Discrimination and Disrespect

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[ABSTRACT]
Introduction – Discrimination and the disrespect account

Discrimination is a complicated concept, but as a provisional definition we discriminate against someone roughly when:

1) we treat those with a particular trait differently than we do those without the trait,
2) the treatment is disadvantageous to the persons with the trait and
3) the differential treatment is suitably explained by the persons’ having the trait, e.g. because their having it is what motivates us to treat them differently. (cf. Lippert-Rasmussen, 2006, p.167-174)

Now consider the following case:

The Bigoted Billionaire. A multi-billionaire buys a factory, and meets with the director. His first order: “I want you to go through the personnel-records and replace everybody who is black, female, over 50, muslim or gay with white, male, below 50, non-muslim heterosexuals.” The shocked director protests that this would be illegal, but the billionaire informs him that he does this with every acquisition and that his team of elite-lawyers has found ways of doing it without violating anti-discrimination laws. The director eventually acquiesces, and dozens of workers are fired, their vacant positions filled to the owner’s specifications.

Irrespective of whether or not the billionaire’s lawyers can find a way to avoid the action’s being illegal most of us intuitively feel that the scenario describes a moral wrong, that the workers who lose their jobs have been discriminated against in a way which is morally impermissible. But explaining why is not as easy as it may first appear. After all, we do not ordinarily assume that workers have moral claims to their jobs, apart from that which is created by the employer and workers as contracting parties and normally covered by labour legislation and individual severance conditions. Employers are, we normally assume, generally free to hire and fire workers as they please, just as workers are free to seek and maintain employment only when they wish to. This assumption may be wrong, but even if it is, such a moral claim may not fully explain the wrong, because our intuition seems to point to the fact that the way the workers are fired makes a difference to the scenario. Most of us would feel differently and
much less strongly disparaging about an owner who wished to fire a group of workers in a non-discriminatory way, e.g. by picking randomly. What can explain the original intuition and this difference?

The debate on discrimination in the philosophical literature has accelerated over the past ten years and contains a number of different attempts at explaining the wrongfulness of discrimination. (cf. Wasserman, 1998; Radcliffe Richards, 2000; Ezorsky, 2001; Haslett, 2002; Halldenius, 2005; Lippert-Rasmussen, 2006; Vallentyne, 2006; Arneson, 2006; Edmonds, 2006; Lippert-Rasmussen, 2007; Heinrichs, 2007) One of the most prominent explanations of what it is that is potentially morally troubling about discrimination is the disrespect-account. This attempts to explain wrongful discrimination in terms of disrespect towards the discriminatee. Larry Alexander’s “What Makes Wrongful Discrimination Wrong? Biases, Preferences, Stereotypes and Proxies” introduces the notion in the shape of the idea that an important element for the moral status of discrimination is whether or not the differential treatment is biased, which on Alexander’s account means that it is based on a mismeasurement of the discriminatee’s moral status (Alexander, 1992). This idea is picked up and expanded in Richard Arneson’s “What is Wrongful Discrimination?”, which probably remains the strongest and most detailed version of the disrespect-account (Arneson, 2006). But two more recent contributions offer interesting perspectives on both the difficulties the account faces and alternative understandings. Deborah Hellman’s “When Is Discrimination Wrong?” focuses on an expressive interpretation of the argument for disrespect as a wrong, while Joshua Glasgow’s “Racism as Disrespect”, although strictly speaking concerned with the subset of race-based discrimination, suggests that the disrespect-account can play an explanatory role that unifies otherwise disparate elements (Hellman, 2008; Glasgow, 2009). Although neither draws explicitly on Arneson’s work both offer potential insights into and elaborations of the disrespect-account. The disrespect-account has also faced criticism, notably in the form of Kasper-Lippert Rasmussen’s argument that its implications run counter to our ordinary intuitions about the way mistaken beliefs alleviate rather than aggravate culpability. (Lippert-Rasmussen, 2006; Lippert-Rasmussen, 2007) In the following I aim to explore the different versions, outline both common and individual problems and evaluate potential solutions. My overall purpose is to evaluate how strong the disrespect-account is and as a result thereof whether we should look to it or alternative explanations of what is wrong, when something is
wrong, with discrimination.

I do so by first introducing the concept of respect and distinguishing several importantly different understandings and features of it. Secondly, I briefly present Alexander’s disrespect-account and Lippert-Rasmussen’s challenge to it, as a way of setting the stage for the discussion to follow. I then present each of the three recent accounts, Arneson’s, Hellman’s and Glasgow’s, highlighting the problems I believe they individually face, while attempting to derive the strongest version of each. I conclude that the disrespect-account cannot currently be said to satisfactorily explain the wrongness of discrimination.

**What is respect?**

Before diving into the various accounts it will be useful to briefly map out the concept of respect. Certainly, the concept is complicated enough to deserve at least a minimal definition, if but as a preliminary to clarifying what it means for an account of morally wrongful discrimination to fall under the heading of “disrespect”. At the same time however, it is too complicated for it to be possible to do more in an essay like the current one than sketch the most basic elements of the concept.¹ I shall limit myself to attempting no more.

So what does it mean to respect some thing? A convenient starting point for exploring this question is Stephen Darwall’s 1977 article “Two Kinds of Respect”. In this Darwall usefully distinguishes between ‘recognition respect’ and ‘appraisal respect’. Recognition respect he

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¹ As Robin Dillon aptly describes its complications, analyzing respect involves taking a stand on questions such as: “(a) What category of thing is it? Philosophers have variously identified it as a mode of behavior, a form of treatment, a kind of valuing, a type of attention, a motive, an attitude, a feeling, a tribute, a principle, a duty, an entitlement, a moral virtue, an epistemic virtue: are any of these categories more central than others? (b) What are the distinctive elements of respect? (c) To what other attitudes, actions, valuations, duties, etc. is respect similar, and with what does it contrast? (d) What beliefs, attitudes, emotions, motives, and conduct does respect involve, and with what is it incompatible? (2) What are the appropriate objects of respect, i.e., the sorts of things that can be reasonably said to warrant respect? (3) What are the bases or grounds for respect, i.e., the features of or facts about objects in virtue of which it is reasonable and perhaps obligatory to respect them? (4) What ways of acting and forbearing to act express or constitute or are regulated by respect? (5) What moral requirements, if any, are there to respect certain types of objects, and what is the scope and theoretical status of such requirements? (6) Are there different levels or degrees of respect? Can an object come to deserve less or no respect? (7) Why is respect morally important? What, if anything, does it add to morality over and above the conduct, attitudes, and character traits required or encouraged by various moral principles or virtues?” (Dillon, 2009)
defines as: “...a disposition to weigh appropriately in one’s deliberations some feature of the thing in question and to act accordingly.” (Darwall, 1977, p.38) This form of respect has both a cognitive and a motivational element then, in that it involves a specific form of moral reflection which one must be both motivated to engage in and the results of which one must be willing to act upon. We can distinguish Darwall’s definition of recognitive respect, which we might well call ‘subjective’, from an ‘objective’ form in which being respectful just is “weighing appropriately in one’s deliberations some feature of the situation and acting accordingly”. The subjective form allows the agent to fail, either in correctly deliberating or acting, so long as she is suitably disposed to do so. The objective form sets the bar far higher, and in fact need not require that one is disposed in the relevant way. However, it seems to me that we might still say that an agent who, despite being disposed to the contrary, weighs a relevant feature in the appropriate way and acts accordingly is in some sense respectful. Darwall’s alternative, appraisal respect, is mainly attitudinal in that it consists in the recognition and positive appreciation of particular positive qualities: “Unlike recognition respect, one may have appraisal respect for someone without having any particular conception of just what behavior from oneself would be required or made appropriate by that person’s having the features meriting such respect. Appraisal respect is the positive appraisal itself.” (Darwall, 1977, p.38) Note that we can imagine situations in which appraisal respect is required by recognition respect if e.g. we are morally required to adopt an attitude of positive appreciation for some appropriate trait. In such cases, however, appraisal respect seems to be simply a specific version of recognition respect which concerns taking into account the relevant qualities (e.g. virtues) and acting appropriately (adopting an attitude of appreciation). An important common element between the two is that respect is responsive, or object-generated, in the sense that it is concerned with and determined by features of the thing respected: “When we respect something, we heed its call, accord it its due, acknowledge its claim to our attention.” (Dillon, 2009)

In the above, respect can essentially pertain to any feature, from works of art to legal institutions. Now consider the particular sense of respect peculiar to morality: respect for moral patients, which in Darwall’s view happens to be persons: “Persons can be the object of recognition respect. Indeed, it is just this sort of respect which is said to be owed to all persons.

