

Disability and Agency

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Abstract

My goal in this paper is to begin to address the myriad ways that disabilities may impact, and perhaps even undermine, moral agency. I begin by outlining a very general account of morally responsibility agency.¹ In the next two sections, I address two particular kinds of disabilities—cognitive and volitional—to look at particular ways that disability can impair moral agency. In both these sections, I'll also consider the idea that disabilities can make one less responsible. In the final section, I explore the role that 'intersectionality' regarding disability might play in the discussion of moral agency, suggesting that it will make addressing particular disabilities' impact on agency significantly harder given their interconnection with other disabilities.

Introduction

Despite the breadth of the contemporary work on free will, and moral agency more broadly, there are a number of commonalities that characterize most if it. For one, it is almost unanimously agreed that there are at least two conditions on free and responsible agency: (i) a control condition, which many take to be identical with free will; and (ii) an epistemic condition, indicating the kind of belief or knowledge necessary for an agent's moral responsibility. A third commonality, which is sometimes explicit in those working on free will but is more common among those working in moral psychology or philosophy of agency more broadly, is the claim that (iii) an agent's emotions play a central role in agency. Though there are different accounts of what precisely this role is, one of the most common is that the emotions can impact the exercise of the agent's volitions (e.g., when extreme anger makes it harder for us to resist acting on certain impulses) and reasoning (e.g., when strong emotions impact an agent's ability to carry out taxing intellectual tasks). Aristotle's account

¹By 'morally responsibility agency', or sometimes simply 'responsible agency', I mean roughly what Vargas describes as the entire web of practices and attitudes that are relevant to whether an agent is an apt target of the entire web of our responsibility-characteristic practices and attitudes. See Vargas (2013).

of courage as a virtue, for instance, could be understood as one historically prominent understanding of the view that one's emotions can play a crucial role in an agent's responsible agency. The courageous person is the one who has trained herself to feel the proper amount of fear as called for by the situation.²

What is striking is that while each of these three commonalities has clear connections to various types of disabilities, very little philosophical work has been done on how disability can impair responsible agency. The immense literature on free will has instead focused almost exclusively on 'typical' or 'standard' cases of agency. And the existing literature on disability and moral agency has tended to focus on the issue of whether or not autistic individuals lack moral agency because they, purportedly, lack empathy. Here is one representative argument based on some of the central claims in Simon Baron-Cohen's influential work on autism and endorsed in Deborah Barnbaum's *The Ethics of Autism*:³

One of the supposed defining features of autism is an impairment in empathy. At the same time, there is a tradition in ethics that sees an ability to empathize as essential to moral agency. A combination of these two theses would portray the autistic individual as something less than a moral agent, which, in itself, would put them on very unsure footing, as there is a further tradition in ethics that makes moral personhood, and in effect, moral worth, contingent on moral agency.⁴

I will not engage this particular view of the role of empathy in Autism here.⁵ But it is an instance of the sort of argument that I want to make, namely that certain specific disabilities can impair moral agency, and that in certain severe cases might even exempt those who have them from moral agency.⁶ In doing so, the primary goal of this chapter is to begin to address this lacuna in working towards developing what we might call the philosophy of disabled agency—a general but certainly not exhaustive framework for various kinds of disability can impact and impair agency.

²See, for instance, the chapters on fortitude, anger, and envy in Timpe and Boyd (2014).

³Barnbaum (2008).

⁴Anderson and Cushing (2013), 12. As Anderson and Cushing point out, there's a sense in which Barnbaum's conclusion is even stronger than Baron-Cohen's: "Barnbaum agrees with Baron-Cohen's contention that autistic people lack a theory of mind. Yet, Barnbaum goes further: she asserts that one cannot experience either empathy or genuine human relationships without a theory of mind, and that therefore the moral agency of autistic individuals is compromised" (ibid).

⁵See Stubblefield (2008) and DeVidi (2008) for discussions of this line of argument. According to Stubblefield, "the lack of theory of mind interpretation of autism is not only a questionable explanation of the behaviors labeled autistic, but is actually harmful" (157), and I'm inclined to agree that it can be.

⁶An agent is exempt from our morally responsible practices and attitudes when she fails to be the apt recipient of those practices and attitudes. More on this below. In claiming that an agent is exempt from moral responsibility, however, I am *not* saying we have no moral obligations to such individuals, or that they have no moral status. For just a small sampling of the literature on this latter issue, see, among others, Kittay (2005) and Kittay (2010); Singer (1995) and Singer (2010); Tooley (1984); McMahan (1996), McMahan (2002), and McMahan (2009); Jaworska and Tannenbaum (2014); Hubbard (2010); Carlson (2010); and Jaworska (2010).

In the next section, I give an overview of a standard general account of moral agency, the capacities involved, and ways that those capacities interact and depend on each other. In the following two sections, I draw on current scientific research to address two particular kinds of disabilities—cognitive and emotional—to look at particular ways that disability can impair moral agency. For each of these types, I argue that there are some disabilities of that type that do not impact responsible agency but others that do. I also suggest that for some of these disabilities, the impact of the disability may be so severe that it functions as a moral excuse or even an exemption in some extreme cases. In the final section, I explore the role that ‘intersectionality’ regarding disability might play in the discussion of moral agency, suggesting that it will make treating particular disabilities significantly harder given their interconnection with other disabilities.

1 Moral Agency

Despite their extensive divergence, most extant accounts of morally responsible agency hold that whatever other conditions are also required for moral responsibility, agents must satisfy at least two conditions to be morally responsible: a control condition and an epistemic condition.⁷ The control condition is sometimes called the ‘freedom-relevant condition’ for moral responsibility, and some take ‘free will’ to simply refer to the capacity or set of capacities needed to fulfill the control condition for moral responsibility.⁸ In other words, an agent acts freely when he controls his actions in the way needed for him to be morally responsible for that action.

