Accessibility and hospitality: Derrida, justice, and universal design

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This paper is inspired by four things: first, work that I've been involved with for a couple of academic associations about accessibility; second, conversations I've had with colleagues who are excited by Universal Design because they think it means they will never have to make a judgment call again, as they've set everything up *perfectly*; third, research and publications by Disability Studies scholars such as Aimi Hamraie and Jay Dolmage, about how to think carefully and critically about accessibility and UD; and fourth, a strain of argument from Jacques Derrida that I encountered as an undergraduate – while I ended up

focusing my scholarship elsewhere, I keep being haunted by his texts on hospitality and law.

Two months after I submitted my abstract to the CDSA, Alice Wong (@SFdirewolf) published a piece called “6 Things Can You Do to Protect Disability Rights Today” in *Teen Vogue* online.[i] In it, Wong states that “Accessibility is more than just adherence to a law. It’s an ethos that values different ways of being in the world.” (This quotation has since been retweeted a gazillion times).

That’s basically my paper, really, so I could stop here (Actually, between Alice Wong and Aimi Hamraie, I’m not sure what else there is to say). What I’m going to try to do is to work through what this means philosophically: what is the relationship between law and ethos when it comes to disability? What would justice be in this context? What does it mean to plan for a space in which we will welcome anyone and everyone who shows up, in a way that values different ways of being? Derrida reflected on the nature of

justice and hospitality in several of his texts in the 1990s and early 2000s. Focusing on one of these – *A Word of Welcome* (1997) – I'll explore what they might contribute to these questions.

What's the problem?

There has been much interest in implementing universal design-based planning in academic contexts. Whereas accommodation is often conceived of as a one-off or ad hoc alteration made for an individual, accessibility is often connected to universal design: already planning ahead for a range of folks and their different ways of being in the world.[ii]

In the context of a course, accommodation often requires documentation and proof that the accommodation is needed; the student requires the paperwork in order to juridically justify their request, to justify an exception being made to a rule. In the context of a conference or event,

organizers do not generally require proof or documentation of a disability, but accommodation does require a request, and often multiple follow-up requests. In both cases, the implication is that this particular case, this particular person, has *not been planned for*.[iii]

Universal design, on the other hand, is premised on planning ahead for a range of different people, and creating a flexible framework that provides multiple ways of engagement. The stance is intended to be one of openness to all who show up. (I'm not going to say a lot about the mechanics and principles of universal design, for reasons of time, since I presume this audience is already fairly familiar with it).

So, it may seem as though the distinction is between rigid legalistic bureaucracy which singles out deviations from a norm [boo, hiss], vs. flexible accessibility which values all different bodyminds [yay].

The actual process of universal design, of course, does involve researching and implementing particular practices and structures that have been identified and shown to be helpful in increasing accessibility for a wide range of people. There are a pile of “best practices” documents, handouts, and PowerPoint slides floating around, and professional academic organizations are encouraging conference and event organizers to share and post them. At a higher level, enshrining universal design in law (such as in the AODA) requires setting out a range of standards and requirements.

Much of the work of implementing universal design, then, happens in the initial planning. This entails planning for every one before any one actually shows up.

This planning – which follows established practices and guidelines – is no guarantee that the space will actually *be* universally accessible. There may be conflicting access needs. There may be moveable chairs and tables that end

up in people's way. There may be technology failures. These may not be solvable by UD alone.[iv] As Rob Imrie points out, Universal Design "is part of a problem-solving paradigm that tends to present the injustices of a poorly designed built environment less as a socio-political issue and more as a function of inappropriate design technologies, their applications and management."[v] In this case, there is a risk of not attending to the right things.

The issue is not a lack of documents, handouts, and PowerPoint slides. There *is* no perfect system. While we do need *good* systems and laws, we also need a commitment to ongoing responsiveness and responsibility from the whole community. We *need a system* – we need guidelines to help set terms, to educate people, to have a shared sense of baseline expectations – *but every system has cracks*.

Derrida: negotiating between the system and the unsystematizable

In his philosophical writing, Jacques Derrida (1930-2004) works by closely reading other texts and probing their implications. He explores the relationships between systems and what is unsystematizable, what eludes us. His series of analyses of hospitality seems particularly apt for the question of accessibility, insofar as hospitality means welcoming those who show up. As he writes, "hospitality is not simply some region of ethics, let alone … the name of a problem in law or politics: it is ethicity itself, the whole and the principle of ethics."[vi] His work is driven by understanding "the relationships between an ethics of hospitality (an ethics *as* hospitality) and a *law* or a *politics* of hospitality" (WW 19).

