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Decarcerating Disability: deinstitutionalization and prison abolition

By LAIT BEN MOSHE (Minneapolis, MN: University of Minnesota Press, 2020),
366 pp. Paper £24.99.

Book review by Eddie Bruce-Jones

Lait Ben-Moshe's insightful new book, *Decarcerating Disability: Deinstitutionalization and Prison Abolition* uses mad studies as a lens to examine decarceration and deinstitutionalisation as approaches by which to understand a broader political position of anti-racism, anti-carcerality. The book is a timely intervention into broader academic and social debates in North American and beyond. In the context of the discussions held at the 2018 Symposium on Race, Mental Health and State Violence, which provided the conceptual frame for this special issue, this review also serves as an occasion to revisit the important work of legal scholar, Camille Nelson, who served as a keynote at the Symposium. Her two articles on policing race and mental health have made an important contribution to the field of critical race scholarship and share important common ground with *Decarcerating Disability*.

Decarcerating Disability comes at a moment of crossroads in the political landscape, which includes the mass organisation of people in the project of reducing the reach and infrastructure of the police. This aspect of the larger movement for the abolition of prisons and a vast reduction of the criminal justice system has not been conceived recently; indeed, for many decades, organisers, and in particular people of colour, women and queer people have been laying the theoretical and practical foundations for articulating the demands of abolition. The current moment, not least of all the culmination of the demands of the Movement for Black Lives a few years ago, and the 2020 protests in response to the killings of Breonna Taylor, George Floyd, Elijah McClain and others, has taken forward the more transformative demand of defunding policing institutions, rather than simply calling for the arrest of the officers who undertook the killings.

The book critically examines the narratives of deinstitutionalisation of mental health services in the United States, and it offers a reframed genealogy of deinstitutionalisation. Through this new framing, Ben-Moshe also reframes the relationship between deinstitutionalisation of mental health services and decarceration in the context of the movement for abolition. Importantly, the book challenges the hegemonic narrative that 'prisons are the new asylums', having simply inherited the populations previously being held in mental health facilities, by arguing that this oversimplification enables us to lose sight of the fact that this shift is "a deeply political and socioeconomic issue" (138).

Examining decarceration and deinstitutionalisation within the same frame is vitally important for at least two major reasons. First, it expands our notions of the carceral. The book contends that not only prisons constitute carceral spaces, but also that psychiatric hospitals and other such institutions are carceral facilities. So the book challenges us to think about the range of carceral facilities that exist. Second, the focus on the relationship between these

different forms of carcerality allow us to more fully understand how deinstitutionalisation and the expansion of prisons affected people of colour in particular.

Part of Ben-Moshe's assessment of the history of these two phenomena is that they are actually an integrated phenomenon and have race at their core. According to Ben-Moshe, deinstitutionalisation not affect people of colour in the same way as they did white people, and that for this reason, it is an oversimplification to say that deinstitutionalisation of psychiatric facilities simply funnelled those same populations into prisons. Ben-Moshe resists the notion that 'prisons are the new asylums' and contends instead that while the majority white populations of psychiatric institution populations were released, prisons were filled with people of colour (146). This corrective is vitally important, since the 'balloon theory' of deinstitutionalisation (that prisons ballooned to absorb the people let out of psychiatric institutions) can be used to illustrate the need to understand carcerality in a broader way, even as it obscures the race and class dimensions of the shift. Third, Ben-Moshe underscores the importance of understanding the prison system's overrepresentation of people facing mental health challenges as independent of deinstitutionalisation—that prisons are themselves destabilising and exacerbate or provoke mental challenges (7, 148).

Ben-Moshe's work is compelling for its succinct critique and reformulation of broad narratives of the history of deinstitutionalisation. Her work is timely and strategically vital for its connection to the politics of intersectionality, centring the stories of women of colour and those people of colour experiencing mental challenges, and for its commitment to abolitionist thinking in addressing the composite problem of carcerality.

