From Charitable Relief to Social Control: The Criminalization of People with Disabilities
in Nineteenth Century Canada

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Abstract: In recent years, academics interested in the field of disability studies have argued that the disability category is a socially constructed category influenced by historical, social, political, cultural and economic factors. In the present era a dominant social construction of disability is that disability is primarily a "personal tragedy" (Oliver, 1990) requiring medical intervention. Prior to the medical model social construction of the disability category, disability was primarily defined as a social and legal category linked to social welfare and charitable relief (Stone, 1984). These two social constructs of disability (social/legal and medical model) have received a great deal of attention in recent years but there is at least one social construction of disability that has not received as much investigation and that has to do with disability as a criminal category. The following article attempts to examine the criminalization of people with disabilities by using the case example of the care and treatment of people with orthopedic disabilities living in the province of Ontario, Canada, during the 19th Century.

Key Words: disability, cripples, history, Canada

Disclaimer: Common terms used in the 19th century to denote persons with orthopedic disabilities were "physical defectives" and "cripples." For the purposes of historical accuracy, these terms will be used in context in this the article.

Introduction

In recent years, academics in the field of disability studies have argued that the disability category is a socially constructed category influenced by historical, social, political, cultural and economic factors (Wilson and Lewiecki-Wilson, 2001; Marks, 1999; Mitchell and Snyder, 1997; Ingstad and Reynolds Whyte, 1995). In the present era, a dominant social construction of disability is that disability is primarily a medicalized problem (DeJong, 1978; Stone, 1984) and a personal tragedy (Oliver, 1990). Prior to its medical model construct, the disability category was primarily defined as a social and legal category linked to social welfare and charitable relief (Stone, 1984).

By using a historical lens one can examine how social, political, cultural and economic factors have helped construct the disability category over time. For example, during the 19th Century, public opinion toward disability, charity and dependency shifted and the disabled population, once considered a deserving population, came to be viewed as a nuisance population. The shift in public opinion led to the creation of government policies that established draconian measures to control this "unwanted" population. In effect, many people with disabilities were treated as common criminals and they were sent to local jails, provincial lock-ups and in some situations to the federal penitentiary in Kingston, Ontario.

The era between the mid and the late 19th Century is the focus of this article. It is during this era that we find a shift in public attitude away from community social support, known during the era as "outdoor relief", toward institutional warehousing known as "indoor relief". It is a period in Canadian history during which concerns about care and relief were replaced by concerns about moral decay, moral reform, individualism, production and independence. Similarly, it is an era wherein we find the legislative origins for institutional confinement, the origins of modern social welfare programs, as well as the beginnings of the eugenics and sterilization movements in Canada.

Early Government Support

During the 18th and 19th Centuries, when the colonies of British North America (later Canada) were granted provincial status, many of these provinces adopted the British parliamentary system as well as Britain's legal system. This included adopting English Poor Law as a means of regulating support for people unable to provide for themselves. During the reign of Elizabeth 1, England established a system of support and relief for needy individuals known as Poor Law (1601). Poor Law distinguished between deserving poor and non-deserving poor populations. Non-deserving poor were unemployed, able-bodied individuals and deserving poor were unable to work or fend for themselves: "Lepers, bedridden creatures, persons being impotent to serve and persons over the age of sixty" (Stone, 1984, p. 36). In brief, the statutes of the era permitted assistance for people unable to provide for themselves, but these statutes also determined very harsh punishments for able- bodied people who were not working.

