, who have higher burdens of proof imposed in their requests for accommodation (translation provided below).⁷ Looking at challenges in international settings, Russell Whiting and Sándor Gurbai explore the exclusion of explicit consideration of spiritual rights in the United Nations Convention on the Rights of Persons with Disabilities (CRPD) and the implications of

⁴ Nancy L. Eiesland, *The Disabled God: Toward a Liberatory Theology of Disability*. (Nashville, TN: Abingdon Press, 1994).

⁵ Kaelen E. Bray, Mary Y. Egan and Brenda L. Beagan, "The Practice Experience of Evangelical Christian Occupational Therapists," (2012) 79:5 *Canadian Journal of Occupational Therapy* 285.

⁶ Eiesland, *supra* note 4.

⁷ En outre, Marie-Eve Gagné compare les obstacles rencontrés par les étudiants du Québec qui tentent de faire valoir leur droit à l'éducation sans discrimination fondée sur la religion et sur le handicap. Gagné affirme que le fardeau de preuve imposé par les tribunaux en matière d'accommodement du handicap devrait être adapté en s'inspirant notamment de certains critères d'analyse utilisés dans les requêtes visant l'accommodement de la croyance religieuse.

this exclusion. And Brandon Parlopiano offers an historical analysis of the concept of disability within medieval canon law, considering the case of clerical impairment to develop the framework for the cultural perception of disability in the Middle Ages.

Articles in this issue attend to some of the numerous challenges that are evident at the intersections of disability, religion and law – across national and international contexts. As the initial call for papers was being developed, it was clear to us as co-editors that the research available on the subject was limited and not yet in dialogue. The goal of this special issue is to begin a larger conversation on these intersections and also to acknowledge that there are many more aspects of these topics that could not be included in this journal issue. The articles here offer particular case studies and analyses that explore multiple areas of research related to religion, law and disability. Through these pieces, our contributors explore overlapping themes in dialogue to reflect on the current discourse about disability, disabled identities and its interconnections with law and religion. The co-editors of this issue will open this dialogue by exploring two specific areas regarding religion, law and disability: 1) multiculturalism, cultural groups and the Deaf community; 2) feminism, disability and religion. We will then turn to the case studies offered by our contributors to continue the dialogue on this engaging research area.

Multiculturalism, Cultural Groups and the Deaf Community – Ravi Malhotra

How can one reconcile issues relating to the accommodation of religious minorities and people with disabilities with broader theories of democracy? Professor Faisal Bhabha of Osgoode Hall Law School, a leading scholar on law and religion who has devoted considerable energy attempting to analyze these difficult issues, is deeply influenced by theories of Democratic Experimentalism. This is not entirely dissimilar to other writers such as my learned

colleague, Professor Vanessa MacDonnell, who have written eloquently about Popular Constitutionalism in the context of internet surveillance and the national security state.⁸ Faisal Bhabha describes Democratic Experimentalism as exploring "institutional alternatives within the liberal-democratic constitutional structure with a view to broader equality-enhancing transformations."⁹ Sounding very much like Harvard Law Professor Duncan Kennedy's controversial Critical Legal Studies that was influential in the legal academy in the 1980s,¹⁰ Bhabha says this is predicated on a vision where constitutional rights are contingent, inconsistent and indeterminate.¹¹ Accordingly, the open-ended experimentalist approach is based on negotiation on the part of stakeholders and individual local actors working cooperatively with policy makers and public institutions to craft solutions for the public good. In other words, difficult legal issues such as sharia courts or an inability to be photographed for a driver's license due to religious belief would be determined on a trial and error basis.¹² On this view of Section 27 of the *Charter*,¹³ which enshrines multiculturalism, courts would only establish general principles and leave it to the stakeholders to negotiate details. This would encompass in the context of religion both individual accommodation claims, which is most similar to the disability accommodation world, and group-based autonomy claims. In Bhabha's paradigm, there would be general bench marking rather than micromanagement of rules.¹⁴

⁸ See Vanessa MacDonnell, "Internet Surveillance and Popular Constitutionalism," in G. Williams, F. Davis & N. McGarrity, eds., *Surveillance, Counter-Terrorism and Comparative Constitutionalism* (London: Routledge, 2014) at 313-31.

