On the Government of Disability

We believe that feelings are immutable, but every sentiment, particularly the noblest and most disinterested, has a history. We believe in the dull constancy of instinctual life and imagine that it continues to exert its force indiscriminately in the present as it did in the past ... We believe, in any event, that the body obeys the exclusive laws of physiology and that it escapes the influence of history, but this too is false.

—Foucault, "Nietzsche, Genealogy, History"[1]

Introduction: Bio-power and Its Objects

In the field of Disability Studies, the term "impairment" is generally taken to refer to an objective, transhistorical and transcultural entity of which modern bio-medicine has acquired knowledge and understanding and which it can accurately represent. Those in Disability Studies who assume this realist ontology are concerned to explain why social responses to "impairment" vary between historical periods and cultural contexts—that is, why people "with impairments" are included in social life in some places and periods and are excluded from social life in some places and periods.[2] Against these theorists, I will argue that this allegedly timeless entity (impairment) is an historically specific effect of knowledge/power. In order to advance this claim, I assume nominalism.[3]

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[1]Michel Foucault, "Nietzsche, Genealogy, History," in Donald F. Bouchard (ed.), *Language, Counter-Memory, Practice: Selected Essays and Interviews by Michel Foucault*, trans. Donald F. Bouchard and Sherry Simon (Ithaca, N.Y.: Cornell University Press, 1977), p. 153.

[2]See, for instance, Colin Barnes, "Theories of Disability and the Origins of the Oppression of Disabled People in Western Society," in Len Barton (ed.), *Disability and Society: Emerging Issues and Insights* (Harlow: Longman, 1996), pp. 43-60; Mark Priestley, "Constructions and Creations: Idealism, Materialism, and Disability Theory," *Disability & Society* 13 (1998): 75-94.

[3]With an array of other diverse and even competing discourses, the nominalist approach to disability that I take in this paper has been identified as "idealist" and claimed to "lack ... explanatory power." See Priestley, "Constructions and Creations"; see also Carol Thomas, *Female Forms: Experiencing and Understanding Disability* (Buckingham: Open University Press, 1999). I contend, however, that these criticisms rely upon a misconstrual of those discourses in general and a misunderstanding of nominalism in particular.

Nominalists hold the view that there are no phenomena or states of affairs whose identities are independent of the concepts we use to understand them and the language with which we represent them. Some philosophers think this is a misguided stance. For these thinkers, objects such as photons, stars, and horses with which the natural sciences concern themselves *existed as* photons, stars, and horses long before any human being encountered them and presumed to categorize or classify them. Compelling arguments have been made, nevertheless, according to which not even the objects of the natural sciences (say, photons, stars, and Shetland ponies) have identities until someone names them.[4]

I want to set aside questions regarding the metaphysical status of these objects. In this paper, the only ontological commitments that interest me are those that pertain to elements of human history and culture. My aim is to show that impairment is an historical artifact of the regime of "bio-power"; therefore, I will restrict myself to claims that apply to objects of the human sciences.

Foucault's term "bio-power" (or "bio-politics") refers to the endeavor to rationalize the problems that the phenomena characteristic of a group of living human beings, when constituted as a population, pose to governmental practice: problems of health, sanitation, birthrate, longevity, and race. Since the late eighteenth century, these problems have occupied an expanding place in the government of individuals and populations. Bio-power is then the strategic movement of relatively recent forms of power/knowledge to work toward an increasingly comprehensive management of these problems in the life of individuals and the life of populations. These problems (and their management), Foucault thinks, are inextricable from the framework of political rationality within which they emerged and developed their urgency; namely, liberalism.[5]

The objectification of the body in eighteenth-century clinical discourse was one pole around which bio-power coalesced. As feminist historian Barbara Duden notes, in that historical context the modern body was created as the effect and object of medical examination, which could be used, abused, transformed, and subjugated. The doctor's patient had come to be

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[4]See Ian Hacking, *The Social Construction of* What? (Cambridge, Mass.: Harvard University Press, 1999). See also Barry Allen, *Truth in Philosophy* (Cambridge, Mass.: Harvard University Press, 1993).

[5]See Michel Foucault, "The Birth of Biopolitics," in *Ethics: Subjectivity and Truth*, ed. Paul Rabinow (New York: New Press, 1997), p. 73. See also Barry Allen, "Foucault and Modern Political Philosophy," in Jeremy Moss (ed.), *The Later Foucault* (London: Sage Publications, 1998), pp. 293-352; and "Disabling Knowledge," in G. Madison and M. Fairbairn (eds.), *The Ethics of Postmodernity* (Evanston: Northwestern University Press, 1999), 89-103.

treated in a way that had at one time been conceivable only with cadavers. This new clinical discourse about "the body" created and caused to emerge new objects of knowledge and information and introduced new, inescapable rituals into daily life, all of which became indispensable to the self-understandings, perceptions, and epistemologies of the participants in the new discourse. For the belief took hold that the descriptions that were elaborated in the course of these examinations truly grasped and reflected "reality."[6]

The dividing practices that were instituted in the spatial, temporal, and social compartmentalization of the nineteenth-century clinic worked in concert with the treatment of the body as a thing. Foucault introduced the term "dividing practices" to refer to modes of manipulation that combine a scientific discourse with practices of segregation and social exclusion in order to categorize, classify, distribute and manipulate subjects who are initially drawn from a rather undifferentiated mass of people. Through these practices, subjects become *objectivized* as (for instance) mad or sane, sick or healthy, criminal or good. Through these practices of division, classification, and ordering, furthermore, subjects become tied to an identity and come to understand themselves scientifically.[7] In short, this "subject" must not be confused with modern philosophy's *cogito*, autonomous self, or rational moral agent.

