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Disability

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In her exceptional book *Birthing Citizens* (2018), Martha Jones begins with an extended reading of William Yates's 1838 treatise *Rights of Colored Men*. Jones glosses Yates's argument: "Racism had led to 'legal disability': exclusion from militia service, naturalization, suffrage, public schooling, ownership of real property, office holding, and courtroom testimony."¹ The language is Yates's, but the punctuation grammatically suggests something uncomfortable about the phrase "legal disability" even as Jones works to capture a quality of Yates's argument by using it. On the surface, the phrase reads like an ableist metaphor used toward the ends of exposing racist legal barriers. And yet, Yates almost certainly intended *disability* in its legal sense describing situational impediments to rights, which was the word's most common usage through the early nineteenth century. The oddness of the use in Jones's text—half citation/half scare quotes—reflects definitions of *disability* that were shifting dramatically in 1838, but even today the term retains basic instabilities that makes it slippery for scholarship. Scholars must consciously—even overtly—engage with the politics of the choices they make when using the language of disability, paying particular attention to the historical meanings of the words they use, to the concepts those words describe, and to perspectives of the contemporary groups of disabled people whose histories they tell.

Legally, *disability* had long described situations "where a person is rendered incapable to inherit Lands, or take a Benefit, which otherwise he might have done."² Disability occurred through acts of ancestor, party, God, or law. Of these, only acts of God include physical and mental impairment. And, even here, physical and mental impairment only included memory loss, which impaired inheritance, and idiocy, a category deemed in need of legal protection and grouped with women and children. This legal idea of disability shaped cultural understandings which named disability a "Want of power to do any thing; weakness; impotence" or a "legal impediment."³ Notably absent was any medical language, and, in fact, disability was not a medical word.⁴

By 1828, Noah Webster had translated Samuel Johnson's phrase "to deprive of natural force" for the U.S. audience as "want of competent natural or bodily power, strength, or ability...as *disability* arising from infirmity or broken limbs."⁵ This definition more clearly described a somatic condition, but still one principally imagined as temporary, offering a bridge between the situational notions of disability that dominated in the eighteenth century and those fixed in the body, which would dominate by the end of the nineteenth century. Nevertheless, *disability*, like its emergent legal companion *incapacity* (which replaced the older legal definition of disability) were considered situational and remediable for most of the early republic, where, as one American legal dictionary put it, "the incapacity ceases with the cause which produces it."⁶

Of course, even if the word *disability* had not yet come to be the hegemonic term to describe the social, cultural, medical, political, and legal marginalization and oppression faced by individuals with physical and cognitive impairments, it was, beginning in the late eighteenth century, an emergent medico-legal category requiring sharper definition. As Laurel Daen argues, this work began as early as the 1790s to adjudicate petitions of Revolutionary War invalid pensions, which drew doctors into the court room to evaluate degrees of disability.⁷ Even so, it would take until the 1830 and 1840 censuses for disability terms (*deaf, blind, insane, idiot*) to shape federal census categories, and even then these words were not principally understood under the broader banner of *disability*.

For the Black community, disability was a constitutive part of slavery, even if, once more, *disability* was not the predominant term for physical or mental impairment. The middle passage, Nirmala Erelles argues, "is precisely at the historical moment when one class of human beings was

transformed into cargo to be transported to the New World that black bodies become disabled and disabled bodies become black,” and Douglas Baynton has persuasively shown that arguments for racial (and gendered) subjugation in the early republic were predicated on the confluence of race, gender, and disability.⁸ The language of disability was used by enslavers and anti-slavery advocates alike in their descriptions of African Americans; enslavers argued that African American bodyminds were impaired and best fitted to the conditions of slavery and became disabled by freedom, while anti-slavery advocates argued that slavery cognitively and physically disabled African Americans.⁹

That said, those seeking to unpack the relationship between race and disability in the past will likely seek finer gradations, distinguishing general discursive constructions of race from the lived experiences of Black disabled people. While slave owners used terms including *incurable*, *unable*, *useless*, and *unsound*, these designations were not stable descriptions of particular kinds of embodiment.¹⁰ As Dea Boster writes, “unsound” was a slaveholder category used “to assess the abilities and defects of their bondpeople’s bodies; however, there was no single system for assessing the physical, mental or moral soundness of any slave” and “useless” individuals “performed necessary and occasionally difficult duties.”¹¹