⁹ Faisal Bhabha, "Between Exclusion and Assimilation: Experimentalizing Multiculturalism" (2009) 54 McGill Law Journal 45 at 49-50.

¹⁰ See e.g. Duncan Kennedy, "Distributive and Paternalist Motives in Contract and Tort Law, with Special Reference to Compulsory Terms and Unequal Bargaining Power" (1982) 41 Md. L. Rev. 563

¹¹ Bhabha, *supra* note 8 at 50.

¹² *Ibid.* at 50.

¹³ *Canadian Charter of Rights and Freedoms*, s. 15(2), Part I of the *Constitution Act, 1982*, being Schedule B to the *Canada Act 1982* (U.K.), 1982, c. 11 at s 27.

¹⁴ Bhabha, *supra* note 9 at 50.

In Bhabha's view, multiculturalism as enunciated in Section 27 regards cultural diversity and pluralism as the common heritage of all Canadians. This noble sentiment implies a policy direction encouraging inclusion and integration. This also means that substantive equality mandates more than a laissez-faire approach to cultural questions.¹⁵ At the same time, accommodation up to the point of undue hardship, the norm in disability law but also applicable in the religious context, does not go as far as self-rule which Professor Bhabha correctly notes is replete with many problems. It is a midpoint compromise that is designed to safeguard equality and inclusion for cultural minorities and prevent discrimination against religious minorities.¹⁶

In my mind, what is absolutely fascinating are the policy issues relating to the Deaf community. They would overlap with aspects of Professor Bhabha's multicultural theory in that they are clearly a cultural group and yet also require accommodations.¹⁷ This may suggest that advocates for Deaf people embrace strategies that would creatively and strategically rely on cultural arguments. This provides both prospects but also perils for the Deaf community. It may be that it ensnares them in arguments about multicultural diversity that they do not need.

*Eldridge v. British Columbia*¹⁸ is certainly a Supreme Court of Canada case that did not need a fancy theory of multiculturalism to generate a win for Deaf Canadians in the context of constitutional access to medical care. In that case, Deaf individuals challenged the failure of the

¹⁵ Ibid. at 53-55.

¹⁶ Ibid. at 56. Bhabha goes on to relate the duty to accommodate to the theory of distributive justice so famously developed by John Rawls. See John Rawls, *A Theory of Justice*, rev. ed. (Cambridge: Harvard University Press, 1999). While this point is highly debatable, we cannot discuss it further here. One of us has written extensively about John Rawls and other philosophers building on his framework. See e.g. Ravi A. Malhotra, "Justice as Fairness in Accommodating Workers with Disabilities and Critical Theory: The Limits of a Rawlsian Framework for Empowering People with Disabilities in Canada" in Dianne Pothier & Richard Devlin, eds., *Critical Disability Theory: Essays in Philosophy, Politics, Policy and Law* (Vancouver: University of British Columbia, 2006) at 70-86.

¹⁷ See generally Harlan Lane, *When the Mind Hears: A History of the Deaf* (New York: Random House, 1984). The use of sign language was more commonly accepted in the nineteenth century. See Douglas Baynton, *Forbidden Signs: American Culture and the Campaign against Sign Language* (Chicago: University of Chicago Press, 1996) at 1-2.

¹⁸ [1997] 2 SCR 624

British Columbia government to fund sign language interpretation for medical appointments because of the enormous concerns of misdiagnosis and ineffective treatment.¹⁹ One can only imagine that childbirth is one context where the diagnosis of a patient by the writing of notes, even if one assumes literacy which is often a barrier among Deaf people,²⁰ is patently ridiculous. Yet I think there are genuine positive strengths that may educate Canadians about Deaf culture and potentially lead to real doctrinal victories on the ground. The Deaf community is a prime example where theories of multiculturalism and disability accommodation intersect. The Deaf community is likely ground zero for opportunities to build alliances between the two groups to share and learn together constitutional legal strategies that can push the law forward in a thoughtful and respectful way.

