Discrimination of the People, by the People, against the People: Exploring Ordinary Usage and Individual Anti-Discrimination Duties

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PhD Dissertation

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Four score and seven years ago our fathers brought forth on this continent, a new nation, conceived in Liberty, and dedicated to the proposition that all men are created equal.

Now we are engaged in a great civil war, testing whether that nation, or any nation so conceived and so dedicated, can long endure. We are met on a great battle-field of that war. We have come to dedicate a portion of that field, as a final resting place for those who here gave their lives that that nation might live. It is altogether fitting and proper that we should do this.

But, in a larger sense, we can not dedicate—we can not consecrate—we can not hallow—this ground. The brave men, living and dead, who struggled here, have consecrated it, far above our poor power to add or detract. The world will little note, nor long remember what we say here, but it can never forget what they did here. It is for us the living, rather, to be dedicated here to the unfinished work which they who fought here have thus far so nobly advanced. It is rather for us to be here dedicated to the great task remaining before us—that from these honored dead we take increased devotion to that cause for which they gave the last full measure of devotion—that we here highly resolve that these dead shall not have died in vain—that this nation, under God, shall have a new birth of freedom—and that government of the people, by the people, for the people, shall not perish from the earth.

—Abraham Lincoln's Gettysburg Address, delivered during the American Civil War on the afternoon of November 19, 1863

Acknowledgements

I arrived at the yellow brick buildings with a crisp philosophy degree in my hand, uncertain about whom I would meet and, frankly, what I would do. It is my great joy to say that, today, I know I was about to meet a large group of kind, ambitious and interesting colleagues, and I would spend my time on research that I'm enthusiastic about. My PhD time has been a real blast, and I will now dedicate some space to express my gratitude to the many remarkable people who each played a part in making it so.

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My time as a PhD has been great, especially thanks to the other PhDs. Every lunch, retreat and party has been better because of you – you are too many to mention. It means a lot to me that you welcomed me so warmly – a few deserve my explicit gratitude for having been ever so helpful to me, kind, funny, and inspiring: Jake, Lucilla, Nadine, Edoardo, Nanna, Liv, Kristian, Ashraf, Anders, Andreas, Aske and Jesper. It has been a real pleasure working with you and getting to know you: The coffee has been stronger, the music louder and the research better because of you. Two PhDs were my office mates: Didde and later Lydia. Didde welcomed me at the department and was the best first office mate I could wish for – getting through a tough start during Covid was much better thanks to you. I then shared office with Lydia, who has been the best second office mate. It is difficult to find a more patient and pleasant soul than you, and I have enjoyed sharing office with you very much. The steep learning curve of the PhD was not always easy: speaking my thoughts in front of clever colleagues, teaching ambitious master students, presenting, writing, taking and giving feedback, the list goes on. I found that when I was honest about my challenges, people around me were generous with good advice and support. I feel lucky to have grown up in this environment.

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A special thanks goes to Marion, Mollie and Asmus. You have generously engaged with my dissertation and provided me with excellent feedback. I appreciate all you have done for me, and I'm excited to defend the dissertation in front of such splendid researchers.

Preface

This report provides a summary of my PhD dissertation titled "Discrimination of the People, by the People, against the People: Exploring Ordinary Usage and Individual Anti-Discrimination Duties" written at the Department of Political Science, Aarhus University. The dissertation consists of this summary report and three research articles. The aim of this summary report is to provide an overall research question and theoretical framework that ties the articles together. In addition, the summary report gives an overview of the main methodological approaches, presents and discusses the primary results from the analyses, and reflects on the contributions of the articles with an aim to provide avenues for future research.

Chapter 1. Introduction

Discrimination is a key injustice that we urgently need to eliminate – it simply has no place in a liberal society. Many would probably agree that this message should be the start and end of a dissertation on discrimination. Only one caveat is in order: The consensus conceals fundamental disagreements about *what discrimination is, and what we should do about it.* For instance, can a minority person, such as a woman or a Black person, discriminate against a majority person, such as a man or a White person?[1] And if we are serious about eliminating discrimination, what consequence will this have for individuals in the private sphere – where we choose our partners and friends?

Let us first consider the conceptual issue of discrimination: Philosophers use different definitions of discrimination and outline different accounts of what makes discrimination morally wrongful (e.g., Hellman, 2008; Lippert-Rasmussen, 2014; Eidelson, 2015). In the event of conceptual dispute, it is common philosophical practice to try to convince others of one's preferred conception by appealing to its overlap with ordinary usage. However, empirical studies on laypeople's concept of discrimination with eyes to philosophically relevant distinctions are lacking. Although mapping ordinary usage cannot settle the conceptual dispute of what discrimination is (few things in philosophy ever can), a systematic and controlled empirical investigation can provide a weighty reason for one definition of discrimination rather than another. In this way, inquiry into ordinary usage can illuminate our understanding of what discrimination is. This knowledge gap motivates the following research question:

> *RQ 1: Do laypeople's concept of discrimination overlap with scholars' concept of discrimination?*

In this dissertation, I focus on the triadic conceptual nature of discrimination: discriminator, discriminatee and comparator. In particular, I investigate whether identity of perpetrator and victim matters when laypeople classify an act as discrimination: i) Can minorities discriminate against majorities? ii) Can minorities discriminate against minorities? I also investigate whether

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[1] I capitalize all racial groups to signal that such groups are historically created racial identities following Appiah. 2020. "The case for Capitalizing the *B* in Black" in *The Atlantic.*

"discrimination" is triadic according to the folk: iii) is the concept of discrimination comparative, that is, must a comparator exist for an act to be discrimination? I explore question i) in one paper and questions ii) and iii) in another paper.

Let us now turn to the latter question, what we should do about discrimination. Is there not widespread support to end discrimination among those who believe in liberal principles? The answer seems to be yes – most countries have laws and regulations that prohibit discrimination in the workplace, including in the hiring process.[2] Employers are bound by a legal duty not to discriminate (Moreau, 2020). However, these laws and regulations do not prohibit discrimination in the private sphere: You may, legally speaking, discriminate as you please in your love life. If discrimination in the private sphere is morally wrong, as many philosophers claim (Lippert-Rasmussen, 2014; Lazenby and Butterfield 2018; D'Alessandro 2022), but individuals need wide discretion in their private life, which many also agree with, what does morality require of individuals in this sphere? This puzzle motivates the dissertation's second research question:

RQ 2: What moral anti-discrimination duty do people have in the dating sphere?

Our intimate partner choice is one of the most personal decisions individuals can make. This makes it a hard case – if individuals have an antidiscrimination duty here, it is likely that individuals have antidiscrimination duties in the broader private sphere, too. In this dissertation, I outline and defend a plausible outline of an individual antidiscrimination duty.

The two research questions are more specific than the overall questions of the dissertation – what is discrimination, and what should we do about it. The latter question is informed by the former in important ways: We can hardly decide on efforts to reduce or end discrimination if we don't know what it is. And vice versa – uncovering what discrimination is motivates efforts to eliminate it. This is the connection on a rather general level, so what is the common thread between the research questions? In the two RQs, I focus distinctly on the folk – how do laypeople use the concept discrimination, and which duty do individuals have to counteract discrimination in their private life? The first question is an understudied perspective in the discrimination research field, which has thus far mainly been concerned with researchers' conceptions and

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[2] For example, Title III in the Charter of Fundamental Rights of the European Union, Title VII of the Civil Rights Act in the United States, The Equality act in the United Kingdom.

legal conceptions of discrimination. Considering the prevalence of public discussions about what discrimination is,[3] and that scholars often claim to reflect ordinary usage of "discrimination", uncovering laypeople's concept of discrimination will contribute importantly to the research field. The second question is also lacks philosophical attention, thus far, the focus has been on discrimination in the public sphere, for instance, in workplaces, by employers and by the state. Discrimination in the public sphere is indisputably important, but so, I believe, is discrimination in the dating sphere: It concerns our most intimate relations, human flourishing and happiness, and is, according to statistics (Rudder, 2014), unfortunately rather common.