2 We shall return to this below in the context of Glasgow’s argument for ‘valuing respect’, but the idea enjoys wider favour.
To say that persons as such are entitled to respect is to say that they are entitled to have other persons take seriously and weigh appropriately the fact that they are persons in deliberating about what to do. Such respect is recognition respect; but what it requires as appropriate is not a matter of general agreement, for this is just the question of what our moral obligations or duties to other persons consist in. The crucial point is that to conceive of all persons as entitled to respect is to have some conception of what sort of consideration the fact of being a person requires.” (Darwall, 1977, p.38)

The first thing to notice about this understanding of respect is that, although the concept of respect has obviously had a more prominent role in a broadly Kantian tradition of moral philosophy – a perspective that Darwall too clearly approaches the issue from – there seems to be no obvious reason why consequentialism cannot be described in the same terms. Because the definition of respect leaves unspecified the object of respect and what appropriate weighing and actions are, it is consistent with the definition to say that e.g. a utilitarian (broadly speaking) shows recognitive respect of a conscious being when she applies Mill’s famous dictum, apocryphically attributed to Bentham: “everybody to count for one, nobody for more than one” (Mill, 2007, p.105), that is, just when she counts the impact of her actions on that being’s wellbeing as an equal part of the total wellbeing which she seeks to maximise. To do so would seem to meet the criterion of “a disposition to weigh appropriately in one's deliberations some feature of the thing in question and to act accordingly”, given that the relevant features on a utilitarian understanding is the being’s capacity to experience pleasure and pain, the correct weighing is impartial and the appropriate action is that of the available alternatives which maximises the total good.3

It is on a different level, therefore, that the distinctive element in Kantian understandings of respect emerges. On standard accounts of consequentialism, the duty to treat others respectfully is at most derivative.4 As Phillip Pettit has argued it is not generally speaking true that consequentialism requires the agent to think as a consequentialist, e.g. by weighing all

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3 I set aside in this broad use of ‘utilitarian’ important variations on this definition, including notably subjective- and rule-utilitarianism. The same point applies, however, to such variations, with the requisite alterations.

4 There will, presumably, be versions of both subjective- and rule-utilitarianism where this is not true, but as above I set these aside.
persons’ wellbeing equally and seeking total maximisation, it is simply true that all persons do in fact count equally in just this way, and that the right action is in fact that which maximises. Thus: “…while it is appropriate to assess or evaluate an option by reference to the values of its prospects, it may not be appropriate for an agent to use such assessment in his deliberation. It may be better for him – it may improve his chances of getting a desirable prognosis, for example – if he restricts his deliberation, making his decisions by using certain rules of thumb or whatever.” (Pettit, 1989, p.119) Whether or not agents ought to think about their actions in consequentialist terms will be decided by whether this is the procedure which will lead such agents to achieve the best consequences.

We can distinguish therefore between the claim that adopting “a disposition to weigh appropriately in one’s deliberations some feature of the thing in question and to act accordingly” is a contingent and instrumental duty, as it may be for consequentialists in some even if not in all realistic scenarios, and the claim that it is an intrinsic duty. Darwall, and presumably many Kantians, will prefer to hold pace consequentialists that the latter is true, that is, that we have a duty to (adopt a disposition to) weigh appropriately the morally relevant

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5 Similarly, Derek Parfit has famously argued that consequentialism is, in his formulation, ‘indirectly self-defeating’ because there will be situations in which coordination-problems will make it preferable for consequentialists, as measured by the requirements of consequentialism itself, to adopt a non-consequentialist attitude, i.e. to be disrespectful on the terms of the present account. (Parfit, 1984, p.24-67)

6 This does not mean that consequentialists are concerned with what I have called objective recognition respect. Even that requires that the agent is responsive to and deliberates about the morally relevant features in the appropriate way, in addition to acting in accordance with such deliberations. If we assume utilitarianism, doing so will necessarily lead an agent to act in the way that is morally required by utilitarianism, but this is morally required for independent reasons, and the agent’s deliberations and responsiveness do not contribute anything to the moral status of the situation. In short: there is not requirement to be responsive and deliberate in a specific way, only to act in the way that would be the result of such (idealized) deliberation.

7 An objection might hold that in those situations where consequentialism requires the agent to not deliberate along consequentialist lines, rather than calling this disrespect we should understand it as a form of 2nd-order respect, in which properly taking account of the features of the situation, that is, being respectful, requires acting in a way that will not in the same way properly take account of the features of the situation, that is, being disrespectful (on the terms initially defined). This would describe the difference as being between consequentialists who would subsume the principle of respect under its own standards, that is, measure when to be 1st-order respectful by the identical but higher level standards of 2nd-order respect, and non-consequentialists who would not. I consider this a compatible description of essentially the same phenomenon, and so leave it undecided whether one is in some way preferable to the other.
features of a situation and act accordingly, even e.g. when doing so perversely does not promote the values which respect is appropriately directed towards taking into account. In Phillip Pettit’s analysis, this form of non-consequentialism denies that we can assess the rightness of choosing an option simply in terms of its promoting a given value, holding rather that we are morally required to be respectful, irrespective of what outcome this produces. (Pettit, 1989, p.118-121)

Note additionally three points concerning disrespect, comparativeness and the relevant features: The first is that it is not immediately apparent whether objective recognition disrespect is best understood as a failure to properly take account of morally relevant features or the wrongful taking into account of morally irrelevant features (or, having the requisite dispositions on the subjective version). On the first possibility objective recognition disrespect consists in:

1) failing to recognize the relevance of or giving inappropriate weight in one’s deliberations to some feature of the object respected, or
2) not acting in accord with the outcome of correct deliberations.

Call this positive recognition disrespect, as it violates the requirement that we recognize and weigh the relevant feature(s). On the second option, objective recognition disrespect consists in:

1) mistakenly recognizing an irrelevant feature of the object as relevant, and giving this feature (objectively) inappropriate weight in one’s deliberations, or
2) not acting in accord with the outcome of correct deliberations.

Call this negative recognition disrespect, as it violates the requirement that we refrain from recognizing and giving weight to irrelevant features. On consideration, the most plausible understanding of the concept seems to me to be that to comprehensively respect some thing

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8 Though cognitively these might work differently, principally they are simply the difference between mistakenly ascribing a weight of zero, and ascribing a mistaken but greater than zero weight to the feature. This becomes even clearer once we consider negative disrespect, which is mistakenly ascribing a greater than zero weight.

9 Note that, in both cases, the most obvious reason why the agent might not act in accord with the outcome of correct deliberations is that she acts in accord with the incorrect deliberations produced by 1) and 2). But this is not necessary. Since respect requires both the cognitive and the motivational element, then the negation of either is sufficient for disrespect.
one would have to do neither, which implies that the cognitive element of respect consists in recognizing the relevance of and appropriately weighing \textit{all and only} those features of the object that are morally relevant.

The second point is that there is an important difference between two types of feature that can be under consideration. The first is what we might call the potential patient’s ‘moral worth’, and concerns just whether and if so to what extent the object under consideration is in fact a moral patient. On many consequentialist accounts, for example, different animals will have different moral worth relative to e.g. their level of consciousness and capacity to experience pain and pleasure. On the other hand, most Kantian accounts will tend to take a dualistic approach and consider moral worth a concept that does not allow for degrees; one either is, or is not, a moral patient, depending e.g. on whether or not one is an autonomous being. Compare this type of feature to other morally relevant features such as desires, capabilities, needs, rights and deservingness, which are features \textit{of} moral patients. It is the strength of the claims these features stake on moral agents that is potentially discounted according to the patient’s moral worth.

The third point is that respect appears to be non-comparative. In both recognitive and appraising cases it amounts to responding in the correct way to traits that pertain to an individual, independently of how one responds to other individuals. It is possible of course, e.g. on egalitarian normative theories, that the relative position of an individual is one of the moral features that must be taken into account, just as it is possible that appraising respect is properly directed towards e.g. the relatively superior skill, virtue or intelligence of an individual, but this makes the object of respect comparative position, rather than making respect itself comparative. More specifically, in the first example being respectful requires us to take comparative position into equal consideration in all cases, but may mandate differential treatment as the appropriate action to even out comparative differences, while in the second, equal consideration requires us to appreciate the relative differences between individuals and respond accordingly. To be properly comparative, we should have to say that respect does not consist in (a disposition to) weigh appropriately the relevant features of the situation and act accordingly, but only to weigh equally, or in the same way, the relevant features of the situation and act accordingly. But this understanding implies that a person who is strongly non-comparatively disrespectful can be comparatively respectful, e.g. because she always takes \textit{none} of the relevant features into
consideration. I find this highly implausible.

