Book Reviews

JACKIE GULLAND, Gender, Work and Social Control: A Century of Disability Benefits. London: Palgrave Macmillan Press, 2019, pp. 240, ISBN 978-1-137-60564-1, £79.00 (hbk).

The development of the contemporary social security system has seen support to those who are sick and disabled greatly rationalised. Claimants are required to go through, what has often been termed a ‘humiliating’ medical examination and complicated bureaucratic process in order to evidence entitlement to benefit. Gulland’s text provides a critical historic context for the architecture of current system which is premised on ‘using mechanisms of social control to regulate the lives of claimants’ (2019: 2).

Gulland competently examines the definition of incapacity for work through a sociological lens using legislation and case law as an analytical framework to understand the trajectory of benefit provision for those individuals who ‘fail’ to remain in work due to a period of incapacity (2019: 7). In addition, the author provides an important contribution to the limited existing scholarship through the critical focus on the intersection between gender and disability. Through forensic archival research and subsequent detailed analysis of tribunal case law, Gulland asserts that gendered assumptions about women’s role in society was deeply embroiled into incapacity benefit decision making. The author effectively paints a picture of women’s experience by concentrating on the central tenet played by domestic work and it’s propensity to exclude women from entitlement (specifically in chapter 6).

The book provides a thematic view of the last 100 years. The use of specific appeal cases, coupled with background material in policy maker’s records and correspondence acts as compelling anchor points for the authors legal and sociological arguments; effectively drawing the reader deeply into the socio-political periods under discussion. Chapter 1, provides an introduction to the text, providing a theoretical grounding for the key terms and concepts that are referred to throughout the book. The author argues that the structure and indeed the premise of incapacity benefits is unsuited to the social model of disability because ‘they imply that individual capacity can be identified’. This is the case across the UK system of social security whereby provision is individualised and generally fails to consider the what barriers exist in the workplace and in society more generally which make it difficult for a person or group of person(s) to make a living (2019: 7). The author explains that the uncomfortable outcome of this inevitable nexus is that policymakers have been inclined to design a cost effective way to separate the genuine from the malingerers. The main method which has been relied upon, from the inception of income replacement for the sick has been medical examination. The
author’s theoretical underpinning is Foucault’s work on power relations, where he argues that the medical examination is both an exercise in ‘pinning down’ the details of an individual’s life and ‘confirming the individual as an object of power’ (Foucault, 1977: 192). The author concludes that ‘categories such as incapacity are social constructions presented at facts’ (2019: 8). This line goes to the heart of much of the author’s subsequent sociological analysis and indeed points to the role that social control played in the last 100 years and continues to play in the current system.

Chapter 2 takes us to the beginning of the system of benefits for the sick and disabled, providing a description of the National Insurance Act 1911 and the mechanisms for appeal over the following 100 years, providing an important context for the chapters which follow. Chapter 3 provides an outline of key legislation and case law in relation to the developing definition of incapacity for work following its meaning from 1911 to the present. The author looks to the statutory definition of incapacity in tandem with the evolving boundaries between ‘sickness’ and ‘disability’ inherent in the case law and supplementary policy context provided by government documents and records of friendly societies who administered sickness benefit in the early part of the Century. Chapter 4 considers the different types of evidence that have been used to decide whether a claimant is incapable for work, while chapter 5 considers the role of the labour market in assessments for incapacity for work. The author refers to frontline decision making as well as tribunal appeal decisions. Chapter 6 focuses on the gendered implications of unpaid domestic work in the home falling to women. The author describes decision makers and indeed policy makers as having an ‘obsession’ with housework and more specifically the ability of women to continue household duties as an indication of their capacity for work. The pinnacle of the ‘obsession’ came in the 1970s, when the government introduced the discriminatory Housewives Non-Contributory Incapacity Benefit and its test of whether a woman claiming incapacity for work was able to carry out ‘normal household duties’. In chapter 7, the author delves into definitions of work where it is asserted that legal definitions of work in the UK social security system are underpinned by the assumption that work means paid work. The chapter considers how incapacity benefits systems, front-line decision makers, case law and claimants themselves have conceptualised work. While interpretations of work varied, the author concludes that central to the historic and indeed the contemporary legal conception of work is its virtuous status as opposed to ‘perceived worklessness’ (2019: 153).

