19 NEURODIVERSITY AND THE ETHICS OF ACCESS

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Introduction

Some of the most prominent conversations about disability in analytic ethics have been about the degree to which disabled lives are worth living, whether we ought to select against disabled people being born, and the degree to which disabled people might be owed compensation for their “unfortunate” circumstances in life. In real life, and in sharp contrast to this rather bleak theoretical milieu, questions arise not just about us but also *for* us. While other philosophers debate our status as moral agents and moral recipients, we navigate a rich tapestry of social life and experiences, all while mucking our way through complex interpersonal ethical conundrums among ourselves using conceptual resources that we have needed to invent on our own. The current lens with which philosophers tend to think about disability is ableist and blocks the view of this more lively and theoretically rich landscape. The distance between the kinds of questions about disability that are most often discussed in philosophy and the kinds of questions about disability that tend to come up in daily life can be keenly felt in the context of neurodiversity and interpersonal ethics. In this chapter, I aim to illuminate a small part of this terrain, focusing on the normative underpinnings of neurodiversity-related access claims, both their legitimacy and the adjudication of conflicts between them.

Neurodiversity

The word *neurodiversity*, at least as I use it, does double duty. First, the term *neurodiversity* is a descriptive umbrella term that refers to various kinds of cognitive diversity, including, most famously, the kinds of cognitive differences typified by autistic people and people with ADHD, as well as people with diagnoses such as Tourette syndrome, dyslexia, sensory processing disorders, and OCD and others. On this usage, phenomena such as the way that an ADHDer experiences time, or the need to avoid certain kinds of tactile stimulation that an autistic person feels, can be described as neurodivergent traits. Second, following Nick Walker and Robert Chapman, *neurodiversity* names a paradigm shift from thinking about these kinds of differences as pathologies to thinking of them as neutrally valanced human differences, where there is no "normal" or "correct" way for an individual mind to be (Walker 2012; Chapman 2019). Although I do not present an argument for the neurodiversity paradigm in this chapter, I nevertheless adopt it in the chapter.

How should we distinguish neurodiversity-type differences from other kinds of personality traits?[1] For example, I consider my ADHD, misophonia, aphantasia, and synesthesia to be neurodiversity-related. Yet I do not consider my vegetarianism, my nosiness, or my artistic ability to be neurodiversity-related. I take this distinction to be somewhat intuitive. In adopting a neurodiversity paradigm, however, we lose two of the ways in which people might have thought that we could explain this distinction. First, inasmuch as we drop the premise that neurodiversity-related traits inherently involve dysfunction, we cannot thereby simply bracket out the things that are typically seen as positive traits from being potentially neurodiversity-related. Second, inasmuch as we drop the premise that neurodiversity-related traits are caused by distinctive illnesses to be conceptualized by medical diagnosticians, we can no longer bracket out subclinical forms of traits such as inattentiveness or sound sensitivity. Many of these traits are scalar variations in natural human diversity that are not different in kinds from the traits that characterize neurodiversity-related diagnoses. While I take complicating the presumed valence and distinctiveness of neurodiverse traits to be generally good upshots of adopting a neurodiversity paradigm, they complicate the ethics of accessibility insofar as they blur the line between neurodiversity-related traits and other kinds of human difference.[2]

The Ethics of Access

By "disability access," I mean to refer to choices and design of social spaces that do not preclude disabled people from full participation in cultural, social, and political life. In adopting the neurodiversity paradigm, I recognize the site of neurodivergent difficulty as pertaining to the relation between environments and individuals and, in particular, that the availability of certain kinds of access to environments can radically reshape the experience of what it is to have a certain kind of neurodivergence. Genuine accessibility, as many have argued, encompasses more than basic adjustments to inaccessible environments or minor modifications to them that disabled self-advocates themselves have been required to request.[3] Indeed, robust accessibility involves more than the perception that disabled people are misfits to be accommodated with certain discretionary resources to help them—a kind of "consumptive access" (Brewer, Selfe, and Yergeau 2014). In other words, genuine access cannot be achieved by following checklists, since, as Wood et al. put it,

> A checklist approach locates disability over there, isolates disability within the body or mind of one student in one class, freezes disability as a set of symptoms rather than as a social process—or demands that disability be overcome—and allows us to perpetuate the fiction that disability is not me or not now. (Wood et al. 2014: 147)

In short, the ethics of access will require a thoroughgoing interrogation of how our social landscape privileges certain kind of experiencers, on the one hand, and casts aside certain other kinds of experiencers, on the other hand, doing so in ways that are intimately intertwined with the co-construction of our categories of normalcy and disability. As Anita Silvers puts it, working toward genuine accessibility will involve "profound transformation" of the "core conventions that regulate our social interactions" (Silvers 1998: 33).

