

DECARCERATING DISABILITY

Dr. Liat Ben-Moshe

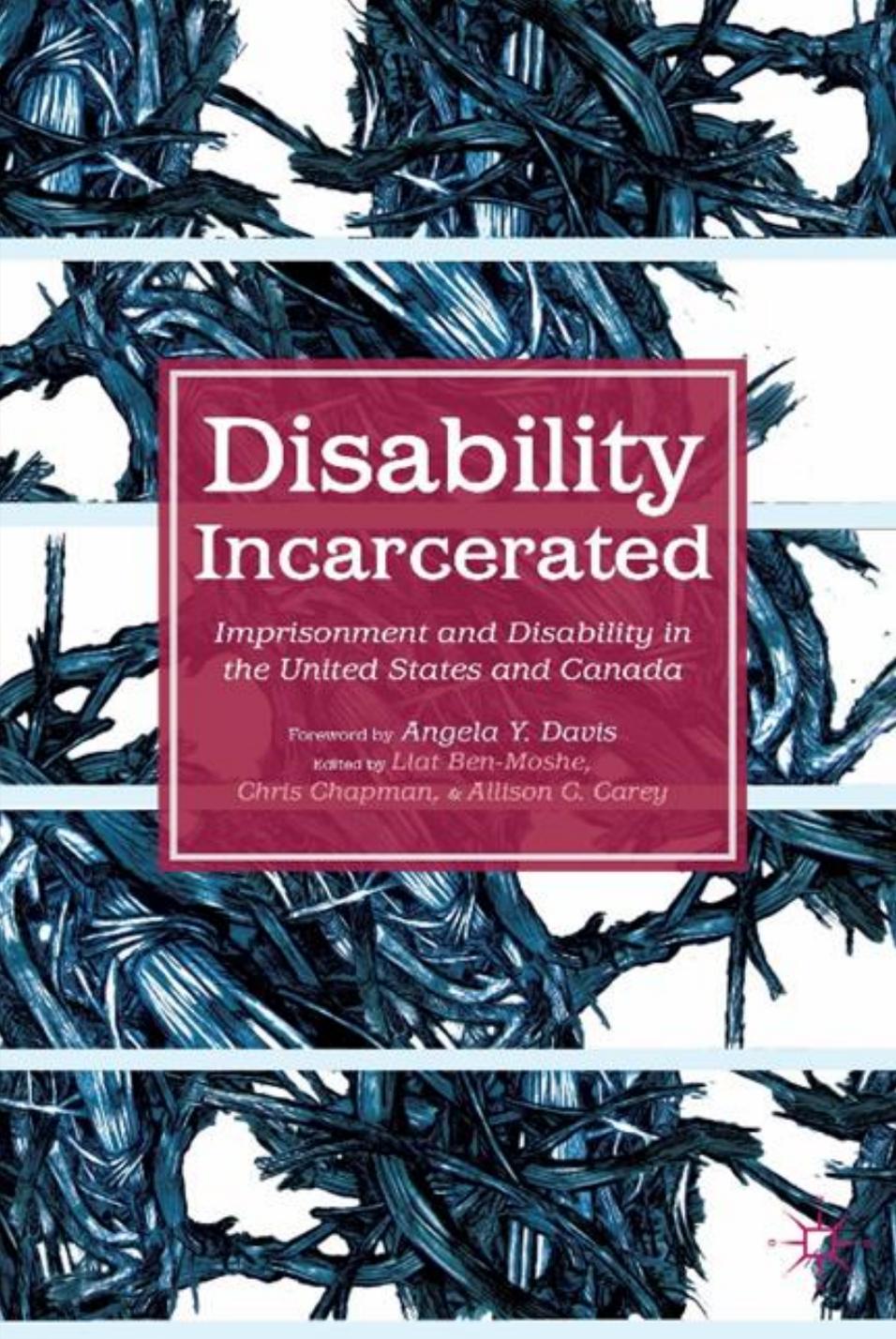
University of Illinois-Chicago

Outline of talk

- Concepts:
 - *Carcerality*
 - *Debility*
 - *Racial criminal pathologization*
 - *Crip/mad of color critique of incarceration*
 - *Deinstitutionalization*
- 3 Lessons from deinstitutionalization about doing abolition (from an intersectional disability lens)
 - *How to decarcerate (legal: conditions of confinement)*
 - *Who*
 - *Where/what (dis epistemology and defund the police)*

What is carceral

- Broaden what gets to be defined as incarceration and decarceration
 - *Varied locales in which incarceration happens*
 - *nursing homes, prisons and institutions for those labeled as intellectual, developmental or psychiatrically disabled*
 - *What are the relations between multiple sites of incarceration*
 - *Helps view radical mental health and disability justice as carceral abolition issues*
- Criminalization is only one path leading to carcerality and surveillance
- Medicalization is a related conduit to confinement - both entail surveillance, policing
- Entangled with (mostly anti-black) racism



