

The Fear of “Disability Con”: Backlash and Mistrust in the Shadow of the Law

According to the U.S. Census Bureau one in every five Americans has some kind of disability, making this group the largest minority in America. People with disabilities enjoy a robust body of legislation aimed at illustrating and protecting their rights, including the omnibus Americans with Disabilities Act, which adopted a “cross disability approach” and covers people with mental, physical, sensory and developmental disabilities (just to name a few). Nevertheless, disability studies scholars argue that there is something that occludes disabled individuals from participating fully in the labor market, education and society. This project helps to delineate and explain the invisible barriers confronted by Americans with disabilities when trying to obtain their accommodations and rights. These invisible barriers have to do with the public suspicion of malingering and abusing disability law.

I argue that this perceived abuse caused a “popular backlash” against disability rights, which mirrors in a lot of ways what was termed the “Supreme Court backlash” and the Court’s “hostility towards disability-related suits,” yet has not been fully addressed in the literature. This backlash manifests in suspicion and negative attitudes towards people with disabilities among courts, the media and consequently in public perceptions and interactions between disabled and non-disabled members of society.

This project examines everyday interactions with disability in places laypeople pass by almost daily: parking lots, office buildings, airport terminals, corridors of schools and universities and many more. It highlights tacit judgments about the authenticity of people claiming disabilities by passers by. Laypeople have unstated assumptions regarding the “true nature” of others’ disabilities and the perceived motives and legality behind their actions in utilizing disability law. These situations fall under what I call the “public perception of disability con,” i.e., the fear of people taking advantage of accommodations and disability-related rights by faking disabilities. This suspicion discourages people with disabilities from claiming and maintaining their legal rights. Thus it prevents their equal participation in social life.

Instances when non-disabled people pretend to have disabilities may occur in myriad everyday life situations. People may pretend to be disabled in order to get some kind of benefit or “perk” such as getting a favorable parking spot, having privileges with regard to their pets (which they present as service animals), getting on board flights faster, earning extra time on exams in educational settings, skipping lines at theme parks or at governmental offices, or claiming governmental assistance in the form of Social Security disability benefits. Similar concerns can also happen when persons with disabilities exaggerate their conditions in order to get benefits.

This is the first study that seeks to empirically assess the phenomenon of the public suspicion of disability con. It attempts to answer the following questions: (1) How widespread is the phenomenon of public perception of disability con among the American public and how does it manifest? (2) What everyday life situations and circumstances produce more suspicion? (3) How does the suspicion of disability con affect people with disabilities? (4) Does it prevent them from maintaining their legal rights?

I am using a mixed methods approach – collecting data via a survey of a representative sample of the U.S. population to answer the first two research questions, alongside one-on-one interviews conducted with people with disabilities, to answer the last two questions. The survey (conducted with a sample of 1,085 respondents) aims to reach the general public (disabled and non-disabled people) and assess their perceptions about the misuse of disability rights and their reactions to situations that are prone to the disability con. The interviews were conducted with a different research population, 43 disabled people who live independently in the SF Bay Area, in order to explore how the fear of disability con affects their lives and psychological strategies of claiming and negotiating rights. Ultimately, I offer policy recommendations to improve the lives of disabled Americans.