Technologies of normalization facilitate the systematic creation, identification, classification, and control of social anomalies by which some subjects can be divided from others. Foucault explains the rationale behind normalizing technologies in this way:

> [A] power whose task is to take charge of life needs continuous regulatory and corrective mechanisms ... Such a power has to qualify, measure, appraise, and hierarchize, rather than display itself in its murderous splendor; it does not have to draw the line that separates the enemies of the sovereign from his obedient subjects; ... it effects distributions around the norm ... [T]he law operates more and more as a norm, and ... the juridical institution is increasingly incorporated into a continuum of apparatuses (medical, administrative, and so on) whose functions are for the most part regulatory.[8]

The power of the modern state to produce an ever-expanding and increasingly totalizing web of social control is inextricably intertwined with and

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[6]Barbara Duden, *The Woman Beneath the Skin: A Doctor's Patients in Eighteenth-Century Germany*, trans. Thomas Dunlap (Cambridge, Mass.: Harvard University Press, 1991), pp. 1-4.

[7]Michel Foucault, "The Subject and Power," appended to Hubert Dreyfus and Paul Rabinow, *Michel Foucault: Beyond Structuralism and Hermeneutics* (Chicago: University of Chicago Press, 1983), pp. 208, 212.

[8]Michel Foucault, *The History of Sexuality, Vol. 1: An Introduction*, trans. Robert Hurley (New York: Random House, 1978), p. 144.

dependent upon its capacity to generate an increasing specification of individuality in this way. As John Rajchman puts it, the "great complex idea of normality" has become the means through which to identify subjects and make them identify themselves in ways that make them governable.[9]

The approach to the "objects" of bio-medicine that I have outlined relies upon an anti-realism that conflicts with the ontological assumptions that condition dominant discourses of disability theory. In addition, this approach assumes a conception of power that runs counter to that which those discourses on disability take for granted.

Generally speaking, disability theorists and researchers (and activists) continue to construe the phenomena of disablement within what Foucault calls a "juridico-discursive" notion of power. In the terms of juridical conceptions, power is a fundamentally repressive thing possessed, and exercised over others, by an external authority such as a particular social group, a class, an institution, or the state. The "social model of disability," in whose framework a growing number of theorists and researchers conduct their work, is an example of the juridical conception of power that predominates in Disability Studies. Developed to oppose "individual" or "medical" models of disability, which represent that state of affairs as the detrimental consequences of an intrinsic deficit or personal flaw, the "social model" has two terms of reference, which are taken to be mutually exclusive. They are: *impairment* and *disability*.[10] As the formalized articulation of a set of principles generated by the Union for the Physically Impaired Against Segregation (UPIAS), the social model defines *impairment* as "the lack of a limb or part thereof or a defect of a limb, organ or mechanism of the body." By contrast, *disability* is defined as "a form of disadvantage which is imposed on top of one's impairment, that is, the disadvantage or restriction of activity caused by a contemporary social organization that takes little or no account of people with physical impairments."[11] Thus, Michael Oliver (one of the first proponents of the model) stresses that although "disablement *is* nothing to do with the body," impairment is "*nothing less than* a description of the physical body."[12]

Several interlocutors within Disability Studies have variously objected that insofar as proponents of the social model have forced a strict separation

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[9]See John Rajchman, *Truth and Eros: Foucault, Lacan, and the Question of Ethics* (New York: Routledge, 1991), p. 104.

[10]Michael Oliver, *The Politics of Disablement* (London: Macmillan Education, 1990), pp. 4-11.

[11]UPIAS, *The Fundamental Principles of Disability* (London: Union of the Physically Impaired Against Segregation, 1976). See Michael Oliver, *Understanding Disability: From Theory to Practice* (London: Macmillan, 1996), p. 22.

[12]Oliver, *Understanding Disability*. p. 35; emphasis added.

between the categories of impairment and disability, the former category has remained untheorized.[13] Bill Hughes and Kevin Paterson have remarked, for example, that although the impairment-disability distinction de-medicalizes disability, it renders the impaired body the exclusive jurisdiction of medical interpretation.[14] I contend that this amounts to a failure to analyze how the sort of bio-medical practices in whose analysis Foucault specialized have been complicit in the historical emergence of the category of impairment and contribute to its persistence.

Hughes and Paterson allow that the approach to disability that I recommend would be a worthwhile way to map the constitution of impairment and examine how regimes of truth about disabled bodies have been central to governance of them.[15] These authors claim nevertheless that the approach ultimately entails the "theoretical elimination of the material, sensate, palpable body."[16] This argument begs the question, however; for the materiality of the "(impaired) body" is precisely that which ought to be contested. In the words of Judith Butler, "there is no reference to a pure body which is not at the same time a further formation of that body."[17] Moreover, the historical approach to disability that I recommend does not deny the materiality of the body; rather, the approach assumes that the materiality of "the body" cannot be dissociated from the historically contingent practices that bring it into being, that is, bring it into being as that sort of thing. Indeed, it seems politically naive to suggest that the term "impairment" is value-neutral, that is, "merely descriptive," as if there could ever be a description that was not also a *prescription* for the formulation of the object (person, practice, or thing) to which it is claimed to innocently refer.[18] Truth-discourses that purport to describe phenomena contribute to the construction of their objects.

It is by now a truism that intentional action always takes place under a description. The possible courses of action from which people may choose, as well as their behavior, self-perceptions, habits, and so on are not independent of the descriptions available to them under which they may act; nor

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[13]See, for instance, Tom Shakespeare and Nicholas Watson, "Habeamus Corpus? Sociology of the Body and the Issue of Impairment," paper presented at Quincentennial Conference on the History of Medicine, Aberdeen, 1995; Bill Hughes and Kevin Paterson, "The Social Model of Disability and the Disappearing Body: Towards a Sociology of Impairment," *Disability & Society* 12 (1997): 325-40; Mairian Corker, "Differences, Conflations and Foundations: The Limits to the 'Accurate' Theoretical Representation of Disabled People's Experience," *Disability & Society* 14 (1999): 627-42.

[14]Hughes and Paterson, "Social Model," p. 330.

[15]Ibid., p. 332.