Chapter 8 considers the interesting issue of moral regulation in incapacity benefit schemes, reflecting on moralising approaches used in the early 20th Century which punished individuals for sexual misconduct, alcoholism and criminal behaviour. The author effectively links the past to the present by pointing to the introduction of the two child rule in 2016, which seeks to punish poor women for having more children than they can afford, thus reflecting long-held assumptions about their sexual morality. Chapter 9 explores the use of surveillance as a mechanism of social control in the incapacity benefit system. Until the 1980s there was a network of sick visitors who were employed to ensure that those claiming sickness benefit were not perpetrating behaviour which was considered inappropriate in view of their workless status. Also considered is the centrality of the medical examination, which has been used from the early 20th Century to
validate benefit claims. Chapter 10 concludes the text, and the author ends with a valuable personal insight extending from the research journey, explaining that she set out under the impression that she would come to conclusions about people’s capacity for work and how medical models of disability defined people as incapable. Yet, by the end of the writing process, the author was rather resolute that ‘the book is really about work . . . who should be compensated when work does not provide a sufficient income and who should be exempted from any requirement to look for it’ (2019: 203). Also critical are the author’s final thoughts on the non-existence of a system of incapacity benefits which would be more humane than current and past structures. Particularly pertinent in this context is the experience of women, who continue to shoulder the burden of unpaid care, as well as those who are disabled and struggle to surpass the barriers created by society, rather than their impairments. In short, levels of compensation for paid work are founded on characteristics such as gender, social class, ethnicity, caring responsibilities, disability and the state of the labour market (2019: 208).

The foremost strength of the book is the use of tribunal appeal case law to bring to life the arguments that the author sought to make. The approach adopted is highly original in that it brings to the fore obscure legal material that is often overlooked by legal scholars, but which so effectively lays out the extent of social control and gender discrimination which has become deeply engrained in the social security system. Chapter 6, stands out in this regard, in relation to its powerful illustration of how the ability to carry out housework more often than not precluded women from entitlement to incapacity benefit. This is in many ways, a shocking indictment of how the welfare state treated and continues to treat women. Taking a thematic rather than a chronological approach is effective at immersing the reader into the material presented from the outset and indeed provides the reader with a comparative framework from which to distinguish how the historic system is strongly reflected in the contemporary system of benefits. The structure coupled with the author’s direct and accessible writing style creates a highly engaging and enjoyable reader experience, which is unique when dealing with the complexities of the social security system. The author clearly determines the parameters of investigation as the last 100 years and in doing this, there is limited engagement with the Universal Credit system that has now replaced Employment and Support Allowance (the most recent development that the author engages with). As a social security scholar, I was extremely interested in the author’s view of the system of support that Universal Credit offers to sick and disabled claimants, and indeed in reading an analysis of the extent to which the problems outlined in the text continue to prevail and if they have changed. Furthermore, in the very last paragraph of the book, Gulland offers a possible solution as a ‘citizens’ income which does not rely on categorising people as capable or incapable of work’. It would be useful to see this developed further.

There is a very promising opportunity to further develop the methodology and scholarship presented in this book and to continue the story that the author has told so compellingly.

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Criminal justice is perhaps the most extensively researched area of sociolegal studies on China, yet it remains a large black box. Most existing studies focus on the more visible parts of China’s opaque criminal justice system, such as criminal trials, defence lawyers, or street-level policing. The procuratorate, one of the three pillars of the ‘iron triangle’ of Chinese criminal justice (together with the police and the court), is almost out of sight for sociolegal researchers due to the difficulty of access.

Yu Mou’s ground-breaking book *The Construction of Guilt in China* sheds light on an obscure and dark side of Chinese criminal justice, or what she calls ‘routine Chinese injustice’. Her focus is not on any high-profile law practitioner or *cause célèbre*, but on the most mundane everyday practices of police officers and procurators that subvert law and justice. By tracing the social construction of the criminal case dossier from police investigation to prosecution review and then to trial by a variety of legal actors, Mou’s book presents by far the most vivid and in-depth depiction of how injustice occurs on a regular basis in China’s criminal justice system. The book makes no grand theoretical argument, nor does it contain any sensational case narrative, yet it presents extraordinarily rich and powerful empirical materials from the author’s interviews, participant observation, and archival research.

The book begins with a discussion of the meanings of justice, injustice, and truth in the Chinese context. Mou first presents a number of high-profile wrongful convictions and then argues that low-profile cases of routine injustice deserve more attention because ‘the accused people in these cases have experienced a kind of injustice that has been so deeply ingrained and integrated into the system’ (p. 11). Such injustice is often invisible from the public view as it is ‘a normalised miscarriage of justice’ (p. 12) embedded in the criminal process itself. Truth in Chinese criminal justice is considered an ‘objective truth’, yet it ‘is often involved with legal actors engaging with and manipulating rules’ (p. 18). At the centre of this social construction of justice and truth is the case dossier, a material product of routine, bureaucratic policing, prosecutorial, and judicial work. As Mou demonstrates with numerous examples throughout the book, routine Chinese injustice occurs precisely in the social production of the case dossier.

Getting access to criminal case dossiers is a challenging task in China. While many judicial decisions are made available online in recent years, the full case dossier is rarely exposed to the public. Mou adopted the classic sociolegal approach of participant