Louis Hartz has referred to this adaptation of "old world" values, culture and ideology onto the "new world", as the influence of the "politics of point of departure" (Hartz, 1955 in Guest 1980, p. 16). While it is true that "old world" influences often determined colonial law, it is evident that provinces, including Ontario, did control the extent to which "old world" values were applied. Ontario, for example, did not incorporate English Poor Law as part of its provincial legislation (Splane, 1965). Instead, when Ontario was granted its provincial status in 1794, the provincial charter made all forms of social relief a local responsibility. In fact, all provinces directed their own social relief programs and the federal government, beginning with Confederation in 1867, remained out of the direct provision of social relief well into the 20th Century. When Ontario (Upper Canada) joined with other colonies of British North America to form the country of Canada in 1867, social welfare, health care and education were designated to come under provincial jurisdiction. As a result of this decision, Canada did not create a universal set of principles pertaining to the care and treatment of people with disabilities, and to this day policies regarding the care and treatment of this population varies from one province to the next (Hanes and Moscovitch in Puttee, 2002).

The government of Ontario adapted Poor Law for its own purposes and it made municipalities and counties responsible for the care and maintenance of the poor, the sick, the elderly and the disabled. These populations were often referred to as the dependent and defective classes (Henderson, 1904). Throughout much of the 19th Century, the provincial government instituted various forms of legislation which further ingrained its position of no direct responsibility and therefore no direct assistance. The Charity Aid Act, 1837, the House of Industry Act, 1837, the Municipal Corporations Act,

1849, the Municipal Institutions Act, 1866, and the Royal Commission on Prisons, Asylums and Public Charities, 1891, are examples of provincial legislation which reinforced the provincial government's position that the provision of care to dependents and people with disabilities was a local responsibility (Splane, 1965).

Ontario's approach towards welfare relief during the 19th century is often referred to as "reluctant welfareism." This doctrine highlights the province's position regarding all forms of care and relief, which emphasized the opinion that support for needy individuals was first and foremost a family responsibility. And, if family members were not able to provide for the individual in need then it fell upon local authorities to provide the required assistance (Wallace, 1950). In circumstances where the local municipalities were unable to, or refused to provide care and assistance, then private philanthropy and the use of charitable institutions were encouraged. "This doctrine," Wallace suggests, "Largely ignored the special needs of such groups as the old, the sick, the widowed, the orphaned and the mentally and physically incapacitated" (Wallace 1950, p. 382). This hands-off approach of "reluctant welfareism" established in the 19th Century guided the direction of providing care and support to people with disabilities well into the 20th Century. As far as the care of "cripples" was concerned, the province saw its role as one of a residual funding body only. Fundamentally, the province held the position that it had no direct responsibility for the care and maintenance of any dependent populations. The province did establish guidelines for the establishment of poor houses, jails and asylums but it did not provide direct financial support to these institutions and their inmates. As far as the province was concerned, the care and support of needy populations was first and foremost a family responsibility and if families could not provide the support, then such support fell onto local charities and municipalities. This system of reluctant support began in the late 1700s and lasted well into the 1900s.

Influences of the Economy on the Social Status of "Cripples"

Similar to other settlers throughout North America, 19th Century settlers in Ontario were very much influenced by their Christian faith, and charitable relief was viewed as a positive virtue. For many settlers, opportunities to provide support in time of need and to show kindness to one's neighbor were viewed as opportunities to serve God and community. In many ways social dependency was a mechanism which brought individuals from different social strata closer together.

John Winthorp observes the following:

"... According to God's scheme, a well ordered society was hierarchical; it had a series of ranks from top to bottom. Some men, the great one's, high and eminent in power and dignity, were at the top, others, the poor and inferior sat at the bottom. Each had special privileges and obligations, the poor to show respect and deference to those above them, the well-to-do to aid and care for those below them. Disparities in wealth and condition existed not to separate and alienate men from one another but to make them have more need for one another - - to bind them closer together so that they might improve their lives to serve the Lord" (John Winthrop, in Trattner 1984, p. 16).

In addition to this Christian influence, Ontario's settlers were very much influenced by the reality of the North American environment, and a pragmatic approach to providing assistance to one's neighbors and kin was essential. In an environment where neighbor knew neighbor and each had to rely on the other, assistance was provided when needed. Settlers realized that ones own survival as well as the survival of ones family was based on reciprocity of support, therefore denial of support to kin or neighbor was rare.