Despite receiving comparatively less attention, the satisfaction of the second condition is also widely thought to be necessary for moral responsibility. The intuition behind the epistemic condition is that moral responsibility requires a certain kind of knowledge or belief about the nature of one’s actions or choices and what could result from them.⁹ Peter van Inwagen captures the idea here as follows: “no one, I suppose, would seriously maintain that we can be blamed for all of the consequences of any of our acts. . . . Obviously, I can be blamed only for those consequences of my acts that are in some sense ‘foreseeable.’”¹⁰ Van Inwagen goes on to say that there “is the dismally difficult question of what it is for a consequence of an act to be ‘foreseeable’ in the relevant sense.”¹¹ Debates about the exact requirements of the epistemic condition on moral responsibility are complex; for example, insofar as some but not all ignorance exculpates, we need an account of the difference between culpable and non-culpable ignorance, when ends up not being an easy task. Fortunately, we’ll be able to avoid those complexities for present purposes. Whatever exact specification it takes, it should become clear in what follows that certain

⁷This paragraph is taken, with modification, from Timpe (2011).

⁸This is my own approach; see Timpe (2012).

⁹The epistemic condition is also sometimes referred to as the knowledge condition. For reasons why I prefer to call it condition the epistemic condition, see Timpe (2011).

¹⁰van Inwagen (1989), 419

¹¹van Inwagen (1989), 421.

specific cognitive disabilities will undermine the agent's ability to satisfy that condition, either in a particular case or perhaps *tout court*.

Furthermore, most contemporary accounts of moral agency hold that emotions have a role to play in moral agency, though here too the exact nature of that role depends upon the account in question. One standard view, roughly Aristotelian in nature, holds that the proper training of the emotions is crucial for responsible agency given the ability of the emotions to shape voluntary behavior.¹²

I intend my account of morally responsible agency to be broadly Strawsonian in nature, and here I'm going to draw on recent work by Michael McKenna.¹³ By that I mean, among other things, that I think that there's an intrinsic connection between the appropriateness of our moral responsibility practices (i.e., our practices of holding agents morally responsible for their decisions and actions) and the nature of moral responsibility.¹⁴ Furthermore, I think that holding agents responsible ought to be explained in part by the reactive attitudes that we do (or, preferably, ought) to have, which in turn depends on the quality of their will.

Exemptions from Moral Agency

As mentioned above, the majority of philosophical work on moral agency focuses on 'typical' fully functioning adult agents.¹⁵ In a recent discussion of the suffering of moral agents, for example, Eleonore Stump restricts her discussion to 'mentally fully functional adults': "I do not have a precise definition of what it is for an adult human being to be mentally fully functional. For purposes of this project, I will assume only a rough rule of thumb: if an adult human being is appropriately held morally responsible for his actions and is appropriately the subject of the reactive attitudes, then he is within the bounds of the mentally fully functional."¹⁶ I want to argue that there might be disabled individuals who are not 'fully functioning' in this sense, but who nevertheless are rightly held to be morally responsible agents. While their disabilities may impact their moral agency, the mere presence of that disability does not mean the agent is not a moral agent.

Following in the wake of Peter Strawson's influential "Freedom and Resentment,"¹⁷ it is typical in the agency literature to differentiate two kinds of instances in which a person may not be morally responsible for her actions, and thus two different kinds of cases where it would be inappropriate for us to hold her morally responsible. Though Strawson himself put it in terms of two different kinds of pleas, following Watson who in-

¹²See, for instance, the discussion in King (2012).

¹³I should note however that while both Strawson and McKenna are compatibilists, I'm an incompatibilist; see Timpe (2012). I do not think, however, that anything I say below depends on one's stand in the compatibilism/incompatibilism debate.

¹⁴McKenna: "S is morally responsible (for action x) if and only if it would be appropriate to hold S morally responsible (for action x). McKenna (2012), 56.

¹⁵David Shoemaker is an important counterexample; see Shoemaker (2010), as well as a forthcoming book manuscript *Responsibility at the Margins*.

¹⁶Stump (2010), 484 note 3.

¹⁷Strawson (1962).

roduced this terminology, I'll distinguish excuses from exemptions.¹⁸ An excuse is a reason to not hold an agent responsible for a particular action, even though the agent is in general still held to be a moral agent. In the case of an excuse, our moral judgments of and reactive attitudes toward an agent are selectively impacted since we think that are particular reasons (e.g., compulsion or non-culpable ignorance) which make such judgments and reactions inappropriate.

Exemptions, on the other hand, are stronger in that “exemptions are pleas that give reason to believe that a person is not a morally responsible agent at all, and so is not an apt target of praise or blame.”¹⁹ An agent has an exemption when she lacks some of the capacities required for morally responsible agency. But, as McKenna points out, we need to be careful in our use of the capacity language at this point:

In one clear sense, normal functioning children do have these capacities [for morally responsible agency] insofar as they are built in such a way that with normal development and proper training, they will have them. So, to be clear about the sorts of capacities at issue in this discussion, we need to be a bit more precise about them. I suggest that we think about the capacities at issue roughly as [David] Lewis proposed. . . . Agents with the pertinent capacities at issue here have them at a time only if given the opportunity, and holding fixed their intrinsic properties at that time (as well as the laws of nature), there are a range of possible worlds in which they exercise them.²⁰

In the context of disability, getting the proper scope for the capacities will be particular important. While there will be complexities that I cannot here address (e.g., if certain social models of disability are correct, then will it suffice to limit our interest to the intrinsic properties of an agent?), I aim to proceed with something like the following in mind. As stated above, I argue that individual's disabilities may impact their moral agency; however, I do not think that the mere presence of that disability does not mean the agent is not a moral agent. To put the point a different way, the mere presence of a disability of the sorts that I'm interested in here does not necessarily constitute an exemption.