Let me sum up: Respect is responsive, in that it concerns reacting in the right way to the object of respect. Subjective recognition respect is the disposition to weigh appropriately in one’s deliberations some feature of the object of respect, and act accordingly. Objective recognition respect is doing so, as opposed to the mere disposition to do so. And appraisal respect is recognizing and positively appreciating features of the object of respect, though when such recognition and appreciation is morally required appraisal respect collapses into recognition respect. Positive recognition disrespect is failing to (have and maintain a disposition to) appropriately weigh and act upon relevant features, while negative recognition disrespect is failing to (have and maintain a disposition to) appropriately weigh irrelevant features (i.e. by ascribing to irrelevant features a greater than zero weight). Respect for moral patients may be instrumentally or intrinsically required, and may concern either their moral worth or the features which ground moral claims they can stake as moral patients, all of which depends on the specifics of the moral theory being applied, though in none of these cases is it plausibly comparative rather than non-comparative respect that is required. Given this overview, I hope we are now better conceptually equipped to explore the disrespect-account of discrimination.

**Discrimination, disrespect and the initial challenge**

An initial attempt at linking discrimination to disrespect might hold that one of the central features of wrongful discrimination, well illustrated by central cases of racism, misogyny, homophobia, etc., is that the discriminator assumes and/or implies that the discriminatee has a lower moral status, either comparatively or absolutely, that is either a lower moral status than other persons, or a lower moral status than she actually has. Assuming or implying that the discriminatee has a lower moral status fails to appropriately weigh a central moral feature of the discriminatee, and thus to respect her on the terms given above. Thus, in Larry Alexander’s words: “[Nazi biases against Jews] were intrinsically morally wrong because Jews are clearly not of lesser moral worth than Aryans. When a person is judged incorrectly to be of lesser moral worth and is treated accordingly, that treatment is morally wrong regardless of the gravity of its effects. It represents a failure to show the moral respect due the recipient, a failure which is by
itself sufficient to be judged immoral.” (Alexander, 1992, p.159) Although this postulates rather than independently establishes that such disrespect is morally wrong, the intuitions of many may point in that direction, and thus corroborate moral theories that do establish the intrinsic wrongfulness of disrespect.

However, the fit with disrespect is imperfect. If the disrespect-account wants to hold that disrespect is the underestimation, rather than the misestimation of moral worth, then it is forced to implausibly claim that there is a relevant difference between treating person A worse than person B and treating person B better than person A, even though they seem to be equally valid descriptions of any case of differential treatment: “On this account, the problem with discrimination is not that the person who discriminates is too respectful of some (those in favour of whom he discriminates) but rather that this person is disrespectful of others (those against whom he discriminates).” (Lippert-Rasmussen, 2006, p.180) Thus the alternative is to hold that: “…discrimination is bad because it involves a false representation of someone’s moral status, where the falsehood need not consist in representing someone as having a lower moral status than he in fact has and where that person need not be the discriminatee, i.e. the immediate object of discrimination.” (Lippert-Rasmussen, 2006, p.181) This is approach is consistent with different formulations of the principle in Alexander’s article. Wrongful discrimination, Alexander later claims, is mainly wrong because: “…biases premised on the

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10 Again, it seems clear to me that believing or implying that someone has a comparatively lower moral worth is only contingently disrespectful, namely in those cases where it coincides with a misestimation of moral worth in absolute terms. It is difficult to see how believing and implying that someone has lower moral worth could be an expression of disrespect if it was actually true that the discriminatee had the inferior moral worth in question. Note that to properly consider this we need to keep out concerns for the harm that representations of inferior moral worth, whether accurate or not, may cause. While this can conceivably count in favour of not acting in a way which will signal the inferiority, it does not affect the issue of whether doing so constitutes respect.

11 Note that an implication of this is that unconventionally we must label a case where an agent overestimates the moral worth of a patient, and thus believes her to be more morally worthy than she really is, a case of disrespect. I am willing to accept this, given that it seems difficult to explain why the direction of misestimation should be morally important. In addition, I think at least some of the intuitive unease we might feel in classifying such cases of overestimation as disrespect is explainable by reference to the fact that they will tend to lead us to treat some persons with greater concern, kindness and care than we would otherwise have done, all of which may often be good for independent reasons.
belief that some types of people are morally worthier than others are intrinsically morally wrong because they reflect incorrect moral judgments."\textsuperscript{12} (Alexander, 1992, p.161, my emphasis)

This suggests the following definition in line with the terms that I have applied so far: An agent engages in morally wrongful discrimination if\textsubscript{f}:  

1) she treats those with a particular trait differently than those without the trait, and  
2) the agent treats these persons differently because she fails to recognize and appropriately weigh the moral worth of persons with the trait, i.e. positive objective disrespect.\textsuperscript{13}

However, as Kasper Lippert-Rasmussen has pointed out, this version of the disrespect-account faces a serious problem in that it seems to turn our standard intuitions about the way badness is tied to belief on its head. Normally we would hold that if the beliefs of an agent influence the permissibility of the action at all, an act must be less wrong if the agent does it while holding a

\textsuperscript{12} The ambiguity is not resolved, however. It persists when Alexander concludes that: “Biases-except for those reflecting close personal ties that are so central to one's identity they amount to "biases" in favor of one-self are paradigmatically intrinsically immoral. Biases rest on erroneous judgments of others' inferior moral worth, and they insult and produce justifiable resentment in the dispreferred, harms that are unnecessary additions to the inevitable harms of being dispreferred.” (Alexander, 1992, p.192, my emphasis) Note in this context that the harms here introduced ought on Alexander’s account to be considered relevant only to the extrinsic wrongness of the act. In addition, although he concedes that there are cases where discrimination is wrong by virtue of the harm it causes, Alexander also posits a high threshold for the wrongfulness of this harm, which implies that the intrinsic wrong of disrespect forms the core of what is wrong when something is wrong with discrimination. Cf. Alexander: “Discriminatory preferences are extrinsically morally wrong if their social costs are large relative to the costs of eliminating or frustrating them.” (Alexander, 1992, p.219, p.219) Arneson, who we shall turn to momentarily, has a similar qualification: “Of course, acts that are not intrinsically morally wrong may become morally wrong for extrinsic reasons. This is so when an act takes place in circumstances where it causes bad consequences to an extent that outweighs its intrinsic innocence.” (Arneson, 2006, p.790-791)

\textsuperscript{13} Note that, compared to the rough definition I initially suggested, this definition can be said to incorporate the third condition, in that the differential treatment is 'suitably explained' by the way possessing the trait relates to misestimation of moral worth, but the second condition, that the treatment be disadvantageous, is abandoned. One interpretation is to say that having one's moral worth misestimated is always disadvantageous, but this strikes me as stretching the term too far. A better reply, it seems to me, will hold that even cases where the result perversely is advantageous to the discriminatee are wrong, and that outcomes are therefore only extrinsically relevant to discrimination.
mistaken belief that implies that what she is doing is in fact right.\footnote{The alternative here is, of course, to say that the beliefs, attitudes etc. of the agent do not affect the wrongness of the action, but the blameworthiness of the agent. But this is not consistent with the disrespect-account.} Thus, causing harm to someone because one has failed to recognize their moral worth, and therefore mistakenly holds the belief that the subject one is harming has no moral worth and that causing it harm is therefore morally permissible, seems, if anything, less bad than inflicting the same harm while recognizing that the subject has equal moral worth and holding the accurate belief that one’s action is therefore morally wrong.\footnote{Note that, as Lippert-Rasmussen makes clear, we must set aside as extraneous factors both the possibility that the first action will cause greater harm, because it may be insulting to be harmed in this way, the situations in which the agent is not epistemically justified in holding the mistaken belief and the potential culpability that would result if the reason the agent holds mistaken beliefs is that she manifests certain epistemic flaws that are independently worthy of condemnation. (Lippert-Rasmussen, 2006, p.182-183)} “But if one’s discriminatory activities are less bad when they are accompanied by an underestimate of the moral status of the discriminatee than they are when they are accompanied by a correct estimate of the discriminatee’s status, it follows that discrimination cannot be bad simply because it reflects an incorrect judgement of moral status.” (Lippert-Rasmussen, 2006, p.183) As the argument shows, if discrimination would be worse when performed by an agent who has correct beliefs about the morally relevant facts, than when performed by an agent who has mistaken beliefs, then it seems extraordinarily odd to suggest that it is the mistaken beliefs that explain an act of discrimination’s being wrong.

This then is the initial challenge for the disrespect-account. Ideally, it must both specify the type of disrespect involved in discrimination, explain why this form of disrespect is wrong, and do so in a way which avoids running counter to our intuitions in the way identified by Lippert-Rasmussen.

