

## Chapter 12

# Have We a Right to Non-Discrimination?

### Prefatory

Discrimination stands very high on the list of what is currently accounted injustice. Indeed, the pages of North American journals, at least, tend to be filled with articles addressing the issue of whether *reverse* discrimination is justified or not; but that discrimination itself is unjust is scarcely ever questioned. The point of the present essay is to question it anyway. I largely share the tendency to regard much of what is currently regarded as discriminatory as a bad thing, something to condemn and certainly to avoid. I am much less certain, though, that it is in addition something to prohibit by the machinery of the law. At a minimum-and this is the motivation for the essay-I am puzzled. So the reader may construe the following investigation as an invitation to come forth with a clear account of the matter, at any rate, for I am quite sure that none has as yet been given. And that seems to me to be a very bad thing. When we prohibit the activities of voluntary and rational human beings, we ought, one would think, to have a clear and compelling reason for it. The current tendency seems to be to assume that the wrongness of discrimination is self-evident. That attitude, I am sure we all agree, will not do.

### Initial Definitions

Discrimination requires three persons at a minimum: (1) the discriminator, (2) the discriminatee, that is, the person discriminated against, and (3) the parties who have been favored in comparison with the discriminatees; perhaps we can call this class the beneficiaries. Further, there has to be some characteristic possessed by the second class of persons on account of which they are treated less well than the third; being black, or a woman, or a foreigner, or non-Christian for instance. This property we might call the Discriminandum. Finally, note the expression 'discriminated *against*.' It is essential to the idea of

discrimination, I take it, that the discriminatee is treated badly, adversely, or at any rate less well than the beneficiaries.

All these are necessary conditions. I believe we have a sufficient condition if we add that to discriminate against someone is to treat that person in the undesirable way in question *because* the person has the property in question. But we should perhaps make room for a notion, presumably lower on the scale of moral culpability, of inadvertent discrimination. Here, the persons badly treated are not intentionally singled out for their possession of the Discriminandum in question; but it turns out that the class distinguished by possession of it is, nevertheless, coming out on the short end of the stick just as if they were intentionally thus singled out.

As with so many of the expressions we employ in day-to-day moral activity, it would be possible to expend time and energy deliberating about whether the word ‘discriminate’ is logically condemnatory or not. I don’t think this time would be well spent. Smith may be complimented for being a discriminating judge of wine, or of music; Jones may be condemned for his discriminatory practices in business. I believe we can readily enough identify a sense of ‘discrimination’ which is logically neutral on the moral issue, and indeed, the proposed definition assembled above really is so. Confining ourselves to the more dominant intentional sense of the term, let us begin as follows:

D1: A *discriminates against* B in relation to C by doing x = (def).  
There is a property, K, such that B has K, C does not have K, A treats B worse than C by doing x, and does so *because* B [has] K.

That A treats B worse than C is not, itself, a morally significant fact—a point I shall expand on below.<sup>1</sup> And—as I shall also be at pains to point out—there are obvious cases of treatment fitting the above which no one would take to be unjust. There are two suggestions to consider for expanding the above in such a way as to bring it more nearly into line with the use of the term in which the current controversies are couched. Each deserves some further treatment of its own. Meanwhile, the partial definition given so far may serve as the basis for raising the important questions. What we want to know is: what values of K and x are such that to do x to a K *rather* than a non-K and *because* the person in question is a K rather than a non-K make the doing of x unjust?

Incidentally, I will tend to favor the term ‘unjust’ for these purposes because my main interest is in the moral status which would ground restrictive legislation. Whether some lesser charge than injustice might be brought against one who discriminates is not a matter I shall be much concerned to explore.

### Nonbasic Discrimination

One way in which D1 can be expanded would be by restricting the value of our act-variable, x, in such a way as to guarantee that discrimination is unjust. There are two ways to do this (at least). One would go like this:

D2: A discriminates against B in relation to C by doing x = (def).  
 B is a K, C a non-K, and A does x to B because B is a K *and x is unjust.*

This makes discrimination unjust by definition, but also trivializes the matter. What we want to know is whether there are acts, x, such that x is unjust *because* x is discriminatory. We do not wish to know whether there are acts, x, such that x is unjust because x is unjust.

A more interesting way might go like this:

D3: A discriminates against B in relation to C by doing x =  
 (def.) A does x to B and not to C *because* B is a K and C isn't a K,  
 and x consists in harming B, e.g., by killing, torturing, maiming,  
 or depriving B of rightful property, etc.

I leave an 'etc.' in this definition because my intention is to incorporate into the definition of discrimination a restriction on x to certain kinds of acts which are generally recognized to be morally wrong (and, indeed, are morally wrong, in my view). But I don't wish to incorporate a use of the term 'unjust' in the definition. The idea is to identify discrimination with the doing of evil acts, even though the evilness of those acts is not logically part of the description of those acts. (I have failed even so, in view of the reference to "depriving of rightful property"; finding a nontendentious description of violations of property rights is not easy, and I request that this failing be overlooked for present purposes.) D3 makes discrimination wrong, all right, and it is not trivial either. But it has a different and crucial defect. For the restriction on the range of acts to be considered discriminatory acts are wrong, all right, but not wrong *because* they are discriminatory. For they would be wrong even if they *were*'t discriminatory, except in the special case when they were justified punishments of person B. But this special case is special; usually when hiring is done, the applicants are not guilty of any crimes or other wrongful acts.

Let us call those acts, possibly motivated by discrimination but wrong even if they are not, acts of *nonbasic* discrimination. Now, there are plenty of examples of nonbasic discrimination, and indeed, I think that most examples of discrimination which one might be inclined to go to as paradigm cases of it would be nonbasic discriminations. Think of black people being lynched, or Jews sent to the gas chambers at Auschwitz, for instance. It is quite true that the reason why these people were so treated is that they were black or Jews, and quite true that they were discriminatory. But surely what makes it wrong to lynch an innocent person is not that that's no way to treat a *black* person, or a *Jewish* person, but rather that it's no way to treat *any* innocent person. A good deal of the progress which, I think we'd all agree, has been made in the treatment of other races in North America (at least) in the last few decades has taken the form of getting people to appreciate that the basic principles of morality are color-blind. We think there are basic human rights, held by everybody of whatever race, color, etc., and we are at the point where even sheriffs in small towns in Alabama could probably be got to subscribe to that

thesis, at least in point of lip service and maybe to some degree in action as well. All this is very real progress, and insofar as the hubbub about discrimination is about this sort of thing, the hubbub is justified. The trouble is, it seems clear that what I have called nonbasic discrimination is not the sort of thing which we can use to show that discrimination *as such* is wrong—that there is anything that is wrong just *because* it is discriminatory. ‘Discrimination,’ given our new definition, D3, has yet to signify a basic wrong, something which we have a right that others not do to us, which we wouldn’t have had anyway.