The RQs structure the methods of this dissertation, and I will briefly introduce the field and methods here. The overall methodological framework is political philosophy, particularly a core branch called analytic political philosophy. Broadly speaking, this field of philosophy addresses conceptual, normative and evaluative questions concerning politics and society. "Analytic" refers to argument-based and issue-oriented, emphasizing logical rigor, terminological precision, and clear exposition (List & Valentini, 2016: 526-527). Usually, political theory is described as a normative rather than a descriptive exercise, that is, a study of how the world *ought to be* rather than how the world *is*. The question what we should do about discrimination represents such a normative inquiry. While part of the dissertation easily fits this description, other parts do not. As I engage in conceptual analyses of discrimination – what discrimination *is*, I work in the non-normative and non-evaluative part of political theory. The overall research question is composed of two questions that each demands their own methodology. Therefore, within the analytic political philosophical framework, the dissertation applies two methods: experimental-philosophy (for the descriptive question) and reflective equilibrium (for the normative question).[4] I will outline each method and how they have been applied

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[3] See, for instance, this public debate in Denmark on whether a pride event was discriminatory: https://www.berlingske.dk/kultur/til-noerrebro-pride-fest-maatte-hvide-og-heteroseksuelle-ikke-vaere-med-jeg and https://www.berlingske.dk/kultur/jurist-om-noerrebro-pride-arrangement-hvor-hvide-og-heteroseksuelle-ikke

[4] On why this dissertation belongs in political theory despite its partly descriptive character: "Political theory can easily be distinguished from (positive) political science. Political science addresses empirical and positive questions concerning politics and society (for an overview, see Goodin 2009). It seeks to describe and explain actual political phenomena, such as elections and electoral systems, voter behaviour, political-opinion formation, legislative and governmental behaviour, the interaction between the legislative, executive, and judicial branches of the state, and the stability or instability of different forms of government. Political theory, by contrast, addresses conceptual, normative, and evaluative questions, such as what a democracy

as they chronologically become relevant in the dissertation. That is, I will elaborate on the methodologies in relation to the papers of the dissertation, which means that I will have two methodology sections rather than one.

Regarding the structure of the dissertation: In Chapter 2 on ordinary usage of "discrimination", I motivate philosophical investigations on ordinary usage, and I introduce the experimental-philosophical method that I have applied in the two papers on ordinary usage of "discrimination". In Chapter 3 on discrimination in the dating sphere, I motivate philosophical debate of this intimate sphere and present the method of the chapter, reflective equilibrium, which I used in the third paper. Finally, in Chapter 4, I conclude on the dissertation's findings.

I examine the two RQs in the following three papers that comprise the dissertation:

1. Sommer Degn, S. "Can Minorities Discriminate against Majorities? An Analysis of Ordinary and Academic Usage" (R&R, *Philosophical Psychology*). Referred to as "Discriminator-Discriminatee" in the dissertation.

2. Albertsen, A., Laustsen, L., Lippert-Rasmussen, K., Serritzlew, S., Sommer, S. "What is The Folk Concept of Discrimination? Discriminators and Comparators" (R&R, *Philosophical Psychology*). Referred to as "Comparator" in the dissertation.

3. Sommer Degn, S. "The Deliberative Duty and Other Individual Duties in the Dating Sphere" (Accepted, *Moral Philosophy and Politics*). Referred to as "Deliberative Duty" in the dissertation.

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is, how we ought to organize our political systems, and how to evaluate the desirability of policies" (List & Valentini, 2016: 526).

Chapter 2.
Ordinary Usage of "Discrimination"

Why is "ordinary usage" of interest to philosophers working on discrimination? Here, I briefly introduce my main motivation for illuminating the folk concept of discrimination.

First, *ordinary usage* "generally refers to a common, established, or everyday type of usage" (Discriminatee-Discriminator: 13). Ordinary usage corresponds to what ordinary speakers mean by the term. I understand scholars' appeal to ordinary usage to be a reference to how people generally use the term. In some research fields, scientists can largely dismiss common meanings of a term. Take for instance, a concept like "fish" and biologists. In the sixteenth century, most aquatic animals were referred to as fish by biologists and laypeople: shellfish, seals, whales, crocodiles, sharks and finfish, whereas today, only the two latter are categorized as fish in ordinary language. Contemporary biologists, however, entirely avoid the term "fish", as it is too imprecise for their taxonomic work. In this way, biologists dismiss ordinary usage of "fish", and this improves the quality of their classification endeavors.

It is different for, for instance, political philosophers engaged in topics that involve ordinary people and society. We can view the matter of ordinary usage to philosophers on a spectrum: At one end of the scale, a philosopher could stipulate the meaning of a common concept according to any way she finds useful and theoretically fruitful, perhaps hereby departing completely from the ordinary meaning of the term. However, by doing so, the philosopher risks ending up discussing something completely different from what the folk are interested in and "think is up for discussion" (Jackson, 1998: 42; Petersen, Schaffalitzky & Hvidtfeldt, 2016: 30). At the other end of the scale, the philosopher may be obsessed with ordinary usage and assess intuitions, either from the armchair or empirically collected, in order to define the concept in complete alignment with ordinary usage. Here, the philosopher risks that the ordinary meaning of the concept is unclear and thus inapt for fruitful theoretical investigations of, for instance, newly emerging and fuzzy cases. In reality, political philosophers often aim for the middle ground when they define a common concept: The concept should not be assigned meaning without any relation to how ordinary speakers and other theorists usually use the term, and the concept should not be restricted by ordinary, vague and ambiguous usage. Instead, political philosophers aim to define a concept so that it is close to the term's ordinary meaning and suitable for theoretical purposes. This is also the case with "discrimination" (Lippert-Rasmussen, 2013: 47; Eidelson, 2015: 15).

Plainly put, ordinary usage as a desideratum for a definition of a concept is common practice for a political philosopher. From then on, the philosopher's choices are of a more contentious character: which intuitions, or whose intuitions, are of interest when we discuss what ordinary usage of a concept like discrimination is?

When philosophers disagree about the definition of discrimination, ordinary usage provides a commonly accepted reason counting *for* a specific definition. We have (at least) two options when philosophers disagree about what ordinary usage is – either we can try to assess which philosopher has more expertise on the topic and as such who is more likely to be right about what ordinary usage is (Goldman, 2001), or we can understand appeals to ordinary usage as an empirical claim, testable through well-established methods from the social sciences. The first option could potentially settle the question as experts have thought long and hard about discrimination and what exactly it is. However, at least three challenges are pertinent to this option: It can be almost impossible to decipher which expert is better than the other.[5] Also, philosophical experts on discrimination may not represent the folk concept of discrimination. Rather, *because* they are experts, their concept of discrimination could be of a more technical, refined sort. Finally, from an epistemic position, it is difficult to assess which expert is right on a matter that bears so completely on empirical reality – if two excellent definitions of discrimination exist, it would require substantial time and work to discover whether they have considered the multitude of variants of discrimination cases from the real world.

The latter option, if conducted carefully, provides direct answers to what ordinary usage is by surveying folk responses. The idea is, straightforwardly, that to know about ordinary usage, you have to survey ordinary people. This approach has its own challenges: Some laypeople may not know much about discrimination or have never given it much thought, to an extent where their intuitions are contradictory or almost random. Some believe this is an objection to for instance survey methods, as methods of that kind would only collect "surface intuitions" rather than "robust intuitions", which supposedly can be gained through dialogue (Kauppinen, 2007). Although dialogue surely can provide well-reflected intuitions, engaging in philosophical dialogue is a type of data contamination[6] (Pust, 2019). While I believe both quantitative and

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[5] Especially as a novice or, as might be the case, as an ignoramus.