Disability Incarcerated

Imprisonment and Disability in the United States and Canada

Foreword by *Angela Y. Davis*

Edited by *Liat Ben-Moshe, Chris Chapman, & Allison G. Carey*



Racial Criminal-Pathologization

- Recent anti Asian violence in the US: attackers largely target people who appear physically vulnerable
- Criminalization of indigeneity- connected to pathologization (“Inventing the savage”- Ross)
- Police violence and shootings (recent murder trial of George Floyd)
 - Andrea Ritchie: for women of color “living while elderly, disabled, black, female, and poor . . . and the role that controlling narratives of ‘deranged’ black women of inhumane or superhuman strength play out” in relation to racial profiling and police violence
 - More than half of police shootings are against Deaf/mad/disabled people, majority are PoC
 - understanding that antiblack racism is composed of pathologization and dangerousness, which lead to processes of criminalization and disablement, for instance, constructing people as Other or as deranged, crazy, illogical, unfathomable, or scary
 - Pathologization- what is the pre existing condition if not white supremacy (George Floyd, Tanisha Anderson)
 - Combatting this coalitionally –disability, anti-racism and prison abolition are intertwined

Prison is disabling/ maddening



Toxic conditions and materials

4,000 in California fight the state's wildfires, for \$1 an hour



closed wards with poor air quality



lack of medical equipment,
affirming health care

(Russell, M. and Stewart, J. 2001)



No sanctioned access to sexuality
or reproductive health care

Sterilization



Strip searches; administrative segregation



Abolition feminism: Prisons are state sanctioned violence against women, GNC people

Debility and incarceration

- Not just about over representation, disability and debilitation are intrinsic to incarceration
- Debilitation- slow wearing down of populations
 - Jasbir Puar, following Lauren Berlant's notion of slow death
 - In her work on bodily impaired miners in Botswana, Julie Livingston demonstrates that historically many bodily infirmities "were not regarded as disabilities: indeed they were 'normal' and in some cases even expected impairments."
- Targeting to debilitate (through incarceration) is a racial project
- Ruth Wilson Gilmore's definition of racism: "State sanctioned or extralegal production and exploitation of group-differentiated vulnerability to premature death" (p. 28)
- The idea that 'prisons are the new asylums' (that DI led to the rise of MI in prison) hides the reality that prisons and institutionalization are inherently maddening and disabled and forms of state violence

Disability/ crip/mad of color critique

Incarceration and decarceration
without disability lens

- avoids understanding disability as an analytic category
 - *Disability and mad studies*
- Disability/madness as ways to view the world, a lived experience
 - *Politicized identity, not a deficit*
 - *Disability/Deaf gain*
 - *Neurodivergence, psychocrips, mad-not mentally ill*
- and a social movement, a resistance strategy
 - *History of disability resistance, with and beyond disability rights (deinstitutionalization and anti-psychiatry)*

Critiques of the abolition of incarceration

- It's not prescriptive, does not offer specific alternatives
- Represents a utopian vision of the world and of human nature
- It's unrealistic for the current state of affairs
- Would only work in other (smaller) countries

Deinstitutionalization as abolition

- Abolition of carceral enclosures is not a utopian dream for the future but is something that has already happened in the U.S. (and Canada), in the form of deinstitutionalization in mental health and intellectual and developmental disabilities and the subsequent massive closures of residential institutions and psychiatric hospitals

What is deinstitutionalization?

- The transition of people with psychiatric and intellectual or developmental disabilities from state institutions and hospitals into community living
- Closure of large (mostly state sponsored/funded) institutions and hospitals for people with intellectual and psychiatric disabilities
- Not just a process but a logic, a framework, a movement

Lessons from deinstitutionalization

- **How to decarcerate**
 - *Self advocacy movement; anti-psychiatry/ex-patients*
 - *didn't happen en mass until it was abolitionary and non reformist*
 - *Incremental vs. total abolition*
 - no continuum; no one should be institutionalized for any disability; everyone should live in the community
 - *Abolition by attrition (releasing 'the mentally ill', the old, the young)*
 - chipping at the margins will not break the center

Debility, mental health and decarceration through the law

- Coleman-Plata v. Schwarzenegger (CA, 1995, 2002, combined in 2009)
- charged that the presence of so called mentally ill people in prisons was not an aberration but an integral part of the current prison system
 - lack of mental health services in prisons becomes a human rights violation
 - *mass* incarceration with its overcrowding and the high presence of prisoners with mental and physical ill health is not a temporary condition
- The judges ordered California to reduce the number of prisoners to 137 percent capacity in two years (a reduction of approximately 40,000 prisoners)
- the case put mass incarceration itself on trial, according to Jonathan Simon

Role of exposés and lawsuits

- brought the plight of those institutionalized and incarcerated into headlines in widely read magazines and later to American TV screens
- Exposés had a cumulative effect and brought to the public imagination the horrid conditions of institutions, which led to reforms
 - Burt Blatt published *Christmas in Purgatory* in 1966. In 1979 Blatt revisited these institutions and found no great improvement; they were just “mildly cleaner snake pits”
 - Geraldo Rivera went back to Willowbrook a year after his 1971 exposé and found that the conditions were not much improved
- “Tweaking Armageddon” (Rachel Herzig)
 - reform, critiquing conditions and not rationale of confinement
- questioning the efficacy of services does not lead to questioning the legitimacy of imprisonment, of segregation, of caging people for wrong doings or for being different