Support was provided as needed, but this did not mean that "cripples" and other populations of "physical defectives" were always in need of support. In fact, because of the province's agrarian economic base it was quite likely that many "cripples" required little or no support and it was likely that they contributed to their families and communities. In other words, an individual could have a physical impairment, but the individual was not considered a burden and in economic and social terms the individual was not considered disabled.

From 1790, when Ontario received its provincial charter, to the late 19th century Ontario primarily remained a rural province with an agrarian economy. For example, at the time of Confederation in 1867, the population of the province was close to 1,525,000 people, and nearly four fifths of the population lived in rural communities, small villages or towns, or on farms. Toronto at the time was the largest urban centre and its population was approximately 30,000 people (Varga 1983, p. 9). Within 15 years, there was a major shift in the economic base and between the early 1880s and 1900 Ontario became the industrial centre of Canada. This change from a predominantly agrarian economic base to an industrial economic base had a significant impact on the social status of people with disabilities living in Ontario.

In his research on the care of "cripples," Finkelstein (1981) argued that the social consequences of industrialization actually made people with disabilities out of "cripples." Finkelstein's point stresses the significance of disability as a social construct. From his research pertaining to the care of "cripples" in England during the rise of industrialization, he concluded that this population came to be viewed as a problem population. He makes the argument that during a period wherein the economy was based on agriculture, most "cripples" made and repaired products. He concluded that "cripples" contributed to the income of their families and to the economic well being of their communities.

Finkelstein stresses the importance of the informal face-to-face contacts of the rural agrarian communities of England and his analysis can be applied to 19th Century Canada. Finkelstein argued that in small rural communities, people with disabilities were not considered a problem population, nor were they considered burdens on family and community. The nature of an agrarian way of life, according to Finkelstein, allowed people with disabilities to contribute to the family and community. "Cripples" repaired farm implements, made clothing and helped with household chores. This is not to suggest that life was easy for them, because it was not, but as Finkelstein points out, life was difficult for most working poor people: "Conditions of life were extremely harsh for cripples but in a context where life was harsh for all the common people, the circumstances for cripples would not seem significantly worse" (Finkelstein 1981, p. 60).

In short, according to Finkelstein's argument, "cripples" existed but not necessarily as part of a category of people with disabilities.

Finkelstein's social history of "cripples" reveals the connection between changes in economy (agrarian to industrial base) and changes to the social status of individuals with disabilities. He concluded that prior to the onset of industrialization and a waged based economy, "cripples" were very much part of the family and community. Moreover, Finkelstein argued that it was because of a significant shift in social and economic relations brought about by industrialization that led to "cripples" becoming part of the undesirable class. He concludes that prior to the onset of industrialization with its wage based economy "cripples" were not necessarily viewed as being disabled. The social creation of the "disabled" came hand in hand with demands of an emerging urban and industrialized society.

The plight of people with disabilities living in Ontario was not much different from the plight of people with disabilities living in Britain or the United States during the 19th Century. An examination of the linkages between Britain and Ontario indicates that the development of institutional care in late 18th-century Britain, later transplanted to Ontario, was closely linked to broader social, political and economic changes brought about by the development of a wage-based economy.

Changes in the social, political and economic spheres led to changes in the social status and the social role of "cripples" (Finkelstein, 1987). Of significance was the change in the social importance of "cripples" to their families and their communities. With the displacement of the rural- agrarian economy by a wage-based economy, there was a major shift in the perception of the social importance of the individual, and the individual replaced the collective, as well as the family, as the predominant unit of production. Over time, the relative social and economic importance of the individual increased and greater social value was placed on able-bodied individuals, and less value was placed on individuals with disabilities that limited them in their ability to earn wages (Oliver, 1990).