[16]Ibid., pp. 333-34. See also Shakespeare and Watson, "Habeamus Corpus?"

[17]Judith Butler, *Bodies that Matter: On the Discursive Limits of 'Sex'* (New York: Routledge, 1993), p. 10.

[18]Cf. Corker, "Differences, Conflations and Foundations."

do the available descriptions occupy some vacuous discursive space. Rather, descriptions, ideas, and classifications work in a cultural matrix of institutions, practices, power relations, and material interactions between people and things. Consider, for example, the classification of "woman refugee." The classification of "woman refugee" not only signifies a person; it is in addition a legal entity, and a paralegal one to which immigration boards, schools, social workers, activists, and others classified in that way may refer. One's classification (or not) as a "woman refugee," moreover, may mean the difference between escaping from a war-torn country, obtaining safe shelter, and receiving social assistance and medical attention, or not having access to any of these.[19] In short, the ways in which concepts, classifications, and descriptions are imbricated in institutional practices, social policy, intersubjective relations, and medical discourses structure the field of possible action for humans.

This, then, is the place in which to make explicit the notion of power upon which my argument relies. Following Foucault, I assume that power is more a question of *government* than one of confrontation between adversaries. Foucault uses the term "government" in its broad, sixteenth-century sense, which encompasses any mode of action, more or less considered and calculated, that is bound to structure the field of possible action of others.[20] Discipline is the name that Foucault gives to forms of government that are designed to produce a "docile" body, that is, one that can be subjected, used, transformed, and improved.[21] Disciplinary practices enable subjects to act in order to constrain them.[22] For juridical power *is* power (as opposed to mere physical force or violence) only when it addresses individuals who are free to act in one way or another. Despite the fact that power appears to be repressive, the exercise of power consists in guiding the possibilities of conduct and putting in order the possible outcomes. The production of these practices, these *limits* of possible conduct, furthermore, is a concealing. Concealment of these practices allows the naturalization and legitimation of the discursive formation in which they circulate.[23] To put the point another way, the production of seeming acts of choice (*limits* of possible conduct) on the everyday level of the subject makes possible hegemonic power structures.

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[19]Hacking, *The Social Construction of* What? pp. 31, 103-4.

[20]Foucault, "The Subject and Power," p. 221.

[21]Michel Foucault, *Discipline and Punish: The Birth of the Prison*, trans. Alan Sheridan (New York: Pantheon Books, 1977), p. 136.

[22]Cf. Hughes and Paterson, "Social Model," p. 334.

[23]Judith Butler, *Gender Trouble: Feminism and the Subversion of Identity*, 10th anniversary ed. (New York: Routledge, 1999), p. 2.

In what follows, I will show that the allegedly real entity called "impairment" is an effect of the forms of power that Foucault identifies. I take what might seem a circuitous route to arrive at this thesis. For in order to indicate how bio-power naturalizes and materializes its objects, I trace a genealogy of practices in various disciplinary domains (clinical psychology, medico-surgical, and feminist) that produce two "natural" sexes. In turn, I draw upon these analyses in order to advance my argument that "impairment" (the foundational premise of the social model) is an historical artifact of this regime of knowledge/power.

Both "natural sex" and "natural impairment" have circulated in discursive and concrete practices as nonhistorical (biological) matter of the body, which is molded by time and class, is culturally shaped, or *on which* culture is imprinted. The matter of sex and of impairment itself has remained a prediscursive, that is, politically neutral, given. When we acknowledge that matter is an *effect* of certain historical conditions and contingent relations of social power, however, we can begin to identify and resist the ways in which these factors have material-*ized* it.

Governing Sex and Gender

In the first edition (1933) of the Oxford English Dictionary, there is no entry for "gender" that describes it as a counterpart to "sex" in the modern sense; instead, in the first edition of the OED, "gender" is described as a direct substitute for sex. In the second edition (1962) of the OED, a section appended to the main entry for "gender" reads: "In mod[ern]. (esp. feminist) use, a euphemism for the sex of a human being, often intended to emphasize the social and cultural, as opposed to biological, distinctions between the sexes." Examples cited to demonstrate this usage include ones taken from feminist scholarship in addition to ones drawn from earlier clinical literature on gender role and identity that developed out of research on intersexuality ("hermaphroditism") in the 1950s.[24]

In fact, it was in the context of research on intersex that Johns Hopkins psychologist John Money and his colleagues, the psychiatrists John and Joan Hampson, introduced the term "gender" to refer to the psycho-social aspects of sex identity. For Money and his colleagues, who at the time aimed to develop protocols for the treatment of intersexuality, required a theory of identity that would enable them to determine which of two "sexes" to assign to their clinical subjects. They deemed the concept of *gender* (construed as the psycho-social dimensions of "sex") as one that would enable them to

[24]Bernice L. Hausman, *Changing Sex: Transsexualism, Technology, and the Idea of Gender* (Durham: Duke University Press, 1995), p. 7.

make these designations.[25]

In 1972, Money and Anke Ehrhardt popularized this idea that sex and gender comprise two separate categories. The term "sex," they claimed, refers to physical attributes that are anatomically and physiologically determined; by contrast, the term "gender," they wrote, refers to the internal conviction that one is either male or female (gender identity) and the behavioral expressions of that conviction. As Money and Ehrhardt explained it, gender identity is "the sameness, unity, and persistence of one's individuality as male, female, or ambivalent."[26]

Money and Ehrhardt claimed that their theory of gender identity enabled medical authorities to understand the experience of a given subject who was manifestly one "sex," but who wished to be its ostensible other. Nevertheless, in the terms of their sex-gender paradigm, "normal development" was defined as congruence between one's "gender identity" and one's "sexual anatomy."[27] Although Money and his colleagues concluded from their studies with intersexed people that neither sexual behavior nor orientation as "male" or "female" have an innate, or instinctive, basis, they did not recant the foundational assumption of their theory, namely, there are only two sexes. To the contrary, they continued to maintain that intersexuality resulted from fundamentally *abnormal* processes; thus, they insisted that their patients required immediate treatment because they *ought* to have become either a male or a female.[28]

Despite the prescriptive residue of the sex-gender formation, it appealed to early "second-wave" feminists because of its motivational assumption that everyone has a "gender identity" that is detachable from each one's so-called "sex." Without questioning the realm of anatomical or biological sex, feminists took up the sex-gender paradigm in order to account for culturally specific forms of an allegedly universal oppression of women.