There is, no doubt, an interesting question on the matter of whether nonbasic acts of discrimination are *worse* because they are discriminatory. It has been suggested to me,<sup>2</sup> for instance, that if the Nazis had gassed people at random, or by lot, rather than picking on the Jews in particular, then that would strike us as being hideous and awful, but not *unjust*, or at least not as unjust as what actually happened. It is unclear to me whether this is so or not. Perhaps one reason why one might think so is that we tend to connect injustice with *unfairness*, and it may be agreed that it is unfair to gas people for being Jews, leaving non-Jews intact. And that defect could be rectified by establishing a lottery. But on the other hand, a just community will surely be just as concerned to prevent random gassing of innocent people as it will to prevent selective gassing of them, will it not?

Suppose that instead of gassing you because you are a Jew, I gas you because I dislike your taste in ties. Is this in the same boat, or not? Or suppose I gas you because I have embezzled your money and don’t want you to tell the authorities I have done so. Gassing people at random is in one sense more terrible than any of these, in the same way that terrorism in general is terrible: it might befall anyone at any time. But all of these things are terrible, and I doubt that there’s any point in trying to say in the abstract which is worse. In general, I suspect that the reason we are so impressed with the case of the Jews is twofold. First, anti-Semitism is popular, for some reason, whereas anti-tie-wearing (to the point of gassing) is virtually unheard of, and random gassing is exceedingly rare, though random violence is not. And second, anti-Semitism is *divisive*. It sets people against each other. Policies of anti-Semitism will tend to produce in many people the attitude that there is actually something wrong with being Jewish, that Jewishness is a property which literally deserves extermination, or whatever. There is therefore a public interest reason for worrying about anti-Semitism that isn’t there in regard to the other two practices.

### Moral Irrelevance

The most popular candidate for a principle of non-discrimination, no doubt, would be one which makes use of the notion of “moral irrelevance.” On this view, discrimination would be defined in some such way as the following:

D4: A discriminates against B in relation to C by doing x = (def.)  
 A does X to B and not to C because B is a K and C is not, and K-ness is *morally irrelevant* to treating people in the way that x treats them.

What is meant by ‘moral irrelevance’ here? I suppose that a property of a person is morally relevant to a manner of treatment if it is the case that by virtue of having that property, one is morally entitled to a certain sort of treatment. And indeed, we do frame some exceedingly high-level, abstract-sounding moral principles in some such manner as that. To use the words of Sidgwick, for instance: “If a kind of conduct that is right ... for me ... is not right ... for *someone else*, it must be on the ground of some difference between the two cases, other than the fact that I and he are different persons.”<sup>33</sup> This suitably self-evident-seeming idea readily lends itself to evolution into a principle about the treatment of others: if I am to treat B differently from C, then there has to be some difference, other than the fact that B is B and C is C, which justified this difference of treatment.

Principles as abstract as this have some well-known problems. Those, for instance, who practice racial discrimination are certainly not treating B differently from C just because C is a different person from B. They are treating B differently from C because (for instance) B is black and C isn’t. Obviously a thicker theory about which properties are relevant to which sorts of treatment is required. But I think the plot can be thickened before we get into detail on that matter. We need at a minimum to distinguish two different levels of moral relevance.

- 1) A property might be morally relevant in the sense that we are morally required to treat people who have it differently from people who don’t.
- 2) a property might be morally relevant only in the sense that it is morally permissible to treat *people* who have it differently from people who don’t.

Now, we may agree straight off that there must be morally relevant *properties* grounding any differences of treatment in the second sense. For after all, if it is not morally permissible to treat B differently from C, then no doubt it is wrong to treat them differently; and if we confine ourselves to the sorts of wrongnesses which ground restrictive laws, unjust-making wrongnesses, then it is obvious that moral relevance in sense (2) is a necessary condition for treating people justly. But it is also trivial to say that. What, however, about sense (1)?

### **Discrimination and Employee Equity**

It does, I must say, seem perfectly obvious that in order to justify difference of treatment of two persons, B and C, there does not need to be a morally relevant difference between them in sense (1). I do not mean merely that we might find different ways of treating B and C which treat them equally well, so that neither has any complaint coming on the score of having been less well treated. I mean,

more interestingly, that we may very well treat one person less well than another without a hint of injustice, and without appealing to any differences between them which are morally relevant in the stronger sense. Moreover, I think we can find examples of this type which are also frankly discriminatory in the sense not only of D4, but also relative to current thinking, in that they discriminate along the very lines which figure in many of our laws as well as private judgments.

Such, for instance, seems to me to be the case with marrying and offering to marry. It seems that there are virtually no morally relevant characteristics in this whole area. Suppose I decide to marry Jane on the ground that she has lovely blue eyes, whereas Nell has to make do with plain old brown ones. Well, where is the duty to marry blue-eyeders rather than brown-eyeders? Obviously nowhere: so do I perform an injustice to Nell in thus behaving? I think not. Nor is the situation any different if we think of the standard discriminanda currently in the public eye. If I marry Amanda because she is black, I do not behave unjustly to Sue who is white; or if I marry Cathy because she is of the same religious persuasion as I—or because she is of a different persuasion, for that matter—I do not thereby wrong the unfortunate (or fortunate?) candidates who are thus rejected.

Similarly with friendship. If I like A because he is intelligent and charming, while refraining from befriending B because he is uninteresting, I do not thereby wrong B, despite the total lack of any moral duty to befriend all and sundry, or to befriend the intelligent, or the charming. In short, I think it clear that the general claim that we can justify treating one person less well than another only by invoking “morally relevant” characteristics in the interesting sense distinguished above simply will not wash.