Although custodial institutions were not used in all parts of Ontario, indoor relief in the form of asylums, alms houses and houses of industry came to dominate the provision of care and relief for dependent and "defective" populations in the larger towns and cities of the province. Similar to other approaches of confinement that existed throughout North America at the time, institutions in Ontario made no distinction on the basis of need, age, or gender in these institutions: "There the old and sick were thrown together with tramps and vagabonds, with the blind, deaf mutes, cripples, idiots, epileptics and insane people. Children, orphans, foundlings, unmarried mothers with children, prostitutes and criminals were put in these houses" (Trattner 1984, p. 44).

By the mid 19th Century, the notion of deserving poor was removed from the social consciousness and no distinction was made between deserving and non-deserving poor. All manner of people with disabilities who are unable to care for themselves were often forced to live in institutions that were ill - equipped to look after them.

Reports from the Inspector of Prisons, Asylums and Public Charities indicates the desperate situation for many "cripples" who needed continuous care. The following example refers to a patient of the Toronto Lunatic Asylum:

"In cases of paralysis of the lower body, the patients are in a pitiable condition, lying quite unable to turn in bed, and having lost control over bladder and bowel, faeces and urine are constantly passed without the knowledge or command of such patients. They are entirely dependent on the care and attention of the attendant for everything. They are very troublesome and wearying cases for the attendant as well as for the patient, the cause of the disease usually being from bad to worse" (Sessional Papers, Province of Ontario, 1880, p. 20).

As the provincial economy shifted from a predominantly agrarian economy to a predominantly industrial and waged-based economy, there was a greater need for able-bodied workers. Moreover, wages were often so low that all capable family members had to work to support the family. It was very common to find men, women and children of the same family working in the mills and factories of Ontario. Looking after a disabled family member had serious consequences for working class and poor people. For example, if a family member was required to remain at home to provide care for someone who was infirmed and/or disabled, this meant there were fewer workers in the family and fewer workers meant less income for the family.

The rise of industrialization not only had a negative impact on the social status of individuals with disabilities, but industrialization also contributed to an increase in the size of the disabled population. Factors such as unsafe working conditions, child labour, poor sanitation, lack of public health, and poverty contributed to an increase in the numbers of people with disabilities. But, despite the increase in the disabled and dependent population, there were few suitable resources from which these populations could receive assistance.

The Ontario Royal Commission on Labour and Capital in 1889 shows, in great detail, the consequences of this lack of support for injured employees. One young man, who lost an arm and a leg as a result of an accident, reported to the Commission that following his discharge from the hospital, his mother had to pay for all further medical expenses. The only compensation he received for his injuries was $10.00 above the wages owed and $25.00 collected for him by his fellow workers. The young man reported to the Royal Commission that he was 12 years old at the time of the accident (Kealy 1973, pp. 196-197). Another witness at the Royal Commission reported that at the age of 12 he had his arm severed as a result of an accident in a saw mill. At the time of the accident, he was earning 25 cents per day, he received no compensation and he was never re-employed by his employer (Kealy 1973, pp. 196-197).

People With Disabilities: Changes In Social Role From Deserving Poor To Non-Deserving Poor

While English Poor Law was not incorporated into the provincial charter of 1794, some elements of poor law are nevertheless evident in the systems of relief that emerged in 19th Century Ontario. For example, two primary forms of relief to emerge out of poor law were "outdoor relief" and "indoor relief."

Initially, people with disabilities unable to care for themselves or to be cared for by family members were allowed to seek out alms through a system referred to as

outdoor relief. Outdoor relief was a common form of assistance provided to deserving poor populations since the onset of English Poor Law of 1601. Outdoor relief was a system of charity wherein deserving people in need were allowed to receive relief through public charitable measures. For example, deserving poor people were allowed to receive alms by begging, or they received support from religious institutions, or from landowners or wealthy merchants. Outdoor relief also allowed private homeowners to house infirmed, elderly, disabled boarders, and for doing so they were given a stipend from municipal governments. In most instances, outdoor relief measures allowed deserving poor people such as "cripples" to remain part of the community. Outdoor relief was effective, at least by the standards of the era, as long as the population remained small and stable and there were no huge demands for assistance (Guest, 1980). Outdoor relief remained the dominant form of public assistance for needy populations from the 1790s to the mid 1800s, at which time public support for outdoor relief declined and there were demands for the establishment of institutions to segregate all needy persons from the general population.