Typical vs. Disabled Agency

How then do I understand ‘disability’ in what follows? It is common, though by no means uniform, to differentiate between impairment and disability in the following way. An impairment is a physically or biologically based condition that limits an individual's adaptive ability. In contrast, a disability is “socially and and environmentally defined—that is, the term ‘disability’ refers to how others interpret the individual's impairment and to how they make or do not make accommodations to support that person's needs. Impairment is a physical fact, a medical or developmental

¹⁸Watson (2004); see also Bratman (1999), 174. For a worthwhile discussion of excuses and exemptions in a different context than the present, see Brink and Kelkin (2013).

¹⁹McKenna (2012), 75f.

²⁰McKenna (2012), 77.

condition, but disability is a barrier created by the societal response to impairment.”²¹ On this usage, not all impairments are also disabilities, because a person with an impairment could be in a social or communal context in which that impairment is not interpreted in a negative way and no special accommodations are needed. One negative implication of this way of carving the distinction, however, is it allows for an individual to go from being disabled to not (or vice versa) merely by a change in one’s environment or relational properties, and wouldn’t require a change in one’s intrinsic properties.²²

Others expand the definition of a disability to depend not just on one’s environment, but also the individual considered in isolation. Ronald Berger, for instance, gives the following differentiation; note, in particular, the disjunctive nature of his definition of disability: “Impairment is a biological or physiological condition that entails the loss of physical, sensory, or cognitive function. Disability is an inability to perform a personal or socially necessary task because of that impairment or the societal reaction to it.”²³

These definitional and taxonomical issues are complex for a number of reasons, not least of which is the history of oppression that has been interwoven with the history of terms used to label and marginalize those we now refer to as disabled. Another reason is that there may not be a single category with a single definition that captures all and only those individuals that have one or more of the widely accepted categories of disability: physical, cognitive, volitional, developmental, emotional, and learning.²⁴ Recent psychological and neuroscientific work on these forms of disability gives us reason to think that attempts to understand and categorize the complete range of disabilities according to a single model of how that impairment works are significantly flawed.²⁵

In a forthcoming book on disability, *The Minority Body*, Elizabeth Barnes writes: “I don’t think we should infer that there is a unified category—or a unified connection to wellbeing—covering psychological, physical, and cognitive forms of disability simply because our word ‘disability’ can refer to physical, cognitive, or psychological disability. Modifiers like ‘physically’, ‘mentally’, ‘psychologically’, etc. can do a lot of work.”²⁶

²¹Harris (2010), 57.

²²Another worry that I have about this way of carving the distinction is that it presupposes a social model of disability. While I think that advocates of the social model are right in pushing against the medicalization of all disabilities, I think that that the social model faces difficulties with respect to cognitive disabilities; see, for instance, Berube (2010), 102f and Wolff (2010), 148.

²³Berger (2012), 6.

²⁴This list is not intended to be exhaustive.

²⁵Wolff argues, for example, that “there is a very important distinction between those with cognitive disability and those with physical disability but no cognitive disability” (Wolff (2010), 157).

²⁶Barnes (forthcoming), 7. Shortly thereafter, Barnes continues that “That’s not to deny that there is such a unified category. It’s just to say that our use of the word ‘disability’ doesn’t by itself show or suggest that there is. Again, I think the best way to approach the question of whether and to what extent different types of disability form a common kind or have a common connection to wellbeing is by first engaging in detailed analysis of the different varieties of disability and then exploring the potential commonalities (and differences)” (ibid).

Along these lines, I think that any attempt to approach the philosophy of disabled agency in a monolithic manner will fail to do justice to the variety of disabilities that agents possess. Watermeyer speaks of the “hopeful fantasy of a single, grand narrative which makes sense of disability.”²⁷ Even in the limited context of agency, a single unified account which accounts of all forms of disability seems, well, fantastic.

I am neither able to nor desiring of wading into these issues with the hope of sorting them out here. So, instead of trying to define disability, I will follow Barnes in not defining ‘disability’ (thought that may well be a worthwhile project in its own right, particularly given the difficulties alluded to in the previous paragraph); rather, like her, “for present purposes, I want to understand ‘disability’ as a term introduced by ostension. Think of paradigm cases of disability—mobility impairments, blindness, deafness, rheumatoid arthritis, achondroplasia, and so forth.”²⁸ I should point out, however, that in much of her work on disability, Barnes is interested primarily in physical disability, and I intend to focus on other forms of disability, primarily cognitive and volitional. Nevertheless, I too plan to proceed by ostension, though by treatment will be incomplete given the wide range of disabilities. Rather than trying to address every kind of disability, each of the following sections is devoted to a particular category of disability, and I explore how the moral agency of individuals with that particular kind of disability can be impacted by the disability. My goal in proceeding in this way is not to demarcate the other boundaries (or even commit myself to the controversial claim that there are clear outer boundaries) regarding disability.²⁹ I will instead use what I think are clear cases of disability that fall within that category, whatever the exact boundaries of it end up being. Among the examples that I will use are (at least serious cases of) Parkinson’s [or Parkinsonism?], 2p15016.1 Microdeletion Syndrome, and instances of severe cognitive disability.

One further complication is that, even restricting myself to proceeding by ostension, there can be a very wide range of how a particular disability affects different individuals. This is well known, for instance, regarding autism: “it is a ‘spectrum’ disorder, affecting individuals to varying degrees—severe cases involving significant cognitive and behavioral disability, less severe cases allowing for adaptive functioning in many domains (such individuals are often diagnosed with Asperger syndrome); that even in severe cases, there can be islets of good, even superior, cognitive-perceptual ability”³⁰ The same is also true of disabilities with a known genetic cause, like various deletion syndromes. Such deletions impact multiple functional systems. Biologists think that “quite possibly there is no direct correspondence between the organization of functional

²⁷Watermeyer (2012), x.