The distinction between sex and gender that Gayle Rubin articulated in 1975 through an appropriation of structuralist anthropology and Lacanian psychoanalysis has arguably been the most influential one in feminist discourse. By drawing on Claude Levi-Strauss's nature-culture distinction, Rubin cast *sex* as a natural (i.e., prediscursive) property (attribute) of bodies and *gender* as its culturally specific configuration. As Rubin explained it, "Every society has a sex-gender system—a set of arrangements by which the biological raw material of human sex and procreation is shaped by human,

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[25]Ibid., passim.

[26]John Money and Anke Ehrhardt, *Man and Woman, Boy and Girl* (Baltimore: Johns Hopkins University Press, 1972), p. 257; quoted in Anne Fausto-Sterling, *Sexing the Body: Gender Politics and the Construction of Sexuality* (New York: Basic Books, 2000), p. 4.

[27]Fausto-Sterling, *Sexing the Body*, p. 7.

[28]Ibid., p. 46.

social intervention and satisfied in a conventional manner."[29] For Rubin, in other words, sex is a product of nature as gender is a product of culture.

The structuralist nature-culture distinction on which Rubin's sex-gender distinction relies was putatively invented to facilitate cross-cultural anthropological analyses; however, the universalizing framework of structuralism obscures the multiplicity of cultural configurations of "nature." Because structuralist analysis presupposes that nature is prediscursive (that is, prior to culture) and singular, it cannot interrogate what counts as "nature" within a given cultural and historical context, in accordance with what interests, whose interests, and for what purposes.[30] In fact, the theoretical device known as the nature-culture distinction is already circumscribed within a culturally-specific epistemological frame. As Sandra Harding remarks, the way in which contemporary western society distinguishes between nature and culture is both modern and culture-bound. In addition, the culture-nature distinction is interdependent on a field of other binary oppositions that have structured western modes of thought. Some of these others are: reason-emotion, mind-body, objectivity-subjectivity, and male-female. In the terms of this dichotomous thinking, the former term of each respective pair is privileged and assumed to provide the *form* for the latter term of the pair, whose very recognition is held to depend upon (that is, *require)* the transparent and stable existence of that former term.[31] In the terms of this dichotomous thinking, furthermore, any thing (person, object, or state of affairs) that threatens to undermine the stable existence of the former term, or to reveal its artifactual character (and hence the artifactual character of the opposition itself) must be obscured, excluded, or nullified.

To be sure, some feminists early criticized the nature-culture distinction and identified binary discourse as a dimension of the domination of those who inhabit "natural" categories (women, people of color, animals, and the non-human environment).[32] These early feminist critiques of the nature-culture distinction did not, however, extend to one of its derivatives: the sex-gender distinction. Donna Haraway asserts that feminists did not question the sex-gender distinction because it was too useful a tool with which to counter arguments for biological determinism in "sex difference" political

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[29]Gayle Rubin, "The Traffic in Women: Notes on the 'Political Economy' of Sex," in Rayna R. Reiter (ed.), *Toward an Anthropology of Women* (New York: Basic Books, 1975), p. 165.

[30]See Butler, *Gender Trouble*, p. 48.

[31]Sandra Harding, "The Instability of the Analytical Categories of Feminist Theory," in Micheline R. Malson, Jean F. O'Barr, Sarah Westphal-Wihl, and Mary Wyer (eds.), *Feminist Theory in Practice and Process* (Chicago: University of Chicago Press, 1989), p. 31.

[32]See, for example, Sandra Harding, *The Science Question in Feminism* (Ithaca: Cornell University Press, 1986), pp. 163-96.

struggles.[33] By ceding the territory of physical "sex," however, feminists actually encountered massive resistance and renewed attack on the grounds of biological difference from the domains of biology, medicine, and significant components of social science.[34]

The political and explanatory power of the category of gender depend precisely upon relativizing and historicizing the category of sex, as well as the categories of biology, race, body, and nature. Each of these categories has, in its own way, been regarded as foundational to gender; yet, none of them is an objective entity with a transhistorical and transcultural identity. In this regard, Nigerian anthropologist Oyeronke Oyewumi, for one, has criticized European and Euro-American feminists for their proposition according to which all cultures "organize their social world through a perception of human bodies as male or female." Oyewumi's criticism puts into relief how the imposition of a system of gender can alter how racial and ethnic differences are understood. In a detailed analysis, Oyewumi shows that in Yoruba culture, relative age is a far more significant social organizer than sex. Yoruba pronouns, for example, indicate who is older or younger than the speaker; they do not make reference to "sex."[35] In short, the category of sex (as well as the categories of biology, race, body, and nature) must be considered in the specific historical and cultural contexts in which it has emerged as salient.

Foucault makes remarks in another context that cast further suspicion on how the construct of an allegedly prediscursive "nature" operates within the terms of the sex-gender distinction. While the category of "sex" is generally taken to be a self-evident fact of nature and biology, Foucault contends that "sex is the most speculative, most ideal, and most internal element in a deployment of sexuality organized by power in its grip on bodies and their materiality, their forces, energies, sensations, and pleasures."[36] For Foucault, the materialization and naturalization of "sex" are integral to the operations of bio-power. In the final chapter of volume one of *The History of Sexuality*, Foucault explains that "the notion of 'sex' made it possible to group together, in an artificial unity, anatomical elements, biological functions, conducts, sensations, and pleasures, and it enabled one to make use of this

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[33]Donna Haraway, "'Gender' for a Marxist Dictionary: The Sexual Politics of a Word," in *Simians, Cyborgs, and Women: The Reinvention of Nature* (New York: Routledge, 1991), p. 134.