I want to take a step away from the conversations about costliness, productivity, and legal protections that have so often dominated conversations about access in order to talk about a broader set of ethical issues. Many questions about access involve the literal ability of disabled people to physically enter spaces. This focus is for good reason, as there are far too many places that disabled people still cannot even physically enter. (A snapshot: as of the summer of 2019, only 23 percent of the subway stations in New York City—a city that runs primarily on public transportation—were ADA accessible.) Other questions concern whether people can access spaces and experiences in the sense of, for example, the availability of American Sign Language interpreters for deaf people at talks and concerts. While these basic necessities are, of course, crucial for securing access, I take the normative dimension in these cases to be simple: it is unconscionable to not provide basic access to civic life for all disabled people in society.

In this chapter, I aim to tackle a theoretically thornier set of issues that involve cases in which a person can enter a given space and therein meaningfully participate in some way, though not without significant struggle that could, in theory, be eliminated via some modification. These cases include ones in which a person must exert excessive effort to engage in the social activities themselves, in addition to cases in which the "exhausting labors of passing may make some semblance of presence possible, but with significant hidden costs to the participant" that may manifest themselves at a later time (Hamraie 2016: 261). Examples of cases with such hidden costs include the performance of activities that require concurrently suppressing one's tics or maintaining the sustained performance of non-instinctual eye contact.

Bringing these kinds of cases into focus can help us to see how the ways in which we organize our built environments, social norms, and institutions cater to a mythical "ideal" and thereby, through pathologization, makes it difficult for people who do not fit with this ideal to meaningfully access them. As a shorthand, I will call this suite of arranged environments, norms, and institutions our "common social life." Whereas the architect of a new building might be subject to laws requiring the inclusion of ramps and elevators, we are all, collectively, the social architects of our common social life. I take it as given, therefore, that we are subject to the demands of the ethics of accessibility as we go about creating and modifying our social environments. Just about all of us live in societies with entrenched histories of ableism, so we are starting off at a deficit. This observation brings us to the question at hand: given this deeply imperfect status quo, how ought we to navigate claims to modify aspects of our current common social life in order to improve disability access?

In answering this, we will need to grapple with two related questions: one about legitimacy and the other about the adjudication of conflicts.

First, as I have already noted, when looking through a depathologized lens, it is more difficult to draw the line between neurodiversity-related access requests and non-neurodiversity-related requests to change some aspect of our common social life. How ought we to think about this difference and demarcate it? What kind of normative weight does the fact that a request is legitimately neurodiversity-related carry with it?

Second, Universal Design—the design of environments accessible to all from the get-go—has been promoted by disability advocates since the 1960s. This movement aims to radically reconceive the default design of spaces such that maximal accessibility is the norm, with the concept of an ability-neutral space acting as an aspirational idea as well as a sort of creative challenge to the status quo. The fact of the matter is, however, that some environments cannot be made simultaneously accessible to all because the steps that are required to make some aspect of our common social life accessible to a certain set of disability needs, may conflict with another set of disability access needs. While this realization is too often used to rationalize inaccessibility, it is also true. Of course, many (or maybe even most?) times such conflicts are merely illusory or contrived—a result of a lack of creativity, understanding, or investment in relevant technologies. Yet even in the most ideal of circumstances, there can be conflicts where what is needed to make some space accessible for one person is precisely the thing that makes the space inaccessible to another person (Barclay 2011). Examples include: access claims to dim lighting and bright lighting (Shakespeare 2006: 46), warmer and cooler room temperatures, the need to stim and misokinesia (a deeply aversive automatic reaction to others' repetitive movements), claims to relax norms about the volume of voices due to an inability to control one's volume, and hypersensitivities to louder voices. Ultimately, there can be no truly "ability-neutral" environment, that is, there can be no environment that does not advantage people with some physical and mental characteristics (Barclay 2011, 2018). If we wish to promote disability justice, how, then, should we mediate these inevitable conflicts between incompatible but legitimately disability-based claims for access?

A Real-Life Illustration

To make concrete the kinds of applications I have in mind, I will illustrate with a case that stems from lived experience. My spouse is autistic and, for them, this comes with auditory processing differences. In particular, auditory discrimination of spoken word can sometimes be challenging. As they have described it to me, listening is, for them, a two-step process. The words first come to them in a jumbled mess and they must, in turn, disentangle them before they can understand what has been said. For this reason, watching television with subtitles can be very helpful, easing the cognitive burden of unscrambling spoken sentences and making the activity more relaxing. It is not as if they *can't* watch TV otherwise. We communicate in spoken language with each other every day. However, the combination of background music, unfamiliar speakers, and increased difficulty of reading lips makes parsing television even more difficult than other forms of auditory communication.