²⁸Barnes, XXXX.

²⁹At this point in my philosophical reflection, I’m inclined to agree “There is no definitive answer to the question ‘Who is physically disabled?’ Disability has social, experiential and biological components, present and recognized in different measures for different people” (Wendell (1989), 108.

³⁰McGeer (2010), 279. While autism is often described as a spectrum, this is likely misleading as “spectra are linear and autism is not. Autism is a many-dimensional manifold of abilities and limitations” (Hacking (2010), 265).

systems in the brain and the regulatory networks that determine global patterns of gene expression.”³¹ As a result, “the expression of a particular gene typically will be complex and multifunctional,”³² and the degree and scope of impairment can vary substantially across individuals with the same underlying etiology. In what follows, this disclaimer should be understood, as claims about a particular etiology or disability might not apply to all individuals with that diagnosis.

2 Cognitive Disability

Turning now to particular kinds of disability, I want to show how an agent’s moral agency can be impacted by the presence of a disability. My focus in this section is intellectual or cognitive disabilities. Not everyone uses these terms interchangeably, or in the same way as others use them. For instance, ‘intellectual impairment’ is the preferred locution of much of the medical and psychological communities, as evidenced by the definition manual of the American Association on Intellectual and Developmental Disabilities (AAIDD), which is closely followed by the *DSM*. In the introduction to their *Cognitive Disability and Its Challenge to Moral Philosophy*, Licia Carlson and Eva Feder Kittay write that “We’ve chosen the term ‘cognitive disability,’ under which we include conditions like autism, dementia, Alzheimer’s, and [what has historically been called] mental retardation, rather than ‘intellectual disability.’ The former is broader. Also, some forms of cognitive disability do not imply diminished intellectual capacity (e.g., autism).”³³ Even the definition used by the AAIDD includes more than just strict intellectual functioning: “a disability characterized by significant limitations both in intellectual functioning and in adaptive behavior as expressed both in intellectual functioning and in adaptive behavior as expressed in conceptual, social, and practical adaptive skills.”³⁴ In what follows, I’ll also speak of cognitive disability and intend my use of the term to cover the wider category of disability, though it should be noted that many of the sources on which I draw focus primarily on the more restricted class.

Psychologists and neuroscientists have done a lot of work on cognitive disability, in part because it “ranks as first among chronic conditions that limit full participation in society.”³⁵ But the issue has received less attention from philosophers, though that is presently changing.

Carlson and Kittay, for instance, raise a number of philosophical issues pertaining to cognitive disability:

In posing philosophical questions about cognitive disability, philosophers focus on numerous ethical problems. Some address the moral states of individuals with cognitive disabilities, and ask: Are those with cognitive disability due the same re-

³¹Swanson (2012), 273.

³²Swanson (2012), 274.

³³Carlson and Kittay (2010), 1 note 1. See also Carlson (2010).

³⁴American Association on Mental Retardation (2002), 1.

³⁵Harris (2006), 79.

spect and justice due to those who have no significant impairments? Are the grounds of our moral obligation different when a human being may lack certain cognitive faculties that are often understood as the basis for moral personhood? Are those with significant cognitive impairment moral persons? What sort of moral responsibility is it appropriate to expect of people with different degrees and sorts of cognitive disabilities? Are the distinctions between mild and severe impairment morally relevant? Are the people with cognitive disabilities, especially those labeled as ‘mentally retarded’ distinct, morally speaking, from nonhuman persons?³⁶

It is primarily the questions regarding moral responsibility (i.e., What sort of moral responsibility is it appropriate to expect of people with different degrees and sorts of cognitive disabilities? Are the distinctions between mild and severe impairment morally relevant?) that I presently plan on addressing, since these questions have the tightest connection between disability and agency. Sometimes, the claims made about cognitive disability and agency are overblown. In a chapter devoted primarily to the connection between cognitive disability and the demands of justice, for instance, Jonathan Wolff writes that “typically, those with cognitive disabilities have very little scope in their lives for agency.”³⁷ As should become clear in what follows, I think that this is false, even if restricted to responsible agency. It will only be in the more severe cases where I think that cognitive disability will undermine responsible agency; others will have impaired agency, but still be responsible agents. Given how wide the range of intellectual disability—from those whose disability is so severe that it’s not clear they their behavior is mediated by concepts at all, to those who clearly have a grasp on moral concepts—it should be expected that the impact of cognitive disability on responsible agency also varies greatly in degree.

The most direct way that cognitive disability can impact moral agency is via the epistemic condition introduced above. An agent’s (non-culpable) ignorance regarding what morality demands, for instance would exculpate the agent. Richard Swinburne argues, for instance, that morality requires two types of knowledge: knowledge of the general moral rules or principles (e.g., that feeding the hungry is morally good), and knowledge of contingent non-moral facts about the occasion so that one knows how to properly apply those general moral rules (e.g., that this particular person is hungry).

Even if one thinks that morally responsible agency doesn’t require this knowledge, there’s surely a lesser connection between one’s conception of the moral good and one’s responsible exercise of agency. As Carlson and Kittay write, “There is a close relationship between theoretical frameworks within which we conceive of agency, and the way in which we then articulate conceptions of the good ... in relation to the individual with cognitive disabilities.”³⁸ Severe forms of cognitive impairment might un-

³⁶Carlson and Kittay (2010), 1f.

³⁷Wolff (2010), 157).

