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As the daughter of a Vietnam War refugee, I've always been inundated with messages about the American Dream and its sacredness. My father was blessed

to be accepted by this country where he could create the life he wanted for himself, and he became living proof that the Dream is alive and well. For his hard work, achievements, and the life he has provided for our family, he has my deepest admiration and gratitude. So, when I was a child, I fully internalized the belief that hard work can bring you where you want in life.

However, as I grew older, I became aware of systemic barriers to opportunity that make the American Dream less or inaccessible for many. While there is no doubt that my father had to overcome some of these, that does not make them any less just. Whether it be lack of clean water, racism, or ableism, there is no lack of unjust obstacles for people to overcome to achieve their desired goal.

When I came to Duke and heard about the Writing 101 Course: Disability and Democracy, I knew immediately that this class would centralize the experience of people with disabilities in a country where democracy is almost synonymous with agency and opportunity. I wanted to explore questions such as: What does it mean to have a disability? How does the American system support or hinder the success of people with disabilities? What structural barriers to opportunity are perpetuating inequality between disabled and non-disabled people, and why?

While exploring the latter question, I became aware of the overrepresentation of people with disabilities who are incarcerated in the criminal justice system. Involvement within the criminal-legal system is perhaps one of the most impactful and systemic barriers to opportunity in the United States. A criminal record is a barrier to employment, housing, and in some cases, the right to vote. The mass incarceration of people with disabilities was a prime example of a phenomenon which prevented people from achieving their American Dream, and I wanted to explore why.

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# Neoliberal Governmentality: Mass Incarceration of People with Disabilities

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Writing 101: *Disability and Democracy*

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As of 2017, people with disabilities in the United States live in poverty at almost two times the rate than people without, thus finding themselves incarcerated at disproportionately high rates (Rehabilitation Research and Training Center on Disability Statistics and Demographics). Liat Ben-Moshe and other scholars have blamed neoliberalism, arguing that this economic system, which encourages privatization of social services to create profit, has led to a decline in social services for people who are disabled, putting them at higher risk of homelessness and poverty (Ben-Moshe 143). To avoid expanding welfare while increasing profit, neoliberals have also criminalized poverty, with acts such as loitering and sleeping in public spaces made illegal (Ben-Moshe 144). This process moves people with disabilities and the homeless into private prisons and prisons with private services to create profit for corporations. Surprisingly, a 2016 study by the Center for American Progress shows that mass incarceration is actually more expensive than community-based treatment for people with disabilities (Vallas 2). Therefore, privatization and profit incentive are not enough to explain this process. In contrast from Ben-Moshe's analysis of neoliberal economics, this paper argues that neoliberal governmentality, or the system of beliefs which rationalizes neoliberal economic policies, best explains this paradox. As an ideology which values productivity, personal responsibility, and economic rationality, neoliberal governmentality justifies the imprisonment of people with disabilities despite cost

ineffectiveness in order to turn actors previously viewed as unproductive into a mass for exploitation. This exploitation is subsequently demonstrated through unpaid or low-paying prison labor, privatization of prisons, and privatization of services within public prisons. After introducing Foucault's theories on governmentality and neoliberalism, this paper describes the relevance of his theories to disability studies. It then analyzes why people with disabilities are incarcerated at disproportionate rates and concludes that neoliberal governmentality, not solely the desire to privatize services, is to blame.

In 1979, Michel Foucault gave a series of lectures at the Collège de France on neoliberalism, which he defined as a process through which the social sphere becomes encompassed under the economic domain (Lemke 197). To Foucault, government is more than a political entity; it is the process by which conduct is regulated by the self or by others to uphold systems of power (Lemke 191). Within a neoliberal economic framework, "government itself becomes a sort of enterprise whose task it is to universalize competition and invent market-shaped systems of action for individuals, groups, and institutions" (Foucault qtd. in Lemke 197). Ironically, government seeks to privatize every sphere of life and expand the scope of neoliberal economics to create profit. However, this economic system does not concern itself solely with privatizing resources and creating new markets; it also focuses on "ascertaining what reasoning it is which persuades individuals

to allocate their scant means to one goal rather than to another" (Lemke 197). In this way, neoliberalism concerns itself with how consumers rationalize their actions in the market. This is an example of what Foucault describes as a "governmentality," or the system of beliefs, ideas, and ideologies which rationalize and make acceptable government practices (Tremain 18).