While subtitles are widely lauded as an accessibility measure with a broad range of benefits, I find it difficult to watch television with subtitles. I tend to avoid watching foreign shows in different languages for this reason and would never choose to watch something with subtitles on my own. For a long time, I could not pinpoint why this was the case, except that I found them distracting. Had I simply thought that captions were a visual eyesore? Was I some sort of television aesthete who thought my immersion was ruined by seeing the words before they were spoken? None of these possibilities seemed right to me; but I knew, my preference was very strong, given that I would usually rather not watch television at all than watch a subtitled show.

I eventually came to discover that my aversion to subtitles was actually rooted in a sensory processing difference of my own, which I did not previously know existed. It turns out that I have a visual processing difference known as ventral simultanagnosia, which entails that whereas I can visually see multiple objects at a time I can only *identify* one at a time in a complex scene. In retrospect, this diagnosis makes a lot of sense of some of my experiences. For instance, I had to skip all of the questions on the GRE that involved making inferences from graphs; I never could understand the Sunday comics; and I often miss visual cues, which, in television, are frequently used as crucial storytelling devices. Subtitles are difficult for me when I am watching television, I have come to understand, because the presence of written words, which my eyes gravitate toward as more familiar visual signals, exacerbates my tendency to miss crucial visual information.

From the very beginning of our relationship, I was puzzled by the conundrum of whether my spouse and I should put on the subtitles when watching television together. Although my preference was stronger than theirs, the fact that their preference was neurodiversity-related, and mine, given what I knew at the time, was not, seemed to make a normative difference. What was it about having the label of "ventral simultanagnosia" that made me come to believe that my access claim now had legitimate normative weight? And, now that we found ourselves in a situation in which we could safely say that both of our claims were neurodiversity-related, we were faced with the problem of two neurodiversity-related claims that conflicted at a fundamental level. How then, I wondered, should we adjudicate *that* kind of conflict?

Perhaps, in the ideal world, the government would invest in supplying my spouse with a pair of captioning glasses and inventing and supplying to me a pair of glasses that superimpose image descriptive tags. But that is not the world in which we live. The world in which we currently live requires that we sometimes navigate the principles of justice on our own in a sub-institutional way. It requires that we navigate our marriage ethically in a way that is consistent with promoting disability justice. But what, exactly, does that require in this case?

In what follows, I provide a preliminary survey of five different approaches that one could take to a situation like ours, as well as to neurodiversity and the ethics of accessibility in general.

Approach 1: Biting the Bullet

One option is to bite the bullet and admit that there is no fundamental difference in kind between access-related preferences and run-of-the-mill preferences after all. As Putnam et. al. (2019) point out, irrespective of any special claim to compensation that one might propose be tied to their disability status, aspects of our common social life might be condemned for being unjustly restrictive. Broadly egalitarian concerns require that we build inclusive environments for the wide range of human variation and that each person's claims to aspects of our common social life be respected in their full weight. On this view, when there are conflicts between two preferences, in general, the stronger preferences ought to win out. As a point in favor of this approach to access conflicts, strength of preference is likely to correspond to willingness to participate, thus honoring stronger preferences is more likely to retain the broadest range of participation, which might be seen as an important aspect of promoting inclusivity.

While it seems that we ought to pay special attention to neurodiversity-related requests due to the privileged status that they have, in this view it is not because they actually have any such status or are more important than any other preferences. One way of explaining why these requests nevertheless seem to be worthy of special attention is that they tend to be subject to significantly more invalidation than other kinds of preferences. We have reason to treat them *as if* they have a special normative status because we are epistemically positioned poorly with respect to their recognition. As a result, we assume that such preferences are much weaker than they in fact are. This view suggests that to adjudicate conflicts, we should look to the relative strength of preferences, but then adjust the weightings in favor of neurodiversity-related claims due to these foreseeable epistemic gaps.

What kinds of epistemic problems might warrant such a norm? First, neurodivergent people are subject to testimonial injustice (Fricker 2007), in which we are systematically wronged in our capacity as knowers, even of, and indeed especially of, our own experience and needs. We are subject to testimonial injustice, that is, credibility deficits on the basis of prejudicial characterizations of people with neurodivergent traits and/or labels. We are socially devalued, as a group, due to our identity group membership, cast as emotionally unstable, cognitively unreliable, or bizarre, as well as dangerous and morally suspicious: features that interfere with the perceived credibility of our characterizations of our own experiences and needs [Jackson et al. (2009: 167–8), Carel and Kidd (2014: 529), Kurs and Grinshpoon (2018)]. This credibility deficit leads to a second factor that works in tandem—namely, that we are less likely to express our preferences because we face poor outcomes when we do. Given the stigma and the long-standing trope of disabled people as burdens, we tend to downplay our own access needs.