This occurs in dialogue with the writings of Emmanuel Lévinas, who died in 1995 (one of the texts involved, *Adieu*, is actually his eulogy to Lévinas). Very briefly, for Lévinas, I have an infinite responsibility to the other before me. I may be preoccupied with my own affairs, but when

the other shows up – whoever they are! – , before any choosing on my part, I am responsible for them. This asymmetrical relationship of infinite responsibility is the foundation of our subjectivity. We are never wholly in charge of ourselves, since we are accountable to the other. “The face” is the term Lévinas uses for what we encounter of the presence of the other – “the face of the other.”

However, there is always another Other who comes along – it’s not like I ever just deal with one person at a time without having others who also need me. Lévinas calls this other other the third (i.e., me, the other, and the other other). The reality of the third means that I somehow have to weigh and balance what I do to fulfill my infinite responsibility to each other; an impossible task, but this is also what justice is. When the third comes along, so too come rules for calculation and balancing – these get called justice, law, and politics. Derrida quotes Lévinas on the introduction of the third: “A question of conscience, of

conscientiousness. Justice is necessary, that is, comparison, coexistence, contemporaneousness, assembling" (WW 30), and then later: "comparison is superimposed onto my relation with the *unique* and incomparable, and, in view of equity and equality, a weighing, a thinking, a calculation, the *comparison of incomparables*" (WW 32).

As Derrida points out, this emergence of the third – which is unavoidable! – signals a form of perjury. "Silent, passive, painful, but inevitable, such perjury is not accidental and secondary, but is as originary as the experience of the face. Justice would begin with this perjury."[vii] In a lecture series on hospitality, Derrida states: "as soon as there is a third [*un troisième*], I am called by justice, by responsibility, but I also betray justice and responsibility."[viii]

Already, I think there are clear connections to thinking about accessibility and the space we share. Out of justice,

I have a responsibility to the access of the person who comes, who shows up. And if I only ever had one person that I was responsible to, I could really tailor everything to them. But I never just have *one*. And yet, a compromise in accessibility in order to balance needs (or because of limited resources) is a betrayal, a failure of hospitality.

Derrida's view of justice as perjury in having to compare the incomparable underlies Derrida's view of law as well: as he writes, "Law [*droit*] would begin with such a perjury; it would betray ethical uprightness [*droiture*]" (WW 33). If our responsibility is to each other as a unique individual, any universalization of comparison is a betrayal; and yet, is necessary. Consequently, there are very real ethical limits to what law can accomplish.

All of this is grounded in welcoming: a welcome that cannot decide ahead of time who it will and will not welcome. As Derrida writes, "It is necessary to welcome the other in his alterity, without waiting, and thus not to

pause to recognize his real predicates" (WW 111). This essentially means that our welcome of the other cannot depend on the other meeting any particular criteria we may have – we must *welcome*, and only *afterward* determine what particular access needs there may be. The welcome must come first! It cannot be conditional on being the right kind of disabled person. I take this to be one way in which we can "value different ways of being in the world." [Though, caveat, not the only way. Ask me about this in Q&A][ix]

But how can we ensure we are doing this properly? Derrida asks "how can this infinite and thus unconditional hospitality, this hospitality at the opening of ethics, be regulated in a particular political or juridical practice?" (WW 48).

Derrida explores this in the context of hospitality to refugees. The problematic here is how to balance the ethical imperative to welcome refugees with the need to

have some sort of regular, universal process for doing so, for handling all of the cases. Any process – for triage, for assessing claims, etc. – will inevitably leave out some who don't fit.

So, what should we do in our context? We may indeed have to set up some sort of practice or policy (for example, following universal design principles and with policies for providing additional accommodations or resolving conflicts). We need this, but we recognize that it is never enough – we will continue to need what Lévinas calls an "ethics *beyond* the political" (WW 61), which itself cannot be articulated in rules.

As Derrida writes, we must "enjoin a negotiation with the non-negotiable so as to find the 'better' or the least bad. … Political civilization, says Lévinas, is 'better' than barbarism, but it is only 'better,' that is, less bad. It is not good, it is only a stopgap, but one that *it is necessary* to seek, that it is necessary to not stop seeking" (WW 112-3).

And so the ongoing work of developing guidelines and processes, of holding workshops, of fighting for better laws, is worthwhile.

We are not finished once we have set up our event, course, or meeting space according to our "Best Practices for Universal Design." We have to do work ahead of time, but we also are called to do work in the moment, to respond to what comes up. What accessibility, what hospitality means will be determined by what happens as we welcome those who show up. Jay Dolmage and Aimi Hamraie (and others!) criticize the idea of a depoliticized Universal Design;[x] Derrida provides an ethical imperative to respond.

Derrida writes: "Ethics enjoins a politics and a law… But the political or juridical *content* that is thus assigned remains undetermined, still to be determined beyond knowledge, beyond all presentation, all concepts, all possible intuition, in a singular way, in the speech and the

responsibility *taken* by each person, in each situation, and on the basis of an analysis that is each time unique" (WW 115).