Consequences

- Disability/madness in these cases highlighting the conditions in prisons and institutions is understood as a deficit, something in need of treatment
 - *Not an identity, a culture of resistance, or an epistemology*
- It is also seen as something attached to an individual, not a result of state violence or imprisonment itself (the prison as a technique of debilitation)
 - *Debilitation- slow wearing down of populations (targeted state violence)*
- These strategies imply that common place incarceration (and its debilitating effects) are not enough to be outraged or litigated, only its excess (specific conditions, specific populations, *mass incarceration*)

Debility, disability and decarceration

- Strategies based on ableism and sanism, which I have shown are a major impetus to incarcerate and police, cannot also be the frameworks that will set us free
 - Ableism is oppression faced due to disability (perceived or lived), which not only signals disability as a form of difference but constructs it as inferior.
 - Sanism is oppression faced due to the imperative to be sane, rational, and non-mad/crazy/mentally ill/psychiatrically disabled
 - *“the same portrayals of disability in carceral spaces- as dangerous without treatment, psychologically deteriorated, psychologically distressed, in mental health crisis-that are sufficient to show psychological damage from long-term isolation in constitutional challenges to conditions may result in involuntary institutionalization or death at the hands of law enforcement on street corners..” Jamelia Morgan, Ableism in Prison Reform Litigation, 96 Denv. L. Rev. 973 (2019).*
- Need to prevent slow death and state violence performed through targeted debilitation while at the same time understanding the disability that is already here beyond deficit thinking

Lessons from deinstitutionalization as abolition

- **Who** can be decarcerated/live 'on the outside'
 - *Everyone*
 - *Start with the 'severe cases' (not Non non nons) BLM, feminist praxis*
- **Where and What**
 - *Institution and deinstitutionalization as a logic, not a place*
 - *Dis-epistemology*

Dis-epistemology of abolition

- Abolition of carcerality: an ethic and epistemology (produces specific forms, not just content, of knowledge)

letting go of attachments to:

- certainty (what are the consequences of doing or not doing)
- the idea that there's a definitive pathway for how to rid ourselves of carceral logics
 - *If you're not part of the solution, you're part of the problem..*
 - *It is this attachment to the idea of knowing and needing to know that is part of knowledge and affective economies that maintain carceral logics (we will not do until we know, or until alternatives are in place)*
- expertise (tell us what should be done)
- specific demands for futurity (clairvoyance- what would happen; it gets better)
 - *Feminist killjoy: "The very expectation of happiness might be what gives us a specific image of the future. We are directed by the promise of happiness." (Ahmed 2010: 577)*

Dis-epistemology of abolition

- The goal of abolition is not finality but process, movement
 - *"The alternative lies in the unfinished, in the sketch, in what is not yet fully existing" (Mathiesen 1974: 1)*
- Cannot wait for the ideal conditions (deinstitutionalization)
- This sense of urgency enables abolitionism, as utopian epistemology, to become a model for political activity in the here and now, with a vision of the future
 - "...when, and whether, slavery actually ended. As a concept, then, abolition raises critical questions about black temporality—what shifts in relations of power constitute freedom's beginning and captivity's end?" Sarah Haley "Abolition" in *Keywords in African American Studies*
- It's a program of building (Ruthie Gilmore) AND dismantling

Lessons from deinstitutionalization as abolition

- **Where and What**
 - *Prevention (no new admissions; no institutionalization of children as first option)*
 - *Justice and community reinvestment*
 - Defund; REfund (Cat Brooks, the Anti Police-Terror Project); disbursement of money, resources, people, workers

Alternatives to incarceration?

“people with various mental differences, disabilities and substance users need medical help and treatment and not incarceration”

- Need to fight not only carceral expansion (mental health/drug rehab jails; gender responsive prisons)
- but also so-called treatment (*not just behind bars*)
- Bio psychiatry is often the only form of so-called treatment
 - Chemical incarceration (Erick Fabris) and community treatment orders

“Defund police, hire social workers”

- Mandatory reporting (inc. on campuses)



Crip/mad of color critique of incarceration

- #Free Them All:
 - *From all carceral spaces*
 - *(especially during COVID times)*
- Disability/madness and disablement is fundamental to an understanding of incarceration and abolition
 - *not just for those who identify as women, queer or disabled in them*
- disability broadens our conceptualization of incarceration- happens in psych facilities, through chemicals, treatment orders, nursing homes and outside them
 - *Racial criminal-pathologization*
- Need collaboration amongst disability/mad/anti psych/self advocates and activists and prison and police abolitionists (“Not in Our Name”)

Thanks!!

Liat Ben-Moshe, Ph.D

Liatbenmoshe.com

Criminology, Law and Justice

University of Illinois- Chicago

ibenmosh@uic.edu