We are also subject to hermeneutical injustice (Fricker 2007). We sometimes simply do not have the words to explain why our preferences are as they are, which can make it less believable that our strong preferences really are as strong as we say that they are. Having only inchoate ways of characterizing one's experience may stem in part from an unjust flaw in shared hermeneutic resources. Neurodivergent people have long been systematically excluded from the institutions that seek to explain and make sense of the phenomena of cognitive diversity, which could very well lead to a failure to develop ways of adequately describing the experience from a first-personal point of view. In academic fields such as philosophy and psychiatry that aim to describe cognitive difference, neurodivergent people are disenfranchised from shaping dominant descriptive models in their likenesses since, as Abigail Gosselin puts it, reasoning capacity "is the currency of power, authority, and privilege" such that self-disclosure threatens one's status (Gosselin 2019). When we do have words to explain our neurodiversity-related difficulties with navigating the world, they are often medicalized to the extent that they imply that the most salient, or perhaps easiest, thing to do would be to fix you rather than to fix the world.

Consider, for example, the fact that the frustrated reactions of autistic children whose complex access needs have not been met tend to be reductively described as "meltdowns," which makes these reactions seem disproportionate to the situations that cause them. A tendency to see neurodiversity-related difficulties as personal medical problems dovetails with a form of cultural imperialism that helps to create the illusion that many of the dominant norms that dictate our common social life are important rather than arbitrary (Young 2009).

Yet even if we were to have perfect epistemic access to the relative strength of people's preferences, the bullet-biting approach would lead to some unintuitive results. There are some people who, regarding likes and dislikes, traits, and ideals, just have extremely strong preferences that have nothing to do with what we tend to think of as neurodiversity-related access needs. The aforementioned view predicts that we ought to let such strong desires win out over neurodiversity-related preferences that are strong but not as strong as these non-neurodiversity-related preferences. While it may be easy enough to bite the bullet on this matter regarding a single choice-point or incident, it may be more difficult to do so once we think about the cumulative effects. To illustrate, imagine a person with neurodivergent traits who, when attempting to advocate for their access, always encounters a person with such a very strong run-of-the-mill preferences such that this person's desires always win out over theirs. Such people with strong personalities, if positioned in the wrong place at the wrong time, could make it so that every time a neurodiversity-related concern comes up, it never gets acknowledged. The possibility of these sorts of large-scale outcomes seems like a highly unintuitive potential consequence for an ethics of accessibility.

Another potential unintuitive consequence for this approach that is not solved by accounting for epistemic injustice is that some people may grow weary from self-advocacy and become more accustomed to just coping with their discomfort. The concept of access fatigue is relevant here. As Annika Konrad explains, building on scholarship about the impact of accumulation which has been developed in the fields of critical race theory and intersectional feminism, access fatigue is, "the everyday pattern of constantly needing to help others participate in access, a demand so taxing and relentless that, at times, it makes access simply not worth the effort" (Konrad 2021: 180). Over time, in recognition of how onerous the self-advocacy process would be to make common social life truly accessible, a person's desire for that change may also dwindle.[4]

Just as the trope of the disabled person as a burden can make us more likely to downplay our needs at the level of what we reveal to others, sometimes this same stigma infiltrates our own self-concept. *I ought to be able to make do with less and deal with more*, we think. Our preferences to modify our common social life can dwindle, while our preferences to *be* different strengthen. Some neurodivergent people will become depressed as a result, which can enshrine self-blame and weaken the strength of their desires in general. At the end of the day, it seems that an ethics of accessibility should be able to secure meaningful access for such people even in the absence of their recognition of their own worthiness. It is unclear whether the bullet-biting approach ever could be made to be compatible with this moral demand.

Approach 2: Suffering/Difficulty

Given that one's own preferences seem to provide a somewhat shaky foundation on which to base an ethics of accessibility, we might instead look for a more objective measure by which we can compare neurodivergent access claims to the claims of others with strong preferences, and by which we might compare the significance of different access claims to each other. Perhaps instead of looking at preferences, we might look at suffering as a basis of comparison. Having run-of-the-mill preferences frustrated can be disappointing but attempting to endure through experiences in environments that are not well-suited to your neurodivergence can be downright painful. Suffering need not be thought of as a property of one's neurodivergence but rather can be thought of as a property of the relationship between one's traits and a particular environment. When faced with two conflicting neurodiversity-related access claims, according to this view, we can see which modifications lead to the elimination of a greater amount of suffering. If it is primarily environments that disable by causing undue suffering, the normative import of questions about access become about the degree of suffering that an environment's arrangement is likely to cause (or alleviate) given its various possible configurations.