[34]See Fausto-Sterling, *Sexing the Body*, p. 4.

[35]Oyeronke Oyewumi, "De-confounding Gender: Feminist Theorizing and Western Culture, a Comment on Hawkesworth's 'Confounding Gender'," *Signs* 23 (1998): 1049-62, p. 1053; quoted in Fausto-Sterling, *Sexing the Body*, pp. 19-20.

[36]Foucault, *The History of Sexuality, Vol. 1*, p. 155.

fictitious unity as a causal principle, an omnipresent meaning."[37] In other words, the category of "sex" is actually a phantasmatic *effect* of hegemonic power which comes to pass as the *cause* of a naturalized heterosexual human desire.

Butler refers to this alleged chain of events as the "heterosexual matrix."[38] The heterosexual matrix is the grid of cultural intelligibility in whose terms bodies and identities are understandable if they are tokens of an unambiguous male or female "sex" that is expressed through one's gender as "a man" or as "a woman," where these genders are defined in opposition to each other through the compulsory practice of heterosexuality. Currently the hegemonic conception of gender in Euro-American cultures, the heterosexual matrix presupposes a causal relation among sex, gender, and desire; in addition, this conception suggests that desire reflects, or expresses, gender and that gender reflects, or expresses, desire. With Butler, I contend, however, that this conception of sex, gender, and desire obscures the gender trouble that runs rampant within queer, bisexual, lesbian, gay, transgendered, and even heterosexual contexts, where in no way can gender be assumed to follow from so-called sex, nor can desire, sexual practice, or sexuality in general, be assumed to follow from gender.[39] Indeed, because the cultural visibility of (for instance) queers, cross-dressers, butch lesbians, drag queens and transgendered people threatens to betray the contingent and coercive status of this heterosexual hegemony, subjects of these social groups are routinely disciplined and punished through supposedly random and unrelated acts of public humiliation, bashing, intimidation, murder, and other forms of gender policing.

Now, it might seem counterintuitive to claim (as Foucault does) that there is no such thing as "sex" prior to its circulation in discourse, for "sex" is generally taken to be the most fundamental, most value-neutral aspect of an individual. Thus, one might wish to object that even a die-hard anti-realist must admit that there are certain sexually differentiated parts, functions, capacities, and hormonal and chromosomal differences that exist for human bodies. I should emphasize, therefore, that my argument does not entail the denial of material differences between bodies. Rather, my argument is that these differences are always already signified and formed by discursive and institutional practices. In short, what counts as "sex" is actually formed through a series of contestations over the criteria used to distinguish between two natural sexes, which are alleged to be mutually exclusive.[40] Because "sex" inhabits haunted terrain in this way, an array of scientific, medical, and

[37]Ibid.
[38]Butler, *Gender Trouble*, pp. 45-100.
[39]See ibid., p. 117.
[40]See Butler, *Bodies that Matter.*

social discourses must be continuously generated to refresh its purportedly definitive criteria. Of course, dominant beliefs about gender infect these discourses, conditioning what kinds of knowledge scientists endeavor to produce about sex in the first place. As the work on intersexuality of Fausto-Sterling and others shows, however, the regulatory force of knowledge/power about the category of sex is nevertheless jeopardized by the birth of infants whose bodies do not conform to normative ideals of sexual dimorphism, that is, infants who are both "male" and "female," or neither.

Recall that Money and his colleagues appraised intersexed bodies to be "abnormal" and in need of immediate medical treatment, despite concluding that sexed identity had no instinctual or innate basis. The clinical literature produced by those upon whom authority is conferred to make such pronouncements is in fact replete with references to the birth, or expected birth, of an intersexed infant as (for instance) "a medical emergency," "a neonatal surgical emergency," and "a devastating problem."[41] Since this is the almost universal reaction of medical practitioners to the birth (or expected birth) of an intersexual baby, substantial resources are mobilized to "correct" these so-called *unfortunate errors of nature*, including genetic "therapies" known to carry risks to the unborn, multiple surgeries that often result in genital insensitivity from repeated scarring, and life-long regimens of hormone treatments.[42] That these culturally condoned practices of genetic manipulation, surgical mutilation, and chemical control (these *technologies of normalization*) circulate as remedial measures performed on the basis of spurious projections about the future best interests of a given infant de-politicizes their disciplinary character; in addition, the role they play in naturalizing binary sex-gender and upholding heterosexual normativity remains disguised.

The argument according to which "sex" is an effect of contingent discursive practices is likely to encounter significant resistance from the domains of evolutionary and molecular biology (among others). I should underscore, therefore, that these disciplines do not stand apart from other discourses of knowledge/power about sex. On the contrary, social and political discourses on sex-gender have contributed to the production of evolutionary arguments

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[41]Fausto-Sterling, *Sexing the Body*, pp. 275-76 n. 1.

[42]Fausto-Sterling, *Sexing the Body*. See also Cheryl Chase, "Affronting Reason," in Dawn Atkins (ed.), *Looking Queer: Body Image and Identity in Lesbian, Bisexual, Gay, and Transgender Communities* (New York: The Harrington Park Press, 1998); A.D. Dreger, *Hermaphrodites and the Medical Invention of Sex* (Cambridge, Mass.: Harvard University Press, 1998); Shelley Tremain, Review of Atkins (ed.), *Looking Queer: Body Image and Identity in Lesbian, Bisexual, Gay and Transgender Communities*, in *Disability Studies Quarterly* 18 (1998): 198-99; and Shelley Tremain, "Queering Disabled Sexuality Studies," *Journal of Sexuality and Disability* 18 (2000): 291-99.

and descriptions used in the physiology of reproduction, as well as to the identification of the objects of endocrinology (hormone science). From genitalia, to the anatomy of the gonads, and then to human chemistry, the signs of gender have been thoroughly integrated into human bodies. Fausto-Sterling points out, for example, that by defining as "sex hormones" groups of cells that are, in effect, multi-site chemical growth regulators, researchers *gendered* the chemistry of the body and rendered nearly invisible the far-reaching, non-sexual roles these regulators play in "male" and "female" development.