Feminist Reflections on (Dis)Ability, Law and Religion - Heather Shipley

Feminist scholarship on religion and disability demonstrates the lack of consideration the two categories have received as rights and recognition have been pursued by the majority of feminist movements. Feminist activism regarding rights recognition and academic challenges to male-normative presumptions frequently overlook additional disadvantages experienced by women who are disabled. Much of the feminist literature to date presumes that the women who are seeking recognition are able bodied; the literature therefore does not attend to the experience of women who are disabled or who are disabled and religious. This section will offer brief reflections on feminist critiques of gendered assumptions, complicating these narratives by considering the experiences of women who are also religious and disabled. Feminist scholarship, particularly early feminist scholarship, has been criticized for its lack of recognition

¹⁹ *Ibid.*

²⁰ "Literacy", available online at <http://www.cad.ca/literacy.php> (last accessed August 29, 2015).

of women beyond white women of privilege.²¹ Central figures in the early feminist movement represented heterosexual, middle-class, white women's experiences, without awareness or recognition of the different forms sexism could take based on race, ethnicity, class and low income.²² In the last three decades, scholarship on the experiences of women across socio-economic, racial and ethnic categories has expanded tremendously, producing a broad range of examples of the discrimination that is experienced for women in multiple spaces.²³ The role religion has played in the lives of women, particularly the institutionalized oppression of women via religious dictates,²⁴ is one thread in the analysis of religion and feminism.

Feminist critiques of gender roles in religion ran parallel to the women's movement of the 1960s and 1970s. Much feminist critique of religion has posited that religion is inherently oppressive towards women, and that within some institutions such as the Catholic Church, women will never be fully accepted or treated equally.²⁵ These charges have led many to state that women must exit these traditions in order to be free from the oppressive nature that is embedded within religious hierarchies, particularly patriarchal traditions.²⁶ Feminist theo(a)logy²⁷ seeks to redefine the experiences of women within religious institutions and

²¹ Sojourner Truth, "Ain't I a Woman?" (1851) *Women's Convention*, (Akron, OH, <http://www.fordham.edu/halsall/mod/sojtruth-woman.asp>); Audre Lorde, *Sister Outsider: Essays and Speeches*. (Freedom, CA: The Crossing Press, 1984).

²² See for example, Sherene Razack, *Looking White People in the Eye: Gender, Race, and Culture in Courtrooms and Classrooms*. (Toronto, University of Toronto Press, 1998); Gayatri Chakravorty Spivak, *In Other Worlds: Essays in Cultural Politics*. (New York, Routledge, 1987).

²³ Kimberlé Crenshaw, "Mapping the Margins: Intersectionality, Identity Politics, and Violence against Women of Color" (1991) 43:6 *Stan. L. R.* 1241; Rebecca Johnson, *Taxing Choices: The Intersection of Class, Gender, Parenthood, and the Law*. (Vancouver: UBC Press, 2003); Brenda Cossman, "Sexual Citizens: Freedom, Vibrators, and Belonging" in *Gender Equality: Dimensions of Women's Equal Citizenship*, edited by L. McClain & J. Grossman. (Cambridge, Cambridge University Press, 2009), to name a few.

²⁴ Mary Daly, *Beyond God the Father: Toward a Philosophy of Women's Liberation* (Boston, Beacon, 1973).

²⁵ *Ibid.*

²⁶ Naomi Goldenberg, "What's God Got to Do with It? A Call for Problematizing Basic Terms in the Feminist Analysis of Religion" (2007) 15:3 *Feminist Theology* 275; Carole Christ and Judith Plaskow, eds, *Womenspirit Rising: A Feminist Reader in Religion* (London: HarperOne, 1992); Daly, *supra* note 23.