[6] Socrates and his companions rarely ended where they started; actually, this seems to be the point of a Socratic dialogue. Take, for instance, the discussion on the concept of love in Plato's Symposium (Plato, 360 B.C.E, translated by Jowett, B.):
(Socrates): And would you call that beautiful which wants and does not possess beauty?

qualitative[7] methods can yield interesting responses, albeit of different types, discrimination, I think, is a concept and topic particularly well suited to non-participatory research methods, in order to avoid thwarted or biased responses. In other words, my own identity and social traits cannot easily be concealed if my chosen method is participatory in character.[8] That some responses will be of a lesser quality is a ubiquitous premise of conducting surveys. However, as others have argued, "provided there are consistent general trends in popular belief, a minority who give random or contradictory responses will appear simply as 'noise' to be discounted" (Miller, 1992: 557). In the unlikely case that the folk generally thinks of discrimination in idiosyncratic ways, an empirical study of the folk concept would only expose this curiosity (and a discussion of ordinary usage as a desideratum for a definition of discrimination would then be appropriate).

In light of the concerns of the two approaches to ordinary usage, I am convinced of the advantages of the latter approach in the case of "discrimination" – that is, to empirically investigate "discrimination" through standard methods of the social sciences. As there, to the best of my knowledge, has not been conducted empirical research on "discrimination" with eyes to the philosophical literature[9], the field stands to gain much from such investigations. "Discrimination" is a rather common concept, which provides a positive reason to empirically study the concept: It seems intuitive that the more specialized to a field the concept, the lower the chance that laypeople have interesting intuitions about the concept. And the more common a concept is, the higher the chance that laypeople have interesting intuitions about that concept. Take for instance philosophical terms like "epistemology" or "a priori" – few would

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(Agathon): Certainly not.

(S): Then would you still say that love is beautiful?

Agathon replied: I fear that I did not understand what I was saying.

You made a very good speech, Agathon, replied Socrates; but there is yet one small question which I would fain ask:-Is not the good also the beautiful?

(A): Yes.

(S): Then in wanting the beautiful, love wants also the good?

(A): I cannot refute you, Socrates, said Agathon: Let us assume that what you say is true.

[7] Note that the two types of methods are not mutually exclusive, it is just a matter of deciding which approach is better suited for this dissertation's subject matter.

[8] Spoiler alert: I am indicating that I will be using survey methods in the two papers of this chapter, but I will motivate in detail why I do so later, when I present the design considerations of each study.

[9] Colleagues are currently working on this, so soon, there will be more experimental-philosophical research on discrimination.

know what these terms mean outside of philosophical (and related) fields, and it is unlikely that an empirical study of laypeople's intuitions on these would yield particularly interesting results. "Discrimination", on the other hand, is a rather rudimentary concept; most people know what it means and what kind of acts it generally refers to, and so it is more likely that studies on "discrimination" yield interesting input to a philosophical debate relative to studies on more field specialized concepts.

The common role of ordinary usage in political philosophers' work on definitions, particularly discrimination scholars' appeals to ordinary usage, is the fundamental motivation for investigating ordinary usage of discrimination. Exploring ordinary usage through empirical methods is motivated by it potentially gaining new knowledge on "discrimination" in a way that directly informs the question of what ordinary usage is. Three additional motivations for investigating ordinary usage also benefit from this dissertation's inquiry:

1) Intrinsic interest: It is interesting in itself what ordinary usage of concepts is – what the folk concept of discrimination is. Independently of political philosophers' work on definitions of discrimination, laypeople's understanding of "discrimination" enlightens us about what societies deem/do not deem discriminatory.

2) Communicative purposes: Knowing what the folk takes to be discrimination can ease communication on a contentious topic fueled by conflicting interests – both communication between researchers and the public, and among researchers. Politicians and activists working on discrimination-related issues also stand to gain from knowing what ordinary usage of discrimination is – if not to align their own concept, then to understand how to communicate their message regardless.

3) Strategic purposes: Legal scholars are often occupied with whether the folk supports a given law, for instance, anti-discrimination law. Alignment between how the folk uses the term and how the law understands the term helps secure support from the folk.

As a consequence, this dissertation's focus on ordinary usage benefits the discrimination research field and beyond. Now that I have motivated the importance of investigating ordinary usage and explained my preference for doing so by empirical means, a few questions remain: Given the interest in using empirical studies as input in philosophical debates, which philosophical method does this dissertation apply? What role do folk intuitions play in the dissertation? And how will the intuitions be collected? The latter question will be answered in conjunction with presenting each paper under "Design considerations". Therefore, I now turn to the two remaining questions in the next section.

2.1 Reflections on Methodology: Experimental-Philosophy

Experimental-Philosophy (x-phi)[10] is a young interdisciplinary approach that brings together the idea of pursuing philosophical questions by using methods usually associated with the social sciences (Knobe & Nichols, 2017). Researchers have proposed different accounts of what x-phi is and what kind of research it includes (e.g., Knobe and Nichols 2008; Alexander 2012; Rose and Danks 2013; Alfano et al., 2022). In this dissertation, I subscribe to a broad idea of what x-phi is, namely "empirical work undertaken with the goal of contributing to a philosophical debate"[11] (Stich & Tobia, 2016: 5). Since x-phi is a rather young method and, in some ways, in an experimental phase regarding what it is and what it can or should do, I will briefly introduce the field and outline aspects of the method that are relevant to the dissertation.[12]

The method has two origin stories. In one, it was proposed as a program that confronted the traditional philosophical methodology – sometimes referred to as "armchair philosophy" – where philosophers' intuitions matter to the exclusion of other forms of empirical evidence (Gaitán, Aguiar & Viciana, 2023). The traditional idea that philosophers do not need to venture out into the world to know about it is perhaps best expressed by Frank Jackson, who, as he discusses conceptual analysis of folk concepts, says "often we know that our own case is typical and so can generalize from it to others" (1998: 37). One need not know much about social science or psychology to be aware of the demographic differences that often influence our beliefs and behaviors, and so, many x-phi'ers, myself included, are sceptical that we can take our own case to be generalizable. Considering the bulk of literature on biases, order and framing effects etc., we have good reasons to doubt that:

> the intuitions of high socio-economic status males […] who have advanced degrees in philosophy, and whose cultural background is Western European can serve as a basis for generalizations about the intuitions of "the folk" (Stitch & Weinberg, 2001: 642).

In this origin story, x-phi emerged as a challenge to traditional philosophy and its reliance on intuitions from the armchair. In the other origin story, the

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[10] "Experimental" is not to be understood in a technical sense but refers to a variety of empirical methods, e.g., experiments, quasi-experiments, surveys etc.

[11] This is a much broader notion of x-phi than for instance "the empirical investigation of philosophical intuitions, the factors that affect them and the psychological and neurological mechanisms that underlie them" (Stitch & Tobia, 2016: 5).

[12] For more exhaustive descriptions and discussions of what x-phi is, for instance, Nadelhoffer & Nahmias, 2007; Knobe & Nichols, 2008, 2017; Stich & Tobia, 2016.

method grew out of recognition that philosophers often make empirical claims, and that empirical claims call for empirical support. Instead of being motivated by fatigue of uncritical use of intuitions, this origin story suggests that x-phi can be motivated by being intrigued about empirical aspects of philosophical debates (Sytsma, 2017). This origin story suggests the opposite of a widespread opinion on x-phi that "the relationship between experimental and traditional philosophy is often seen as hostile" (Mortensen & Nagel, 2016: 53). In this second origin story, the supposed hostility is not present, and the scope of what x-phi is and what kind of work falls under it is broader than in the first origin story. As x-phi by no means follows one unified research program but has developed in different environments across countries, both origin stories are likely true – in any case, the aims of my dissertation are compatible with both.