A nice feature of this approach is that it helps explain why meeting access needs is not a matter of accommodating wants or appeasing people, but rather is a matter of eliminating needless pain and difficulty that has been propagated by the unexamined conventions of our common social life that exclude neurodivergent people. This approach could therefore work in tandem with the movement to expand our conception of access needs from a model of accommodation to a more broadscale restructuring of an oppressive society. In practice, one proxy for determining the degree of suffering might be a person's willingness to participate in the activity without the modifications requested. Since the people who suffer the most, given the current set-up, are the people who are most likely to be shut out because an activity or event is so inaccessible that it is not even worth participating in, focusing on suffering would prioritize the people who have had the least access to our common social life.

One problem with this view, though, is that it is difficult to assess and compare qualitatively different kinds of struggle. We might wonder how, for example, someone's ability to persist through sensory overwhelm brought about by fluorescent lighting can even meaningfully be compared to another person's difficulty seeing an image in dimmer light.

Another problem with this view is that a person may face not just one but many small struggles that are not especially difficult compared to other kinds of struggles. Nevertheless, these sorts of small struggles could add up. This way of adjudicating competing claims could unjustly privilege the claims of people whose suffering would be great if they tried to participate where that difficulty is limited to only one domain over the claims of people who face a large number of more commonplace struggles when navigating many different aspects of our common social life. Relatedly, it is far from clear even in a case where two people have struggles that are limited to only one domain that it would be fair to privilege, every single time, the claim of the person who would struggle slightly more than the other person.

Furthermore, while the elimination of pain and unnecessary difficulty is a worthy goal that shows how serious claims to access are, its focus might unduly limit the scope of possible societal gains that could be made by making room for neurodivergent thriving. Robert Chapman and Havi Carel note that we should expect there to be a plurality of ways of thriving, many of which have been rendered invisible due to an overly narrow focus on species-standard flourishing (Chapman and Carel 2022: 8). Access, we might think, should not just be about the elimination of suffering but also the promotion of diverse forms of thriving.

It might be possible to habituate to an inaccessible environment over time after repeated exposure such that tolerating it does not feel all that difficult. Nevertheless, the situation is subpar, and neurodiversity advocates might rightly press that we want to build our social environment in ways that go beyond ensuring that they are minimally tolerable. Think, again, of my spouse's willingness to carry on without subtitles. It might be that their preference is not that strong because they have become overly tolerant of suffering. It might, however, be that they have stopped experiencing their difficulty in parsing audio as a form of suffering at all, and instead have come to see it as a tragic fact of life that they will often have to watch things with no subtitles. It may not be especially difficult to carry on and manage trying to enjoy watching television this way because their past difficult experiences may have led them to complacent comfort in the fact that they simply will have to try to piece things together with the scraps they have—they hardly know any other way. Meanwhile, my level of frustration when attempting to watch television with subtitles, however, might be fairly high. The level of difficulty, in turn, though, could stem from just how novel the situation is for me. I am not accustomed to watching television with subtitles, and there have been only a limited number of circumstances in the past where my visual processing has given me all that much of an issue in comparison to the issues that my spouse's auditory processing gives them. It seems that felt struggle on its own is not sufficient to capture the important relative difference that we have with regard to the situation. This dimension of the case seems to matter morally, but it is unclear that a difficulty-based view has the resources to be able to explain why it should.

Approach 3: Disavowal/Unchangeability

Another approach holds that the degree to which an access claim is legitimate is based upon the degree to which the person's preferences are not held on purpose or the degree to which the person could not change their preferences regarding the scenario. To get at the intuitive idea, suppose there is a clash between the claim of someone who gets overstimulated in loud environments and someone who prefers a loud pizzeria over a quieter one across the street. Even if the second person really likes the pizza at the louder place, they probably could be a little bit more flexible if they tried, whereas someone's susceptibility to auditory overstimulation is unlikely to be as modifiable.

To see why this kind of factor might matter, we can take a page from the literature about the "expensive tastes" objection to welfare egalitarianism in political philosophy. Welfare egalitarianism holds that citizens are entitled to equal levels of welfare in terms of something like happiness or life satisfaction. The expensive tastes objection is this: it seems unintuitive for someone with a born predisposition to require fancy wine for baseline happiness to be entitled to the wine to the same degree as others are entitled to their more reasonable basic necessities for happiness. (For an overview, see Keller 2002). In many ways, the person who just has a strong aesthetic repulsion to subtitles is like the person with expensive tastes. Such a person has a genuine strong preference, but it seems unintuitive that a large entitlement should follow from it, especially one that can bar someone else from what they would otherwise be owed.

One helpful suggestion made in this literature by G. A. Cohen is that the person with expensive tastes, unlike people with deep unmet basic needs, does not disavow their preference and likely could change it if they wanted to (Cohen 1989). Similarly, if I really had only had a merely aesthetic distaste for subtitles, we would probably be right to assume that I had acculturated tastes to the visual medium that could be changed if not for my uncritical embrace of my own preferences. My spouse, on the other hand, might wish that they didn't need to use the subtitles; it would be easier not only on me but also on them. However, their auditory processing difficulties are not so easily changed. They might turn off a fan in the room or, on a more long-term basis, they might invest in speech or occupational therapy to practice, but most strategies for their auditory communicative success involve modification of the environment.