²⁷ Theology is a term used in feminist research to consider the feminine within the divine as opposed to the frequently uncritical use of 'theology' which only attends to male divinities. I am adding the parentheses here to point to the feminist critique of theology, while recognizing many feminists also consider themselves theologians.

traditions.²⁸ Women have sought out leadership roles within their religious traditions, challenging the gendered notion that only males could lead a congregation. Movements such as the Roman Catholic Womenpriests further challenge the notion that one can 'divorce' their religious identity so easily from the rest of their identity; rather the Womenpriest movement continues to seek to change the Catholic tradition from within.²⁹ Contemporary notions of gender as related to religious traditions vary widely as feminist critiques about rigid notions about the roles of males and females within a religious organization continue to redefine perceptions about religion and gender.³⁰

Complicating the relationship of gender to religion, Meredith Minister challenges early feminist movement contentions about equality between women and men based on 'equal gender capability' precisely because these arguments assumed an "ideology of ability"³¹ – which marginalizes people with disabilities. Minister critiques these religious ideologies of ability as they have permeated early women's rights movements.³² Minister examines feminist narratives that were intertwined with developing health narratives, which connected morality and health,³³ to argue for women's rights based on women's abilities and capacities as the 'same as' men.³⁴ Although the work of early feminists clearly laid the foundation for access to rights and recognition previously unavailable to women, Minister states, "failing to deal with this history

²⁸ Melissa Raphael, *Introducing Theology: Discourse on the Goddess*. (New York: Pilgrim Press, 2000); Marcella Althaus-Reid, *From Feminist Theology to Indecent Theology* (London: SCM Press, 2004).

²⁹ Beginning by the ordination of seven women on the Danube River in 2002, the Womenpriest movement has grown substantially, reporting over 145 womenpriests world-wide. See: romancatholicwomenpriest.org.

³⁰ In the last several years, the New Atheist Movement, spearheaded by Richard Dawkins and the late Christopher Hitchens, has come under fire for sexist and dismissive attitudes towards women within the movement. With these realities exposed within nonreligious spaces, it is important to consider the role "religion" plays in discriminatory attitudes and whether in fact the attitudes are any more religious than they are secular.

³¹ Minister, *supra* note 3 at 9.

³² Minister, *ibid* at 6.

³³ With the resultant creation of organizations such as the Young Men's Christian Association (YMCA) as a place where physical fitness and Bible studies were both housed.

³⁴ Minister, *supra* note 3, pp. 13-17.

and continuing to reify the ideologies of the founders of the women's movement further marginalizes those with disabilities."³⁵

Within studies of gender and religion/spirituality,³⁶ frequently women are considered to 'embody' religion and spirituality in ways that men do not.³⁷ This bodily engagement of religion for women is often tied to the ways women tend to the religious community (through food and care) and is the subject of much of the critique of what 'counts' as leadership within a religious/spiritual community.³⁸ However, bodily engagement and embodiment of religion also problematically assume a form or type of bodily capacity, one that is presumed necessary for these kinds of participation within religious/spiritual communities. The unconscious valorization of 'ability' becomes tied to notions of the 'fitness' of women's humanity and ability – which suggests to women with disabilities that the body itself "could easily be capitalized upon within the cult/ure of public appearance."³⁹

The resulting experience of isolation for women with disabilities within religious/spiritual spaces neglects women and excludes female participation and engagement. Pioneering work by feminist and disability theologian Nancy Eiesland⁴⁰ challenges assumptions and preconceptions embedded in the experience of disability within religious/spiritual spaces, and in particular the expectation of bodily engagement for religious/spiritual women.⁴¹ Instead considering the ways alterity and agency can be exhibited through the promotion of social change and an emancipatory

³⁵ Minister, *ibid* at 23.

³⁶ The use of religion/spirituality is deliberate; religion is often used uncritically to capture the range of religious and spiritual ethics and values of individuals, however it increasingly is a term rejected by people in favour of less doctrinal framings of their belief systems.

³⁷ Pamela Dickey Young and Leona Anderson, eds, *Women and Religious Traditions*, 2nd edition. (Toronto: Oxford University Press, 2010).

³⁸ *Ibid*.

³⁹ Sharon V. Betcher, "Becoming Flesh of My Flesh: Feminist and Disability Theologies on the Edge of Posthumanist Discourse," (2010) 26:2 *Journal of Feminist Studies in Religion* 107.

⁴⁰ Eiesland, *supra* note 4.