Past studies in experimental philosophy have examined lay concepts to contribute to the philosophical discussions of concepts, for instance on the concept of free will (Nichols, 2006), intention (Malle & Knobe, 1997), a meaningful life (Fuhrer & Cova, 2022) to name a few. This branch of x-phi presents a new way to do an old thing, to wit, conceptual analysis. Conceptual analysis is a classic practice in political philosophy and has usually been conducted as an a priori investigation into the necessary and sufficient conditions of the concept of, for instance, freedom, equality, and democracy (List & Valentini, 2016). The branch of x-phi that is concerned with conceptual analysis can be approached from two "programs". The negative program argues that experimental work reveals that the use of philosophical intuitions[13] as evidence of a definition of a concept is fallible or bankrupt. The positive program views experimental work as a possibility to improve the traditional uses of intuitions in philosophy. For instance, with x-phi, philosophers can do conceptual analysis and include intuitions from a larger number of people and potentially mitigate some of the performance errors, biases and other fallibilities humans are prone to make (Stitch & Tobia, 2016: 9-12, Knobe & Nichols, 2017). Although the distinction between the two x-phi programs is widespread, a substantial body of x-phi work falls outside the negative and positive program (Sytsma & Machery, 2013; Mallon, 2016: 411). This includes, for instance, x-phi studies that "are interested in intuitions for their own sake, finding them to be a worthy topic of philosophical investigation" (Sytsma & Livengood, 2015: §3.4). I

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[13] The term "intuition" is a loaded philosophical concept. There is a lot of disagreement about what exactly intuitions are and how central they are to philosophical practice. As many other x-phi'ers have done, I set these debates to the side.

make no explicit commitment to either program in my articles, and I find another distinction between x-phi work more useful for describing the work of this dissertation.

Of relevance to this dissertation, another way to distinguish between x-phi work is to look at the commitments of x-phi projects: 1) One type of x-phi projects primarily seeks to find out what the folk think in order to detect whether or which philosophical theories or concepts best accord with common-sense intuitions. 2) Another type primarily explores how the folk think, in particular, what psychological mechanisms produce people's intuitions and theories. 3) The last type of project relies on data concerning cognitive diversity to argue that philosophers should not use intuitions as evidence in theorizing or in conceptual analysis (Nadelhoffer & Nahmias, 2007).

This dissertation belongs in the first category. X-phi projects of this kind are sometimes referred to as "the verification project" (Pust, 2019), "optimistic experimentalism" (Kauppinen, 2007: 99), "the proper foundations view" (Alexander & Weinberg, 2006), and "experimental analysis" (Nadelhoffer & Nahmias, 2007). Here, I refer to it by its latter name, as Nadelhoffer and Nahmias have provided the fullest account of what the project is, in my opinion. The primary goal of experimental analysis (EA)[14] is to "explore in a controlled and systematic manner what intuitions ordinary people tend to express and examine their relevance to philosophical debates" (Nadelhoffer & Nahmias, 2007: 126). Particularly, those who engage in EA aim to test philosophers' claims that their position, theory or concept reflects ordinary usage. On the EA view, the philosophical theories or concepts that most closely align with ordinary usage or practices should enjoy "squatter's rights" until they are challenged and shown defective for other reasons. If a particular concept has less support from folk intuitions, arguments of revision of ordinary beliefs and practices can be made, for instance, in light of best current science (Vargas, 2005) or for ameliorative purposes (Haslanger, 2000, 2012).

Having introduced x-phi (however briefly) and the branch of it that this dissertation works within, I can now turn to a remaining relevant discussion: What role do folk intuitions/the folk concept play in the dissertation? The view on intuitions in EA x-phi outlined by Nadelhoffer and Nahmias mirrors my view on folk intuitions/the folk concept: the concept that most closely aligns

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14 Examples of EA x-phi includes work on intentional action (Knobe 2003a, 2003b, 2004a, 2004b; Nadelhoffer 2005, 2006a, 2006b), free will, moral responsibility, incompatibilism (Nahmias et al. 2005, 2006), and moral judgement (Nichols 2004a, 2004b).

with ordinary usage enjoys "squatter's rights", that is, this is the concept scholars should reflect (or have one good reason to reflect), until it is shown defective for other reasons.

Nadelhoffer and Nahmias (2007) also argue that although a concept reflects ordinary usage, this does not mean that folk concepts enjoy some ultimate claim of truth; on the contrary, even if a philosophical concept aligns better with ordinary usage than rival concepts, it does not necessarily mean that the concept is true. I avoid the notion of "truth" as to not raise connotations of Platonic idealism; the idea that a "true" concept of discrimination exists independently of whether we know of it or not. Instead, I take a social constructivist view, meaning that "discrimination" can be used in a right or wrong way according to how the language community uses the concept. Take, for instance, the Danish concept of "bjørnetjeneste", which roughly translates to "well-intentioned help that turns out to be a disservice". Originally, and, until recently, the concept was taken to indicate a negative act. Since 1992, younger generations have used and interpreted the concept in a positive manner to mean "a particularly large and good favor".

It would be fair, on my view, to say that the first young people who used the concept in a different manner from ordinary usage were using the concept in a wrong way. Imagine, then, that younger and future generations continue to use it in this positive way and that they at some point comprise more than half of the population (and thus, language community) – then it hardly makes sense to say that the majority is using it in a "wrong way". The minority who uses it in the original way now uses it in the wrong way. Of course, one could explain La Fontaine's fable[15] (which supposedly gave rise to the concept) to the generation in question and try to convince them that they are using the concept wrongly, that they have misunderstood the meaning of the concept. Perhaps one succeeds in convincing the young and thus restores the original usage as the ordinary usage. But if, as the negative interpreters succumb, no one or very few use the original usage at some later point in time, and the positive interpretation comes to reflect ordinary usage, it will make sense to claim that, now, the positive interpreters are right about how they use the concept. Even though the young generation is right in this scenario (because that is now how the concept is commonly used), it does not follow that they necessarily have the best concept, e.g., strategically, or morally speaking. For instance, if this positive usage of "bjørnetjeneste" effectively meant that the young generation misinterpreted the fable, hence came to believe that it is in fact good

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[15] In short, a bear wishes to drive off a persistent fly from the bear's human friend/master, a gardener who is currently taking a nap. The bear seizes a paving stone to crush the fly and succeeds – unfortunately crushing the gardener's skull.

(and not bad) to be killed when your friend tries to swat off an annoying fly – that would provide a compelling reason *against* the positive meaning of the concept. This briefly outlines my view on ordinary usage of "discrimination".

This is simple as long as we are dealing with extremes, when few or many use a concept in a certain way. What if there are roughly two common usages of a concept? Are there then two right usages? Such a situation would require a close look at the specific circumstances – e.g., the history of the concept (how was it originally used) and the dynamics of the concept (how is it developing). Much will ultimately depend on the specific concept and it is difficult to put a specific number on how many people must use a concept in a certain way to speak of a "right/wrong" way to use the concept. Conducting empirical studies on philosophical concepts, though, is a way of twisting one's arm – you have to provide a number as you operationalize what "ordinary usage" is. In "Discriminator-Discriminatee" I take ordinary usage to imply that 50% or more use a concept in a certain way. In a way, this is intuitive (because 50% or more is either the most widespread usage or the equally most widespread usage if the other usage is also used by 50%), but, if results show that 51% of the respondents use the concept in a certain way, and 49% use it in another way, this would be the start of a conversation about the ordinary usage of the concept rather than the end of it. It seems different if 70% use "discrimination" in a certain way and 30% use it in another way – or if 30% indicate that they don't know. Essentially, operationalizing ordinary usage to numbers does not necessarily settle everything, the results still require interpretation.

A final word on x-phi and language use: Philosophers generally refer to respondents as "the folk", that is, laypeople and non-philosophers. Outside philosophical circles "the folk" can have some negative connotations – herd mentality, lack of critical thought, a narrow worldview, those who lack intellectual depth. I obviously do not mean to imply any such things, but merely use the common language of the x-phi tradition, where it is taken to mean the opposite of philosophers. In x-phi papers, "the folk" is sometimes operationalized to mean undergraduate students in a philosophy class in a certain country (Nichols, 2006), that is, a convenience sample. Representative samples are often a more costly affair than convenience samples, but if it is possible, philosophers who study folk concepts through experiments with a large N should aim for a representative sample. If one wish to generalize the findings to the language community or a certain country, the representative samples offers more external validity than a convenience sample, which seems important if one studies folk concepts.