Fausto-Sterling remarks that the "discovery" of sex hormones early in the twentieth century heralded an extraordinary episode in the history of science. By 1940, scientists and researchers had identified, purified, and named these groups of cells. The scientists and researchers who investigated hormone science could make "hormones" intelligible, however, only in terms of the social and political struggles around gender and race that characterized the socio-cultural environments in which they worked. From the beginning, these research efforts both reflected and contributed to competing definitions of masculinity and femininity. As Fausto-Sterling explains it, with each choice these scientists and researchers made about how to measure and name the molecules they studied, they naturalized prevailing cultural ideas about gender.[43] In short, the emergence of scientific accounts about sex in particular and human beings in general can be understood only if scientific discourses and social discourses are seen as inextricable elements of a cultural matrix of ideas and practices.

Consider that if the category of sex is itself a *gendered* category (that is, politically invested and naturalized, but not natural), then there really is no *ontological* distinction between sex and gender. As Butler explains it, the category of "sex" cannot be thought as prior to gender as the sex-gender distinction assumes, since gender is required in order to think "sex" at all.[44] In other words, gender is not the product of culture and sex is not the product of nature, as Rubin's distinction implies. Instead, gender is the means through which "sexed nature" is produced and established as *natural*, as *prior to* culture, and as a politically neutral surface *on which* culture acts.[45] Rather than the manifestation of some residing essence or substrate, moreover, "gender identity" is the stylized *performance* of gender, that is, the sum total of acts believed to be produced as its "expression."

The claim that relations of power animate the production of sex as the naturalized foundation of gender draws upon Foucault's argument that

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[43]Fausto-Sterling, *Sexing the Body*, pp. 147-59.
[44]Butler, *Gender Trouble*, p. 143.
[45]Ibid., pp. 10-11.

juridical systems of power generate the subjects they subsequently come to represent. Recall that although juridical power appears to regulate political life in purely negative (repressive) terms by prohibiting and controlling subjects, it actually governs subjects by guiding, influencing, and limiting their actions in ways that seem to accord with the exercise of their freedom; that is, juridical power enables subjects to act in order to constrain them. By virtue of their subjection to such structures, subjects are in effect formed, defined, and reproduced in accordance with the requirements of them. That the practices of gender performance (construed as the cultural expression of a "natural sex") seem to be dictated by individual choice, therefore, conceals the fact that complicated networks of power have already limited the possible interpretations of that performance.[46] For only those genders that conform to highly regulated norms of cultural intelligibility may be lived without risk of reprisal.

The Subject of Impairment

Tom Shakespeare has claimed that the "achievement" of the U.K. disability movement (informed by the social model) has been to "break the causal link" between "our bodies" (impairment) and "our social situation" (disability).[47] Recall that the social model was intended to counter "individual" (or "medical") models of disability that conceptualized that state of affairs as the unfortunate consequences of a personal attribute or characteristic. In the terms of the social model, impairment neither equals, nor causes, disability; rather, disability is a form of social disadvantage that is imposed on top of one's impairment. In addition, impairment is represented as a real entity, with unique and characteristic properties, whose identity is distinguishable from, though may intersect with, the identities of an assortment of other bodily "attributes."

Proponents of the social model explicitly argue: (1) disablement is not a necessary consequence of impairment, and (2) impairment is not a sufficient condition for disability. Nevertheless, an unstated premise of the model is: (3) impairment is a necessary condition for disability. For proponents of the model do not argue that people who are excluded, or discriminated against, on the basis of (say) skin color are by virtue of that fact disabled, nor do they argue that racism is a form of disability. Equally, intersexed people who are socially stigmatized, and who may have been surgically "corrected" in

[46]See Butler, *Gender Trouble*.

[47]Tom Shakespeare, "A Response to Liz Crow," *Coalition* (September 1992), p. 40; quoted in Oliver, *Understanding Disability*, p. 39.

infancy or childhood, do not seem to qualify as "disabled."[48] On the contrary, only people who *have* or are presumed to *have* an "impairment" get to count as "disabled." Thus, the strict division between the categories of impairment and disability that the social model is claimed to institute is in fact a chimera.

Notice that if we combine the foundational (i.e., necessary) premise of the social model (impairment) with Foucault's argument that modern relations of power produce the subjects they subsequently come to represent (that is, *form* and *define* them by putting in place the limits of their possible conduct), then, it seems that subjects are produced who "have" impairments because this identity meets certain requirements of contemporary political arrangements. My discussion below of the U.K. government's Disability Living Allowance policy shows, for example, that in order to make individuals productive and governable within the juridical constraints of that regime, the policy actually contributes to the production of the "subject of impairment" that it is claimed to merely recognize and represent. Indeed, it would seem that the identity of the subject of the social model ("people with impairments") is actually formed in large measure by the political arrangements that the model was designed to contest. Consider that if the identity of the subject of the social model is actually produced in accordance with those political arrangements, then a social movement that grounds its claims to entitlement in that identity will inadvertently *extend* those arrangements.