This shift from outdoor relief to indoor relief represents a significant change in public attitude toward the provision of relief, and this shift in the public domain led to a shift in provincial government policy. The shift in attitude toward supporting people in need was connected to broader changes in public attitude to all forms and methods of assistance. To begin with, there was a shift in the notion of Christian charity. The ethic of hard work and individualism of Protestantism influenced a change in attitude toward social dependency. Secondly, the cost for providing care and relief to needy individuals was a municipal responsibility, and many of an emerging middle class argued that they should not have their hard earned money spent on people who could not or would not take care of themselves.

Indoor relief was introduced as a mechanism that was intended to discourage people from seeking public support and to control an undesirable population. Indoor relief measures were intended to remove undesirables from the community and to instill a new moral code into the inmates. The replacement of outdoor relief with indoor relief did away with the distinction between the deserving poor and the non-deserving poor, which had been at the core of English Poor Law since 1601. As a result of these changes in public attitude and public policy, "cripples" lost their social status as deserving and many were forced to live in workhouses, asylums or jails if they wanted to survive.

In addition to Victorian middle class concerns about the dire consequences of providing charity and support to the poorer and defective classes, Victorians began to develop an interest in health and physical prowess. Indeed, Haley (1978) argues that the attainment of good health was considered by middle and upper class Victorians to be a moral obligation and a measure of one's character. According to Haley, many Victorians were consumed with pursuing good health and he suggested that discussions about health outranked discussions about war, politics and science. It is an era where we find the emergence of spas and country clubs, as well as an interest in physical activity including hiking, biking, and swimming. In addition to physical activities, Victorians experimented with medications, opiates and other remedies as they strived for a healthy body. "Total health or wholeness- means sana in corpore sano," argued Haley, "Was the dominant concept for Victorians, as important in shaping thought about human growth and conduct as nature was to the Romantics" (p. 17).

Victorians did not pursue physical activity and good health merely for the sake of feeling better. The desire for good health shaped Victorian bourgeois images of themselves as physically, morally and spiritually virtuous persons. Similarly, it was this notion that good health was connected to good virtue which helped to construct Victorian attitudes toward poor, sick, and disabled people. Although middle and upper class Victorians were aware that disease and disability were not necessarily the fault of the individual, they still held the opinion that ones character was shaped according to ones bodily make-up and physical health. "Victorian intellectuals insisted on the reality of the spiritual life higher than that of the body, but they all thought physiologically: they adapted the well knit body as their model of the well formed mind and the mind- body harmony as their model of spiritual health" (Haley, 1978, p. 4). In brief, Victorians held the view that "cripples," because they were defective in body, were also defective morally, mentally and spiritually. Moreover, Victorians believed that most people with disabilities could not emotionally adjust to their lot in life, and because of this inability to accept their situation they developed a bitter and resentful moral character which in turn contributed to a life of vice and deceit. Considering these prevailing concerns about social charity, as well as concerns about the moral character of "cripples" and the repugnance that Victorians held toward them, it is little wonder that laws were passed to remove this population from society.

The first legislation put forth by the government of Upper Canada (Ontario) to end outdoor relief measures was the House of Industry Act of 1837. This legislation was intended to discourage social dependency and to introduce methods to reform the moral character of dependent persons. The House of Industry Act was never implemented on its own merit, but instead it was linked to other custodial legislative measures, including the Municipal Corporations Act of 1849 and the Municipal Institutions Act of 1866, which dealt with the establishment and maintenance of hospitals, poor houses and houses of industry (Splane, 1965). Although the House of Industry Act was not enacted on its own, it was an important piece of legislation, as it signified a new era for the provision of relief and care to all needy and dependent populations, including people with disabilities, and set the tone for the type of care that was provided for these populations from the late 1830s into the 1900s (Splane, 1965).