2.2 Discriminator and Discriminatee in Ordinary Usage

In "Discriminator-Discriminatee", I focus on the conceptual puzzle of minority on majority discrimination through an x-phi lens. The main contribution of the article is two-fold: 1) in traditional philosophical manner, I create a useful distinction between two prevalent positions on "discrimination" in the broad discrimination literature: Those who confirm the conceptual possibility of minority on majority discrimination (the symmetric position), and those who deny it (the asymmetric position). 2) I employ empirical methods to illuminate whether one of these positions reflects ordinary usage. The results suggest that ordinary usage is symmetrical.

In the paper, I outline two definitions that help categorize and identify positions on "discrimination", particularly on "reverse discrimination". The definitions have no inbuilt moral dimension, as I investigate the matter from a conceptual rather than moral perspective. The definitions (8) are as follows:

A position is symmetrical regarding the discriminator-discriminatee relation if:

i) X has S_1 and Y has S_2, it is conceptually possible for X to discriminate against Y in virtue of Y's membership of S_2. And

ii) Y has S_2 and X has S_1, it is conceptually possible for Y to discriminate against X in virtue of X's membership of S_1.

A position is asymmetrical regarding the discriminator-discriminatee relation if:

i) X has S_1 and Y has S_2, it is conceptually possible for X to discriminate against Y in virtue of Y's membership of S_2. And

ii) Y has S_2 and X has S_1, it is *not* conceptually possible for Y to discriminate against X in virtue of X's membership of S_1.

The symmetrical position implies bi- or multi-directionality, as both majority and minority agents can discriminate against each other, while the asymmetrical position implies uni-directionality, as only majority agents can discriminate against minority agents, but not vice versa. Some definitions of discrimination described in the literature fall into the symmetrical category (e.g., Arneson, 2006, Lippert-Rasmussen, 2013; Schoenbaum, 2017; Areheart, 2018), some fall into the asymmetrical category (e.g., Fiss, 1976; Feagin, 1977; Scanlon, 2008; McTernan, 2018), and some fit in either category depending on the context (Pincus, 1996). As scholars have expressed interest in reflecting ordinary usage of discrimination, and the two positions I have sketched are conflicting usages of discrimination, one position supposedly reflects ordinary

usage, while the other does not.[16] This can be investigated through empirical methods, and I deliberate on some reflections I had about the design of the study in the following section, before I present the main results from the paper.

Design considerations

The research question structures the methods of the paper, and in this section, I reflect on the design of the empirical inquiry in this paper. Due to space constraints of the journal, the reflections in this section are original text that are not present in the paper.

The aim of the main study of the paper is to explore whether the folk express the symmetric or asymmetric concept of discrimination. Since I cannot ask people directly whether they have a symmetric or asymmetric concept, as they would not understand what I mean by that, I must find another way to figure out which concept they use. One empirical strategy is to subject respondents to reverse discrimination scenarios and survey their judgement of those scenarios. However, there are six challenges to overcome:

First, discrimination can be an uncomfortable and sensitive topic, and respondents are asked to make potentially undesirable judgments known to the researcher. Making respondents judge whether something is a case of discrimination can be a challenge because of social desirability bias, i.e., the tendency to underreport socially undesirable attitudes and overreport socially desirable attitudes. Second, responses can be distorted if respondents realize what the aim of the study is, due to its sensitive and political nature. Third, outlandish discrimination scenarios can distort responses and may fail to capture what can reasonably be called ordinary usage of discrimination. Fourth, reverse discrimination occurs less frequently than classic discrimination, which could affect whether respondents perceive it as discrimination. Fifth, it is unclear whether respondents operate with a moralized or non-moralized concept of discrimination, so the questions must be carefully crafted to take this into account as to not distort responses. Sixth, if respondents are only presented with reverse discrimination scenarios, it will be impossible to tell whether they would have found the same act discriminatory if it involved a typical discriminator and discriminatee.

To overcome these challenges I conducted the study online to limit the effects of social desirability bias, as effects are stronger when people are interviewed by a human researcher face to face (Mutz, 2011). Second, I decided to use a between-subjects design, subjecting respondents to just one scenario to

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[16] Or both positions reflect ordinary usage, or none of the positions reflects ordinary usage.

limit the risk that respondents realized the aim of the study and hence the risk of distorted responses. Third, the vignettes were carefully crafted to appear as ordinary as possible in both conditions. The contexts [workplace, private, school and organizational] and acts [not considering for jobs, denying association, complaining and joking, excluding from participation] appear unexceptional and ordinary.[17] By necessity, I crafted my own original survey vignettes, although I found inspiration in the literature and public cases of potential discrimination. I chose four contexts in which different factors are at play. The work sphere and the organizational sphere are often perceived as belonging to the public sphere and are either clearly or somewhat regulated by law. The dating sphere is less regulated legally speaking than the work sphere; in particular, it is not illegal (but perhaps immoral) if parents disapprove of their adult child's choice of partner because that person is of a different race. The school sphere is an interesting combination of public and private, and complaining and joking in this sphere may not strike everyone as obviously discriminatory acts. The literature on microaggressions, a subtle type of discrimination, describes a similar situation where mothers joke about fathers' incompetence with babies as a case of microaggression that it is deemed not discriminatory, because women cannot discriminate against men (McTernan, 2018). I found this theoretical example intriguing and fitting for empirical investigation. Fourth, the difference in frequency factor between classic and reverse discrimination affected how I crafted the scenarios, but the difference in perceived frequency cannot, ultimately, be controlled. I decided to add a question regarding the respondents' perception of which groups are most often discriminated against. This question was open-ended to allow respondents to "formulate an answer in their own words" (Groves et al., 2009: 169). Fifth, although it is not the primary interest of the study how morally wrongful respondents find an act, I included a second question regarding the wrongness of the act, which was visible to the participants at the same time as the question regarding discrimination and it allowed respondents to express their concept of discrimination as nuanced as possible. That is, respondents could indicate that they found an act discriminatory but not wrongful or wrongful but not discriminatory. Sixth, for each reverse discrimination vignette, there was a corresponding classic discrimination vignette, which helped to establish whether such acts would usually be found discriminatory in the classic discrimination vignettes.

To measure whether the folk express the symmetric or asymmetric concept of discrimination, I turn to randomized survey experiments. The practice of survey experiments has become popular in recent years, because they allow

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[17] While they may not actually happen every day, they are, at least, not outlandish.

researchers to draw on the advantages of both surveys and experiments (Druckman, 2020; Druckman, Green, Kuklinski, & Lupia, 2011; Morton & Williams, 2010; Mutz, 2011; Mutz & Kim, 2020; Sniderman, 2011). The method provides "a means of establishing causal inference that is unmatched by any large-scale survey data collection effort, no matter how extensive" (Mutz, 2011: 8). In experiments, participants are randomly assigned to control or treatment groups, which allows the researcher to make strong causal inferences. For experimental researchers, conducting population-based survey experiments (rather than, say, lab experiments on a small sample of students) offers external validity, meaning that the findings can be generalised to a broader population. The experimental study has high internal validity, as all independent variables are controlled. The experimental design of the vignettes keeps the act and context in the scenarios identical, which secured that differences in the dependent variable, the judgement of discrimination, can be ascribed to the independent variable alone, that is, the identity of discriminator and discriminatee. The experimental design of the study increased the likelihood of obtaining sound results.

Additionally, due to the original inquiry of this study, one could easily be tempted to survey a large variation of traits, contexts and acts, but this implies a risk of respondent fatigue, which can influence the quality of responses. I mitigate this risk by keeping the survey very short at approximately four minutes.

Finally, a word on how I operationalize "ordinary usage" and the chosen sample of respondents. On my view, ordinary usage is most plausibly interpreted to be how "most people use the term". It is certainly unusual to speak of ordinary usage to refer to how a numerical minority of a given population uses a concept ("Discriminator-Discriminatee": 13). In numbers, this means that a minimum of 50% or more of a population use "discrimination" in a certain way. As I noted earlier, it can be a difficult matter to settle on a number regarding how many should use "discrimination" in a certain way for it to constitute ordinary usage, but I think 50% is defendable (as it certainly cannot be less than 50%) – and the spectrum from 50-100% may show a difference in *how* common ordinary usage of a concept is. This will, to some extent, have to be left for interpretation in light of the results.