³⁸Carlson and Kittay (2010), 14. See also Francis and Silvers (2010): “Forming ideas of

dermine the agent's ability to understand the good in whatever specific way one thinks is required for moral agency. Such individuals, for example, might not be able to understand the consequences of their actions and moderate them in light of moral considerations. Furthermore, some individuals with moderate (as opposed to severe or profound) intellectual disability are not able to engage in abstract thought or apply abstract principles (including moral principles) across situations.³⁹

Children with cognitive disabilities progress and mature in their moral development at a different rate, and often in a different way, than do typicals.⁴⁰ Depending on the nature and etiology of the cognitive disability, they may follow the same development stages in terms of moral problem solving as do non-disabled children. But many individuals with cognitive disabilities are not just 'developmentally delayed'. They also have a slower speed of processing information insofar as they are less cognitively efficient, which will impair their ability to respond in time-sensitive and speedily unfolding moral situations. They also but also have a different approach to cognition and problem solving.

Finally, let us briefly consider how cognitive disability might be related to the degree of an agent's responsibility.⁴¹ It is not my goal here to defend the claim that there are degrees of responsibility; but if there are, there will also likely be a link with disabled agency.⁴² Degrees of responsibility often come up in discussions of children. Consider this representative passage from Al Mele:

Normal parents eventually come to view their children as having some degree of moral responsibility for what they do. The word degree is important here. Normal four-year-olds are not as well equipped for impulse control as normal eight-year-olds, and they have less developed capacity for anticipating and understanding the effects of their actions. . . . Moral responsibility is very commonly and very plausibly regarded as a matter of degree. If young children and adults are morally responsible for some of what they do, it is plausible . . . that young children are not as nearly *as responsible* (my emphasis) for any of their deeds as some adults are for some of their adult deeds.⁴³

Manuel Vargas suggests that impairments are one kind of paradigmatic

the good functions both to formulate the aims one should pursue and to stimulate their realization" (251). Elsewhere, I've developed an account of free agency with affords a central role to the agent's conception of the good. See Timpe (2013), particularly chapter 2.

³⁹Evans (1983), 7; see also Castles (1996), 4f.

⁴⁰Harris (2010), 64.

⁴¹I want to thank Justin Caouette for raising this issue.

⁴²For three recent papers examining and defending the claim that responsibility does come in degrees, see Coates and Swenson (2013), Nelkin (2014), and Vargas (forthcoming). For present purposes, the differences between these views need not concern us. For accounts which reject degrees of responsibility, see Warmke and Fischer (2006), 233. On Fischer's view, responsibility is a threshold concept, and it is blameworthiness and praiseworthiness that come in degrees. Much of what I say in the following paragraphs could be modified to fit Fischer's framework by talking about degrees of

⁴³Mele 2008, 271-4.

case of less-than-full responsibility.⁴⁴ An agent can be cognitively impaired either in her ability to recognize the relevant moral considerations or in terms of her ability to be properly motivated by those reasons that she does recognize. “The mitigating element in impairment cases is not the absence of the relevant faculty, but something like the diminution of the involved capacity, or perhaps, the difficulty in exercising the relevant capacity or power.”⁴⁵ Though he doesn’t look at disability in particular, it should be easy to see how cognitive disabilities could impair responsible agency in a similar way.

In the next section, I explore self-control and disabled agency. I think it plausible that self-control (like control in general) is a degreed concept, and I’ll address the issue of degrees of responsibility in more detail there. But here in passing I want to note that the kinds of cognitive capacities relevant to agency come in degrees as well: some individuals are able to consider a wider range of moral considerations than are others, and some individuals are more sensitive to the the relevance of moral considerations than are others. It is commonly held that responsible agency involves the ability to detect and weigh reasons.⁴⁶ So if moral agency depends on certain cognitive capacities and disabilities can impair those capacities—either by making it harder to recognize the reasons that the agent ought to be considering, or by making her unable to compare or weigh those reasons properly—another way that cognitive and developmental disabilities could impact responsible agency is by lessening the degree of responsibility, even if it doesn’t entirely undermine it.⁴⁷

3 Volitional Disability

In this section, I want to show how disability might impact a agent’s volitions in such a way as to hinder moral agency. As with the previous section, I wish to make it clear here that I . I am aware that different disabilities will impair agent’s volitions in different ways and to different degrees. My goal is not to be exhaustive, but merely illustrative.

The first issue that must be addressed is that the relevant scientific work doesn’t refer to ‘volitional disability’ directly. There are a number of ways that various disabilities might impact agency, some of which I address here. While the complete range of cases deserves to be dealt with, in this articles I’m going to focus on issues related to agential self-control.

Much of the scientific literature on self-control and disability uses the language of ‘executive function’. However, a pressing problem in research on executive functioning in general, and how it can be undermined by various disabilities in particular, “is a failure to find consensus on a general definition of the construct.”⁴⁸ For purposes of my project, I’ll take

⁴⁴Vargas (forthcoming).

⁴⁵Vargas (forthcoming), 19. See also Timpe

⁴⁶See, among others, Vargas (2010) and Timpe (2013), 87f.

⁴⁷I return to another way that cognitive disability may impair agency below in the final section on ‘Intersectionality and Disability’.

⁴⁸Borkowski and Burke (1996), 244. Similarly, “There continues to be no consensus definition of executive functions” (Senn et al. (2004), 445); see also Brier (2015), 2.

executive function to be an umbrella term that encompasses the following abilities:⁴⁹

- agential planning
- initiation of action
- self-monitoring⁵⁰
- behavioral self-regulation (including restraint)
- emotional self-regulation
- attention/focus

Difficulties with executive functioning issues are not considered by psychologists to be a disability in their own right; however, it should be obvious from this list that certain kinds of disability can significantly impair these abilities. Take, for instance, 2p15-16.1 Microdeletion Syndrome, which involves a deletion on the short (p) arm of chromosome 2. The emerging phenotype of individuals with 2p15-16.1 Microdeletion Syndrome include a number of physical affects (e.g., microcephaly, vision problems, kidney abnormalities); speech impairments; gross and fine motor control issues; and cognitive and developmental disabilities.⁵¹ It is these latter affects that will impair the agent's self-control.