Three accounts of wrongful discrimination as disrespect

\textit{Disrespect as reflecting unequal moral worth}

In a recent \textit{Ethics} article, Joshua Glasgow presents the disrespect-account as potentially useful in the conceptualisation of discrimination. (Glasgow, 2009) Strictly speaking, Glasgow’s
concern is not discrimination but racism, and his stated aim is not to defend the disrespect account but to “propose a unified account of racism”. (Glasgow, 2009, p.64) Nonetheless, the central ideas and arguments that Glasgow presents in the pursuit of his unified account apply equally to discrimination in the wider sense, and his unified account involves, indeed hinges on, a qualified defense of the disrespect-account.16

Glasgow’s motivation for looking at disrespect is that attempts to provide a cohesive definition of racism flounder on what he calls ‘the location problem’, that is, the apparent difficulty in determining whether racism is cognitive, behavioural or attitudinal. Attempts at locating the root of racism decisively in any one location all founder on the fact that there seem to be credible examples of all three which are not derivative to the others: “In short, we call beliefs ‘racist’ even when they neither issue in racist behavior nor issue from racist noncognitive attitudes; we call attitudes ‘racist’ even when they fail to effect racist behavior and are unaccompanied by racist beliefs; and we call some behavior ‘racist’ even when it takes place in the absence of racist beliefs or attitudes.” (Glasgow, 2009, p.69)

Glasgow’s solution is to adopt what he dubs “location neutrality”. (Glasgow, 2009, p.80) By locating the essence of racism outside any of the locations, but in a phenomenon which can manifest in any of them, the location problem is apparently solved. The important development in Glasgow’s article is therefore the unfolding of the argument that what unifies racism is that it involves a moral wrong, even if only a pro tanto wrong.17 The easiest way to argue this would be

16 The equal application presupposes both that racism is, on Glasgow’s account, essentially race-based, morally wrongful discrimination (as I have defined it), and that race is not a trait that is intrinsically different in a relevant respect than other traits that can form the basis of discrimination. Both of these premises seem to me plausible, and there is no indication in Glasgow’s article to the contrary, so I shall assume them for present purposes.

17 Glasgow, however, seems to set the threshold that would justify racist actions unreasonably high: “If a very powerful alien reliably told you that he would kill all Rs unless you daily refer to all Rs only by using a racist slur, or unless you successfully internalize an attitude of hatred toward Rs, perhaps it would be obligatory, all things considered, to perform such racist speech acts or to cultivate such an attitude.” (Glasgow, 2009, p.78, note 35) This example may be deliberately extreme, simply as a means of illustration, but even most non-consequentialists ought, it seems to me, to accept that while the harm caused by e.g. uttering racial slurs is both real and substantial, it is nowhere near great enough to require the kind of apocalyptic scenario presented by Glasgow for it to be outweighed. Surely, even a much smaller amount of harm, such as a threat directed against a single human life rather than an entire racial group, ought to be sufficient to meet the threshold for a non-absolutist deontological principle. Claiming otherwise, is to hold that the wrong of allowing the death of an
as a conventional distinction, that is, one where we simply restrict the concept of racism to those instances of race-based discrimination which are morally wrong, while reserving either a different or a broader term, such as “racial differentiation” for those instances which are not. This would allow that there could be several different reasons why racism is morally wrong, applying to different contexts. But Glasgow aims at a different and more challenging claim: that there is a particular subset of race-based discrimination that we can or should call racism, membership of which is defined by a feature that also makes the members of this subset morally wrong.\textsuperscript{18} Glasgow’s bid is the “Disrespect Analysis” of racism: “(DA) φ is racist if and only if φ is disrespectful toward members of racialized group R as Rs.” (Glasgow, 2009, p.81) This would suggest that an agent engages in morally wrongful discrimination \textit{iif}:\textit{ }

\begin{itemize}
  \item[1)] she treats those with a particular trait differently than those without the trait, and
  \item[2)] the attitude or belief that suitably explains the differential treatment is disrespectful towards the discriminatee, or
  \item[3)] the actions of the discriminator constituting her treatment of the discriminatee are disrespectful towards the discriminatee\textsuperscript{19}
\end{itemize}

At this point, we want to know what Glasgow understands by ‘disrespect’. Indeed this is particularly urgent for Glasgow because, as he rightly notes, the most obvious challenge for his disrespect-account is that it must hold disrespect to be different from an attitude. If, for

\textit{innocent is less than the wrong of being (in some respect) racist. While obviously neither is a very palatable option, I do not see how we could reasonably prefer the second to the first.}

\textit{As Glasgow explains it: “…to say that all instances of racism are instances of disrespect is not to deny that all or many instances of racism might also be instances of something else. The goal here has been to analyze the concept racism, not to enumerate every single truth, not even every universal truth, about racism. (If all horses have teeth, that doesn't mean that having teeth is part of the concept horse; we can, after all, at least conceptualize a toothless horse.) So even if every known instance of racism were accompanied by intense malice, this wouldn't mean that intense malice is part of the concept of racism.”} (Glasgow, 2009, p.91) While this is true, separating the essential from the non-essential qualities of a phenomenon is notoriously tricky. And if the mere fact that some quality accompanies every instance of racism does not establish it as part of the definition, we need a reason to accept disrespect as the definitory trait which is independent from its mere accompanying all actual cases.

\textit{Note that as before the differential treatment need not be disadvantageous in the normal sense of harming the discriminatee or being contrary to her interests. Glasgow is explicit that even paternalist forms of racism can be morally wrong.}
example, an action’s being disrespectful means only that it expresses an attitude of negative appreciation for the discriminatee, and is therefore appraisively disrespectful, then he returns full circle to the location problem. His exposition here, however, relies first and foremost on intuitions about and common usage of ‘disrespect’, and only secondarily on a more explicit development of the concept. Thus, Glasgow initially confronts the challenge by arguing that: “…we should not feel compelled to understand disrespect in that attitudinal way, for disrespect can be predicated of many different categories…”, the illustration of which he takes to be the way that it is used to describe a variety of phenomena in all three locations: “We say things like: “Your dismissive attitude is disrespectful,” “Your claim that Kerry is a coward is disrespectful, particularly in light of his exemplary military service,” and “Giving him ‘the finger’ was disrespectful.” Indeed, we say such things even when the attitudes, beliefs, and behaviors seem to come apart from each other. We might tell a child who “gives someone the finger” just because that’s what he saw his older brother do to stop doing that on the grounds that it is disrespectful, even though the child had no disrespect in his heart. Thus it appears that not all behavioural or cognitive disrespect derives from attitudinal disrespect.” (Glasgow, 2009, p.83-84) Additionally, he proposes, background intuitions may suffice for his purposes: “Instead [of giving a full theory of disrespect], I hope that most readers, whatever their theoretical persuasions, have some sort of pretheoretical grip on respect and can agree on a series of commonly recognized cases of disrespectfulness: systematic suppression of Rs’ political rights, workplace discrimination against Rs, the utterance of racial epithets, hating Rs as Rs, and so on.” (Glasgow, 2009, p.86)

Here I am probably less comfortable than Glasgow in putting my trust in the accuracy of intuitions and ordinary usage. Firstly because the concept of respect is by virtue of its abstract and normative nature both confused and contested in public discourse. (cf. Dillon, 2009, note XX above) In practice this means that respect is a concept which can apply to and mean very different things, given differing contexts and objects of respect.\(^{20}\) So the mere fact that the term ‘respect’ (or ‘disrespect’) is used in everyday speech to describe and evaluate both beliefs, attitudes and actions is no guarantee that three identical meanings of respect are at work. To

\(^{20}\) Compare e.g. the pedestrian who does not respect the law by ignoring a red-light at a traffic-crossing late at night with no traffic in sight, to the invitee who does not respect conventional etiquette by replying verbally to a written invitation, to the surfer who does not respect a dangerous wave by fearlessly riding it.
ensure this, we would at the very least have to try to restrict the range of cases to those where respect has moral connotations, rather than e.g. conventional or metaphorical. Once we turn to these however, disrespect may be too thin a concept in much common usage for it to be useful. My feeling is that in common parlance disrespect is frequently a non-substantive pejorative, in effect synonymous with “wrong”, “bad”, “impermissible” and similar condemnations, without any substantive implications pertaining to that particular term being applied rather than one of the others. In such cases, if not as emotivism would hold in all, ‘disrespectful’ really does just mean ‘boo!’ (cf. Ayer, 2002) Taken together, these two concerns substantially undermine Glasgow’s reliance on a common-sense concept of disrespect. It is the vagueness of the concept which allows its broad normative scope, but we will only have common agreement on such cases if we use disrespect in the broadest sense possible, i.e. the one where it is the equivalent of ‘boo’.

Glasgow, however, at first appears to be willing to bite this bullet: “…if ‘disrespect’ itself connotes a moral negative (as I believe it does), then even if all instances of disrespect have nothing else in common besides that moral valence, they will all be at least defeasibly morally condemnable, and in that case DA can enable the normative work we want done by an analysis of racism.” (Glasgow, 2009, p.88) Note two things here. First, this position is inconsistent with the project first outlined, in that it represents a retreat into the approach where we define racism by convention simply as those varying cases where race-based discrimination is for any reason morally condemnable. Now as noted initially this is an easier position to defend, but it is so because it gives up explanatory power. Secondly, the resort to intuitions that Glasgow here relies on seems to me incapable of doing the conceptual work that he needs it to: Even if we accept that disrespect connotes negative moral valence, and that hence we should only call something disrespectful if it is morally condemnable, the issue at stake is whether these cases fit the broad range of common usages that Glasgow suggests. Unless we are willing to take all uses of disrespect in ordinary parlance as valid, we need a thicker description of disrespect to distinguish between the cases it does apply to and those it does not. Ultimately, unless we have some understanding of what it means for something to be disrespectful, there is no way to know whether or not any overlap is accidental, or indeed whether there is any overlap between the two concepts of racism and disrespect. To guarantee that a meaningful concept of respect can in fact apply to all the contexts, and thus provide the common denominator that will allow Glasgow’s unified account, we need rather to know what disrespect means, centrally we need
to know what it means for it to be morally wrong, and then assess whether the concept can, on this concise definition, map onto the various usages that he needs it to cover.