Jones’s use of “legal disability” to describe an 1838 text thus gets at a further difficulty of using the language of *disability* when writing about the early republic: to use the word most often means using a concept that was only coming to be available to historical actors at the end of the early republic. Disability history in the early republic thus usually involves a kind of strategic anachronism. I say this fully aware of anachronism’s thorny complexities. Uncritical anachronism is often dangerous, rendering scholarship inaccurate, unrigorous, and, at times, perilously ideological. Nevertheless, strategically deployed, anachronism is a vital tool: it can surface and uplift histories of historically marginalized communities otherwise obscured. This is precisely why charges of anachronism are also frequently leveled to silence particular individual and community experiences, enacting a kind of violence against people working to enter topics from a different perspective (see, especially, “They/Them,” “Survivance,” “‘Black’ and ‘African American,’” and “Indigenous, Native American, or American Indian” in this issue). Words like *disability*, as scholars like Cristobal Silva have argued, are necessary for thinking about the past “precisely because [they] defamiliarize[] narrative histories,” allowing us to see historical phenomena anew.¹² Furthermore, as Greta LaFleur argues in this issue, writing historical scholarship is always, to some extent, “an exercise in creative anachronism because we do not study or research the sixteenth, or seventeenth, or eighteenth, or nineteenth centuries in any period other than our own.” Given this, it is best to be aware of the affordances and limitations of our anachronisms explaining precisely why we adopt some and eschew others. The contemporary category of disability, seen in this light, is crucial for historical work because it allows us both to identify shared histories of stigma, exclusion, and oppression across groups of individuals who would likely not have seen themselves as belonging to a shared group and to trace the development of a modern category.¹³

But in self-consciously adopting modern categories to explore the past, we are responsible to the communities whose histories we tell, to their struggles, and to their advocacy around language. As the political struggle for rights is ongoing and variegated, this linguistic terrain is necessarily complex. Most who read this will have been trained to use people-first language, having been told repeatedly and in many institutional spaces that “people with disabilities” is more respectful and correct than the term “disabled people.” In a 2006, for example, the Office of Disability Rights of the District of Columbia, like so many other governmental and nongovernmental organizations, adopted a “people first language” resolution that “required the use of respectful language when referring to people with disabilities in all new and revised District laws, regulations, rules, and publications and all internet publications.”¹⁴ To this day (December 2020), the website still labels “autistic” and “disabled person” “outdated terms” to be replaced with “has autism” and “people

with disabilities.”¹⁵ Academic style guides offer similar advice: the “person-first language” index entry in the *Chicago Manual of Style 17* directs readers to a page that advocates “put[ting] the person first.”¹⁶ The phrase “people with disabilities” appears throughout the style guide, and “disabled people” nowhere in its pages.

Nevertheless, “within disability studies circles and disabled people’s communities, the term *people with disabilities* is increasingly regarded as dated and oppressive, as a legacy of ableism,” writes Shelley Tremain: “‘people-first’ language [is] an artifact of the late twentieth-century self-advocacy movement and the Normalization Movement.”¹⁷ Lawrence Carter-Long has long argued that people-first language hides the constitutive stigma and oppression of living with a disability: “In 2016, anyone who would dare to assert that race ‘doesn’t matter’ or that they ‘see the person, not the gender’ would instantly, and I think rightfully, be called out as either naïve or ignorant.”¹⁸ Self-advocates Emily Ladau and Lydia Brown also argue eloquently for identity-first language, which, for Ladau, recognizes disability as “an identity and culture unto itself...a source of pride.”¹⁹ Brown explains, “when people say ‘person with autism’...it suggests that the person can be *separated* from autism, which simply isn’t true...just as it is impossible to separate a person from the color of his skin.”²⁰

In many disability communities, this remains a live question. Even as she argues for identity-first language for autism, for example, Brown distinguishes it from long-term or chronic illness covered by the Americans with Disabilities Act: cancer has “absolutely nothing positive, edifying, or meaningful,” she writes, whereas autism “is not a disease...It is an edifying and meaningful component of a person’s identity.”²¹ Disabled self-advocate Cara Liebowitz likewise prefers identity-first language, but notes that she has “seen very little in the discussion of identity-first language from the physically disabled community.”²² Even within communities individuals will disagree about questions of language, Liebowitz explains, and “neither identity-first nor people-first approaches should be applied broadly...some communities that strongly prefer people-first language, and there are advocacy groups mainly run by and for people with intellectual disabilities around the globe called People First.”²³ Finally, some communities have developed other specific language commitments. The Deaf community is most notable, having long described themselves as capital-D Deaf to designate a rich cultural group. Many Deaf individuals reject the term *disabled* altogether.