While it is unfeasible to survey a whole population, it is possible to obtain a sample that represents the characteristics of a larger population. For this paper, I chose a sample representative of the US population in terms of sex, age and race (N = 1,487). I did so for the following reasons: First, "the folk" aligns well with a sample that is representative of a given population. Second, I collected responses through Prolific (Palan & Schitter, 2018), which could

offer a representative sample of US respondents but not of, for instance, Danish respondents, at least at the time of collection. Additionally, the literature is often relevant to an American context, and it was simple to create vignettes in English and collect responses in English (relative to other languages than English and Danish, which would require a translator). Thus, it was mainly for practical reasons that I prioritized an English-speaking country. Last, given the many discussions relating to race and sex in America, US respondents serve as an interesting population to survey regarding discrimination.

Results

The empirical highlight of the paper is a pre-registered experiment on whether ordinary usage is symmetric or asymmetric (Study 2)[18]. Overall, the results show that ordinary usage is symmetric across different contexts and traits. For a visualization of the responses, see Figure 1:

Figure 1: Responses to Discrimination Question
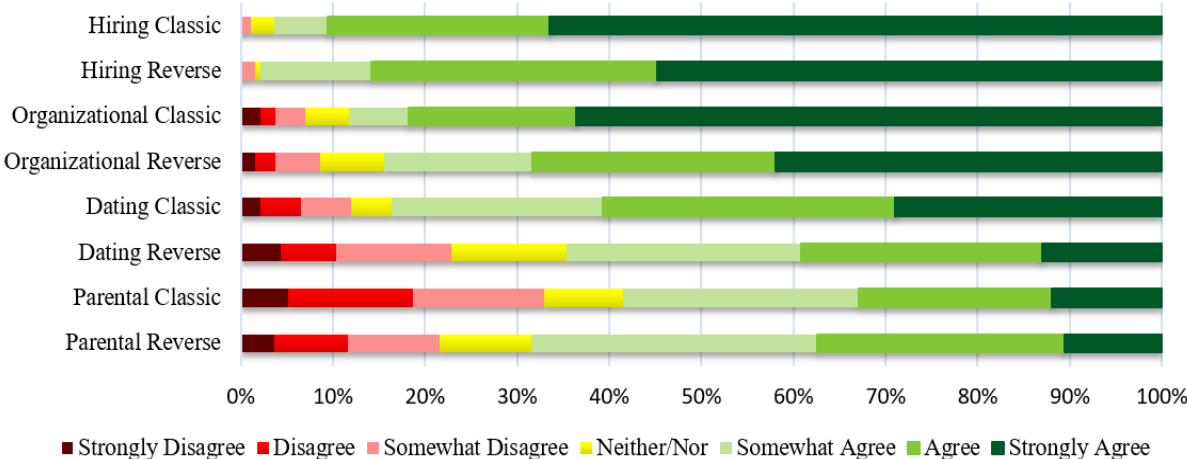
Note: This figure shows the response distribution by percentages to the statement "In my opinion, the [discriminator's] action is discriminatory". From the top, the respondent numbers are: H.C:186, H.R:187, O.C: 190, O.R: 191, D.C:190, D.R:176, P.C:184, P.R:183.
Total N: 1,487 ("Discriminator-Discriminatee": 25).

The green colors present responses that affirm that the act in the vignette is considered discrimination, while the red colors present responses that reject that the act is considered discrimination. The responses to all vignettes, both classic and reverse, are predominantly affirmative. Noticeably, they are all clearly past 50% (although it variates how strongly participants agree and disagree about each vignette).

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[18] To see an anonymous version of the pre-registration, see this link: https://aspredicted.org/blind.php?x=H5Q_M6R

The figure convincingly shows a symmetric concept of discrimination of the folk by the large amount of responses on the agree-side of the Likert scale, and importantly, by the agree-responses consisting of more than 50% of the total amount of responses in each vignette.

How would the asymmetric concept of discrimination appear in this visualization, if the folk concept had been asymmetric? Below, I have crafted two hypothetical scenarios to show how the responses might have appeared if the folk had an asymmetric concept of discrimination (in Figure 2, I have simply reversed the responses in all the reverse vignettes):

Figure 2: Hypothetical scenario 1 (Responses to Discrimination Question)
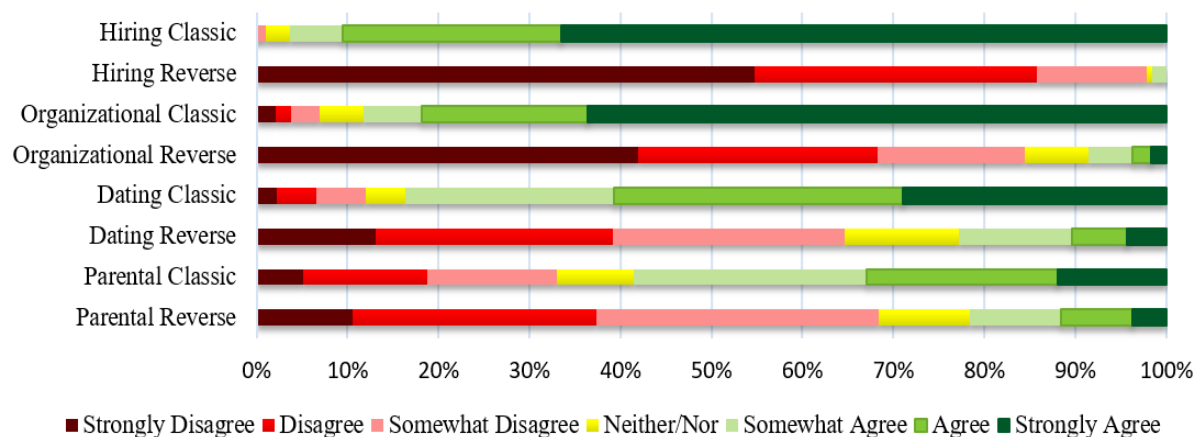
Note: This figure is hypothetical and is not in the paper. It serves to illustrate how a completely asymmetric concept of discrimination would look like.

If the responses had been so distributed, the folk concept would be asymmetric.[19] Here, respondents have a completely asymmetric concept, that is, asymmetric across all contexts. Admittedly, these hypothetical asymmetric responses are a little odd: if the folk concept was asymmetrical, I think it is unlikely that it would be completely asymmetric across all contexts, that is, both in the public and private spheres. For instance, the hiring context which is a paradigmatic example of a public sphere context would be a reasonable exception to a generally asymmetric concept, because this sphere is heavily regulated. If the folk concept had been asymmetric only in the private sphere, and not in the public sphere, responses could have appeared as they do in Figure 3:

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[19] I am here ignoring the otherwise interesting discussion about whether the father rather than the mother was the accurate minority group in the parental scenario.

Figure 3: Hypothetical Scenario 2 (Responses to Discrimination Question)

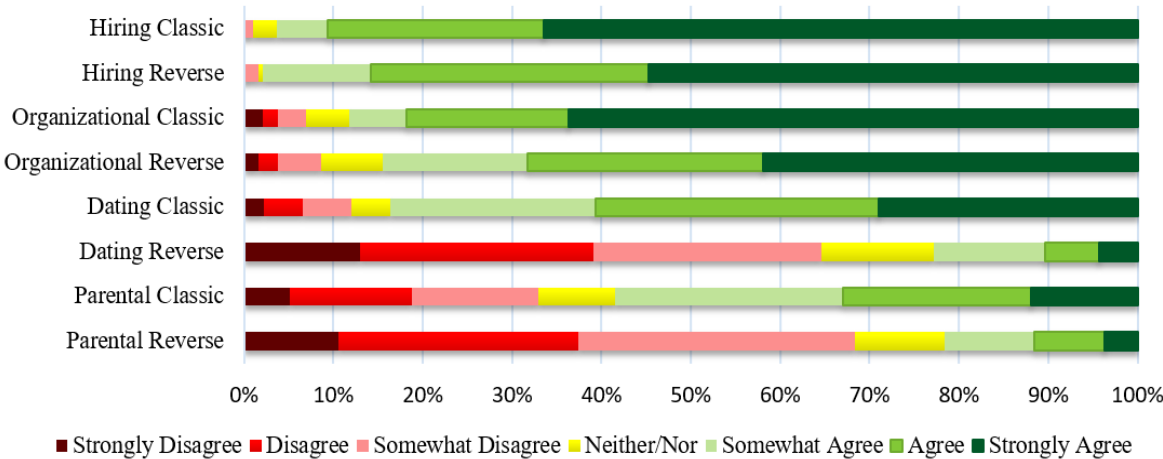Note: This figure is hypothetical and is not in the paper. It serves to illustrate how a partially asymmetric concept of discrimination would look like.