This brings us to the second element in his exposition. We do not get a full definition, but Glasgow does elaborate somewhat when, in the context of recognizing that the problem threatens his attempt to unify the many varieties of racism, he admits to being “…partial to understanding the relevant kind of disrespect as something like a failure to adequately recognize autonomous, independent, sensitive, morally significant creatures.” (Glasgow, 2009, p.86) Here we are approaching a traditional respect-account. Further clarification, unfortunately, is brief and relegated to the footnotes, where he identifies his position with Darwall’s recognition respect, but with two modifications.21 First of all, he favours the “valuing recognition” defined by Robin Dillon: “…at least sometimes, the appropriate recognition will involve valuing the object of respect, when the object is a person.” (Glasgow, 2009, p.86, note 49; Dillon, 2009) Secondly, he suggests abandoning “the deliberative focus of Darwall’s analysis”, i.e. the notion that “the core” of recognition respect is “giving appropriate consideration or recognition to some feature of its object”: “Even putting institutional respect to the side, it is arguable that these words should be removed anyway, since our attitudes seem capable of manifesting valuing recognition respect or disrespect whether or not they figure in our deliberations. And bringing institutions back in, it seems fair to say that both institutions and agents can engage in valuing recognition respect. Even if they have no attitudes, institutions and their policies can (and should) reflect our equal moral status.” (Glasgow, 2009, p.86-87, note 49)

This is not as much help as one might hope, because Dillon’s account of valuing recognition is far from clear. Recall that (objective) recognition respect is composed of

1) recognizing the relevance of (all and only) those features of the object of respect that are relevant to the situation at hand,

2) giving these features the appropriate weight in one’s deliberations and

3) acting in accord with the outcome of one’s deliberations,

21 Rather than present a concise definition Glasgow excuses himself by reasonably suggesting that the task of developing a full account of disrespect would exceed the scope of his article, although we might object that this is so only if he truly needs to develop a new and alternative account rather than refer to or modify an existing account of respect.
whereas *appraisal respect* involves

1) recognizing the extraordinary quality of some feature of the object respected and
2) adopting an attitude of positive appreciation for those features.

Of the two, it is appraisal that is concerned with valuing, in the sense of having an attitude of appreciation. Now, according to Dillon: “…valuing is essential to some forms of respect that are not appraisal respect. In particular, valuing persons intrinsically is widely regarded as the heart of the respect that all persons are thought to be owed simply as persons. However, it is not sufficient simply to gloss recognition respect as recognizing the value of the object, for one can recognize the value of something and yet not value it, as an insurance appraiser does, or take the value of something, say, a person's child, into account in deliberating about how best to revenge oneself on that person. Respect for some categories of objects is not just a matter of taking the object's value into consideration but of valuing the object, and valuing it intrinsically.” (Dillon, 2009) It is not entirely clear to me to what extent Dillon considers these views to be contrary to Darwall’s or a clarificatory reiteration, but they seem to me to be in agreement with his understanding on central points. Darwall’s definition is clearly normative, in the sense that giving a morally relevant feature ‘appropriate’ weight in one’s deliberations precludes e.g. estimating its usefulness in achieving some illicit purpose, on any plausible moral theory. This is either giving it weight, but inappropriate weight, or responding to (and evaluating) the wrong feature altogether. So, if on the one hand valuing means correctly recognizing the value of some feature, this is already a central feature of our definition. If on the other hand it means adopting a particular attitude, then although it does not change appraisal respect, it introduces the substantive normative claim that one of the ways we are obliged to act when confronted with certain things of value, persons in particular, is to adopt attitudes of positive appreciation. This, however, is an implication of being respectful, rather than part of what being respectful means. It is one of the things one is led by recognition and proper deliberation to doing. But this also means that, like the claim that we have a duty to be respectful, it must be defended independently.

Returning to Glasgow’s suggestion, it is not clear that his two suggestions are compatible. Building on Dillon we might say that an agent is *valuing respectful* of a person iff the agent:
1) recognizes the moral worth of that person, i.e. recognizes the person as a moral patient,
2) gives this feature the appropriate weight in her deliberations, i.e. evaluates the moral worth accurately (and therefore as being equal to the moral worth of other persons), and as a feature that requires that the agent do 3)
3) adopts an attitude of positive appreciation for the person as a subject with moral worth.

Meanwhile, Glasgow’s second suggestion is that we should drop “the deliberative focus”, because “…our attitudes seem capable of manifesting […] disrespect whether or not they figure in our deliberations”, but he is also concerned that institutions can be disrespectful even though “they have no attitudes”. His solution is the shift from “valuing” to “acting in a way that reflects equal moral status”. But equal oddity attaches to ‘appreciating’, so Glasgow seems to need to entirely abandon Darwall’s definition, for something like an agent being value-reflecting disrespectful of a person iff:

1) its beliefs, attitudes or actions do not reflect the equal moral worth of persons

Presumably, the underlying idea is that valuing, i.e. positively appreciating persons as persons, is inconsistent with certain types of beliefs, attitudes and actions, so that an agent that did hold such an attitude would reject certain beliefs, attitudes and actions, and that this group of beliefs, attitudes and actions is coextensive with the group of those that do not ‘reflect persons’ equal moral worth’. What ‘reflecting’ equal moral worth means is not immediately obvious, however. If a belief’s reflecting equal moral worth means, for example, that it is logically compatible with the claim that persons have equal moral worth then it will rule out some types of belief, but not many that we consider among the most vicious prejudices. It is fully logically consistent to claim at one and the same time a) that blacks and whites are equally morally worthy and b) that blacks are given to e.g. laziness, sexual aggression and stupidity. Presumably nobody is epistemically justified in believing b), so that holding this belief might be said to be disrespectful in the sense of responding inappropriately to evidence regarding the racial traits of
blacks, but it does not ‘reflect’ unequal moral worth. Someone believing b) could theoretically, if not perhaps realistically, believe that this made no difference to the respect, appreciation and moral duties she owed blacks as persons. Similar problems afflict consistency for attitudes and actions to an even greater degree. This does not seem a plausible interpretation of what is wrong with discrimination, but we get no clues from Glasgow as to what a better one might look like.

Glasgow’s own conclusions are accurately tentative, and I run the risk perhaps of being uncharitable. His intention may be no more than to provide the overview and analysis of the debate on racism which he sums up so well, and to illustrate how the disrespect-account could serve to solve some of the problems the concept faces. If so he succeeds. Even without a specification of respect to support his account, he can still hold that it may be true that disrespect is the common feature which unifies diverse instances of racism. But barring such an account, it may also very well be true that it is not, and Glasgow does not give us strong reasons to suppose that it is the first rather than the second that is the case. The most important moral questions, therefore, are left open.

**Disrespect as demeaning**

An interesting alternative understanding of the disrespect-account is developed in Deborah Hellman’s “When is discrimination wrong?” (Hellman, 2008). Focusing on what we may call an

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22 A possibility pursued by Arneson, cf. below.

23 If this still seems implausible, consider the analogous situation of children. Presumably, most people (accurately) believe that children, say between the age of five and ten, are stupid, irresponsible and self-centered, at least when compared with adults and even though some might prefer to put the point more delicately. Few would hold, however, that this in any way alters the moral worth of these children. The difference between these two cases concerns the veracity of the beliefs in question, not their compatibility, logically or psychologically, with affirming the equality of moral worth.

24 This is particularly peculiar because Glasgow demonstrates familiarity with the initial challenge: “The “overattitudinalization” of disrespect seems to have created some unnecessary image problems for respect-based accounts. For example, Kasper Lippert-Rasmussen […] rejects respect-based accounts of discrimination (rather than racism) because he thinks they entail that discrimination can be bad only when someone is “actually being disrespectful” and that the only way out of this problematic entailment is to have the discriminator falsely represent the discriminatee as having a lower moral status. As I will argue, we need not take DA down either of these paths.” (Glasgow, 2009, p.83, note 44) As far as I can tell, he does not make good on this promise.
expressive account of disrespect, Hellman potentially avoids the problems of the initial challenge by locating the wrong of discrimination in the meaning of the discriminatory act.