Given the complexity of the terrain, here are some guidelines for writing about disability, which I adapt and expand from those proposed by disabled journalist Tara Haelle:

1. There aren’t hard, fast rules with this issue *except* to always ask your sources about their preference, even if you don’t know if you can accommodate them.
2. There’s often tension between a person’s or community’s preferences and a publication’s style guide; it’s worth having discussions about this with your editor when it comes up.
3. [Disabled writers like Haelle have] certain disabilities, but [they] cannot and do not speak for any disability or patient communities at large, even when mentioning what [they have] learned from specific communities to date...remain open to learning and adapting as things change.²⁴

Here I add some for scholars who study the past:

4. Consider the historical language and understandings of conditions in the period.
5. Determine what terms your disabled actors used.
6. Do not add value-laden, stigmatizing language that suggests judgment or pity. For example, use “wheelchair user” not “wheelchair-bound,” avoid phrases like “suffering from,” and steer clear of describing individuals as “overcoming” their disability or achieving “in spite of” it. Exceptions, of course, include the following: when quoting a disabled person him/her/themselves, when representing the way that individual understood his/her/their

experiences, or when describing the way a community understood a particular situation. The key here is to describe accurately but not to add value judgments or stigma.

7. Know the language preferences of the community you are describing in the present—the community whose history you are telling.

Text or footnotes on vocabulary choices in this context are especially welcome and important to the evolving conversation.

Finally, watch for ableist metaphors. Scholars commonly use value-laden metaphorical language of disability in their writing, describing conditions as “crippling,” individuals as “blinded” by circumstance, or figures as “deaf” to reason. This is casually violent language, and it should be avoided. Still, it is impossible to avoid all words related to mobility, cognition, and the senses. Here, again, self-advocates lead the way. Responding to an “excellent proof-reader” who “has put a query to my use of the word ‘see,’” Helen Keller writes, “If I had said ‘visit’ he would have asked no questions, yet what does ‘visit’ mean but ‘see’ (*visitare*). Later I will try to defend myself for using as much of the English language as I have succeeded in learning.”²⁵ Contemporary blind scholar Georgina Kleege writes of this passage, “Keller makes good use of her Radcliffe education to show that the more one knows about language, the harder it is to find vocabulary that does not have some root in sighted or hearing experience. But, she argues, to deny her the use of seeing-hearing vocabulary would be to deny her the ability to communicate at all.”²⁶

The language of disability is complex. It reflects a term that was “inchoate,” as Cristobal Silva and I have argued, before the mid-nineteenth century and that remains dynamic in the present.²⁷ Today, Rachel Adams, Benjamin Reiss, and David Serlin explain:

[Disability] is more fluid than most other forms of identity in that it can potentially happen to anyone at any time, giving rise to the insiders’ acronym for the nondisabled, TAB (for temporarily able-bodied)...disability can be situational; it can also wax and wane within any particular body. Disability brings together people who may not agree on a common definition or on how the category applies to themselves and others. Yet those same definitional challenges are precisely what make disability such a rich concept for scholars, activists, and artists.²⁸

To this I would add that debates about disability’s linguistic politics signal and underscore the ongoing political struggles of disability rights advocates. Language remains a contested site of articulation not only because the category of disability is “fluid,” often “situational,” and heterogenous, but also because the struggles against disability stigma and oppression are unfinished—ongoing.

I’d like to conclude with an anecdote: a scholarly panel I attended in 2011 was interrupted by a disability rights advocate. Holding up her accessible copy of the talk, she pointed to the words “Deaf and disabled” and asked the speaker pointedly: “Can we get a capital D, too?!”²⁹ This moment has stayed with me because it reminds us how much language of disability, even in scholarly settings, is bound up in the immediate, lived politics of disability. In the third decade of the twenty-first century, as style guides shift across the country to capitalize *Black*, her question about whether *disability*, like *Deaf*, should be capitalized remains a good one.

Language is a central place where the fight for equality and rights are meaningfully waged, where stigmatization and destigmatization happen. Nowhere is this clearer than in *disability*’s origins as a legal, rather than a medical, term used to limit individuals’ access to legal rights and responsibilities—linguistic roots that have, no doubt, cast a long shadow over the lives of disabled people both in the early republic and today. The language of disability will, no doubt, continue to evolve as the self-understanding of particular people and groups does, as disability cultures do, and as the broader struggle for representation and rights continues. Scholars must take on this

complexity as a central part of their work. Cultural and epistemological humility as well as openness to change and correction remain essential.

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¹ Jones, Martha S. *Birthright Citizens: A History of Race and Rights in Antebellum America*. Cambridge University Press, 2018, 3. For a recent review essay on scholarship about disability in the Americas through 1820 see Laurel Daen's "Beyond impairment: Recent histories of early American disability." *History Compass* 17, no. 4 (2019): e12528.

² "Disability," *The Student's Law-dictionary; Or, Compleat English Law-expositor*. London, 1740.

³ Johnson, Samuel. "Disability."

⁴ Disability was not a word defined in eighteenth-century British or American medical dictionaries.

⁵ Webster, Noah. "Disability." *An American Dictionary of the English Language*. 2 Vol. New York, 1828.