It is manifestly clear that we can act well or badly, and in particular, intelligently or unintelligently, in these contexts. You may certainly criticize my taste if I marry someone because of the color of her eyes, or her skin, or even her choice of religion, perhaps. These decisions may be personally justified or not. But morally? It would take a special background to bring morality into it. Perhaps you have been dating Jane all this time, leading her to expect that you like people such as she, indeed leading her to expect a proposal from you; and instead, you turn around and propose to some total stranger. You may owe her an explanation. Or perhaps you promised your dear old Mum that you'd marry a fellow Seventh Day Adventist and now you've gone and proposed to a Buddhist, yet! There's no end of what might bring moral considerations into these matters. But my point is that *so far as it goes*, morality has no bearing on it: marry whom you like, and Justice will not blink an eye, though Prudence might turn around and quietly retch.

### **Is there Basic Discrimination?**

Further reflection on the foregoing discussion of moral relevance raises the interesting question whether there really is any such thing as what I have

implicitly identified as Basic discrimination. Nonbasic discrimination, we recall, is where there is something wrong with what you are doing to B *anyway*; the fact that you do it to him because he is the possessor of some property (not common to all moral persons) which does not qualify him for that treatment is not needed in order to condemn the action in question. Basic discrimination, then, would be where your act of treating B worse than C is wrong, not because it is to do something to B which you have no right to do anyway, but because it unjustly discriminates between B and C. What we need here, evidently, is a principle calling upon us to do certain things to certain people if we also do them to certain others, but where there is in itself nothing wrong with doing it to anyone or no one.

Yet there seems something odd about this. Here is something I can do to someone, something which there is no inherent moral objection to doing. Call this act *x*. Often *x* will be some negative action, a *nonaction* such as not offering the person in question a job. There is also, we are assuming, *no* moral duty to do not-*x*, to refrain from *x*, to *anyone*. How, then, can it suddenly be unjust if I choose to do *x* to B, and not-*x* to C? Doing it, to anyone, is not wrong; nor is doing it, to anyone, a moral duty, required. Nobody has the right that I do it to him or refrain from doing it to him. How can it be that it is, under the circumstances, wrong to do it to B rather than C?

The most interesting current context, I take it, is employment. We have in general no obligation to hire anybody for anything; nor have we in general any obligation to refrain from hiring anybody for anything. We have, indeed, no duty to go into business in the first place. Yet it is widely supposed that if A hires C rather than B because C is, say, a male, or white, despite B's equal competence, then A has done B an injustice, and the law may properly descend upon A and make him toe the line of equality. Why? So interesting are these contexts that I propose to discuss them on their own for a few pages.

### Public/Private

To begin with, we had better immediately take account of a distinction plainly relevant in this connection, namely the distinction between hiring in the public sector and private hiring. I mean this to be a conceptual distinction. Some might argue that the public sector is a fraud, or at any rate, that there ought to be no such thing: you name it and "the public" has no business doing it. Others might say the same thing about the private sector. I do not intend either to affirm or deny either view here. I only wish to point out that if we acknowledge a public sector, it is easy enough to see why discrimination there would be something to make a fuss about.

The reason is simple enough. Suppose there are services which any member of the public has a right to, *vis-à-vis* the public generally. He has that right, then, *qua* member of the public. Moreover, those offering it to him are also acting as agents of the public. Now, the public consists of *everybody*. If, then, there is some service to which one is entitled *qua* member of the public, clearly

it will be wrong for any agent of the public to give it to C but withhold it from B, so long as both are members of the relevant public. If there is a limited resource which the public is to expend—medical services, say—it is held that this is a public matter, so that all and only the medically needy have a claim on it, and demand exceeds supply, then it is also plausible to hold that the resources ought to be proportioned equally to the need, or perhaps that we ought to maximize the public health, but in any case not on a basis which favors some irrelevantly distinguished group in society. In fact, the criteria of relevance will be quite clear: if there is some need N to which some service S of the public is to cater, then factors other than N are irrelevant when it comes to administering service S.

*Prima facie*, we also have a case for insisting that the agents administering S hire only on the basis of competence. If the idea is to maximize the satisfaction of N, then if applicant B promises to promote that goal better than C at the same cost, then the public would seem to have a right that B be hired rather than C. (The situation gets messy when we ask whether the public has the right that its servants reflect, say, the racial composition of the public they are to serve, particularly when perhaps the typical applicants from one readily distinguished group are less competent than those of some other, since now there will be a clash between considerations of efficiency, which the public has a right to, and the interest in an equal share of the action, which it may also have a right to. But we will not press these issues further here.)

What is important about the invocation of the public here is that it gives us a basis for nondiscrimination which again does not clearly show discrimination to be a *basic* injustice. For it seems, again, that if B can successfully claim to have been discriminated against in the public sector, there is also a claim on B's part to that which he was denied by virtue of the discriminatory act in question: in other words, it is *not* the case—contrary to hypothesis—that there is no obligation to hire at all, nor that there is no obligation to provide the service for which hiring is being done. On the contrary, the thesis is that the public has the duty to provide the service, and is also entitled to it, on a basis that is equal as between persons of one color and another, one sex and another, etc.

But this is not true of the private sector in general. In that sector, the assumption is that those who hire do so in pursuit of private gain, or perhaps some other sort of private satisfaction. There is no obligation to set up any business whatever, no obligation to offer any particular service, or any service at all. That somebody didn't get hired by you, a private employer, is *prima facie* not something he can complain about, since you have no obligation to hire anybody at all—neither that person nor any other. More interestingly, it is by no means clear that he can complain even if he was of superior competence as compared with his competitors. Since you have no obligation to hire at all, it is hard to see why you should have an obligation to hire the most competent. What if you don't care about competence? Perhaps you'd rather that your employees were attractive, or devout Catholics, or tee-totalers, or males. So what? Again, it seems to me: if there is no right to a job at all, how can there be a right that people like you be hired rather than people like anybody else, if

anyone is hired at all?

Again, there are certainly considerations of prudence; and no doubt some will see considerations of morality entering here too. Let us see, beginning in particular with prudence. We turn, briefly, to the question of the economics of discrimination. Too briefly, no doubt, but the matter can afford some instruction anyway.

### **Dollars and Discrimination**

Let us first consider the matter on what are usually thought of as classical assumptions, viz., that everyone in the market is an economically rational agent interested in maximizing his dollar returns. (This assumption, as will be noted below, is unclear even if true; but one thing at a time. One good reason for starting with this assumption is that some people seem to think that discrimination is actually *caused* by the motive of gain.) Such agents will buy at the lowest price available for a given level of quality in the product, and will sell whatever they have to sell, e.g., their labor power, at the highest available price. If A wants an x and B, a black person, offers it to him at a lower price than C, who is white, then A will buy from the black person. (It should be noted that although, as I say, I will be questioning the above assumptions in some respects, there is plenty of empirical evidence that consumers, whether of labor or other things, will indeed buy from people they ostensibly despise if the price is right.)