This suggested difference could help explain the legitimacy question, but it can also be used in much the same way to solve the adjudication problem. We might ask, for example, would it be easier for Person A or Person B to skirt their difficulties by changing their condition? While Person B might not be able to modify their innate visual discrimination any more easily than Person A could change their auditory processing abilities, Person B might be able to consciously acclimate to having the captions on and just not looking at them.

One issue, though, is that some neurodiversity-related traits are, frankly, changeable. It may be easier to take Adderall to improve one's focus than it is to change one's long-ingrained aesthetic preference. With modern pharmaceuticals and therapeutic techniques, there is a range of traits that can be modified and fine-tuned almost in a bespoke manner. Likewise, certain non-neurodiversity-related vicious preferences may be disavowed as part of one's deepest self, and linger precisely because they are difficult to change despite one's hopes.

Furthermore, neurodivergent traits can be, and in fact are, embraced by many people as a source of pride fundamental to one's identity. It would be counterproductive to the aims of neurodiversity acceptance and pride to require a person to disavow their neurodivergence in order to legitimize their access claims. Central to the aims of a neurodiversity paradigm shift is the idea that cognitive diversity benefits human society on an ecological level (Chapman 2021). An ethics of access whose welcome would be overstayed in a world with cures is antithetical to the aims of the neurodiversity movement.

Approach 4: Minority-Group Membership

As we have seen, when considering a metric, there is always the risk that neurodivergent people will downplay or fail to recognize their own legitimate suffering, needs, preferences, and potential to thrive. It might be compelling to explain this self-abnegation by using the concept of internalized oppression, a psychologized acceptance of stereotypes associated with one's minority status that causes people to act in ways that further their own oppression. Internalized oppression can lead to effects as varied as depression, a sense that one lacks agency, and a sense of oneself as fundamentally deviant. Any of these effects can certainly color the way that one perceives one's own access claims (Liebow 2016).

If that observation is correct, then perhaps it is not our own perception of our needs that makes the crucial normative difference between competing claims here, but rather the fact of our oppression itself. To put the thought plainly, even if a white middle-class housewife in the 1950s did not see a need to complain about her lot in life, her possession of this self-understanding did not mean that she was not entitled to liberation. The degree to which her lot in life was proscribed by stereotypes of femininity and the degree to which her autonomy was limited by the patriarchy, we might think, are the kinds of facts that would confer upon her needs special normative merit, above and beyond, say, her husband's strong distaste for cooking and cleaning. Similarly, on a minority group's conception of what disabilities are, the main reason that neurodivergent people encounter difficulties in life is that they face discrimination akin to the kinds faced by other kinds of minorities.[5]

When we conceive of "neurodivergence" as, most fundamentally, a kind of membership in an oppressed minority group, we can recognize that neurodiversity-related access claims are demands to repair systemic and/or historic injustices. On this view, we can answer the legitimacy question by asking whether the person's identity/trait that grounds their access claim is related to righting the wrongs of oppression. Run-of-the-mill preferences about, say, aesthetics or convenience, are not plausibly related to any kind of discrimination or oppression. In this way, the view can offer a justification for distinguishing neurodiversity-related claims from other claims without having to conclude that there is any kind of fundamental kind of difference between neurodiversity-related traits and other traits. It is merely a contingent fact that people who have some sorts of traits rather than others have been subjected to widespread discrimination.

If this thought is correct, then adjudicating between two different neurodiversity-related claims could be a matter of assessing the degree to which people with the relevant traits have been subject to discrimination, or the degree to which a person with the relevant trait tends to experience minority-related impacts that affect various parts of their life. The ethics of access becomes the ethics of righting historic and ongoing wrongs. While this approach may seem appealing, it comes dangerously close to advocating for the establishment of some sort of "Oppression Olympics." There may occasionally be cases in which two conflicting access claims quite obviously stem from very different sorts of minority statuses. Perhaps one person's minority status is rarely relevant to their experience of the world and causes only minor sorts of social friction, while the other person's minority status is a pervasive and intense source of one's ostracization from society. More often, though, we would wade into very murky waters if we tried to determine who is "more" of a minority than someone else. This worry is made worse once we realize that it may not just be difficult to sort out but actually impossible to make such calculations. The theory of intersectionality (Crenshaw 1989), for example, strongly implies that there are no commensurable building blocks of minority status.