When applied to neoliberalism, governmentality justifies the practices of neoliberal economics. Foucault argues that this mainly happens through the prioritization of people who are productive, economically rational, and individually responsible (Fritsch 50). These characteristics are epitomized in what economists call the "economic man." In behavioral economics, this individual acts in their own self-interest according to cost-benefit analysis, using rational thinking to maximize their benefit (McMahon 141). Because cost-benefit analysis encourages individuals to view every action as a net gain

or net loss, individuals are forced to compete with each other for resources. Those who successfully use cost-benefit analysis and are productive are rewarded with wealth, while others remain poor. As a result, individuals try to emulate productivity and rationality in order to survive. If they fail to successfully act as the "economic man," the individual is blamed for their own poverty (Lemke 201). Because this mode of thinking is tied to one's survival, it impacts the individual's sense of self and perceptions of others, thus impacting how society views and treats people with disabilities.

Neoliberal governmentality informs how people with disabilities are viewed



and treated several ways. First, neoliberal governmentality values economically rational, productive actors according to norms of able-bodiedness. As a result, people with disabilities are viewed as having less value to society than nondisabled persons. A physical disability, for example, may make it difficult for a person with a disability to complete a manual labor task without assistance, thus making their labor less desirable to a capitalist who aims for maximum productivity at minimum cost. Subsequently, they are excluded from the market and society in several ways. Although the Americans with Disabilities Act supposedly outlawed discrimination on the basis of disability in employment, for example, businesses may still deny employment to people with disabilities if accommodation of their disabilities presents an undue financial burden (Americans with Disabilities Act of 1990). In addition, stereotypes result in discriminatory hiring practices. In 2012, Janikke Vedeler collected narratives from disabled persons about their experiences during job interviews. One woman named Melissa was denied jobs because employers could not conceive of how someone with a disability could have full intellectual capacity (Vedeler 604). Another woman, Sarah, had to go to 15-20 interviews to get a job as a social worker because her employers did not believe that she was physically capable of performing the tasks necessary (Vedeler 604). People with disabilities are often given low-paying jobs or are denied jobs entirely, resulting in a low employment rate of only 19.3 percent. In contrast, 66.3 percent of nondisabled people are employed (United States, Dept. of Labor, Bureau of Labor Statistics).

Individuals with disabilities, especially those with intellectual disabilities, may also be perceived to be incapable of rational economic calculus. This calculus involves decision-making based on cost-benefit analysis. 'Rational' choices occur when individuals use the information at their disposal to choose the option which provides them with the most benefit. Intellectual disabilities are defined as "significant impairments in qualities which are important in decision-making" (Jenkinson 362). According to this definition, people with intellectual disabilities are incapable of using cost-benefit analysis to make decisions as rational actors in the market and society. This perceived lack of rationality is used to justify the denial of autonomy to people with disabilities. "Legal personhood," or the extent to which the state recognizes someone as human and thus will not infringe upon their autonomy, for example, is tied to an individual's "mental competency" (Travis 534). When a person is denied "legal personhood," they may be forcefully institutionalized without redress. A similar rationale is used to justify incarcerating people with disabilities: their perceived lack of rational economic calculus causes them to be perceived as undeserving of participating autonomously in the market. As a result, they are denied jobs, kept in a cycle of poverty, and incarcerated at high rates due to the criminalization of poverty.

A third way in which neoliberal governmentality impacts the lives of people with disabilities is by justifying poverty as an individual failure. Because people with disabilities are often denied jobs for which they would require assistance or are incapable of working in an unaccommodating environment, they live in poverty at almost two times the rate than nondisabled people (Rehabilitation Research



and Training Center on Disability Statistics and Demographics). As explained previously, the ideology of neoliberal governmentality teaches individuals to view poverty as a personal shortcoming which can be overcome through successful competition using hard work and economic rationality (Lemke 201). Consequently, social services for the poor, including those for people with disabilities, are cut back, perpetuating a cycle of poverty. The maximum people with disabilities can receive on Social Security with benefits, for example, is approximately \$1,260 per month (United States, Social Security Administration). This amount is barely over the poverty line in the United States, which is \$12,760 per year, and most people with disabilities do not receive this maximum amount (United States, U.S. Department of Health & Human Services).

Insofar as individuals fail to act in accordance with neoliberal principles, they are transformed from “social enemy” into “deviant,” giving the state power to punish them through what Foucault refers to as the “carceral system” (Rembis 140). The “carceral system” is “the power-knowledge regime that undergirds mass incarceration” and uses surveillance to enforce normalization (Rembis 140). One of the ways in which government regulates conduct, according to Foucault, is through

use of the carceral state. In a neoliberal society, being a productive, economically rational actor becomes normalized through culture and enforced through incarceration to ensure that individuals serve the interests of global capital. Because people with disabilities are viewed as incapable of rational economic calculus and ideal productivity, their incarceration becomes justified. However, the extent to which this is driven by pure profit incentive or the desire to regulate conduct is contested.