Consider, then, the case of the Little Goliath Motor Company, a firm which makes no bones about its basic purpose: profit. And consider any position in this firm, call it P, forwarding some function, F, within this noble enterprise. The primary purpose of making money will determine both which subordinate functions will be values of F and, together with an understanding of how F fits in with the rest of the operation, the criteria of better and worse performance at P. The more efficiently per unit of pay F is fulfilled, the lower will be the firm's cost per unit, or the higher the quality, or some mix of the two; in either case it will do better on the market, being able to sell cheaper or higher quality goods than the competition, if the latter don't do as well on these scores. Applicants for P, therefore, will rationally be judged by those criteria.

Enter another classical assumption, viz., that such factors as race and sex make no difference to efficiency on the part of employees. (Again, it is an assumption which is often certainly false to fact, but, again, one thing at a time.) On this assumption, the people down at Little Goliath will not do well to have any interest in the race or sex of their applicants. For imagine what happens if they do. They begin, let us suppose, preferring males or whites. Preferring here means that they will hire them instead of females or blacks (or whatever). Now this presumably means that they will hire a less efficient white male at the same wage as they could get a more efficient black or female for the job at hand; which is equivalent economically speaking, to paying more for an equally efficient one. On classical assumptions, what happens next? Well, the

more persistently enterprising Universal Motor Co. up the road will begin to hire females and blacks, doing equally good work, for lower wages; it is in a position to do this, since the Goliath people insist on turning away perfectly good females with an interest in taking the best-paying job they can get. If this keeps up, and if, as our assumptions dictate, motor car purchasers are interested in quality for price rather than the color or sex of those who put the product together, then we shall expect the Universal people to do well, and the Goliath people to do badly.

Perhaps a case at a somewhat classier level will be still more perspicuous. Most firms, we are told, much prefer males to females for executive positions; and we are also told that this is in fact sheer prejudice, females being equally capable. Under the circumstances, we should expect cagey firms to be soon staffed, in their higher reaches, with high-powered women at half the pay which their competitors have to offer to their all-male staffs. If all firms were rational and our assumption about the relative abilities of the sexes correct, we should eventually see executives of both sexes at the same salaries more or less everywhere.<sup>4</sup>

The moral is generalizable: if the criterion of discrimination in hiring is that criteria other than those relevant to job-performance are used for the sorting of candidates, then in free-market conditions, with economically rational consumers, the non-discriminating firm will be better. Discrimination does not pay. It is, indeed, economically irrational.

Might things go severely otherwise? Might the assumptions be badly wrong? The situation is unclear. We can certainly imagine cases in which consumers are not out to maximize their returns. If consumers insist on buying grapes picked by unionized labor, we are into another ball game: not that store owners really *mind* customers who prefer paying more to paying less for the same goods, but it is all slightly puzzling. Likewise, it is possible that people would want to know whether the soap they buy was wrapped by lily-white rather than ebony hands—possible, but unlikely. More likely, of course, is discrimination in service industries where the customer comes into direct contact with the supplier. People might like black waiters and butlers better than white ones, or pretty stewardesses better than plain though efficient ones, or whatever. In all such cases, economies will not erode what might strike many people as discrimination. It will instead lead to the members of favored classes being better off than members of unfavored ones; and whether, for instance, wages in given industries will tend to equalize in a longish run is imponderable. But it should certainly be noted that there is no clear tendency toward *reinforcing* preexisting patterns of social discrimination, as such, as anyone who has recently attempted to procure the services of Bill Cosby or Leontyne Price will be acutely aware.

It is also essential to point out that the most scandalous cases in the past have been anything but cases of free market operation. Black slavery in the American South was not, in the usual sense of the term, a free market institution. Slave-traders may have competed against each other, but the slaves themselves, obviously, did not own their own labor, and were not free to haggle

about wages. Neither was the situation in South Africa, where wage differentials between black and white workers were reinforced not only by law, but by unions.<sup>5</sup>

I should like to explore this aspect of the matter much further, but space does not permit. Instead, I wish to turn to another crucial matter, closely related to that just discussed and, I think, offering perhaps the most puzzling challenge of all to those who think that there is a clear and straightforward underlying principle behind current attitudes about discrimination.

### **The Purposes of Firms**

Competence is assessed by the criteria relevant to performance of the function which the position in question is to serve. Which functions are to be served, depends in turn on the ultimate purpose of the firm in which the position is situated. Some firms are out to make money; but not all. Let us address ourselves to a couple of relevant cases. One of my favorites, for starters, is a small nonprofit organization known as the Ecuadorian Friendship Society. The E.F.S. has as its purpose the forwarding of friendship among Ecuadorians, and this purpose is not notably served by hiring, say, Bolivian janitors and secretaries, or even French chefs. We may well imagine that the management down at the E.F.S. will substantially prefer less competent Ecuadorians to more competent Bolivians when screening applications for those and other positions, right up to Vice President depending, no doubt, on the condition of its finances. But who is to say that the firm is acting irrationally in such practices? After all, it might be argued, given the purpose of this particular firm, that it is *not* efficient, looked at from the higher point of view, to hire Bolivian secretaries, however efficient they may be *qua* secretary. Under the circumstances, the hiring of Bolivians, however competent, is less than utterly Friendly.

Another of my favorites among these specialized nonprofit establishments is the Black Muslim Church of America, which may be presumed to look considerably askance at applicants of the Occidental persuasion for positions in their clergy, however eloquent and dedicated. The point, again, may be made that given the purposes of the firm, what would otherwise be discriminatory is legitimate, indeed efficient and thus mandatory. Thus it may be argued that these firms do not really violate the canon of hiring only on the basis of relevant competence: competence, as I say, is dictated by the purposes of the organization.

At this point, two questions loom before us. Both should tax us mightily, I think. The first point may be furthered by bringing up another example dear to my heart: the Irish-Canadian Distilleries Corporation. This amiable organization lets it be known to all and sundry that although it is happy to turn an honest dollar, it also has a pronounced interest in maximizing the percentage of persons of Irish descent amongst its employees, even if this should cut into profits a bit. For its purpose is not simply to make money—this, they imply, is a

motive reserved for the low of mind, such as the denizens of the Highlands. It is, rather, to be a sort of marginally profitable Irish-Canadian Friendly Society, a high purpose for which, indeed, its commercial product is peculiarly suitable. Its otherwise inefficient hiring practices, when viewed from this higher perspective, turn out to be perfectly efficient after all, and therefore, on the standard view which seems to prevail about what is “morally relevant,” quite free of any taint of discrimination.