Provincial legislation such as the House of Industry Act was intended to remove "destitute," "defective" and "dependent" persons from the community and the legislation was applied to a very wide population:

> "All poor and indigent persons who are incapable of supporting
> themselves; All persons, able of body to work and without any means of
> maintaining themselves, who refuse or neglect to do so, all persons living
> a lewd dissolute vagrant life or exercising no ordinary calling or lawful
> business sufficient to procure an honest living; all such persons who spend
> their time and property in the Public House to the neglect of their lawful
> calling" (Splane 1965, p. 71).

Over time, outdoor relief measures became very expensive for municipalities to maintain and working citizens resented people who could not or would not care for themselves or their families. While financial concerns represented a significant factor

pertaining to the decline in support for outdoor relief measures, other social concerns emerged. Some of these concerns included concerns about wide spread misuse of charity; the opinion that charity led to individual laziness and laziness led to moral decay which in turn led to social, political and economic upheaval. The ethic of Christian charity was replaced by the ethics of rugged individualism, the virtues of hard work, independence from charity, and the connection of strong moral character to a strong economy. Outdoor relief, it was believed, eroded these important characteristics and contributed to the moral decay of the community, thus eroding a strong economy and a strong nation. As a consequence of these changes in public attitude toward social dependency, institutional approaches to the provision of care and relief of all dependent populations became the preferred method of relief. If relief was to be provided it was provided reluctantly, and it was provided in an institutional setting.

Although primarily directed at curtailing costs of maintaining the able-bodied poor, demands for an end to outdoor relief had a direct impact on people with disabilities who could not be cared for by their families. This former deserving poor population came to be treated no differently than the non-deserving poor population. The lack of differentiation between the deserving and the non-deserving poor represented a radical departure from the original intent of English Poor Law, which differentiated between the two populations and allowed for the provision of relief to populations who were unable to care for themselves.

The "Cripple" As Public Outcast: Controlling an Unwanted Population

"Jails were destined to be put to a number of uses other than the primary one of detaining persons charged with or convicted of a crime. Among those who were crowded into them were persons whose only crime was their inability to care for themselves" (Splane 1965, p. 68).

Much of the literature pertaining to the institutional confinement of poor and dependent populations makes reference to the use of custodial institutions such as Poor Houses and Houses of Industry (Baehre, 1981; Irving, 1987; Pitsula, 1979; Rooke and Schnell.1983; Splane, 1965; Wallace, 1950) but in Ontario, jails and prisons were also used to contain people unable to care for themselves. "Cripples," as well as "infirmed persons," the poor and the elderly who were unable to care for themselves and had no family to care for them were either brought to the jails by local authorities, or they went voluntarily. Jails were "filled with men out of work and elderly and infirm people without homes, who, seeking food and shelter, flocked to prisons where they shared cells with those awaiting trial or already convicted of offences" (Wallace 1950, p. 387).

The use of jails as shelters for the "aged," "infirm" and "crippled" populations became so wide spread that some jail superintendents complained openly about the inappropriate use of jails as places of refuge for the "defective" population. The Superintendent of the Hamilton jail, for example, made reference to the misuse of his facility as a shelter for those who were unable to care for themselves. According to reports by the superintendent, a high number of "physically defective" persons were living in the Hamilton jail, and he proposed that they would be more appropriately cared for in a poorhouse (Sessional Papers, Province of Ontario 1891, p. 129). Examination of

primary documents, such as the Report of the Ontario Royal Commission on Prisons, Asylums and Public Charities (Sessional Papers, Province of Ontario 1891) provides numerous examples of "infirmed" and "defective" persons in need of support resorting to the local jails for food and shelter. The above Royal Commission found many needy, disabled and infirmed persons not only sought out jails, but, in many cases, often did not leave because they had nowhere else to go.