Scholars such as Liat Ben-Moshe attribute mass incarceration of people with disabilities to economic incentive after the deinstitutionalization movement of the 1950s (Ben-Moshe 135). Foucault believed that the “carceral system” encompassed not only prisons but also medical institutions which policed the actions of “social enemies” (Rembis 140). This includes people with disabilities, as their existence deviates from norms of able-bodiedness and productivity. However, medical institutionalization lost popularity in the 1950s, and people with

disabilities were removed from medical institutions and placed into communities with little to no community supports (Ben-Moshe 135-136). Ben-Moshe argues that typical historical analysis which links the deinstitutionalization movement to increased homelessness amongst people with disabilities ignores the economic incentives at play. Instead, Ben-Moshe blames neoliberal economics, which seek to privatize the social sphere, for making welfare reform and housing accessibility inappropriate responses to homelessness (Ben-Moshe 143). She argues that the neoliberal state created laws criminalizing homelessness, such as outlawing sleeping on streets and begging, in order to move the homeless into private prisons for profit (Ben-Moshe 144). As a result, “the ‘homeless’ like the ‘mentally ill’ become socially and economically productive” through a conversion into an industry for profit (Ben-Moshe 141).

While it is true that this process occurred in some part due to a desire to create profit for new industries, such as private prisons, the rationale behind mass incarceration of people with disabilities goes beyond simple profit incentive.



According to a study from the Center for American Progress, it is actually more expensive to incarcerate people with disabilities than it is to provide supportive housing and Assertive Community Treatment, a community-based alternative to hospitalization for people with severe mental disabilities (Vallas 2; Santos et al.). Instead of providing episodic crisis care, these programs use multidisciplinary and long-term treatment, education, and financial management to support people with disabilities live independently. By attributing the mass incarceration of people with disabilities to the privatization of social services, traditional neoliberal analysis benefits from the addition of Foucault's theories on neoliberal governmentality and the role of carceral systems.

Neoliberal governmentality devalues disability as something unproductive, and therefore undesirable. Consequently, jobs and health care for people with disabilities are hard to find, and these individuals become impoverished at high rates. Since poverty is viewed as a personal failure, people with disabilities are also viewed as undeserving of sympathy. The devaluation of disability and disdain for poverty created by neoliberal governmentality justify incarceration as a means of removing people with disabilities from society to punish them for their deviance from the ideal neoliberal subjectivity. For example, a man named Carl with an intellectual disability was once moved from a minimum-security prison to a maximum-security prison because actions caused by his disability were perceived as disruptive. He has since spent thirteen years in prison beyond his original sentence (Ben-Moshe 149). Ben-Moshe describes Carl's story as one of many among people who are disabled and in prison: they are punished for their disabilities and sent to maximum security prisons at alarmingly high rates. This policing of people with disabilities and their behaviors serves a normalizing function both inside and outside of the carceral system. By linking disability, deviance, and undesirability, and regulating the behaviors of people with disabilities in prisons, individuals both within and outside of the carceral system are forcefully or culturally persuaded to act according to the norms of productivity, rationality, and individual responsibility.

Using the lens of neoliberal economics provides additional benefits to incarcerating people with disabilities. Although this paper argues that the primary motive for incarcerating people with disabilities is to enforce normalization, it also recognizes that neoliberal economics seek to create profit in every sphere of life. In this way, people with disabilities who are incarcerated represent a unique opportunity to enforce normalization. According to neoliberal norms, people

with disabilities are stereotyped as irrational and reliant on welfare, and thus are not considered to be productive in meaningful ways. By moving people with disabilities into prisons where they can be forced to work for low pay, private prisons create a new source of profit for neoliberals. For example, private prisons receive funds based on how many beds they have filled, and private services within public prisons profit from increased usage of their services (Mumford et al. 3). As a result, people with disabilities become economically productive through their movement into prisons, as well as subsequent exploitation by the prison system.



Although some profit is made by corporations, Americans would save more money funding community-based treatment services for people with disabilities rather than incarcerating them. However, because neoliberal governmentality encourages individuals to devalue those not seen as productive and to blame poverty on the individual, the rational response is to punish rather than to rehabilitate. This sentiment drives mass incarceration of people with disabilities, enabling corporations to profit from previously less productive individuals.

Mass incarceration of the poor and the disabled is just one example of how economic worth has come to determine if an individual is worthy of rights and autonomy. Kelly

Fritsch argues that “In so far as many disabled bodies fail to meet standards of independence, rationality, control, or are not adequately productive, many disabled people thus fail to meet perceived standards of what it is to be a worthy subject” (Fritsch 46). Upending this injustice for people with disabilities will require a reconceptualization of the value of life, unrelated to productivity or the ability to reason. Quantifying life in terms of its contribution to the global market dehumanizes all individuals, regardless of ability, age, race, gender, or sexuality. How society treats people with disabilities reflects a broader, systemic cultural problem which must be addressed if all people are to be treated with dignity and respect.



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