How exactly might such disabilities impact an individual's moral agency? As mentioned above, self-control and executive function involve agential planning, which is also hampered by moderate to severe cognitive impairment. Disabilities that make impede or hamper any of the abilities that fall under the umbrella of executive functioning could make it more difficult for the agent exercise self-control. In recent studies, enhanced feedback strategies have been shown to increase self-control, motor-control, and learning effectiveness in individuals with Down Syndrome.⁵² Similarly, developmental disabilities can impact self-control in a number of ways, including via the agent's ability to engage in self-distraction (necessary for delayed gratification), difficulties with self-determination, or related obsessive-compulsive behaviors.⁵³ It should not be surprising that impulse control problems have been noted in individuals with disabilities.⁵⁴

A second impact of volitional problems causes by disability can be seen in some moderate to severe causes of Parkinson's Disease.⁵⁵ The

⁴⁹See Brier (2015), 2f; Smidts et al. (2004), 386; Sample (2008), 75f; Siegler (1991).

⁵⁰Self-monitoring refers to the processes that individuals "use to check in and note if their in depended behavior is matching their actual behavior" (Brier (2015), 5).

⁵¹*2p15p16.1 Microdeletion Syndrome* (2014), 4 and 7.

⁵²Chiviawosky et al. (2012).

⁵³See Levy (2007), particularly chapter 6; Harris (2006), 298; Kasari et al. (2012), 246.

⁵⁴Gardner (2005).

⁵⁵I will speak primarily of Parkinson's vs. parkinsonianism, even though the distinction is often problematic. "Parkinson's disease can only be defined as the clinical syndrome of parkinsonism, with a number of exclusion criteria, associated with brainstem Lewy body degeneration focused on the substantial nigra (Donaldson et al. (2012), 163.) It is estimated that there is a 15-20% error rate in diagnosing Parkinson's from other forms of parkinsonism. The various differences between the two are not directly relevant to my treatment here and so I'm going to ignore them, though I realize that I'm being loose in so doing. Estimates

major pathophysiologies of Parkinson’s disease tremor, rigidity, posture and locomotion disorders, and akinesia—lack of movement or slowness of initiating and maintaining movement; difficulty in continuing ongoing movements at an efficient level, which can result in ‘freezing’; and switching movements between motor plans.⁵⁶ Here, I’m going to focus primarily on akinesia, though there may also be other impacts of Parkinson’s on agency than just this one.

Akinesia has disparate affects on an agent’s ability to perform actions. When Parkinson’s manifests only unilaterally, there is little if any akinesia except those movements involving the affected limb; however it becomes significantly more prevalent once the disease becomes bilateral.⁵⁷ It is also more likely in those actions that involve the simultaneous execution of two or more motor plans (e.g., walking), rather than simple actions (e.g. raising an arm). While Parkinson’s leads to prolonged reaction times, though it is currently thought that the increase in reaction time is due not to the reception of the external stimulus but rather to a difficulty in formulating, holding, or executing a motor plan in reaction to the stimulus. Likely because of this, akinesia in direct response to external stimuli (e.g., the startle response) are affected to a lesser degree than are actions done as response to external commands; those actions that are done as the result of self-initiation are affected even more.⁵⁸ It is currently thought that patients with Parkinson’s:

1. can correctly perceive the stimulus to move;
2. can take appropriate action by selecting the correct motor program me to prepare for movement;
3. can learn new motor tasks and try to deliver appropriate motor programmes in advance of feedback;
4. but cannot either hold or deliver these prepared motor programmes in response to their established internal plan of action;
5. as a result, are less successful in employing predicted motor action, and are more dependent upon visual feedback to achieve movement; [and]
6. experience most problems with self-initiation.⁵⁹

What is particularly interesting is that akinesia is not consistent. Through explicit and sustained effort of will, most patients are able, though inconsistently and briefly, to produce normal or near-normal movement.

are that “Parkinson’s disease is responsible for about 3% of severely handicapped people living at home. In rough terms, a third of patients with Parkinson’s disease will have little to no disability, about a third will be moderately disabled, and a further third will be severely disabled” (Donaldson et al. (2012), 219). Furthermore, Parkinson’s also appears to have an intersectionality with cognitive disability. There is a correlated between lower mean performance IQ and patients with Parkinson’s compared with an age-matched population, and movement slowing is particularly impacted with respect to tasks that place greater demands on the agent’s cognitive capacities. See Donaldson et al. (2012), 274.

⁵⁶Weiner et al. (2001), 5.

⁵⁷Donaldson et al. (2012), 248.

⁵⁸Donaldson et al. (2012), 237.

⁵⁹Donaldson et al. (2012), 237.

Such a response, however, is short-lived. As soon as the patient stops concentrating on the particular activity, he or she lapses back to the previous abnormal state. Sudden dramatic events, such as the ringing of a fire alarm or a gunshot, can galvanize the patient with Parkinson's disease into remarkable and short-lived activity. Schwab and Zieper (1965) gave a number of graphic 'examples of the sudden elimination of the disability of Parkinson's and almost normal performance under the calamity of stress such as a flood or fire.' In the emergency the patient is able to function in a nearly normal manner for a very brief time over a minute or so. The exact mechanism for such a dramatic reversal of parkinsonian disability is unknown. However, the phenomenon must indicate that the basic pathways for voluntary action are intact, although the pathology of the disease interferes with or blocks their normal use.⁶⁰

Examples of this phenomenon are documented in Oliver Sack's *Awakenings*.⁶¹

We thus see a number of disabilities that impact an agent's ability to plan, implement, and sustain actions, particularly those that result from self-directed agency. Because of their disabilities, some agents have constraints put on their ability to execute the kinds of actions they are capable of engaging in.