If the responses had been distributed as in this second hypothetical scenario, the folk concept would be asymmetric in the private, relatively unregulated sphere and symmetric in the public, more regulated sphere. Perhaps this would indicate that the folk concept aligns very closely with the legal understanding of discrimination (as anti-discrimination laws only target actions in the public sphere and not, for instance, discrimination within a family or in the dating sphere). Or, it could indicate that institutional power weighs heavily in the mind of the folk, whereas individual's actions in the private sphere are seen as less impactful and, hence, less or not discriminatory. However, neither of the hypothetical figures present respondent's answers.

Remarks

In "Discriminator-Discriminatee", I conducted empirical work with the aim of contributing to the ongoing philosophical debate on what discrimination is. I explored in a controlled and systematic manner what the folk concept of discrimination is in relation to a contentious conceptual aspect, namely whether a minority agent can discriminate against a majority agent. I tested scholars' claim that their concept reflects ordinary usage, which places this paper firmly in the "experimental analysis" (EA) program of experimental philosophy.

My view on the folk concept is that it enjoys "squatters' rights" until it is shown defective. This entails that I believe scholars have at least one substantial reason for aligning their concept of discrimination with the symmetric folk concept.

The responses showed, overall, that the folk concept is symmetric across different contexts and traits. Of course, conducting studies with more contexts

and traits will illuminate whether exceptions exists. For instance, the folk concept may not be symmetric in relation to disability – an ongoing discussion in legal theory (Areheart, 2017; Schoenbaum, 2018). Studies of different countries will also illuminate whether the folk concept is symmetric particularly in the US, or whether this is a general trend across countries with different historical contexts. In the future, comparative studies can illuminate ordinary usage of "discrimination" in different contexts and languages.

Apart from speaking to the philosophical debate on the concept of discrimination, this paper has taken a step toward enlightening us about what laypeople in the American society deem discriminatory. This knowledge can assist in easing communication on a difficult and delicate topic, both from researchers to the public and between researchers. Not least, this paper unlocks discussions of more strategic and normative characters, such as whether the symmetric concept of discrimination is the best or better concept to use, or whether it is the concept that we should use.

2.3. Comparator in Ordinary Usage

In "Comparator", my co-authors and I focus on the conceptual puzzle of comparativity and group-non-reflexivity through x-phi. Our inquiries were guided by the following questions, of which one is a variant of the other: Is the folk concept comparative so that:

> Simple comparative claim: X discriminates against Y only if there is a Z such that X treats Y worse than Z. (4)

> Complex comparative claim: X discriminates against Y only if there is a Z *belonging to a relevantly different socially salient group than Y* such that X treats Y worse than Z. (4).

And is the folk concept non-reflexive, so that:

> Different discriminator claim: X discriminates against Y only if X and Y belong to relevantly different socially salient groups (6)

The claims are significant to philosophical debates because they have important implications for which account of moral wrongness of discrimination is correct. In this way, "Comparator" differs importantly from "Discriminator-Discriminatee": The descriptive aspects of what the concept is has strong ties to the normative discussions of what makes discrimination wrongful, whereas this aspect was not present in the latter paper. As in the other x-phi paper, philosophers claim that their concept of discrimination reflects ordinary usage, although these claims have never been subjected to (or supported by) experimental testing.

The main contribution of the article is two-fold: We outline two fundamental claims rooted in philosophical and legal debates on what discrimination is, with implications for why it is wrongful, and explore whether scholars are right to claim that they reflect ordinary usage in relation to the two aspects: 1) Comparator: Is the folk concept of discrimination essentially comparative, or is a comparator not necessary for an act to constitute discrimination? Does it matter whether the comparator is of a contrasting social group or not? 2) Reflexivity: Is the folk concept of discrimination reflexive, or can a discriminator not discriminate against their own kind? I will reflect on the design of the study in the following section, before I present the main results from the paper.

Design considerations

I will outline some of the design considerations of the experiments in "Comparator", although briefly, as an extended design consideration is present in the paper (11-12). The paper shares many of the design considerations with "Discriminator-Discriminatee". The aim of the study was to investigate whether the folk concept is comparative and group non-reflexive, but since we cannot expect laypeople to understand these terms, we had to consider another method than directly asking respondents.

In "Comparator", we also conducted our studies online to limit potential social desirability effects. Two vignettes, one from each context/trait, were presented to each participant. The vignettes were carefully crafted to appear as ordinary as possible, although it was a difficult task to "translate" the philosophical issues to empirically useful vignettes. We chose two ordinary contexts (workplace 1: school, workplace 2: organization) and acts (hiring, promoting), and two traits (ethnicity, gender). The survey included two vignette-based experiments: Experiment 1 involved scenarios with ethnicity in a hiring situation in a school setting, while Experiment 2 involved scenarios with gender in a promotion situation in an organization. Both experiments focused on the labor market, as it often entails severe and comprehensive consequences for discriminatees.

To measure whether the folk concept is comparative and reflexive, we turned to randomized experiment embedded in a survey. This allowed us to maximize the internal and external validity of our findings: we maximized the internal validity by keeping all vignettes identical and controlling the independent variable. We maximized external validity by randomizing respondents into treatment groups and using a sample representative to the Danish population. In relation to response options, we here chose a 1-5 point Likert scale ("Strongly disagree" to "Strongly agree").

As far as analyzing the data, we were interested in comparing scenarios and operationalized "ordinary usage" to mean "respondents are more likely to find vignette X discriminatory than vignette Y". This perspective is meaningful because we compare variants of the same vignette in "Comparator". We focus on teasing out the factors that make a scenario *more or less* discriminatory.[20]

Another difference between the two papers was that we chose a Danish sample representative (N = 2,024) in "Comparator" in terms of sex, age, education and geographical location, and we used the survey agency YouGov to collect responses. Since all authors live in Denmark, we are familiar with the context, and it was practical to craft appropriate vignettes. Fitting the Danish sample and context, we carefully selected names that indicate Danish ethnicity and immigrant ethnicity.[21]

Finally, the hypotheses were designed as a "logical staircase", reflecting our expectations of least to most discriminatory vignettes, and were, in a way, built on top of each other (see p. 8-10 for exact formulations):

Hypothesis 1: Respondents are more likely to find a vignette with a comparator discriminatory than a vignette without a comparator (comparator vs no comparator).

Hypothesis 2: Respondents are more likely to find a vignette with a relevant contrasting comparator discriminatory than a vignette with a non-contrasting comparator (contrasting comparator vs non-contrasting comparator).

Hypothesis 3: Respondents are more likely to find a vignette with a comparator and a contrasting discriminator discriminatory than a vignette with a comparator and a non-contrasting comparator (comparator and contrasting discriminator vs comparator and non-contrasting discriminator).

Hypothesis 4: Respondents are more likely to find a vignette with a contrasting comparator and a contrasting discriminator discriminatory than a vignette with a contrasting comparator and a non-contrasting discriminator, and respondents are more likely to find a vignette with a contrasting comparator and a contrasting discriminator discriminatory than a vignette with a non-contrasting comparator and contrasting discriminator (contrasting comparator and contrasting discriminator vs contrasting comparator and non-contrasting discriminator and vs non-contrasting comparator and contrasting discriminator).