Hellman initially declares that she considers the equal moral worth of all persons to be a “bedrock moral principle”, and that the she takes it to consist in that: “…all people are equally important from the moral point of view and so are equally worthy of concern and respect.” (Hellman, 2008, p.6) This ties into wrongful discrimination on her view in that defining this is essentially to answer the question: “… when does drawing distinctions among people fail to treat those affected as persons of equal moral worth?” (Hellman, 2008, p.7) The challenge for Hellman is thus twofold: first to show that it is in fact our moral concern for treating people as equally worthy which is at the core of discrimination, and second, given the first, to answer the question of when this happens.

But what does it mean to fail to treat the affected as persons of equal moral worth? Hellman focuses on the idea of ‘demeaning’: “What one does in drawing a distinction on the basis of some characteristic is not just separate people into two or more groups and allocate different treatment on the basis of that distinction. Sometimes one also demeans some of the people one classifies.” (Hellman, 2008, p.24-25) And, Hellman concludes in a central section: “Demeaning actions are those that put the other down. To demean is to express that the other is less worthy of concern and respect and to do so in a manner that has power.” (Hellman, 2008, p.57)

Unfortunately, although the concept is explored at some length, this is about as close as we get to a strict definition of demeaning, perhaps because Hellman understands her use of the term to be sufficiently close to common usage that no definition is necessary, as when she suggests that: “To demean is not merely to insult but also to put down, to diminish and denigrate. It is to treat another as a lesser.” (Hellman, 2008, p.29) At other times the definitions she suggests appear circular, as when we are informed that “[to] demean is to treat another as not fully human or not of equal moral worth.” (Hellman, 2008, p.35) A non-circular reading of this would imply that Hellman is stipulating rather than defining, so that ‘demeaning’ is simply the term she will apply to that, as yet undefined group of actions which “treat another as not fully human or nor of equal moral worth”. Further, Hellman distinguishes demeaning from merely expressing disrespect. “…demeaning requires an especially strong expression of disrespect – that of a lack of respect for another’s equal moral worth.” (Hellman, 2008, p.36) Disrespect, it seems, is a necessary but insufficient condition for demeaning. Since it is not exactly clear what she believes expressing disrespect to be – whether e.g. it is stating a belief or a dislike – this does not clarify matters much, even if she does mention as examples of expressing respect “taking off one’s hat when entering a room, writing a thank you note to one’s dinner host, looking someone in the eye when speaking”, and of expressing disrespect “giving someone the finger, spitting on someone, looking over someone’s shoulder when she is speaking to one”. (Hellman, 2008, p.36)
at least suggests *when* we “fail to treat persons as moral equals” in the relevant sense – namely when we act in a way which ‘expresses’ that they are not – but leaves the question of why, ultimately, demeaning is wrong. Hellman’s answer is that: “Demeaning is wrong because the fact that people are of equal moral worth requires that we treat them as such. We must not treat each other as lesser beings even when doing so causes no harm.” (Hellman, 2008, p.30)

Three points about this tentative definition are worth elucidating. First, Hellman stresses that demeaning differs from stigmatizing in that it is not defined by its impact: “Rather than emphasize the effect (psychological or social) produced by classification, I claim that sometimes it is wrong to classify because of what one expresses – regardless of whether the person or people affected feel demeaned, stigmatized, or degraded.” (Hellman, 2008, p.27)

On the other hand, Hellman holds that demeaning does depend at least partially on the status-relations of the involved parties, in that a discriminator must possess a certain amount of influence over the discriminatee for the discrimination to be demeaning: “To demean is to put down – to debase or degrade. To demean thus requires not only that one express disrespect for the equal humanity of the other but also that one be in a position such that this expression can subordinate the other.” (Hellman, 2008, p.35)

Thirdly, it is no coincidence that she describes demeaning as ‘expressing’ that the discriminatee is inferior. As becomes clear during her discussion of how to determine the wrongness of discrimination, Hellman holds that it is the nature of the action which is at stake, and that the central task is therefore an interpretative one of finding out whether the action objectively interpreted is disrespectful by *expressing* that the discriminatee is morally inferior. (Hellman, 2008, p.59-85)

26 Hellman explains this distinction through an example that holds that spitting at a colleague or superior will typically not demean, while spitting at a homeless person very likely will, the difference being that only the latter is liable to “put down” the victim. (Hellman, 2008, p.35) Since this is not to be understood as an effect subject to the victim’s understanding, such as e.g. the harm to self-esteem which might well result in the homeless scenario, but not, or at least not to the same extent, in the colleague-scenario, I confess that I am uncertain what it is meant to be.

27 Hellman’s discussion of what it means for an act to express the moral inferiority is itself less clear than one might wish for. Her notion of interpretation seems partly conventional and partly counterfactual, thus it relies both on the traditional meaning of certain actions, such as racial segregation, and on a kind of assessment of whether the agent acts ‘as if’ she
Summing up we might say that an agent wrongfully discriminates in an *expressively disrespectful way* iff:

1) the agent treats persons with a trait differently than persons without the trait, and
2) the differential treatment ‘demeans’ the discriminatee, i.e. given the context and roles of the discriminator and discriminatee the treatment expresses that persons with the trait do not have moral worth equal to persons without the trait.

There are two points worth exploring here. The first is that Hellman’s focus is comparative and expressive in an importantly different way than the other accounts. Her concern is not the accurate evaluation of and appreciation for moral worth, but the accurate representation of comparative equality of moral worth. Why this shift in focus? That is, why not simply say, as she sometimes does, that “the fact that people are of equal moral worth requires that we treat them as such”, i.e. that we recognize and appropriately take into account their moral worth? This is important, because it is not clear that Hellman can ground one on the other. The steps in Hellman’s argument run something like the following:

1) All persons have equal moral worth;
2) actions can express meaning, irrespective of the agent’s intention or the effects of the action;
3) it is morally wrong to act in a way that treats persons as not being equally morally worthy;
4) discriminating actions can demean, i.e. treat the discriminatee in a way which expresses that she is not of equal moral worth.

As far as I can tell, Hellman takes this to demonstrate her conclusion, but of course the above argument does not entail:

5) it is morally wrong to demean a person.

discriminated on the basis of differential moral worth. Neither approach, it seems to me, can provide anything like the ‘objective’ interpretation Hellman desires. (REF) While I consider this an important weakness in her argument, I shall set it aside.
because we have not established that expressing that a person is not of equal moral worth is a way of treating her as not being of equal moral worth.

Consider the following scenario: an agent must impose a cost on either A or B. Imposing the cost on A will make little difference to A’s situation, but will demean B, whereas imposing the cost on B will greatly harm her but not demean A. Suppose also that there are no relevant duties apart from the general duty not to cause undue harm, so that it is not the case e.g. that A deserves to pay the cost more than B. When deliberating, the agent considers the two to be morally equally worthy, so that the much greater harm to B clearly establishes a prima facie case for imposing the cost on A. Assume finally that, consistent with Hellman’s definition, demeaning does not depend on its effects, and that in this case demeaning B will not in fact harm her. This precludes demeaning outweighing the harm caused. So in this case, treating B as morally equally worthy seems to require demeaning her, although doing so will arguably violate an independent duty to not demean her. But if this is true, then demeaning and treating as morally equally worthy are not coextensive, and Hellman requires an independent argument for the wrongness of expressive disrespect.

Hellman’s central argument for her concern with expressive disrespect emerges in a discussion of Harry Frankfurt’s criticism of egalitarianism. (Frankfurt, 1997) As Hellman notes, Frankfurt, although strictly speaking not directly concerned with discrimination, does provide a classical disrespect-argument when he claims that: “Treating a person with respect means, in the sense that is pertinent here, dealing with him exclusively on the basis of those aspects of his particular character or circumstances that are actually relevant to the issue at hand. Treating people with respect precludes assigning them special advantages or disadvantages except on the basis of considerations that differentiate relevantly among them. Thus, it entails impartiality and the avoidance of arbitrariness.” (Frankfurt, 1997, p.8-9) To this traditional respect-account Hellman objects that: “…this approach – saying that each person is entitled to the respect that being a person entails – is itself empty. How would one ascertain what treating someone with the respect appropriate to personhood requires? Rather, the fact that we all share a common humanity requires that we be treated as worthy as others. We give flesh to the injunction to treat others with the respect that our common humanity demands by saying that no one may be treated as a second-class person. In other words, there is something inherently comparative here.”
This seems problematic on several levels.  

First, Frankfurt gives a plausible answer to the question she poses, wherefore his account cannot be called “empty”, even if Hellman may hold that it is mistaken: “The lack of respect consists in the circumstance that some important fact about the person is not properly attended to or is not taken appropriately into account. In other words, the person is dealt with as though he is not what he actually is.” (Frankfurt, 1997, p.12)  

Secondly, it is not clear that Hellman’s criticism properly targets Frankfurt’s argument. He is essentially concerned with criticising equality of outcomes, which presumably Hellman would agree to consider morally irrelevant, and his interpretation of what equality of treatment means differs from Hellman’s, but not in the sense it appears that she believes. Thus, her concern with the difficulty of ascertaining “what treating someone with the respect appropriate to personhood requires” seems as pertinent to her own account as it does to Frankfurt’s, and her answer – that it requires not acting in a way which expresses disrespect (the belief that the person affected is morally inferior) – must be assessed on its merits just as Frankfurt’s should.  