The second question follows naturally enough, viz.: what’s so great about efficiency, anyway? Why not accuse those firms which hire exclusively on the basis of competence of discriminating unjustly against the incompetent? Why should competence be thought a “morally relevant characteristic”? It is not, incidentally, thought to be so when it comes to such elementary matters as the right to vote, or indeed, to stand for Parliament. From the point of view of the employer, of course, competence is highly desirable. So indeed is it from the point of view of the consumer. But why should only that point of view count? Aren’t we supposed to be adumbrating an impartial standard of justice?

### **Advertising of Positions**

One possible account of the injustice thought to be inherent in discriminatory hiring, and to some extent applicable in other contexts as well, is that those who are excluded for apparently irrelevant reasons have been dealt badly with because their expectations, engendered by the advertisement for the position or other description of the opportunity regarding which the discrimination has taken place, have been disappointed. An applicant may well say, “Look, I’ve come all this way, taken all this time and trouble to get this job interview, and now you tell me that no X-ians will be considered. Why didn’t you say so in the first place?”

Complaints of this kind, where applicable, may certainly be well-taken, and sometimes could be a basis for a claim of compensation. If you have flown from Los Angeles to New York for the job interview, only to find that you were never even considered for the position, the firm certainly owes you your considerable expenses for the trip. But so far as the general issue of a basic right to nondiscrimination is concerned, it is surely too weak to do the job many people feel there is to be done. For one thing, it would be hard to specify the number of factors on the basis of which a candidate might be rejected in any satisfactorily general way. After all, if there is just one job and many candidates, several are going to be disappointed, however excellent the reasons for their rejection. And more generally, it is surely not true that the case against discrimination, in the minds of the many who think it a major context for social concern, would always be settled just by wording advertisements appropriately. The claim is that it’s wrong to impose the condition that No Irish Need Apply, however well advertised that condition may be. We shall have to look elsewhere to find any deep principles against discrimination. (Nor should it be assumed *a priori* that we will succeed.)

### **Current Practice**

It is perhaps not entirely out of order to ask whether our current practices in this area make all that much sense, taken in large. For one thing, it does seem as though discrimination is in fact quite all right when practiced by the allegedly downtrodden against the allegedly mighty majority (though the term 'majority' has come to have a somewhat non-literal usage, in view of the fact that, e.g., white Anglo-Saxon males must by now make up rather a small percentage of the Canadian or American populace, and women an appreciable majority). And do we not tolerate, indeed expect and encourage, discrimination as between members of our own family and others when it comes to the distribution of various economic and social benefits, including jobs, education beyond what is provided by the public, and many other benefits?

Another area in a more public quarter has to do with the matter of nationalism. At one time, discrimination on grounds of nationality was one of the standard bad examples, along with discrimination on grounds of sex, race and religion. But recently, one hears less about nationality, perhaps for the reason that every government so flagrantly violates any principle along this line. Not only public employers, but also employers in the private sector, are routinely required to discriminate very strongly against citizens of other countries (in Canada, this is true even of immigrants, whom employers are often required to rank second to citizens for employment). Goods made by foreign firms are, of course, routinely discriminated against by means of tariffs and other restrictions. Even the freedom to marry foreigners has been abridged by some nations, and immigration restrictions having this effect are not uncommon.

I have already mentioned churches in connection with employment. But the existence of organizations with special purposes seem quite generally to raise a question about the intent of nondiscrimination principles; for do not organizations routinely distinguish between members and non-members, persons who share their goals and persons who do not? And why on earth shouldn't they indeed, how could they not do so? But that is just the point. A clear principle distinguishing between all these myriad cases of intentionally prejudicial bestowing of important benefits and the ones popularly frowned upon as discriminatory is what we need and, it seems to me, do not have.

### **A Note on Utilitarianism**

Those who have felt that nondiscrimination is a basic right have often, I think, supposed that it is a right which exceeds the reach of utilitarianism. Partly for this reason, it is of some interest to observe that, while it is, if the foregoing arguments are as strong as I am so far persuaded they are, extremely difficult to find a plausible deep principle going beneath the level of utilitarian

considerations, it is not difficult to give a pretty plausible account of our practices and currently professed principles in utilitarian terms. For one thing, the distinction between private and public in the hiring arena, which figures strongly in the foregoing, does not have all that much status for the utilitarian. From his point of view, one might say all activities are “public” in the sense that the public has a legitimate interest in how they are carried on. If there is to be a private sector at all, from that point of view, it is because the public interest is served better by making some things private. That the wealth of society is promoted by private enterprise, if true, is certainly important and creates a presumption in favor of private enterprise; but then, in cases where it is not so promoted, the utilitarian has no scruples about putting it back in the hands of the public. And if some other important public interest besides wealth comes into the picture, then the utilitarian will simply consider whether this other interest is sufficient to outweigh the lost prosperity resulting from catering to it, if indeed that is what would happen.

What other utilities might be at stake? Prominent among them, surely, are two, or perhaps two sides of a single one. First, there is the sheer fact that those discriminated against feel badly done by. If the public is upset by a certain practice-- or indeed, if a smallish minority is upset by it, given that it is upset enough--then that creates at least some presumption in favor of altering the practice. And secondly, it is fair to argue that discriminatory practices, particularly in areas of such substantial concern to people as hiring, are socially divisive, as was noted in section 3 above. If sizable groups of people are clamoring for advancement, while others characteristically are preferred in those respects, even at some cost in efficiency, then the tendency will be for bad feeling to exist between the groups in question, and we may expect trouble. The fact that we can't identify, in principle and in general, any characteristics and range of practices such that the doing of those things to people with those characteristics and the nondoing of them to people without them is fundamentally wrong doesn't matter all that much; if we can deal with the situation pretty effectively with rather vague and unsatisfactorily messy principles, that is better than ignoring the problem.

It is to be expected, if utilitarianism is our guide, that there will be no stable list of discriminanda such that nondiscrimination principles would always be stated in terms of them, nor any particular social context, such as hiring, where the wrongness of discrimination is permanently to be abhorred. It will depend on social conditions. Fifty years from now, perhaps some quite new contexts, new discriminanda, will be where the focus of concern falls. And if we are interested in capturing current “intuitions” and predicting the way things will go, this aspect of utilitarianism seems likely to stand us in pretty good stead.