If the "impairments" alleged to underlie disability are actually constituted

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[48]The analogical arguments that disability researchers and theorists make from "sex" not only reinstitute and contribute to the naturalization and materialization of binary sex—in addition, these arguments facilitate and contribute to the naturalization and materialization of impairment. To take one example, in order to argue that degrading cultural norms and values, exclusionary discursive and social practices, and biased representations produce disability, disability theorists have come to depend upon analogical arguments that illustrate how these phenomena operate in the service of sexism (e.g., Oliver, *The Politics of Disablement*). To take another example, the analogy from sexism is used to identify inconsistencies and double standards between the treatment of sexual discrimination in public policy and law and the treatment in the same domains of disability discrimination (e.g., Anita Silvers, David Wasserman, and Mary B. Mahowald, *Disability, Difference, Discrimination: Perspectives on Justice in Bioethics and Public Policy* [Lanham: Rowman & Littlefield, 1998]). The analogical structure of these arguments requires that one appeal to clear distinctions between males and females, and men and women, as well as assume a stable and distinct notion of impairment. In the terms of these analogical arguments, furthermore, "sex" and "impairment" are represented as separate and real entities, each with unique properties, and each of whose identity can be distinguished from that of the other. The heterosexual assumptions that condition this manner of argumentation in Disability Studies preclude consideration of the implications for work in the discipline of the questions that intersexuality raises (see Tremain, "Queering Disabled Sexuality Studies"; and Shelley Tremain, Review of Thomas, *Female Forms: Experiencing and Understanding Disability*, in *Disability & Society* 15 (2000): 825-29.

in order to sustain, and even augment, current social arrangements, they must no longer be theorized as essential, biological characteristics (attributes) of a "real" body upon which recognizably disabling conditions are imposed. Instead, those allegedly "real" impairments must now be identified as constructs of disciplinary knowledge/power that are incorporated into the self-understandings of some subjects. As *effects* of an historically specific political discourse (namely, bio-power), impairments are materialized as universal attributes (properties) of subjects through the iteration and reiteration of rather culturally specific regulatory norms and ideals about (for example) human function and structure, competency, intelligence, and ability. As universalized attributes of subjects, furthermore, impairments are naturalized as an interior identity or essence *on which* culture acts in order to camouflage the historically contingent power relations that materialized them *as* natural.[49]

In short, impairment has been disability all along. Disciplinary practices into which the subject is inducted and divided from others produce the illusion that they have a prediscursive, or natural, antecedent (impairment), one that in turn provides the justification for the multiplication and expansion of the regulatory effects of these practices. The testimonials, acts, and enactments of the disabled subject are *performative* insofar as the allegedly "natural" impairment that they are purported to disclose, or manifest, has no existence prior to or apart from those very constitutive performances. That the discursive object called *impairment* is claimed to be the embodiment of natural deficit or lack, furthermore, obscures the fact that the constitutive power relations that define and circumscribe "impairment" have already put in place broad outlines of the forms in which that discursive object will be materialized.

Thus, it would seem that insofar as proponents of the social model claim that disablement is not an inevitable consequence of impairment, they misunderstand the productive constraints of modern power. For it would seem that the category of impairment emerged and in part persists in order to legitimize the disciplinary practices that generated it in the first place.

The public and private administration and management (government) of impairment contribute to its objectivization. In one of the only detailed applications of Foucauldian analyses to disability, Margrit Shildrick and Janet Price demonstrate how impairment is naturalized and materialized in the context of a particular piece of welfare policy—the U.K.'s Disability Living Allowance (DLA)—that is designed to distribute resources to those

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[49]Cf. Paul Abberley, "The Concept of Oppression and the Development of a Social Theory of Disability," *Disability, Handicap & Society* 2 (1987): 5-19; and Carol Thomas, *Female Forms*.

who need assistance with "personal care" and "getting around." Shildrick and Price argue that although the official rationale for the policy is to ensure that the particularity of certain individuals does not cause them to experience undue hardship that the welfare state could ameliorate, the questionnaire that prospective recipients must administer to themselves abstracts from the heterogeneity of *their own* bodies to produce a regulatory category—impairment—that operates as a homogeneous entity in the *social* body.[50]

The definitional parameters of the questionnaire, and indeed the motivation behind the policy itself, posit an allegedly pre-existing and stable entity (impairment) on the basis of regulatory norms and ideals about (for example) function, utility, and independence. By virtue of responses to the questions posed on the form, moreover, a potential recipient/subject is enlisted to elaborate individuated specifications of this impairment. In order to do this (and to produce the full and transparent report that the government bureaucrats demand), the given potential recipient must document the most minute experiences of pain, disruptions of a menstrual cycle, lapses of fatigue, and difficulty in operating household appliances and associate these phenomena in some way with this abstraction. Thus, through a performance of textual confession ("the more you can tell us, the easier it is for us to get a clear picture of what you need"), the potential recipient is made a subject of impairment (in addition to being made a subject of the state), and is rendered "docile," that is, one to be used, enabled, subjugated, and improved.[51]

Despite the fact that the questions on the DLA form seem intended to extract very idiosyncratic detail from subject/recipients, the differences that they produce are actually highly coordinated and managed ones. Indeed, the innumerable questions and subdivisions of questions posed on the form establish a system of differentiation and individuation whose totalizing effect is to grossly restrict individuality.[52] For the more individualizing the nature of the state's identification of us, the farther the reach of its normalizing disciplinary apparatus in the administration of our lives. This, Foucault believes, is a characteristic and troubling property of the development of the practice of government in western societies: the tendency toward a form of political sovereignty that is a government of "all and of each," one whose concerns are to totalize and to individualize.[53]

Because Foucault maintains that there is no outside of power, that power

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[50]Margrit Shildrick and Janet Price, "Breaking the Boundaries of the Broken Body," *Body & Society* 2 (1996): 93-113, p. 101.

[51]Ibid., p. 102.

[52]Ibid., pp. 101-2.