From a legal point of view, people with disabilities were treated as a class of undesirables subject to municipal morality and vagrancy laws. The City of Toronto, for example, introduced vagrancy laws in 1847, and a section of these vagrancy laws was instituted to control the disabled population of the city. By-laws linking the control of people with disabilities with vagrants stems from English Poor Law which in turn grew out of earlier British laws to control vagrancy (Stone, 1984).

The Act to Provide for the Arrest and the Punishment of Vagrants (1847) is very clear in its intent to control people with disabilities:

> "That all persons openly exhibiting or exposing themselves in any street,
> road or public place of the said city or liberties, any indecent exhibition,
> and all persons wandering abroad or placing themselves in the streets,
> public places, highways or passages to beg or gather alms or causing or
> procuring any child or children so to do or endeavoring by the exposure of
> wounds or deformities to affect the same purpose" (City of Toronto,
> Municipal By-laws, 1847).

The bylaw was later amended in 1890 and again in 1904, but the inclusion of people with disabilities remained part of these amended bylaws. The By-Laws Relating to the Public Morals (1890 and 1904) was specific in its condemnation of people with disabilities:

> "... Nor shall any malformed, deformed, or diseased person expose himself
> or be exposed in any street or public place in order to excite sympathy or
> induce help or assistance from general or public charity" (City of Toronto,
> Municipal By-laws, 1904).

In today's society, laws pertaining to indecent assault and indecent exposure refer to sexual offences falling under the Criminal Code of Canada. In latter part of 19th-century Ontario, however, laws pertaining to indecent assault and indecent exposure, it appears, were applied to "malformed, deformed or diseased" persons and they were indicative of the repugnance that able-bodied Victorians felt toward disabled individuals. In other words "physical impurity" was an assault on middle and upper class Victorian sensitivities and as such Victorians felt they should not have to come into contact with the so-called impure. One way to ensure non-contact was the removal of the source of the displeasure by creating laws which banished some groups from the public view. Moreover, it appears that morality laws banning people with disabilities from public places may have been widespread across North America during the 1800s. Frank Bowe (1978) provides the example of the "Ugly Laws" of Chicago established during the 19th Century, which were similar to the municipal by-laws of Toronto:

"No person who is diseased, maimed, mutilated or in any way deformed, so as to be an unsightly or disgusting object, or improper person, is to be allowed on the public ways, or other public places in this city, nor shall therein or thereon expose himself to public view" (Bowe 1978, p. 186).

In Ontario, it appears that statutes pertaining to public morals and vagrancy came under the jurisdiction of crimes associated with morality, including "indecent exposure and indecent assault," and persons who were found guilty of transgressing these laws were sent to jail. Annual Reports from the Inspector of Prisons, Asylums and Public Charities to the Province of Ontario, covering the years 1880, 1885 and 1890, indicate that 150 people were charged with indecent assault and exposure, of which 100 were sentenced to provincial jail (Hanes, 1995). Moreover, many people with disabilities who were charged under these morality laws were repeat offenders and records indicate they were well known to the authorities. In fact, many were often re-arrested for violating morality laws within hours of their release from jail and then returned to the institution (Sessional Papers, Province of Ontario 1891, p. 113).

The criminal prosecution and the incarceration of people with disabilities provide an example of the cultural relevance of the disability category. For example, a once contributing population came to be seen as a nuisance population. Begging as a legitimate means of self support for people with disabilities was banned. Community support was replaced by institutional mechanisms of control. Social acceptance turned to repugnance and laws were passed to prevent cripples from the public view.