Thirdly, the claim that the concept is inherently comparative does not seem plausible. We would not consider responding to everybody in a way which failed to respect their common humanity to be morally acceptable, even if it meant treating each of them “as worthy as others”. Rather, as Frankfurt points out, it seems that: “What most fundamentally dictates that all human beings must be accorded the same entitlements is the presumed moral importance of responding impartially to their common humanity” (Frankfurt, 1997, p.11) Impartiality however, which could well fit with Hellman’s overall approach, is certainly not a comparative concept. The feeling one is left with is that Hellman might have done her own argument more good by agreeing with Frankfurt than she does by distancing herself from him. The trouble, of course, is that Frankfurt’s argument does not cohere with Hellman’s concern for the expression of disrespect.28

28 Note that I concur with Hellman that the principle of formal equality will not help us evaluate cases of potential discrimination. For that we need a substantive normative theory to indicate what the relevant features for which we should equalize are. Her mistake lies in believing that shifting to a procedural form of equality avoids this challenge. This kind of
To see the difference imagine the following variation on our opening example of the bigoted billionaire. Rather than firing workers with one or more particular traits, the billionaire uses a computer program that considers a variety of data and picks workers randomly, although while assigning slightly greater chance of being picked to workers who are at the bottom of a ranking for certain performance-indicators. Suppose that this procedure is fair and non-discriminatory. However, unbeknownst to all parties involved, the computer program contains a programming error which makes it select only from a group defined by a particular trait, such as race or gender. All the randomly selected workers will be drawn from this sub-group. Suppose that nobody notices this, as all parties believe the programme to work. Is the discrimination here morally wrong?

Hellman, it seems, is left with two unattractive options. She can either claim that since nobody acts in a way that expresses disrespect, the disadvantageous treatment does not in fact constitute wrongful discrimination. Or she can claim that although nobody understands the treatment to express disrespect, it does in fact demean the workers and the wrong does in fact consist in just this, rather than the more obvious alternative of consisting in the way that the treatment of the workers substantially fails to treat them as equals by assigning them unequal chances of carrying a cost.

Secondly, in addition to the facts that respect for equal moral worth cannot ground Hellman’s account of expressive disrespect and seems conceptually more plausible than her comparative alternative, there are good reasons to consider Hellman’s focus on expressive disrespect independently problematic. What reason is there to consider the expression of a mistaken belief in unequal moral worth to be wrong, in and of itself? Hellman’s arguments to this point are difficult to make sense of because, although context and status is obviously important for the impact that a message can have, Hellman has explicitly ruled any reliance on the effects of the procedural norm must itself be justified by a normative principle. Oddly, in chapter 5 where many of the same issues emerge, Hellman fails to follow up on the discussion here, or apparently to see their relatedness. Her statement, that she considers that “treating people as moral equals requires that one have some reason (and not a patently bad reason) to draw distinctions among them and thus that arbitrary differentiation is morally wrong”, fits snugly with Frankfurt’s declared stance, yet she does not consider his arguments to this effect. (Hellman, 2008, p.90)
action such as stigma or other harm. Nor does it seem plausible to suggest that demeaning somebody could actually change the moral status of a person. Treating someone as morally inferior does not make them morally inferior. Hellman wants to place the locus of the wrongness in the expression, not its consequences, but this strikes me as very strange a notion. Thus, we ordinarily assume that it is not in general wrong to express untrue beliefs. In fact, many people are mistaken about a great many things, but we do not normally find it morally problematic in the way discrimination is that they express these beliefs. On the contrary, we would normally hold that we need extraordinarily strong countervailing reasons to consider mere expressions of opinions or beliefs to be morally wrong, and that those reasons can normally only take the shape of harms caused by the expression, an explanation that Hellman has explicitly ruled out.

In conclusion, although partly due perhaps to underspecification, Hellman’s expressive disrespect-account does not appear to be a plausible explanation of what it is that is wrong when something is wrong with discrimination. Let us turn therefore to the last, and probably the strongest of the three versions.

**Disrespect as unwarranted animus or prejudice**

Richard Arneson, working within an explicitly deontological framework, confronts the challenge of explaining why discrimination is morally wrong head on. Thus: “Discrimination that is intrinsically morally wrong occurs when an agent treats a person identified as being of a certain type differently than she otherwise would have done because of unwarranted animus or prejudice against persons of that type.” (Arneson, 2006, p.779) Animus is defined as “…hostility or, more broadly, a negative attitude, an aversion”, and prejudice as “beliefs about the person’s characteristics that are either inferred from one’s beliefs about persons of that type.”

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29 Indeed, Hellman often writes as if what matters is the potential harm of expressive acts, such as when in arguing that demeaning is sufficient to establish moral wrong, she holds that “avoiding demeaning treatment may […] be a central interest of people.” This, it appears that she accepts, is so because: “…self-respect, surely a central interest, is inextricably tied to avoiding demeaning treatment.” (Hellman, 2008, p.48-49)

30 An exception might be that it is wrong to lie irrespective of the harm caused, but that seems a more complicated and narrowly defined phenomenon involving both that the utterer does not believe the expressed belief and the intention of deceiving.
or directly caused by one’s reaction to the type, these beliefs being formed in some culpably
defective way.” (Arneson, 2006, p.787, 788)

This claim does not immediately fall within the frame of what I have described as disrespect,
but that Arneson conceives it in a way that is suitably compatible becomes clear as he, in
unpacking the formula, distinguishes between what he terms merely ‘defective discrimination’
and morally wrongful discrimination. Defective discrimination, what I have labelled objective
recognition disrespect, is itself insufficient to establish moral wrongness: “One person may fail
to respond to another in the right way given the circumstances, or respond by treating the other
in ways that fail to adequately respond to the reasons that dictate how the other ought to
treated, without the failure amounting to wrongful discrimination. The extra bit that when
added to generic defective discrimination constitutes wrongful discrimination is the fact that
one is led to defective conduct toward the other by unjustified hostile attitudes toward people
perceived to be of a certain kind or faulty beliefs about the characteristics of people of that

As Arneson remarks in a footnote, the implication of his argument is that one can wrongfully
discriminate while doing what would otherwise be permissible or even morally required, if one
does so for reasons that are inappropriate to the situation at hand and instances of the requisite
flaws: “I submit one can be guilty of wrongful discrimination when one treats a person morally
appropriately (so far as one’s behavior is concerned) and better than one would have done had
one not been moved by negative attitudes or bias against the group of which one holds the
person to be a member. Consider this example: One treats a person better than one otherwise
would have done from animus or prejudice against persons of that type. One says to oneself,
“I’d better pay what I owe to Sally, because she is a pushy Jew, or an uppity black, or whatever,

31 The use of ‘respond’ here is ambiguous, but, as I read Arneson’s distinction, it is applied to both the level of practical
reasoning and the level of action. Thus, I interpret the first ‘respond’ to concern recognizing and deliberating appropriately
‘given the circumstances’, whereas the second is clearly ‘responding’ in the shape of doing something, although in this case
not the thing(s) that proper recognition and deliberation would show to be the right thing(s) to do. If this interpretation is
correct defective discrimination meshes reasonably well with the definition of recognition disrespect that we have been
using so far. This is crucial, because Arneson, like Alexander before him, does not explicitly self-identify as the proponent of
a ‘disrespect’-account.
and would respond more aggressively to not being paid than other persons of better type.” (Arneson, 2006, p.779, note 14)

As Arneson also observes, this requires a departure from the conventional distinction between the assessment of acts and intentions, which it is often assumed are separate issues that do not bear on each other: an act will be wrong or right, no matter the intention with which it is performed, and an intention will make the agent at fault or not, no matter what act is actually performed. Arneson’s claim is that in the context of discrimination the two can in some cases bear on each other: “I suggest that what an agent proposes to do ( thinly described) may not be wrong as such, yet it would be wrong to do the thinly described act with a certain intention, or from a certain motivation, or if one would be culpable if one were to do the act.” (Arneson, 2006, p.782)

The strength of this view is that it makes room for labelling morally impermissible actions that it would otherwise seem difficult to prohibit on deontological grounds. Thus, many cases of discrimination operate in the space of options where, generally speaking, agents are free to pursue whatever choices they desire because no moral rights bear on the issue: “Consider whimsical hiring. I am hiring persons to work in a doughnut shop I own. There are several other doughnut shops in the neighborhood, so it will not be a great loss to any actual or potential customer if my doughnut shop is not run as well as it might be. I announce that I will respond to the applications according to my subjective mood and select an applicant to be hired by arbitrary whim. This does not seem to be in the ballpark of wrongful discrimination.” (Arneson, 2006, p.784) Yet, and this is the point, if we change the scenario to something resembling the bigoted billionaire, where the agent has an intention to not hire e.g. blacks and latinos, the inclusion of this morally corrupt intention would seem for many to make the action itself discriminatory, in the pejorative sense of being morally impermissible.32