[53]Foucault, "The Subject and Power"; Colin Gordon, "Governmental Rationality: An Introduction," in Graham Burchell, Colin Gordon, and Peter Miller (eds.), *The Foucault Effect: Studies in Governmentality* (Chicago: University of Chicago Press, 1991), p. 3.

is everywhere, that it comes from everywhere,[54] some writers in Disability Studies have suggested that his approach is nihilistic, offering little incentive to the disabled people's movement.[55] Clearly, this conclusion ignores Foucault's dictum that "there is no power without potential refusal or revolt."[56] In fact, Foucault's governmentality approach holds that the disciplinary apparatus of the modern state that puts in place the limits of possible conduct by materializing discursive objects through the repetition of regulatory norms also, by virtue of that repetitive process, brings into discourse the very conditions for subverting that apparatus itself. The regime of bio-politics in particular has generated a new kind of counter-politics (one that Foucault calls "strategic reversibility"). For individuals and *juridically constituted* groups of individuals have responded to governmental practices directed in increasingly intimate and immediate ways to "life," by formulating needs and imperatives of that same "life" as the basis for political counter-demands.[57]

The disabled people's movement is a prime example of this sort of counter-discourse; that is, the disciplinary relations of power that produce subjects have also spawned a defiant movement whose organizing tool (the social model of disability) has motivated its subject to advance demands under the auspices of that subjectivity. The current state of disability politics could moreover be regarded as an historical effect of what Foucault describes as the "polymorphism" of liberal govern(-)mentality, which is its capacity to continually refashion itself in a practice of auto-critique.[58] Yet, insofar as the identity of that subject (people with impairments) is a naturalized construct of the relations of power that the model was designed to rebut, the subversive potential of claims that are grounded in it will actually be limited. As Wendy Brown argues, disciplinary power manages liberalism's production of politicized subjectivity by neutralizing (that is, re-*de*-politicizing) identity through normalizing practices. For politicized identity both produces and potentially accelerates that aspect of disciplinary society that incessantly characterizes, classifies, and specializes through on-going surveillance, unremitting registration, and perpetual assessment.[59] Identities of the subject of the social model can therefore be expected to proliferate, splinter, and collide with increasing frequency as individualizing and total-

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[54]Foucault, *The History of Sexuality, Vol. 1*, p. 93.

[55]See, for example, Thomas, *Female Forms*, p. 137.

[56]Michel Foucault, "Power and Sex," in *Politics, Philosophy, Culture: Interviews and Other Writings (1977-1984)*, ed. Lawrence D. Kritzman (London: Routledge, 1988), p. 84.

[57]Gordon, "Governmental Rationality," p. 5.

[58]Foucault, "The Birth of Biopolitics," pp. 74-77.

[59]Wendy Brown, *States of Injury: Power and Freedom in Late Modernity* (Princeton: Princeton University Press, 1995), pp. 59, 65.

izing diagnostic and juridical categories offer ever more finely tuned distinctions between and varieties of (for instance) congenital and acquired impairments, physical, sensory, cognitive, language, and speech impairments, mental illnesses, chronic illnesses, and environmental illnesses, aphasia, dysphasia, dysplasia, and dysarthria, immune deficiency syndromes, attention deficit disorders, attention deficit hyperactivity disorders, and autism.

This, then, is the paradox of contemporary identity politics, a paradox with which Disability Studies and the disabled people's movement must soon come to terms. Many feminists have long since realized that a political movement whose organizing tools are identity-based shall inevitably be contested as exclusionary and internally hierarchical. As I suggest elsewhere, a disabled people's movement that grounds its claims to entitlement in the identity of its subject ("people with impairments") can expect to face similar criticisms from an ever-increasing number of constituencies that feel excluded from and refuse to identify with those demands for rights and recognition; in addition, minorities internal to the movement will predictably pose challenges to it, the upshot of which are that those hegemonic descriptions eclipse their respective particularities.[60]

In short, my argument is that the disabled people's movement should develop strategies for advancing claims that make no appeal to the very identity upon which that subjection relies. Brown suggests, for example, that counter-insurgencies ought to supplant the language of "I am" ("with its defensive closure on identity, its insistence on the fixity of position, and its equation of social with moral positioning") with the language of "I want this for us."[61] We should, in other words, formulate demands in terms of "what we want," not "who we are." In a rare prescriptive moment, Foucault too suggests that the target for insurgent movements in the present is to refuse subjecting individuality, not embrace it. As Foucault puts it, the political, ethical, social, philosophical problem of our day is not to liberate ourselves from the state and the state's institutions, but to liberate ourselves both from the state and the type of individualization that is linked to the state.[62]

The agenda for a critical Disability Studies movement, furthermore, should be to articulate the disciplinary character of that identity, that is, articulate the ways that disability has been naturalized *as* impairment by identifying the constitutive mechanisms of truth and knowledge within scientific and social discourses, policy, and medico-legal practice that have produced that contingent discursive object and continue to amplify its regulatory effects. Disability theorists and researchers ought to conceive of

[60]See Tremain, Review of Thomas, *Female Forms*.
[61]Brown, *States of Injury*, p. 75.
[62]Foucault, "The Subject and Power," p. 216.

this form of inquiry as a "critical ontology of ourselves." A critical ontology of ourselves, Foucault writes, must not be considered as a theory, doctrine, or permanent body of knowledge; rather, this form of criticism must be conceived as a "limit-attitude," that is, an ethos, a philosophical life in which the critique of what we are is at the same time the historical analysis of the limits imposed on us.[63] In particular, the critical question that disability theorists engaged in an historical ontology would ask is this: Of what is given to us as universal, necessary, and obligatory, how much is occupied by the singular, the contingent, the product of arbitrary constraints? Lastly, a critical ontology of our current situation would be genealogical:

> [I]t will not deduce from the form of what we are what it is impossible for us to do and to know; but it will separate out, from the contingency that has made us what we are, the possibility of no longer being, doing, or thinking what we are, do or think. It is not seeking to make possible a metaphysics that has finally become a science; it is seeking to give new impetus, as far and wide as possible, to the undefined work of freedom.[64, 65]

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[63]Michel Foucault, "What is Enlightenment?" in *Ethics, Subjectivity and Truth*, p. 319.
[64]Ibid., p. 315.
[65]I would like to thank Barry Allen and the guest editors of *Social Theory and Practice* for their comments and suggestions on earlier drafts of this paper, as well as Ron Amundson, with whom I discussed one of its arguments.