By the early 1890s, the confinement of people with disabilities in jails and prisons had reached a critical point and social reformers in Ontario began to condemn the practice. Goldwyn Smith, Chairman of the Royal Commission on Prisons, Asylums and Public Charities (1891), for example, proposed that more suitable means of support for the disabled and the dependent populations had to be found. "The gaol (jail)," argued Goldwyn Smith, "Should under no circumstances be used as an almshouse or place of refuge. It ought to be used as a penal institution. My recommendation is that the House of Industry should be a refuge for the old, feeble and disabled" (Sessional Papers, Province of Ontario 1891, p. 112). While Smith drew attention to the inappropriate use of jails for housing poor and destitute populations his "reforms" remained institutionally based and he advocated for the construction and development of more poor houses, not fewer. In fact, the Royal Commission proposed that poorhouses be made compulsory in all counties, and "defective" populations who were unable to care for themselves or be cared for by family be sent to the poorhouses.

Some of the recommendations of the Ontario Royal Commission on Prisons, Asylums and Public Charities of 1891 included many of Goldwyn Smith's proposals as they pertained to the social support of "defective" and dependent populations. The Royal Commission advocated many reforms pertaining to the care of dependent and disabled populations but it still upheld the principle that the relief of people with disabilities remain a local responsibility and not a provincial government responsibility. While Royal Commission put an end to the placement of people with disabilities into jails and prisons, it recommended that the practice of placing this population in institutions such as Poor Houses and Houses of Industry be continued.

Interestingly, the reforms proposed by this Royal Commission were viewed as being very progressive, but in reality the reforms merely shifted the means of social control away from jails and back to other institutions such as poor houses and chronic care facilities. The reforms of 1891 set in place the mechanism where institutions of social control such as poor houses for people with disabilities and dependent persons had to be constructed in every county of the province. Such measures did not create an environment wherein people with disabilities were brought back into society – instead these measures contributed to their further isolation. For example, by the mid 1890s we find the development of more and more institutions such as the Toronto Hospital for Incurables and the Bloorview Home for Incurable Children (also in Toronto). The province continued with its policy of reluctant welfareism well into the 20th Century. Meeting the needs of people with disabilities remained first a family responsibility, and only in circumstances where the family could not look after the individual were public charities involved.

Conclusion

As the 19th century made way for the 20th century, provincial policies remained relatively unchanged and the province took no direct responsibility for the direct care of people with disabilities. Municipalities such as Toronto continued with vagrancy laws which banned many "cripples" from going out in public. Even educational and vocational training programs that were introduced by the early 1900s had a moral ethic of developing productive citizens out of cripples. The Charity Aid Act, the Prisons and Asylums Inspection Act and the Municipal Institutions Act, which dominated 19th-century policies, continued to exhibit their influence until the Great Depression era of the 1930s. The municipalities, not the province, provided the bulk of the funds to provide support to people with disabilities.

Nineteenth Century policies of the Province of Ontario pertaining to the care and treatment of people with disabilities requiring public support emphasized four primary themes. First, the provincial government took no direct responsibility for the care and maintenance of people with disabilities. The provincial government saw its role as one of a residual funding body and the province made the provision of care for "physical defectives" a local municipal or county responsibility. Second, the lack of direct provincial responsibility and the lack of universal policies led to a collection of diversified institutional programs throughout the province. Third, the provincial government maintained an arm's length approach in funding local institutions, but it did establish mechanisms for the annual inspection of these institutions. Fourth, the care of "cripples" reflected the ideology of the era, which changed from a system of community based support (outdoor relief) to a system of institutional control (indoor relief). Fourth, the establishment of institutions and the removal of people with disabilities from society that took root during the 19th Century lasted well into the 20th Century.

In conclusion, we find that the social construction of the "cripple", and the provision of care and relief to this population in Ontario during the 19th Century, was closely linked to social, cultural and economic factors including: the transition in the economy from an agrarian based economy to a wage based market economy; changes in public attitudes toward dependency; development of middle class notions of aesthetics

and good health, and the reluctance of the province to provide direct support for the care and well being of all citizens in need.

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