Finally, the idea that responsibility admits of degrees, introduced in the previous section, can also apply to the agent's volitional capacities and not just her cognitive capacities. In a recent paper, D. Justin Coates and Philip Swenson argues that "the degree to which an agent is morally responsible depends on the degree to which she controls her action."⁶² They ask us to consider two different agents—Marcia and Thomas—who each fail to pick you up from the airport after a trip after they have promised you that they would. The difference between the two cases, however, is the reason why they failed to fulfill their promise. Whereas Thomas failed to pick you up because he simply didn't feel like doing it at the time since he would rather be watching television, Marcia was "suffering from serious but [end of 629] non-debilitating bouts of depression, and that she was having trouble getting off of the couch on the day she was supposed to pick you up."⁶³ They suggest that we would (and should) treat the two agents differently, holding Marcia's depression "to *mitigate* the degree to which she is responsible for that failure."⁶⁴ The idea seems to be this: whereas in the previous section we considered ways in which disability could impact an agent's ability to recognize reasons, here we see a motivational failure. Maria is aware of the relevant factors but finds it difficult to form the volition (or intention) to go to the airport because of her depression.⁶⁵ "A natural thought here is that Marcia is less responsi-

⁶⁰Donaldson et al. (2012), 249.

⁶¹Sacks (1999).

⁶²Coates and Swenson (2013), 631.

⁶³Coates and Swenson (2013), 629f.

⁶⁴Coates and Swenson (2013), 630.

⁶⁵They also admit in passing that Marcia's depression could also impact her cognitive ability

ble because it is more difficult (in some sense of ‘difficult’) for her to be motivated to get off the couch to come pick you up.”⁶⁶

Assuming then that the kind of control needed for responsible agency can come in degrees, and that such degrees can mitigate the degree of an agent’s responsibility, those disabilities that impact self-control and executive functioning could be one ways that an agent’s degree of responsibility is diminished.

4 Intersectionality and Disability

In this final section, I want to draw on an idea found elsewhere to show how various disabilities can intersect. The terms ‘intersectionality’ was introduced by Kimberle Crenshaw in 1989 as “a way to discuss the interactions among race, ethnicity, gender, sexual orientation, social class, and so forth, that (i) rejected ranking them, and (ii) enabled both our activism and our theories to move forward with at least a minimal understanding of the ways in which the major axes of oppression interacted with each other and affected human lives, and helped us start to grasp the complexities of our similarities differences, and the networks of hierarchical relationships among us.”⁶⁷ The basic idea is that an individual who is oppressed in two or more ways may have those oppressions intersect so that the total oppression she experiences is greater than the sum of the individual oppressions. A black woman, for example, may experience more oppression in a particular context than either blacks males or white women, and to such a degree that she is con further from the privilege of a white woman than a white woman is from a white male. In this way, we might think of intersectional oppressions as multiplicative rather than merely additive. As such, intersectionality is not an account of the nature of oppression, or the particular ways that an individual or group is oppressed. Rather, it “points out what kinds of analyses might be useful, namely, ones that consider mutually constructed or intermeshed axes of oppression or facets of identities.”⁶⁸

The use I want to put this term to is admittedly different than how it is used in the literatures on oppression from which I borrow it.⁶⁹ However, feminists admit that the term is “inherently hazy and mystifyingly open-

to recognize and react to reasons as well; see Coates and Swenson (2013), 639.

⁶⁶Coates and Swenson (2013), 638. Coates and Swenson understand the relevant sense of difficulty here to be one of ‘accessibility’, but the details of how they understand that relationship need not concern us at present. See Coates and Swenson (2013), 638ff. For a similar view, though one that critiques Coates and Swenson’s view on a number of points, see Nelkin (2014).

⁶⁷Garry (2012), 494.

⁶⁸Garry (2012), 500.

⁶⁹Goodley (2014) chapter 3 is on intersectionality, but by this he means the intersection of disability (and crip) theory with queer theory. See also part V in Davis (2010). For a discussion of the intersectionality involved with being disabled and being a woman, see (among others), Wendell (1989) and Fine and Asch (1988). For intersectionality of race and disability, see Stubblefield (2010). For a discussion of the intersectionality involved with being disabled and being a woman, see (among others), Wendell (1989) and Fine and Asch (1988).

ended.”⁷⁰ Ann Garry describes it as “a framework or strategy for thinking about issues ... to consider their mutual construction or at least their intermeshing (if these are different),”⁷¹ and it is precisely in this way that I shall use the term.

In a parallel way that various kinds of oppression or privilege may intersect to magnify their individual magnitudes, I want to suggest that disabilities can also intersect in their impact on moral agency. To illustrate this idea, consider 2p15-16.1 Microdeletion Syndrome, which involves a deletion on the short (p) arm of chromosome 2. The syndromes involves having only one copy of that chromosome, and the effects are thought to be caused by there being only one copy of the relevant genes.⁷² But even if only a small amount of genetic information is impacted missing, as in the various deletion syndromes, there can be large impacts over a wide ranger of features in the agent since “the expression of a gene is altered ... in a complex way that cuts across multiple functional systems.”⁷³ The emerging phenotype of individuals with 2p15-16.1 Microdeletion Syndrome include a number of physical affects (e.g., microcephaly, vision problems, kidney abnormalities); speech impairments; gross and fine motor control issues; and cognitive and developmental disabilities.⁷⁴ It is these latter affects that will impair the agent’s self-control.

