

Discrimination: the importance of politics

Comments on Lippert-Rasmussen

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While he makes the important distinction between moral and legal matters very carefully, Lippert-Rasmussen does not, or at least not as clearly as I think is important, distinguish the two from the quite important *political* dimension of things at least *prima facie* connected to discrimination questions. I think that it would be interesting, and perhaps fruitful, to include politics as a further theoretical angle in at least three respects:

socially salient groups Political views, at least of certain sorts, certainly are “important to the structure of social interactions across a wide range of social contexts” and thus political groups, parties, or just groups of people sharing relevant political beliefs may be discriminated against in Lippert-Rasmussen’s view. I am not sure this is the right result: does Obama discriminate Republicans if he appoints only Democrats to top posts of his administration? If this is discrimination, it may well be also wrong, at least in some cases and according to the desert-prioritarian view. But this seems the wrong result: to appoint only Democrats is what Obama was elected to do. To me, this suggests that it may be an ultimately political decision which are the traits that people can be discriminated for. This may explain other puzzling cases: the differential treatment of income classes may be a form of indirect discrimination in some, but not other societies, depending on the dominant politics in these societies. Other traits, such as intelligence, literacy, beauty, which may well be the marks of socially salient groups,¹ will not give rise to discrimination in societies that politically decide to consider them as legitimate difference-makers. Another example is the political decision to treat foreigners differently, e.g. at customs or with respect to employment, depending on whether or not they come from a country within the European Union or the Schengen-zone.

indirect discrimination Linking salary to years of service may, according to some, amount to indirect discrimination against women because they are more likely to take time off for child care. To count years spent on caring for children towards seniority may, however, wreck havoc with the internal justification of differential pay in terms of professional experience, ie. experience in this or a very similar job. The issue here, I think, is ultimately political: if political measures are taken to make it possible for men as well to take time off their professional career to look after children, then premiums for seniority are much less morally and legally problematic. How to distribute such tasks within a society is an ultimately political decision, not a moral or legal one, and so it may be a political issue whether or not some policy is discriminatory or not.

no relation with power? I submit that many are intuitively inclined to let their judgments as to whether some treatment of Y by X is discriminatory depend on whether or not X is in a position of power with respect to Y . This may also lie behind the distinction some would want to make with respect to whether the actions at issue are in the ‘public’ or ‘private’ sphere. Lippert-Rasmussen’s discussion suggests that discrimination is possible in matters relating to, say, whom to go with or whom to invite for dinner, even though these may be cases of discrimination that are not morally wrong if no harm is done. Even if there is harm done, however, I think it may be (and in our society actually is) politically decided to simply exclude these action types as candidates for discrimination. That this decision, to allocate to all of us some ‘private space’ where we may morally permissibly do as we wish, ignores the fact that there may be power-structures involved and harm done, and so is, I suspect, ultimately political in nature.

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¹This is why I think the claim that “the proposed focus on social salience implies that a meritocratic hiring policy does not amount to discrimination against the less well qualified.” (p30) may be overly optimistic.