⁴¹ *Ibid*.

revisioning of religious participation and 'wholeness,' Eiesland (and others) resist the historical 'hiding' of people with disabilities in religious and social spaces.⁴²

There is currently a great deal of work being done on the notion of religious 'literacy'⁴³ as religion/spirituality meets specific challenges within health care and education, and of course law. The use of 'literacy' when it comes to religion and religious studies refers to both the teaching of religion and religious traditions within schools⁴⁴ and it also is more frequently being used to describe awareness of and response to religious 'diversity' in non-education settings – such as the literacy of nurses and doctors to respond to health needs and the religious identity of their patients.⁴⁵ As argued by some, such as Simeon Wallis,⁴⁶ the limitation of religion courses in schools are exemplified in the ways youth 'understand' religion: the perception that to 'be Christian' one adheres to every practice, belief and sequence of the tradition as they are taught it in school – there is no nuance to the way religion is then being understood through this kind of teaching about religion.⁴⁷ This is further complicated in settings where there is no religious 'education' per se, but rather a need to respond to religious/spiritual needs of patients and further to consider religious, legal and disability accommodations.⁴⁸

Many institutionalized forms of religion have been responsible for restrictive or oppressive treatment of women, both historically and in contemporary society. The reality of religious women's lives is complex; exiting religious traditions is not a solution for many women who see themselves as inherently, i.e., Catholic or Muslim. Lived religious practices challenge

⁴² *Ibid.*

⁴³ Adam Dinham and Matthew Francis. *Religious Literacy in Policy and Practice*. (Bristol: Policy Press, 2015).

⁴⁴ Elisabeth Arweck and Robert Jackson, eds, *Religion, Education and Society: Young People, Religious Identity, Socialisation and Diversity* (London: Routledge, 2013); Simeon Wallis, "Ticking 'No Religion': a Case Study Amongst 'Young Nones'" (2014) 16:2 *DISKUS: Journal of the British Association for the Study of Religions* 70.

⁴⁵ Sheryl Reimer-Kirkham. Critical refractions: Nursing research on religion and spirituality through a social justice lens." (2014) 37:3 *Advances in Nursing Science* 249.

⁴⁶ Wallis, *supra* note 44.

⁴⁷ *Ibid.*

⁴⁸ Bray, Egan & Beagan, *supra* note 5.

the notion that religiosity is only ever about strict adherence to doctrine.⁴⁹ While much feminist critique of religion has pointed to the ways women are disadvantaged or discriminated against within particular religious traditions, nonreligious or secular feminist critiques also come under fire for their lack of inclusion of women who are disabled or who are disabled and religious.

The study of religion, law and disability would benefit from the continued interrogation of the disadvantages that are experienced specific to gender differences. And feminist scholarship would also be enhanced through a re-examination of the challenges that are faced by women who are disabled, who are religious/spiritual, or who live across these identity categories. Religious studies research regarding the significant roles that women possess within religious institutions and spaces frequently assume a particular bodily ability and therefore do not consider the ways women with disabilities also engage and create their religious spaces or the ways that religious spaces exclude women with disabilities.

Multiculturalism, defining cultural groups, and the challenges faced by Deaf Canadians provides one example of the ways that identity matrices are met with barriers in the development of policies that do not consider identities across interesting lines. Feminist critiques about gender norms in religious institutions have sought to create space and recognition for women in religious traditions, but have done so without acknowledgement of their own assumptions about bodily capacity and subsequently have not considered women who are disabled and religious. These two brief overviews of additional challenges when considering religion, law and disability demonstrate the multiple spaces and experiences of disadvantage that need to be considered when inclusivity is being sought. There is much work to be done to create spaces of inclusion and the actualization of inclusion for persons with disabilities, specific to religion and law.

⁴⁹ Meredith B McGuire, *Lived Religion: Faith and Practice in Everyday Life* (New York: Oxford University Press, 2008); Grace Davie, *Religion in Britain since 1945: Believing Without Belonging* (Oxford, UK: Blackwell, 1994).

Opening Dialogue: Articles in this Issue

The articles in this issue examine the relationship of religion, law and disability across institutions, policies, countries and continents. The authors reflect on challenges of law, disability and religion as they are conceived, responded to and portrayed in multiple sites of contention – opening up new spaces for dialogue on an under-researched area.