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32 Arneson considers and dismisses the possibility that we should revise our intuitions about whimsical hiring not being discriminatory. I concur with Arneson on this point; it seems to me that on any reasonable deontological account there must be some room for options of differential treatment for morally irrelevant reasons. So long as this is the case, the strong meritocratic norm that would invalidate Arneson’s example does not obtain. (Arneson, 2006, p.783-785) Things look different, of course, if one assumes a consequentialist perspective. But holding this against Arneson’s argument here is simply to deny his deontological foundation.
This suggests the following definition using the terms that I have applied so far: An agent engages in morally wrongful \textit{animosity-prejudiced disrespect} discrimination \textit{iff}:

1) she treats those with a particular trait differently than those without the trait,
2) the agent treats these persons differently because she fails to appropriately take into account and be motivated by certain morally relevant features, and
3) her failure in 2) is caused by the agent’s having either a) unwarranted hostility towards or b) unjustified false beliefs about persons with the trait.\footnote{We might alternately interpret being unjustifiably hostile towards or holding false beliefs about a person as itself being disrespectful, i.e. being a way of failing to properly take into account and be motivated by the salient moral features. This is closer to the initial formulation, but is, I believe, a less obvious reading of Arneson’s full argument because he insists that the animus/prejudice-conditions is ‘added’ to already deficient discrimination.}

The most obvious concern for Arneson’s version, given its similarity to the classical disrespect-account â la Alexander, is whether it dodges the initial challenge. Recall that the initial challenge points out that in plausible cases misestimation of moral worth seems intuitively – granting that it has any impact whatsoever – to alleviate rather than aggravate wrongness and that for this reason it is peculiar to suggest that it is the factor that makes a case of discrimination wrong. Arneson’s argument concerning defective discrimination suggests that this may not be true if the misestimation is itself caused by the agent holding attitudes or beliefs which it is wrong for the agent to hold.\footnote{I am not proposing that Arneson views his approach as a reply to the challenge. Only that it is possible that the way it alters Alexander’s disrespect-account may help it avoid the brunt of it.} This may go some way towards meeting the challenge, but although our intuitions may well be less certain I am not sure that they change sufficiently to establish Arneson’s case. Consider a variation of Lippert-Rasmussen’s example, used to illustrate the initial challenge:

A pharmaceutical researcher discriminates against animals, inflicting horrible pain on hundreds or even thousands of them, to provide a very small benefit to a small group of humans, e.g. the ability to buy and wear a new perfume without suffering a small risk of having an allergic reaction.
In *scenario 1* the researcher misestimates the moral worth of animals, and therefore falsely believes that her actions are morally permissible. She cannot be blamed for this misestimation.

In *scenario 2* the researcher correctly estimates the moral worth of animals, and therefore correctly believes that her actions are morally impermissible. She pursues them regardless.

In *scenario 3* the researcher misestimates the moral worth of animals, and falsely believes that her actions are morally permissible, either because her perception is distorted by 3a) her unwarranted hostility towards the animals she conducts the experiments on, or 3b) her unjustified and false belief in some state of affairs pertinent to the situation. She is therefore culpable for her misestimation.

Scenarios one and two are simply restatements of the initial challenge. Scenario three is the variation. However, while it certainly seems plausible that scenario three is in some respects worse than scenario one – whether or not these are the relevant respects is a separate issue – it is not clear to me that scenario three is also worse than the real contender, scenario two. The intuitions of most people may be quite uncertain here, but I doubt that many will feel more secure than I in pronouncing scenario two the worst of the three, which is what is required to refute the challenge and establish the presence of culpable misestimation as an uncontroversial wrong-making feature.

If there is an argument to be had here, I take it to be that by adopting such attitudes or holding such beliefs, the agent has put herself in a position to respond inappropriately. For both animus and prejudice it is thus central that the agent ought not to hold the attitude or belief: “If one discriminates against dishonest persons on the basis of warranted negative attitude toward those people or on the basis of accurate beliefs about the associated traits of those persons relevant to decisions as to how to deal with them, no wrongful discrimination occurs.” (Arneson, 2006, p.796) One concern in this respect might be to what extent we can hold agent’s responsible for their attitudes and beliefs; it is difficult after all to decide to believe or disbelieve some proposition, but Arneson holds that it is at least possible for an agent to carry responsibility, if the beliefs have been formed by a ‘culpably defective belief formation process’. Such a process needs not itself rest on prejudice or animus. It can in theory be the result merely of neglecting to exercise critical reasoning, if e.g.: “I am simply lazy in forming beliefs. I
harbour no animus…but I discriminate…on the basis of negative beliefs…that I absorb from the prevailing culture. I do not subject these beliefs to the critical scrutiny that is epistemically warranted due to the general unreliability of popular beliefs.” (Arneson, 2006, p.789)

The logic of this argument seems to require a modification of Arneson’s definition on two accounts, however. If the wrongness adheres to the culpability of the agent for the disturbing factors which renders her liable to defectively discriminate, i.e. treat persons differently in a way that fails to respond appropriately to their morally relevant features, then unwarranted appreciation and unjustified true beliefs both seem to qualify as grounds for wrongful discrimination on a par with animus and prejudice. Consider, one final time, the case of the bigoted billionaire. To simplify things, let us suppose that the billionaire only discriminates on the basis of one trait, e.g. gender. And let us suppose that firing the group of workers, i.e. women, is a case of defective discrimination, so that it meets Arneson's minimum criteria. Now consider four variations:

1) The billionaire is led to act in this way largely by his unjustified, false belief that women are less desirable workers than men – less honest, less capable, less disciplined, etc.
2) The billionaire is led to act in this way largely by his unwarranted dislike of women
3) The billionaire is led to act in this way largely by his unjustified, true belief that women are less desirable workers than men – less honest, less capable, less disciplined, etc.
4) The billionaire is led to act in this way largely by his unwarranted appreciation of men

The first two variations are both and equally bad, according to Arneson. But in the third it is mere coincidence that makes the billionaire correct in his belief. We can suppose that he has no justification for his view, and has formed it through a culpably defective belief formation

Meanwhile, warranted attitudes and justified beliefs take us too close to the Alexander-account, and thus reintroduce the initial challenge in its full strength. That is, if the agent discriminates on the basis of a failed response to the moral features of the situation, but in a way that does not represent a culpable failing on her behalf, e.g. because she is justified in the beliefs that lead her to misestimating, then we are essentially back in scenario 1 above.
process. Arneson must, it seems, be committed to labelling this a case of wrongful discrimination, if we are to take seriously his notion that it is the intentions of the agent that matter. Similarly, but perhaps less surprisingly given the revision of Alexander's account, it seems very hard to explain why 4) (discriminating against women because of an unwarranted positive attitude towards men) should be different than 2) (discriminating against women because of an unwarranted negative attitude towards them). 36

These modifications need not be considered damaging in and of themselves to Arneson's version of the disrespect-account, although they will broaden the scope of the definition in a way that risks incorporating counter-intuitive examples. Given this relatively vague scope and the unresolved situation of the animosity-prejudice disrespect-account qua the initial challenge, it is plausible that we may be better off looking for an alternative to the disrespect-account.

Conclusion

In the course of this article I have sketched a raw picture of the normative concept of respect, introduced the disrespect-account of discrimination, reviewed three versions of it, and found them to suffer from a plethora of problems. In terms of consistency Arneson's version remains the strongest of the three. Glasgow's account not only leaves the central concepts inadequately defined, but to the extent that they are defined his account seems to shift uneasily between two incompatible understandings, neither of which maps comfortably on to the examples of discrimination that he wishes to include. Hellman's account is at the very least more fully developed, but has great difficulty specifying the grounds of its wrongmaking factor in an intuitively plausible way. Arneson's account in comparison is closer to the traditional disrespect-account, which allows him to draw on the more traditional deontological intuitions which support the normative concept of respect in the first place. But this also leaves him more susceptible to the initial challenge than the other two author's, and it is not clear that he can explain wrongness in a way that will satisfy it.

36 Naturally, we need to keep the concern for the potential difference in harm caused by the two different types of attitude out of the disrespect-account.
My conclusion is deliberately tentative. It is possible that one or more of the disrespect-accounts I have explored can be expanded, strengthened and clarified in a way which will improve its credibility. None of the problems I have outlined here represent, to my mind, a knock-down argument against the disrespect-account as a whole. But they do represent challenges that defenders of the account will want to take seriously. In the proud tradition of scholars everywhere, my final conclusion is therefore that much more philosophical work on the topic needs to be done.
References