⁶ Bouvier, John. *A Law Dictionary, Adapted to the Constitution and Laws of the United States of America, and of the Several States of the American Union*. (2 Vol. Philadelphia, 1839), p. 490. Notably, *disability* was not a medical term. See Robley Dunglison's *Medical Lexicon* (1842) for the preferred term *incapacity*. Also compare with the category of *unable* from a 1787 slave roster Cristobal Silva and I discuss in "Early American Disability Studies," *Early American Literature* 52, no. 1 (2017): 1-27. For more on disability and slavery, see Dea Boster's *African American Slavery and Disability: Bodies, Property, and Power in the Antebellum South, 1800-1860*. Vol. 39. Routledge, 2013.

Stefanie Hunt-Kennedy's *Between Fitness and Death: Disability and Slavery in the Caribbean* (University of Illinois Press, 2020).

⁷ Daen, Laurel. "Revolutionary War invalid pensions and the bureaucratic language of disability in the early Republic." *Early American Literature* 52, no. 1 (2017): 141-167.

⁸ Erevelles, Nirmala. *Disability and Difference in Global Contexts: Enabling a Transformative Body Politic*. Springer, 2011, 40;

⁹ See, for example, Baynton, Douglas C. "Disability and the Justification of Inequality in American History." *The New Disability History: American Perspectives*, ed. Douglas C. Baynton, Paul K. Longmore, and Lauri Umansky. NYU Press, 2001: 33-57, 37-41 and chapter 5 of Hunt-Kennedy's *Between Fitness*.

¹⁰ For *incurable* and *unable* see Altschuler and Silva; for *useless* and *unsound* Dea H. Boster's *African American slavery and disability: Bodies, property, and power in the antebellum South, 1800-1860*. Routledge, 2013.

¹¹ Boster, *African American Slavery*, 51, 4.

¹² Silva, Cristobal. *Miraculous Plagues: An Epidemiology of Early New England Narrative*. Oxford University Press, 2011, p. 12.

¹³ For example, institutions for blind and Deaf students better resemble schools for native children than asylums.

¹⁴ "People First Language," Office of Disability Rights. DC.gov <https://odr.dc.gov/page/people-first-language> (accessed 18 December 2020).

¹⁵ Ibid.

¹⁶ "5.260: Avoiding other biased language," *Chicago Manual of Style* 17. <https://www.chicagomanualofstyle.org.ezproxy.neu.edu/book/ed17/part2/ch05/psec260.html> (accessed 18 December 2020).

¹⁷ Tremain, Shelley L. *Foucault and Feminist Philosophy of Disability*. University of Michigan Press, 2017, p. 88.

¹⁸ Quoted in Tremain, p. 89.

¹⁹ Ladau, Emily. "Why Person-First Language Doesn't Always Put the Person First." *Think Inclusive*.

<https://www.thinkinclusive.us/why-person-first-language-doesnt-always-put-the-person-first/> (Accessed 18 December 2020). See also Lydia X. Z. Brown's essays "The Significance of Semantics: Person-First Language: Why It Matters"

<https://www.autistichoya.com/2011/08/significance-of-semantics-person-first.html> (4 August 2011) and "Identity and Hypocrisy: A Second Argument Against Person-First Language." (28 November 2011)

<https://www.autistichoya.com/2011/11/identity-and-hypocrisy-second-argument.html>

²⁰ Brown, "The Significance."

²¹ Ibid.

²² Liebowitz, Cara. "I am Disabled: On Identity-First Language." *The Body Is Not an Apology*.

<https://thebodyisnotanapology.com/magazine/i-am-disabled-on-identity-first-versus-people-first-language/> (Accessed 21 December 2020).

²³ Ibid.

²⁴ Haelle, Tara. "Identity-first vs. person-first language is an important distinction." *Covering Health: Monitoring the Pulse of Healthcare Journalism* (31 July 2019) <https://healthjournalism.org/blog/2019/07/identity-first-vs-person-first-language-is-an-important-distinction/> (Accessed 18 December 2020).

²⁵ Keller, Helen. *The World I Live In* (New York: Century Company, 1908), p. 22.

²⁶ Kleege, Georgina. *More than Meets the Eye: What Blindness Brings to Art* (Oxford University Press, 2018), p. 24.

²⁷ Altschuler, Sari and Cristobal Silva. "Early American Disability Studies." *Early American Literature* 52.1 (2017): 1-27.

²⁸ Adams, Rachel, Benjamin Reiss, and David Serlin, "Disability," in *Keywords for Disability Studies*, eds. Rachel Adams, Benjamin Reiss, and David Serlin. New York University Press, 2015, p. 5-6.

²⁹ This occurred at a "Disability Studies and the Medical Humanities" panel hosted by the Future of Disability Studies seminar at Columbia University on October 27, 2011. While not yet widespread, also see this argument in Liebowitz and "Why do we use a capital D for Disabled?" *The Alliance for Inclusive Education* <https://www.allfie.org.uk/definitions/use-capital-d/>