But there are some shortcomings. Naturally, the basic status of utilitarianism itself is one of them. Nor is it evident that the whole job to be done is to account for current practices; and if currently held beliefs are what are to be accounted for, then there is the widespread feeling that the right to nondiscrimination does not wait upon social interest for its confirmation to

consider: is that part of what is to be accounted for, or isn't it? More importantly, however, is that it seems to me questionable what the real outcome of utilitarianism is on such issues. To see this, we need to distinguish between two views about the operation of utilitarianism, or perhaps about its application. We might call these the "crude" versus the "sophisticated" form. The crude variety, which I have tacitly appealed to above, has it that we weigh any old interest, however derived. If interests in strawberry jam count, and interests in Mahler symphonies, so do interests in wife-beating, in keeping up with the Joneses, and in one's neighbors all being attired in identical seersucker suits. The sophisticated type, however, does not easily allow such interests to count, or discounts them as compared with others. If interests in others' having such-and-such interests count, and if interests in others having such-and-such relations to oneself count equally, that seems to make way for the kind of objections to utilitarianism trotted out in the standard textbooks and *Introductions to Philosophy*. And the difficulty is that it seems that the kind of interests catered to in nondiscrimination principles are of that kind. In order to get very much weight behind the thesis that social utility will be further enhanced by A's electing to have B work for him rather than C, despite the fact that he'd prefer to have C, we have to attach a good deal of weight to the intensity of B's feelings of indignation at not being equally considered by A, and more weight to the fuss which will be caused by the objections of B's cohorts, etc. If, on the other hand, we simply attend to what appears to be the fact, that whichever A hires, A will be doing that person a favor, but if he hires the one he likes he will in addition create more utility for himself, then it is unclear that we should allow the further fact that B doesn't like the situation to count.

It is characteristic of utilitarianism that once one sees that there are competing sources of utility to take into account, and these are not easily estimated, the argument could be taken either way. And often, the very utility being counted is due to the preexisting moral beliefs of the persons involved. If B had the attitude that A has a perfect right to hire whomever he pleases, there wouldn't be the various political utilities to which the argument of crude utilitarianism appeals. And this means that utilitarianism may not be of much use in this matter after all.

### **And a Note on Contractarianism**

Another of the most important theoretical bases for social philosophy to have been taken seriously in recent times, as well as times past, is the suggestion that the principles of justice are the principles for the structuring of society which would be accepted by rational individuals on a long-term basis, or perhaps an impartial one. Indeed, I would be inclined to argue this way myself. But some who have been of this persuasion have evidently supposed that principles of nondiscrimination are among those which would most fundamentally be opted for in this way; and unfortunately, I fail to see that this

is obvious.

Presumably a main source of the view that nondiscrimination would have such a status is the fact, which is not in dispute here, that the fundamental principles chosen would be, so to speak, color-blind (and sex-blind, etc.). Unfortunately, as has been in effect argued above, this is very far from supporting the very strong principles which are here being questioned. For it is one thing to say that the fundamental principles of morality will not favor any groups as compared with any other (except, of course, that it will disfavor those who don't comply with them), and quite another to say that those principles will require individuals not to favor other individuals on the basis of sex, color, race, religion, taste in wines, or whatever, when it comes to doing good things for them. When we are contracting for general rights, after all, we are contracting to give up certain liberties. The strategy of contractarianism is to pick out those liberties which we are better off giving up, and thus to argue that the rational person will be prepared to do so, in exchange for certain benefits which cannot be had without giving up those liberties. In the case of the liberty to kill, or in general to inflict harms on people, it is plausible to argue that the advantage of being free from such depredations at the hands of others will outweigh, in any even modestly longish run, the disadvantage of giving up the liberty to commit them oneself. But it is a different story when what is at issue is how one is to dispose of one's various positive assets, one's capacity to benefit others. Here it is *not* plausible to argue that every rational person *must* find it to his or her advantage to forgo the liberty to decide who will be the beneficiary of such activities, in return for the benefit of being assured of having an equal chance, along with others who differ in various respects, of winding up as the beneficiary of some other people's similar activities.

It has been the habit of Rawls and of theorists persuaded by his general views to speak rather vaguely about opportunities for realizing the benefits which one's 'society' has to offer. The trouble with this, as Nozick was at pains to argue, is that it seems to assume that society is a kind of organized club with certain rather specific purposes which all members in good standing must be interested in promoting, and having a variety of assets at its disposal for the promotion of these purposes. But since this is fairly obviously not so, and fairly obviously therefore not something which we can simply assume, it is clear that one would have to argue for the claim that everyone ought to look at it that way. And I don't see how such an argument is to go through in general. But in 'general' is what we are talking about here. It is not to the point to observe that many people would see advantage in so viewing the matter; for manifestly some would not, and given that that is so, there is surely no prospect of a general agreement, reaching to all rational persons, on the point.

Even if we suppose that some progress along that line is possible, there is a further problem about the relevance of our results to the present issue. Suppose, for instance, that we can make some kind of case for, say, an assured minimal income for all—already an extremely implausible assumption. But still, although that would, by the reasoning of section 6 above, provide the basis for nondiscrimination in the administration of the program for securing that

minimum to all, it does not seem possible that it would provide a basis for nondiscrimination as between candidates for very high-paying positions, or even most positions. Presumably the minimum must be set somewhere below the average income from employment, and then we have the question of why everyone's entitlement to this minimum should carry with it an entitlement to nondiscrimination at any of the levels above it.

Most contractarian arguments about social minima and the like in any case run up against another problem. If people were so interested in security, including the particular kinds of security which nondiscrimination laws provide, why wouldn't they buy into insurance which provided that kind of security? Or form clubs whose members would agree to boycott those who practiced the types of discrimination they wished to avoid? Why, in short, are the kinds of benefits which nondiscrimination presumably provides of a type which justifies coercive methods for seeing to it that all persons avoid practicing the types of discrimination in question—not only those who do see it as a benefit, but also those who see it as just the reverse? Given contractarian premises, one would have thought that if one has one's choice between enabling some good to be brought about by voluntary efforts among those who want it and a system of imposing it by force, if need be, on all alike, the former would be preferable. When we disagree, the rational thing for us both to do is agree to disagree—not agree that something called 'society' will declare one of us out of bounds and impose the other's view on him willy-nilly.