Our first three articles explore specific case studies within a North American context. Thomas McMorrow challenges the way law constructs people with intellectual disabilities as subjects of the law, not as creators or participants in legal discourse. Drawing on fieldwork carried out at L'Arche Montréal, McMorrow seeks to incorporate the experiences and situations of persons with intellectual disabilities within the discourse about law that so heavily impacts their lives.

Timothy Lillie offers an historical analysis of the relationship of religion, law and disability as demonstrated through the case of Samuel Price in Indiana. Lillie shows how a religious organization, the Religious Society of Friends (Quakers) supported Price, diagnosed as an 'insane person,' for 45 years, seeing the care of all members of the congregation as their religious responsibility. At a time when legal and medical conventions were not welcoming or hospitable towards people with mental disabilities, the Quakers provided the example of care and compassion that was lacking in other spaces.

Contests over the 'reasonable accommodation' of religious minorities have been in the forefront of much public debate in Canada in recent years;⁵⁰ Marie-Eve Gagné contrasts

⁵⁰ See for example, Lori G. Beaman, "The Will to Religion: Obligatory Religious Citizenship" (2013) 1:2 *Critical Research on Religion* 141; Benjamin Berger, "Inducing Fundamentalisms: Law as a Cultural Force in the Domain of Religion" (2012) 93 *Canadian Diversity* 25; Natasha Bakht, ed, *Belonging and Banishment: Being Muslim in Canada* (Toronto: TSAR Publications, 2009).

responses to reasonable accommodation claims based on religious identity with the right to reasonable accommodation based on disability in educational settings in Québec. Considering accommodation of religion and accommodation of disability in schools, a space which is underrepresented in the literature but in which a concrete solution is necessary to ensure access to education, Gagné argues that the evidence requirement for students with disabilities – to access accommodations – is much higher than the requirements for students who seek religious accommodations. Gagné states that in order to create an inclusive environment for students with disabilities, particularly where they are using the same accommodation platform as students with religious requirements, that the burden of proof of disability needs to be modified to ensure access and recognition based on disability.

These three examples within a North American context lay bare the very diverse experiences and concerns regarding disability as it connects to both religion and law. Law's inability to consider people with intellectual disabilities as 'creators of the law not merely subjects of the law' (McMorrow, this issue) results in policies and guidelines that have real, pragmatic limitations. Although legal advancements regarding persons with disabilities are evident, and were mentioned at the outset of this introduction, Lillie's exploration of the case of Samuel Price and McMorrow's fieldwork with L'Arche Montréal both demonstrate that the law's capacity regarding disability is limited, and at some points was non-existent.

Moving from a specific geographic context, our next three articles explore how medieval approaches to the study of disability entrenched normative assumptions about disability in the Middle Ages; and finally, the limitations of the UNCRPD specific to spiritual rights.

Brandon Parlopiano explores medieval jurisprudence, arguing that an examination of clerical impairment as responded to by medieval jurists opens space for critical reflection on both

cultural and intellectual notions about disability in the Middle Ages. Parlopiano seeks to expose the distinctions made between an intellectual understanding of disability as separate from impairment in the Middle Ages, arguing that medieval law demonstrates this distinction.

Russell Whiting and Sándor Gurbai approach the topic of religion, law and disability by critiquing the lack of consideration of spiritual rights of persons with disabilities in the UNCRPD. Although religious leaders and theologians were included in the consultation process, and organizations such as the International Disabilities Caucus sought to have spiritual rights included in the convention, these interventions were ignored in the production of the final convention. Whiting and Gurbai demonstrate the implications of this lack of consideration in the UNCRPD, using the example of Shintoism to explore the reach of this notable absence.

Moving Forward

As stated at the outset, there is much more to explore on the subject of religion, law and disability; the contributions in this issue point to the multiple spaces and challenges that are evidenced when these categories intersect and conflict. However, this is an opening dialogue to bring together research on these broad subjects in hopes of generating further conversations and analysis. Although work has been done to generate more inclusive policies for person with disabilities, the reality of accessibility is not without ongoing complications. The gap between policy and experience is frequently problematic – for accessibility, opportunity and participation, i.e. – however, further complications arise for individuals with intersecting accommodation needs, as demonstrated through examination of religion, disability and law.