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In Camille Nelson's "Frontlines: Policing at the Nexus of Race and Mental Health," Nelson suggests that police tend to construct non-white people as 'crazy,' which is very different from recognising what she terms their mental vulnerabilities. This line of reasoning picks up where her previous work on the topic leaves off—an article called "Racialising Disability, Disabling Race." This latter article argues that police have a choice between three 'management modalities' to use in their encounters with people: a medical modality (in which there is discretion to transfer people to receive medical care, including for mental health challenges), a criminal modality "which prioritises containment and incarceration over treatment," and a force modality, which determines that immediate physical punishment is required (5). Ultimately, the police tend to use a criminal or force modality rather than a medical one when managing the policing encounter with non-white people who may demonstrate the need for care in coping with mental health challenges. Nelson's work, while it uses medical terminology and definitions, does so for the purpose of examining the institutionalised racism that policing practices in North America visit upon people of colour, even when given the choice of other frameworks. So even if the police use of a medical gaze when encountering people of colour does not secure them a high standard of care and protection, the point of these two articles is that they choose the criminal gaze, despite the relative lack of provision for mental health care in the prison system.ⁱ

Reading Nelson's work alongside *Decarcerating Disability* allows us to see the layers of thinking that must be held in the same space in order to fully apprehend the problem of that

policing creates for people of colour experiencing mental health challenges. The projects advanced by these two writers is markedly different. While Nelson offers a socio-legal intervention into the discursive and institutional choices that underpin policing practices that expose Black people to premature death, Ben-Mosche imagines a framing of the carceral approaches to race and mental health against the backdrop of deinstitutionalisation and decarceration, including a strong critique of psy-discourses. The pieces, read together, provide an insight into the confounding double-bind of managing the deadly impacts of carcerality in the present whilst trying to make space for the transformative change that we know must be possible in order for us to progress. This is a dilemma that affects abolitionist approaches, critical race feminism, and virtually any political demands that require profound structural change.

These two scholars, taken together, reveal both the importance of naming. They identify and generate a critical vocabulary to describe the structures of carcerality and the policing modalities of managing encounters with people of colour, and as a result, they move scholarship and critical practice towards a nuanced, and layered understanding of a set of structural problems. This is important in the context of mad studies scholarship and critical race feminism, but also in the context of specific work by scholars such as Jasbir Puar in *The Right To Maim*, and Sherene Razack in *Race, Space and the Law*, who unpick the interrelated issues of race, colonialism, mental health and structural violence (including militarised violence, policing, and other forms of legally authorised discrimination, exclusion and death).

Nelson, in “Racializing Disability, Disabling Race,” makes the following assessment of policing:

They use their discretion to determine whether the person with whom they are dealing is a harmless individual, a person in need of help, or a suspect in need of either criminalization or harsh disciplining. If the latter, they frequently adopt a more forceful posture, especially when they encounter resistance, defiance or deviance. The convergence of criminality and mental impairment often leads to stereotyping of the mentally ill as violent. Consequently, based on fear, the mentally impaired are thought to be in need of supervision or surveillance. It should therefore come as no surprise that a National Institute of Justice report has hypothesized that “[u]se of force is more likely to occur when police are dealing with persons under the influence of alcohol or drugs or with mentally ill individuals.” Further, there exists a stereotypical, yet robust, understanding of blackness as “badness.” The social distance between blacks and whites in America fosters the possibility of misunderstanding and mistranslation of communications and behavior. (18-19)

Nelson, in characterising the stereotype-informed decision-making of police in their encounters with black people experiencing mental illness or addiction, suggests that the convergence of stereotypes produces a magnified perception that the apprehended person is violent. This is important for understanding how intersectional bias makes certain groups extremely vulnerable to violent engagement by police.ⁱⁱ Later, in “Frontlines,” Nelson uses the language of mental vulnerabilities when describing the death of Sandra Bland, examining the double-sided predicament of experiencing racial injustices, which exacerbates mental vulnerability, and being ‘read’ by the police as violent due to both racism and ableism.ⁱⁱⁱ She examines the intergenerational trauma experienced by Black and indigenous communities in North America and relates this to structural forms of discrimination and their cumulative effects of vulnerable populations.^{iv}

While Nelson identifies intersectional forms of discrimination in policing, and the importance in understanding the relationship between the effects of policing on individuals as well as the way individuals are imagined by police, Ben-Moshe, on a different register, reworks the broader narratives around carcerality of people of colour, people experiencing mental illness or a diversity of thinking and being in the world, and the intersection of these groups. Ben-Moshe, perhaps from a different angle, coins the term 'race-ability' to describe this intersectionality. She says

Crip of color critique is also important in threading together what I term *race-ability*, in a critical way that engages, queers (as was Ferguson's original prompt), critiques, and exceeds normative frames" and describes "the ways race, disability, and racism, sanism, and ableism as intersecting oppressions, are mutually constitutive and cannot be separated, in their genealogy (eugenics, for example), current iterations of resistance (in the form of disability justice, for example), or oppression (incarceration and police killing, for example)(4–5).