### A Note on Logic

The principal argument in the foregoing effort to establish that the foundations of our attitudes toward discrimination are insecure and obscure has been of the following general form: We do not (it is admitted) have any obligation to do anything of the kind in question—appointing to a position, say—to anybody at all; so why do we have an obligation not to do it to one person rather than another? If I don't owe *anybody* a certain benefit, x, how is it that I can owe it to everyone that if I do give it to some person other than he, it will not be because he has certain properties but rather because he has certain others? If I owe it to no one at all, then why can't I give it to whomever I please, since the option is to give it to nobody whatever?

The question arises how we are to formulate the principle thus implicitly appealed to. Very generally, no doubt, the idea is that found in Hobbes, to the effect that "Obligation and Liberty ... in one and the same matter are inconsistent."<sup>6</sup> However, there is the question of specifying the 'matter' in question. Perhaps it is the case that even though I have no obligation to do x to A or to B, I have an obligation to do it to A in preference to B if at all, because in doing x to B I would not simply be doing x, but also something else, y, which is forbidden. The trouble is, though, that in the foregoing I have argued that the cases in which there clearly is this other description of my act, this other fact about it, in virtue of which it is obligatory on me not to do it, we

have what I called “nonbasic” discrimination, and this, I observed, doesn’t seem to be sufficient to account for standard attitudes and practices on this subject. Were it the case that, in declining to give the job to A, one also hit him over the head or heaped insults upon him, that would be wrong; but that is not the behavior at issue. It is felt that it is wrong to decline to give it to A at all, if A is in fact “better qualified” than B and one simply prefers to have B for extraneous reasons such as that one simply likes B, or people like B in certain respects, better than A or people like A in certain respects.

A slightly formalized representation of the principle behind the argument would go, perhaps, something like this:

- 1) A’s preferring B to C in context H consists in A’s doing x to B rather than to C, if at all.
- 2) A’s being obliged to prefer B to C in context H = A’s being obliged to do x to B rather than C, if at all.
- 3) A’s not being obliged to do x at all = A’s not being obliged to do x to any person whatever, for any reason; i.e., there is no class of persons such that A is obliged to do x to any member of that class.
- 4) Context H involves some purpose, P, such that pursuit of P would give a reason to prefer B to C.
- 5) But A has no obligation to pursue P at all. (If P were obligatory, then A would have some obligation to do x to someone, if available. But by hypothesis, A has no such obligation.)
- 6) Therefore (by 5), A has no obligation to prefer anyone to anyone with respect to x; and hence not to prefer B to C.

If this is right, then it also appears that there is no such thing as obligatory basic nondiscrimination. If we were obliged to prefer one person to another vis-a-vis doing of some act x, that would imply that we had some obligation to do x, or pursue some purpose such that x promoted it, though other acts y could be done instead, or in general to perform kinds of acts of which x was an example.

Do we think this to be so? I am hard put to decide, but let us consider a few examples. Many of us would accept a general obligation to treat our children equally, for instance: if we have some limited resource money, for instance—which we can devote to promoting their welfare, we feel some obligation to divide that resource equally, or in such a way as to promote their respective welfares equally. True: but it is also true that we have an obligation to promote their welfare at all. How much is, of course, not entirely easy to say, but suppose that we say we are to promote each child’s welfare maximally within some limit. If we have this for each of them, and the resources are only sufficient for some level short of what we would ideally like, then it is readily

concluded that we should split the resource more or less equally, or aim at equal welfares. But if we had no such obligation at all, it is hard to see how any of them could reasonably complain if he or she were always passed over in favor of others.

In general, it seems to me that the claim to equal treatment rests on an assumption that there are equal claims to that kind of treatment; and hence, that there are claims to that kind of treatment. The right to equal opportunity, in particular, rests on an assumed right to opportunity. In the absence of the latter, it is hard to see how we can make much sense of the former.

### A Note on Prejudice

One final matter should be mentioned. Very often, certainly, treatment of different large groups that is markedly unequal in the various respects we have in mind when we talk of ‘discrimination’ is based on beliefs about the relative merits of those different groups. When those beliefs are without foundation, we bring in the notion of ‘prejudice,’ of judging people’s merits before we actually know the relevant facts—if any. The subject of prejudice invites special comment; and doubtless some, though I think not all, of the prevailing beliefs about discrimination are accounted for on the basis of their relation to it. The following observations seem especially pertinent here.

First: we must bear in mind that not all discrimination will be due to prejudice. Perhaps Brown doesn’t believe that all Xians are shiftless, immoral, or whatever: he may simply not much care for X-ians, or he may care for members of his own race (etc.) more. There is a difference between an attitude based on an unreasoned or baseless belief, on the one hand, and on no belief at all, on the other.

Second: when the attitudes in question are based on beliefs, those beliefs are, of course, capable of being rationally appraised. Now sometimes, as we ought to recognize, they might be based on pretty decent evidence. It may not be obvious that the different races, sexes, etc. do have the same degree of allegedly relevant properties. Possibly it is a matter on which reasonable people may differ. Where this is so, it is at least clear that one cannot convict, say, an employer who turns out to employ a quite different percentage of X-ians from that which X-ians bear to the whole population, of discrimination straight off. Perhaps the X-ians are a lot better, or a lot worse, at that sort of job than the average other person. (Obviously there might still be discrimination, for perhaps the employer follows a policy of not even considering non-Xians, when in fact a modest percentage of them are better at the job than a lot of X-ians. This raises further questions, prominent among them being how much trouble an employer could reasonably be required to go to to test persons directly rather than going by obvious qualities, such as sex, which are quite well correlated with them.) At any rate, the point is that we cannot assume *a priori* that various abilities and whatnot are distributed in a population independently of the popular

discriminanda; it simply isn't an *a priori* matter.

And finally: even where it is quite clear that prejudice is at work, there are two questions to raise about it. In the first place, there is the question whether it is right to persecute people for their beliefs. We do not do so, or at least we profess to believe that we have no right to do so, in the case of religious beliefs, even though those beliefs are always, strictly speaking, baseless, and even though they often lead to very substantial kinds of discriminatory treatment. In the second place, and more important at least in practice, there is the fact that once the foundations, or lack of them, of a belief are out in the open where critics can assail them, it is not easy to maintain that belief with a perfectly straight face for very long. Why should we assume so readily that the proper way to deal with actions based on beliefs we think are baseless, illogical, or confused is by making laws against those actions? We can hardly think that generally appropriate. Do we not, after all, have a pretty well-grounded suspicion that most people's practical beliefs are baseless, illogical, and/or confused? (Including, it will doubtless turn out, most of our own?) And are we not agreed that one does not properly outlaw the entertaining of that belief—that in fact the proper way to deal with it is to *refute* it, much to the psychic stress of the person who holds it?