The minority-group approach also runs into a potentially vicious circularity when put to use to try to legitimate claims as being genuinely neurodiversity-related. Suppose that a person is born with a never-before-seen neurodevelopmental condition. There is clearly no pre-existing history of discrimination toward people with her particular profile of cognitive traits. Is it really plausible that her access claims only get validated beyond the status of mere preferences once her exclusion continues along a pattern indicative of oppression until the point at which she is owed recompense? We might think that this problem only arises when we understand belonging to an oppressed minority too narrowly. It is not people who have her particular neurotype that are her fellow minorities, but rather neurodivergent (or even disabled) people as a whole. And neurodivergent people on the whole have certainly been subject to large-scale oppression. But by virtue of what does her nonstandard neurological make-up qualify her as neurodivergent? Taking this tack only serves to reopen the question of what makes the important normative difference between her traits and more run-of-the-mill traits.

For many questions, self-identification or the attribution of a diagnostic label might be good enough to make a person count. Adi Goldiner (2022) argues that identification with a label is sufficient for justifying claims to workplace accommodations because any potential advantage to be gained by aligning oneself with the disabled community is counterbalanced by the stigma that one is sure to face once their behavior is viewed through the lens of their diagnosis. On views like Elizabeth Barnes's (Barnes 2016: 46) to be disabled just *is* to be someone for whom the disability rights movement is fighting. When adjudicating conflicting access claims, though, these pragmatic sorts of sidestepping simply will not suffice. As Leslie Francis says when commenting on the application of Barnes's view to the ethics of access, Barnes would have to argue that accommodations should be available for people when the disability rights movement would make claims of justice for them. Yet this implication, according to Frances, "gets the justification backwards." As Frances puts the problem,

> Instead of the justification being what a rights movement seeks, it should instead be what are the wrongs to be remedied. For disability, they are the wrongs associated with exclusion for supposedly impaired physical or mental function. The wrongs are not the failure to compensate; rather, they are the wrongs of systematic misjudgment of the capabilities of people who function differently. (Francis 2018: 1147)

Approach 5: Going Diachronic

There is at least one other kind of view that is worth considering. This kind of view would admit that many individual choices made between two competing access claims cannot be justified one way or the other, at least not in isolation. These choices may well be examples of what ethicists call "genuine moral dilemmas," that is, situations in which an "agent is required to do each of two (or more) actions; the agent can do each of the actions; but the agent cannot do both (or all) of the actions" and "neither of the conflicting requirements is overridden" by the other (McConnell 2018). How could this be? Perhaps there are multiple normative currencies that matter that are not commensurable with each other. For example: maybe both the alleviation of present-day suffering and the reparation for historical discrimination matter. It could be that there is a way to meaningfully weigh these considerations against each other such that a unique decision is justified in each particular choice. However, it could be the case that there is no fact of the matter about which single factor is more important than the other when they come in conflict. The kind of approach in question would be to admit the latter, namely, that there is no meaningful sense in which these two kinds of factors can be meaningfully compared in a one-off situation.

What, then, can we do? We can move from thinking about the ethics of one-off scenarios to thinking about a just distribution extended over time. One option to consider would involve weighting the claims equally for everyone who meets the legitimacy threshold by any of the previously discussed metrics.[6] In a situation in which the same conflicts will be faced by the same group of people with static access needs, the choices can be distributed to ensure long-term even distribution of claims that are addressed. In situations with changing groups of people or needs, a lottery could be held in which all legitimate neurodiversity claims are chosen at random to be addressed. A related, but distinct, option would be to treat each neurodiverse person's ability to fully participate as equal. The difference between these two approaches concerns people for whom the satisfaction of their access claims entail barring more than one other potential participant from being able to meaningfully participate. If equality of participation rather than of claims is pursued, then such people would have to participate on equal footing less frequently than others in order to allow for fair distribution across neurodiverse participants. It is interesting to note that even when taking this rather neutral kind of approach, some normative choice must be made about whether to prioritize the equality of claims or the equality of participants.

At this point, it might be worth pausing to wonder whether following such metrics might be somewhat alienating for the people with access claims. Independently of whose claim ought to win out in a particular circumstance, thinking about the adjudication of multiple access conflicts over time brings into focus the fact that the adjudication process itself ought to be carried out in an ethical way. I have personally experienced situations where my access needs were voted on by committee, in addition to situations in which I was left to hash it out with someone who had conflicting access claims. Whether these processes would have led to the fairest distribution of outcomes really took a backseat to the discomfort that I felt about the lack of concern and caring that others displayed about the kind of experience that I would be having. Mia Mingus captures these feelings quite poignantly:

> The fear of being left by the people you love and who are supposed to love you. The pain of staring or passing, the sting of disappointment, the exhaustion of having the same conversations over and over again. The throbbing foolishness of getting your hopes up and the shrinking of yourself in order to maintain. It is an echoing loneliness; part shame, part guilt, part constant apology and thank you. (Mingus 2012)