This concept draws from a range of disciplines to emphasise the historical intertwining of these forms of oppression, which is a useful tool when reading Nelson's work. To name the interpretive modalities of contemporary policing, and to recover the detailed interworkings of intersectional oppression in broader social histories of carcerality, are aspects of a coordinated political and intellectual project, albeit at different registers.

Ben-Moshe's book is broken into seven chapters, each vitally important to a thorough understanding of the intertwining of race and mental health in the context of carcerality. The first chapter offers a historical view of the deinstitutionalisation, introducing key terms and mapping a trajectory of political and legal reforms on mental health reform from the mid-20th century until today. The chapter, as all the chapters, is deeply invested in bringing the reader closer to understanding the social context of these reforms. The second chapter takes a closer look at a number of key cases of abolitionist thinking in the shift to deinstitutionalisation, which she points out did not happen in a uniform manner across the United States (69–71). Then, in chapter three, Ben-Moshe discusses abolition as a lens for understanding carcerality more broadly. Here, she draws connections between various forms of abolitionist thinking—for example, between the abolition of slavery, prisons and psychiatric institutions, drawing on theoretical concepts from contemporary Black Studies and American Studies, such as 'fugitive knowledges' (111). In chapter four, she articulates why prisons cannot be seen as 'the new asylums,' as described previously, while in chapter five, she discusses how "resistance to integration in housing relates to criminal pathologization and race-ability" (161). In chapter six, Ben-Moshe explores what she terms the "political and affective economics of closing carceral enclosures," which includes psychiatric facilities, prisons and other residencies, which interestingly engages critically with the boundaries "between parenting-home-private and community-public-labour-political" spheres in assessing the movement to close carceral enclosures led by parents and, in particular, Black mothers. Finally, chapter seven offers a history of litigation towards decarceration; this chapter is well placed, since it is very important to understand the social and ideological terrain for decarceration, and the terms by which these issues are litigated, before getting to the legal cases.

Decarcerating Disability is absolutely essential reading for understating the intersection of race, mental health and state violence in the context of abolition. A contribution to the work of authors like Camille Nelson, Kimberle Crenshaw,^v Sherene Razack,^{vi} Jasbir Puar^{vii} and Dean Spade,^{viii} this book provides a critical and nuanced understanding to the scope and character of carcerality, and prospects for thinking strategically about decarcerality, in the United States and beyond.

ⁱ Camille Nelson. "Racializing Disability, Disabling Race: Policing Race and Mental Status," 15(1) *Berkeley Journal of Criminal Law* 2010, p6. Nelson reflects on the aim of the article: "Given the seeming discrepancies in my review of the available cases, the goal of this Article is to theorize the ways in which people who are thought to have diagnosable mental illnesses are triaged by police in the exercise of their discretion in a manner that either helps or harms them."

ⁱⁱ See Eddie Bruce-Jones, "German Policing at the Intersection: Race, Gender, Migrant Status and Mental Health," 56(3) *Race & Class*, 2015, 36–49; see also Vanessa Eileen-Thompson, 62(3) *Race & Class*, 2021, 61–76.

ⁱⁱⁱ Camille Nelson. "Frontlines: Policing at the Nexus of Race and Mental Health," 43 *Fordham Urban Law Journal* 615, 626.

^{iv} *Ibid*, 632–635.

^v Kimberlé Crenshaw laid the groundwork for the legal concept of intersectionality. See e.g., Kimberlé Crenshaw, "Mapping the Margins: Intersectionality, Identity Politics, and Violence Against Women of Color," 43(6) *Stanford Law Review*, 1991.

^{vi} Sherene Razack has been a leading authority on the intersection of race, mental health (including addiction), policing and colonialism in the Canadian context. See *Race, Space and the Law: Unmapping a White Settler Society*.

^{vii} Jasbir Puar has examined race, disability and settler colonialism. See Jasbir Puar, *The Right to Maim: Debility, Capatiy, Disability*. Duke Univeristy Press (2017).

^{viii} Dean Spade's work on the intersection of studies of carcerality, race and gender-based violence is formative here. See Dean Spade, *Normal Life: Administrative Violence, Critical Trans Politics and the Limits of Law*. Duke University Press, 2015.