At the risk of being embarrassingly obvious, I would just note that if we were to take seriously the suggestion that it is unjust to hold baseless beliefs, then any principle of freedom of religion would evidently have to go by the boards. Most religions, after all, are almost self-consciously mysterious, and do not even pretend to offer sound reasons, persuasive to any rational being, for holding their main tenets. For all that, these beliefs are obviously dangerous. It takes little investigation of history to see that any number of wars, including perhaps most of the messier ones, have been fought partly or wholly on religious grounds. If the sort of prejudices often leading to discrimination are a public menace, surely religion is even more so. Yet which tenets of liberalism have pride of place over religious freedom?

It may be urged that there is a difference between allowing someone to hold a belief and allowing him to act on it. Anyone seriously urging a strong principle of freedom of thought or of speech needs to make such a distinction, since otherwise he will find himself in the embarrassing position of having to allow any degree of iniquity whenever the agent in question does it on conscientious grounds. In those cases, of course, we need to establish the iniquitousness of the acts in question on independent grounds; and by and large, my argument in this paper has been that it is unclear that we have such grounds. Meanwhile, it in any case remains that employers frequently cannot be said to have clearly unreasonable grounds for their discriminatory beliefs; and when this is so, it is difficult to see how we could proceed against them on the ground that their beliefs were, as we in our wisdom have decreed, false. And on the other hand, we do allow people to act on their religious beliefs, within broad limits, and those beliefs don't have nearly so much to be said for them as some of the beliefs on which prejudices are based.

There is one particular kind of prejudice supporting belief of which we may

make a special case. This is the kind which consists in holding that certain groups of people are, without further explanation, 'morally inferior.' A belief so expressed might, of course, be an empirically based one, to the effect that the incidence of certain standardly recognized types of immoral behavior is greater in that group than in others—which in any case, of course, would not in fact justify across-the-board discrimination against members of that group. But the case I have in mind does not involve an explicable belief of that kind. It consists instead of simply holding that the group in question is not morally deserving of normally good treatment or of ordinary rights. Such a belief, we may certainly agree, is not only unintelligible but certainly immoral. It is unintelligible because it requires that there be a special, empirically undetectable property or set of properties that render their possessors eligible for inclusion in the moral community, and it is in principle erroneous to suppose that there is any such feature or features. And it is immoral because it would make it impossible for an accused person to defend himself against the "charge" of "inferiority" of that kind, even though its purpose is to justify the kind of treatment that is only properly administered to persons guilty of genuinely immoral behavior. But as with the kind of beliefs discussed previously, it must again be pointed out that persons engaging in that kind of treatment of others without a supportable charge of that kind are themselves guilty of violating the rights of others. What is wrong with the behavior in question is not that that is its motive, and it is unclear that the motive in question *adds* to the iniquity of the behavior. But certainly the spreading of such "beliefs," since it *can* only be used to promote evil behavior, may be condemned strongly enough.

### Summary

The thesis of this essay is that the case for regarding discrimination, properly so called, as an injustice has not been clearly supported in western thought, despite its enormous impact on western practice. "Discrimination properly so called" marks an essential distinction here, for as we have seen, much discriminatory behavior, termed 'nonbasic' in the foregoing, is undoubtedly wrong, and yet not wrong by virtue of being discriminatory: killing or injuring people who are innocent of any morally sustainable crime is wrong, whatever the motive. But that leaves a great deal that is "properly so called," where the discrimination consists only in treating some people less well than others, and doing so for a reason that is not morally relevant, in the strong sense of that term in which a morally relevant distinction morally requires a corresponding distinction in treatment. Not giving one person rather than another a job in a company of which you are the owner, and where your reason for preferring the other has nothing to do with competence at that job, is an example. What is anomalous about classifying such behavior as unjust, I have argued, is that there seems to be no *duty* to give anyone the job, in general; how, then, can it be unjust not to give it to one person rather than another? That is the central puzzle, and it seems to me to remain unanswered.

Cases can be made for the wrongness of what is ordinarily called discrimination on indirect grounds having to do with social harmony and the like. But such cases, unlike what can be said in the case of nonbasic discrimination, run up against a serious barrier, viz., the principle of liberty. To require persons to perform all sorts of actions despite the fact that the actions they might instead prefer are not literally harmful to anyone is surely to violate their liberty. It has been assumed throughout that that is a serious point against any requirement or prohibition, and perhaps some would be inclined to deny that it is. Arguing against those people would get us into another essay, and thus I let the case rest at this point.<sup>7</sup>

### Notes

This essay was originally composed in the summer of 1977, and after many presentations and discussions, was published in Deborah Poff and Wilfrid Waluchow, eds., *Business Ethics in Canada* (Scarborough, Ont: Prentice Hall Canada, 1st ed., 1987; 3rd ed. 1999), 270-287

1. See also chapter 4.
2. In private conversation with G.A. Cohen.
3. Henry Sidgwick, *The Methods of Ethics*, 7th ed. (Indianapolis/Cambridge: Hackett, 1981), p. 379.
4. The first version of this paper was written in the late 1970s; thirty years later, when the present book goes into press, my example is very false to fact. I have read (but cannot verify) that although women in the very highest reaches of corporate life are still fairly rare, women in middle management positions are not only frequent, but may even have reached the majority portion.
5. Again, I remind the reader that this paper was written in the hey-day of apartheid in South Africa.
6. Hobbes, *Leviathan*, Ch. XIV (New York: E. P. Dutton, Everyman Library, 1950), 107.
7. I have readdressed these matters, and restated my main views about them, in four further published treatments: Jan Narveson, *Moral Matters* (Peterborough, Ont.: Broadview Press, 1993; 2nd ed. 1999, 301-316; Marilyn Friedman and Jan Narveson, *Political Correctness - For and Against* (Lanham, Md.: Rowman & Littlefield, 1995), 77-96; Jan Narveson, "Fair Hiring and Affirmative Action," in Wesley Cragg and Christine Koggel, eds., *Contemporary Moral Issues* (Toronto: McGraw-Hill Ryerson, 4th ed., 1997), 313-325.