With this in mind, we might think about moving away from designing procedures to thinking about the kinds of connectedness that we can foster with regard to co-constructing shared social life among neurodiverse people. We might describe this thinking in terms of fostering an ethos of access intimacy. Access intimacy, as Mingus writes of it, involves sensing that one's access needs are anticipated and understood; that instead of being invited into spaces that are not designed for us, people are called upon to inhabit *our* worlds. The hope is that cultivating true access intimacy can foster the kind of creativity to co-construct forms of social life where certain kinds of conflicts are less likely to come up, and where the labor of obtaining access is itself distributed more justly. On the other hand, "[s]ometimes access intimacy doesn't even mean that everything is 100% accessible" (Mingus 2011). As Desiree Valentine puts it, access intimacy involves nevertheless "staying-with" the constant struggle of inaccessibility—going through the mess with someone who understands, takes seriously, co-commiserates, and affirms the reality of the situation (Valentine 2020: 84)

While the idea of access intimacy gives us some instructions about how to approach access conflicts, how does this view solve the problem about who gets to count? This view, unlike several of the other views, lacks the resources to make determinations between neurodiversity-related access claims and other claims. That said, perhaps one virtue of this view is that it can be rather maximalist in defining the bounds of neurodiversity. We ought to build access friendships and learn about how people operate in this world regardless of whether their differences are differences that have historically been associated with the neurodiversity movement. Doing so might be seen as a way of respecting the dignity of individuals. The very nature of these friendships will put pressure on us to adapt our preferences, requirements, and assumptions about the operation of various parts of shared social life. One cannot, it would seem, build access intimacy with someone who has auditory processing difficulties without interrogating one's own discomfort with subtitles. Caring about each other can transform the project of attempting to recalibrate our preferences, whether neurodiversity-related or not, from a zero-sum game into acts of solidarity.

While this view offers a promising recasting of the problem landscape within intimate relationships, it may be difficult to scale to smaller and larger units of concern. First, one-off access conflicts will still exist, and embracing this view would require allowing for some level of arbitrariness in how individual conflicts are solved. The view gives no decision procedure for ensuring a justified choice in a given conflict situation. That said, this issue (insofar as it is an issue) is not unique, but rather a familiar feature of virtue ethics and relational ethics. Securing interpersonal relationships of access intimacy is also no guarantee that the right kinds of large-scale societal shifts will be prioritized. The distribution of these connections may itself be unjust and so the ethical questions about conflict will simply come into play at a different moment (see Cordelli 2015). Furthermore, what, on an individual and consensual level is liberatory, can be exhausting, exploitative, and intrusive when the trust required to facilitate emotional vulnerability is absent. In this way, scaling up the model of access intimacy as a framework for the facilitation of larger spaces in an ableist world runs the risk of opening up neurodivergent people to forced intimacy (Mingus 2017).

Conclusion

To sum up, I have posed two interrelated questions to set the stage for a philosophical exploration of neurodiversity and the ethics of accessibility: first, what makes neurodiversity-related claims to access have special normative weight? and second, how should we adjudicate conflicts between two or more legitimate claims? I have surveyed the pros and cons of five general kinds of approaches that one could take: (1) accepting that only epistemic factors make these special cases; (2) adjudicating based on degree of suffering; (3) focusing on the degree to which one's needs are unchangeable; (4) treating the special weight of claims as involving requests to repair systemic discrimination; and (5) refocusing on accessibility as extended across time. While there is something to be said for each kind of approach, I must admit that I find none of them fully satisfactory. Nevertheless, I hope to have demonstrated the existence of a theoretically interesting and practically significant normative terrain to be explored, a philosophical and political challenge that arises wholly from within the lived experience of neurodivergent moral agents who are attempting to build a better world together.

Notes

1 It is outside the scope of this chapter to consider the difficult question of just how far we ought to extend the term to cover various (so-called) mood, personality, addictive and psychotic disorders, developmental disabilities, and brain injuries, although I suspect its usefulness might be quite broad.

2 See also Francis (2018: 1146).

3 For example, see Bain (2016), Dolmage (2006), Garland-Thomson (2011), Hamraie (2013, 2016), Price (2014), Tremain (2013), Yargeau (2013).

4 One way to rehabilitate this kind of approach in light of these concerns might be to ask not what you want but what you would want to want, or what you would want if suitably idealized (including being aware of your own oppression). Analogous moves are made in the literatures on relational autonomy and preference-satisfaction forms of well-being.

5 For discussion see Wasserman and Aas (2022).

6 This approach also presents a potential way to handle cases where there are two or more conflicting claims that are legitimized by one's minority status, if as discussed previously, there may be no sense to make of questions of who is *more* of a minority than someone else.

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