Consider how cognitive disability might intersect with self-control in an individual with 2p15-16.1 Microdeletion Syndrome. An individual with a cognitive impairment might not be able to understand the exact ways that she needs to engage in self-distraction and self-determination strategies to overcome the impact her disability has on self-control. The planning required for these tasks come with a high cognitive demand. Francis and Silvers point out a related intersectionality. “Responsibility is about control in the sense of self-determination: agents must be in control of determining their thoughts about the good rather than allowing an idea of the good to take control of them. But impairment of executive capacity often is an element of cognitive disability. Some people with cognitive disabilities do not have this capacity of reviewing their idea of the good to assess whether it is a proper aim for them, and some others have the power only to an attenuated degree.”⁷⁵ If an agent is not capable of understanding moral categories like ‘good’ or ‘bad’, she won’t be able to control her actions to realize (or avoid) those categories. Such an impairment could also affect an agent’s ability to engage in self-monitoring to make sure that her actions are appropriate for the present situation. Again, we see a way that cognitive and volitional dimensions of disability

⁷⁰K. Davis 2008, 70.

⁷¹Garry (2012), 517.

⁷²See de Leeuw et al. (2008) and Piccione et al. (2012). The deletion involved is so small that it can only be “found using a molecular technique such as multiplex ligation-dependent probe amplification (MLPA) and array comparative genomic hybridization (array-CGH) or by cytogenetic fluorescent in situ hybridization (FISH) techniques using fluorescent DNA probes targeted to gene markers within the involved chromosome 2p15p16.1 region ” (*2p15p16.1 Microdeletion Syndrome* (2014), 2).

⁷³Swanson (2012), 273.

⁷⁴*2p15p16.1 Microdeletion Syndrome* (2014), 4 and 7.

⁷⁵Francis and Silvers (2010), 237.

can impact each other.

Another connection to responsible agency is in terms of what Manuel Vargas refers to as ‘moral ecology’: the larger web of contingent empirical and normative features that are necessary for morally responsible agency. Vargas rejects a view he calls atomism, which holds that free will “is a non-relational property of agents, that is, it is characterizable in isolation from broader social and physical contexts.”⁷⁶ Such a view, he argues, is “at odds with the emerging picture of agency in the social, cognitive, and neurosciences.”⁷⁷ In contrast, Vargas advocates a view he labels ‘circumstantialism,’ which includes the idea that “the powers that matter for whether an agent is responsible are best characterized non-intrinsically, as functions of agents in circumstances.”⁷⁸ On Vargas’ view, whether or not an agent is responsible for a particular action is not simply a feature of the intrinsic characteristics of that action, but requires one to examine the larger environment in which the action is performed.⁷⁹ For example, a particular circumstance might make it more difficult for a person to recognize the morally salient considerations that she ought to be considering.⁸⁰ Details about the agent’s environment, the ecology in which she finds herself, and not just the agent can provide her with the various capacities to recognize and respond to normative considerations that are needed for responsible agency. “It is only when we start to see our agency as something structured by and systematically a part of the larger fabric of capacity-constituting circumstances that we will begin to take seriously the matter of our moral ecology.”⁸¹

Intentional structuring of moral ecology is difficult. For individuals with cognitive and volitional disabilities, the complex conceptualization, long-term planning, and reflective self-evaluation needed such a project may be beyond their abilities. Social interaction difficulties caused by, for example, autism could further complicate factors. There is a high correlation between individuals with 2p15-16.1 Microdeletion Syndrome and an autism diagnosis.⁸² These difficulties with social interaction can also cause problems given the interpersonal nature of the moral environment. Psychologists have documented a marked difference in terms of frequency and quality of social contact between those with autism and those without. If moral ecology is important, than this loss of quality social contact will further impair those with autism.

Similarly, in a recent paper, “Thinking about the Good: Reconfiguring Liberal Metaphysics (or Not) for People with Cognitive Disabilities,” Leslie Francis and Anita Silvers note that “some philosophers have recently observed that autonomy in practice is relational, not solitary. In such a relational account, coaching or otherwise assisting people with cog-

⁷⁶Vargas (2013), 204.

⁷⁷Vargas (2013), 204.

⁷⁸Vargas (2013), 3.

⁷⁹One can see many excuses as factors of the environment, perhaps.

⁸⁰Vargas doesn’t think that this is always so, just that it sometimes so: “The mere fact of a non-standard relationship with moral considerations regarded as locally salient needn’t always entail exculpation” Vargas (2013), 245.

⁸¹Vargas (2013), 248f.

⁸²See *2p15p16.1 Microdeletion Syndrome* (2014).

nitive disabilities in forming their notions of the good becomes simply a more extensive and enduring version of commonplace conceptual midwifery.”⁸³ Given the close connection between responsible agency and autonomy, it should not surprise us that various disabilities could intersect in such a way that further impacts responsible agency. For example, it might be that autism, and the difficulties with social interaction that often accompany it, could undermine the way in which some individuals with cognitive disabilities try and offset the latter’s effects through a strong social structure.⁸⁴

5 Conclusion

In the preceding pages, I’ve tried to outline a number of ways that various kinds of disabilities can impair, and perhaps even in extreme cases undermine, responsible agency. What even this cursory exploration reveals is not only a wide range of such affects, but also the possibility for various kinds of disabilities to interact and further impair agency due to their intersectionality. While much philosophical reflection on ‘non-impaired’ agency has been tremendously valuable for understanding ourselves and our moral communities, future work on disabled agency is needed. For example, what is the link between various forms of disability and the emotions regarding agency? I hope that this initial foray in disabled agency can help spur such further work.⁸⁵

⁸³Francis and Silvers (2010), 249.

⁸⁴I hope to develop this connection to moral ecology in greater detail in future work.

⁸⁵Thanks to James Van Slyke for conversations regarding this material and Jonathan Reibsam for helpful comment.

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