This point about *responsibility* taken by each person also means that it is up to each person within the community to exercise hospitality in whatever way they can to help instantiate the access promised and signalled by the organizers. There is no rule for what this will involve, no algorithm, no particular action that would be compelled of each person (how could there be?), but a response (WW 117).

This talk of ethics beyond the political, and the responsibility of each person, does not "reduce" access to an *individualist* ethics; hospitality, for Derrida, is not charity or 'niceness', but the very basis of law. Derrida's text *Force of Law* argues that our responsibility will always exceed the law, and yet the law is what we have to work with.[xi] We can (and should!) argue for better laws, but

better laws alone will not absolve us of the excess, of what is still needed beyond law. Hence, *I* have an ongoing responsibility that cannot be resolved by structural process.

Back to accessibility via hospitality

This paper has been moving back and forth between rules, laws, guidelines, and so forth, so let me clarify my point.

Creating a more accessible society, in practice, requires guidelines for creating accessible structures, environments, and events, which can then be shared widely: much of these are expressed by the principles of Universal Design. Sharing them widely helps educate organizers and planners about what is needed and sets expectations. The establishment of laws around access (and disability rights!) works to enforce this at the societal level – imperfectly, of course, as the history of the ADA has taught! – but in a “less bad” way than none. These

universal rules – whether laws, or guidelines for event planners and instructors – are intended to apply to multiple situations, and cover a range of different needs.

Because of this, they are necessarily imperfect, insofar as they were not tailored specifically for *this* situation and *this* person's needs. This means that an ethics of responsibility for access is needed beyond the institution of any particular set of laws or guidelines. This will still require judgment calls, modifications, adjustment.

This is where we can return to Alice Wong: "Accessibility is more than just adherence to a law. It's an ethos that values different ways of being in the world."

It could *never* have been just adherence to the law. The responsibility exceeds the guidelines, exceeds the law. A welcome that contains my infinite responsibility to each person that shows up – that is what underlies hospitality, and that is what underlies justice.

[i] Alice Wong, “6 Things Can You Do to Protect Disability Rights Today,” *Teen Vogue* online (February 14, 2018): https://www.teenvogue.com/story/disability-rights-how-to-help

[ii] If I had more time, I would say something about the difference between UDI (Universal Design for Instruction, based on 7 principles, and geared toward the accessibility and flexibility of the learning environment) and UDL (Universal Design for Learning, based on 3 principles, and geared more directly toward curricular and pedagogical practices), as they connect to these questions.

[iii] Zara Bain has written about this on the PhDisabled blog: https://phdisabled.wordpress.com/2014/10/30/event-organizers-give-access-information-up-front-please/ and https://phdisabled.wordpress.com/2016/02/11/on-the-dearth-of-disabled-access-information-in-philosophical-events/

[iv] Aimi Hamraie’s book *Building Access: Universal Design and the Politics of Disability*, discusses the history, limits, and promise of UD within design and architecture, including the need for ongoing user feedback and compromise rather than simply following demographic data and *a priori* principles (see e.g. 259-259): *Building Access: Universal Design and the Politics of Disability* (Minneapolis: University of Minnesota Press, 2017). Jay

Dolmage's chapter on Universal Design discusses a range of the problems and limitations of UD in education: Dolmage, *Academic Ableism: Disability and Higher Education* (Ann Arbor: University of Michigan Press, 2017), 115-151.

[v] Rob Imrie, "Universalism, universal design and equitable access to the built environment," *Disability and Rehabilitation*, vol. 34 no. 10 (2012), 874.

[vi] Jacques Derrida, "A Word of Welcome," *Adieu to Emmanuel Levinas*, trans. Pascale-Anne Brault and Michael Naas (Stanford: Stanford University Press, 1999), 50; hereafter cited in-text as WW followed by page number.

[vii] In "Hostipitality" – "But in one stroke, we saw, betraying, by demand of justice, the fidelity to the other's singularity, the absolute and infinite, finite-infinite singularity of the other. This is what I have called the congenital perjury of justice, justice [*le juste*] as perjury. But this is also where I have to ask for forgiveness for being just, to ask forgiveness of the other ,of every other; where, for justice, I have to take account of the other of the other, of another other, of a third." (p. 388)

[viii] Jacques Derrida, "Hostipitality," trans. Gil Anidjar, *Acts of Religion*, ed. Gil Anidjar (New York and London: Routledge, 2002), 388.

[ix] Note distinction: valuing different ways of being in the world because I welcome you before you even show up; vs. valuing you *in your particularity*. Lévinas doesn't say much about the latter.

[x] Jay Dolmage, *Academic Ableism*, 140-1; Aimi Hamraie, *Building Access*, 223.

[xi] Jacques Derrida, "Force of Law: The 'Mystical Foundation of Authority,'" trans. Mary Quaintance, *Acts of Religion*, ed. Gil Anidjar (New York and London: Routledge, 2002), 230-298.