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[20] I will comment on this slightly different way of analyzing data later when I compare and contrast the two x-phi papers.

[21] Notice that we had no particular reason for or against choosing a Danish sample other than some practical considerations, just like in "Discriminator-Discriminatee".

The discriminator's identity either being contrasting or non-contrasting in relation to the discriminatee aligns with the reflexivity inquiry. Whether the comparator is present or not, and whether the comparator's identity is contrasting or non-contrasting in relation to the discriminatee aligns with the comparator inquiry.

Results

The results of our pre-registered studies were mixed and surprised us: H1 did not find support. Unexpectedly, respondent were more likely to find the no comparator vignette discriminatory than the comparator vignette (both in the ethnicity and gender experiment).

H2 found support, as respondents were more likely to find the vignette with a contrasting comparator discriminatory than a vignette with a non-contrasting comparator (both in the ethnicity and gender experiment).

H3 found support in the ethnicity experiment, as respondents were more likely to find the vignette with a contrasting discriminator discriminatory than a vignette with a non-contrasting discriminator. However, in the gender experiment, respondents were as likely to find such a vignette discriminatory compared to the relevant vignette.

H4 found support, as respondents, expectedly, were more likely to find a vignette discriminatory if the discriminator and comparator were of contrasting social groups than if only one of the two were of a contrasting group (both in the gender and ethnicity experiment).

These are the findings as they are relevant to philosophical debate: Laypeople are more disposed to classify a situation as discriminatory when there is no comparator than when there is one. This finding challenges the usually assumed condition that discrimination must involve a comparator and, hence, the simple comparative claim. An interesting additional finding is that the mere reference to a contrasting comparator, whether the contrasting comparator played the role of comparator or non-comparator (one who did not apply for a job) makes laypeople more disposed to classify the vignette as discriminatory than if the non-comparator is of the same socially salient group. A non-comparator's identity should be irrelevant to the concept of discrimination, or so we expected, but instead it seems that laypeople react to it (33-34).

Yet, once we look only at vignettes with a comparator, laypeople are more disposed to classify a situation as discriminatory if the comparator is contrasting than if the comparator is non-contrasting. This finding supports the complex comparative claim. That there is support for this claim but not the simple comparative claim is puzzling, and we discuss why this might be so on

p. 30-33 in "Comparator". Our main suggestions are that i) pragmatic inference affect responses: respondents assume that all information in a vignette is relevant, and so, even if it was a non-comparator of a relevantly contrasting group, this was information that had to be important – hence affecting their response of whether this was discriminatory, ii) activation of background beliefs explain the disconfirmation of H1 and confirmation of H2: participants relied on background beliefs when they read the vignette and this influenced their response, or iii) contrasting socially salient groups drive effects: respondents are particularly sensitive to comparators – and non-comparators – of a contrasting socially salient group. The mere mentioning of a contrasting socially salient group is an indication of discrimination. Of the three suggestions, we find the third explanation most convincing.

Finally, in the ethnicity experiment, laypeople are more disposed to classify a situation as discrimination if the discriminator is contrasting than if the comparator is non-contrasting, but in the gender experiment, laypeople seem equally disposed to classify the two variants as discrimination. These findings suggest that the folk concept is not non-reflexive, that is, discriminator and discriminatee can belong to the same socially salient group.

Ultimately, the folk concept of discrimination entails that group reflexivity is possible. Since our results regarding comparativity are puzzling, more research will help establish whether the folk concept is comparative.

Remarks

"Comparator" is another example of research that falls within the experimental-philosophical genre. We conducted empirical work with the aim of contributing to the philosophical discussion on what discrimination is, with implications for why discrimination is wrongful. Rooted in the philosophical literature, we explored in two experiments whether the folk concept of discrimination is comparative and reflexive. On our view, the results support or challenge philosophers who claim to reflect ordinary usage, which means that also this paper is of the "experimental analysis" (EA) kind. This means that, corresponding to the EA view, we believe that researchers have at least one substantial reason for aligning their concept of discrimination with the folk concept.

If a researcher claims that an in-group member cannot discriminate against another in-group member (e.g. a woman against a woman), we now know that that would be contrary to the folk concept. With the mixed results on the comparativity aspect, more research is needed before we say anything conclusive about this aspect of the folk concept.

We endorse future research on the aspect of comparativity. It proved difficult to tease out intuitions on this aspect of the concept of discrimination. Future research can learn from our study and take steps to increase the chance of getting clear responses. My main suggestion for future research is to design new vignettes. A place to start for inspiration is to turn to the original discussions in the philosophical and legal literature on comparativity, perhaps good, real-life cases examples exist, especially in the legal literature, that more straightforwardly raise the question of comparators. It is also likely that these examples are too similar to our own, and that respondents will rely on background information which will distort the responses. Perhaps then, one need to consider to resort to more outlandish cases, for instance, a slightly different planet where certain groups do not exist – to control for background variables. As we know, outlandish vignettes have their own challenges and risk respondents not being able to comprehend the vignette. We may have to think of comparativity not as a necessary condition of discrimination but rather as a prototypical condition of discrimination, which entails departure from a common way of defining concepts in the philosophical discrimination field. Not least, it is worth considering whether surveys is the best method for this complex inquiry. Perhaps this is the type of inquiry that requires dialogue and a more qualitative approach due to the complex nature of comparativity. These are the types of questions future research may gain from considering.

A word on the "translation" of philosophical claims to empirical hypotheses: it proved to be rather difficult to translate "philosopher language" to "empirical language". See for instance the difference between these two expressions:

> Different discriminator claim: X discriminates against Y *only if* X and Y belong to relevantly different socially salient groups (6: my italicization)

> Hypothesis 3: Respondents *are more likely to* find a vignette with a comparator and a contrasting discriminator discriminatory than a vignette with a comparator and a non-contrasting comparator (my italicization)

This is not a perfect translation. Empirically speaking, researchers would not phrase anything as strongly as "only if" – there will often be respondents who disagree, misunderstand or make an unintended click with the mouse. In the empirical sciences, it is standard to use the expression "more likely to… than". Philosophers generally do not have to factor in such elements and the discrimination research field seems to favor defining concepts by stating clear conditions for what constitutes discrimination (Hellman, 2008; Lippert-Rasmussen, 2014; Eidelson, 2015, Moreau, 2020). This conflict is not easily solved

and is a good example of why interdisciplinary work can be a complicated enterprise.

2.4 Remarks on "Discriminator-Discriminatee" and "Comparator"

"Discriminator-Discriminatee" and "Comparator" share and differ on some aspects worth commenting on. First, the vignettes in "Discriminator-Discriminatee" are interesting to "Comparator" in respect to the comparator agent: Although I rarely explicitly mentioned a comparator in the vignettes, responses still indicated that the acts were discriminatory – contrary, one could think, to the general assumption that discrimination is essentially comparative. We can interpret this in two ways: 1) The "Discriminator-Discriminatee" results suggest that a comparator is not a necessary condition for an act to constitute discrimination, or 2) respondents rely on background knowledge or experience about the world, so a comparator does not need to be immediately present in these vignettes but can also be counterfactual. It is hard to say which interpretation is more likely, or whether both are true to some extent. I think it shows how extremely difficult it is to craft high quality vignettes that are salient on the features the researcher wants to investigate and perhaps, in particular, to design vignettes that are relevant and speak to the philosophical literature. Even in an experimental design where factors are kept constant apart from the dependent variable, it is a struggle to grasp what kind of reality respondents operate in and rely on as they indicate their response.

Second, I want to reflect on a particular type of scenario, which is reasonably comparable across the two papers: Recall that both papers include an experiment in a workplace setting involving a hiring/promotion situation. When we compare the two scenarios where a majority agent (potentially) discriminates against a minority agent, the responses are very different. See, for instance, the mean of the responses:

Table 1: Comparison of vignettes and means

Paper	Vignette name	Mean
Comparator	Comp. and Disc. Contrasting (gender)	2.73 (scale: 1-5)
Discriminator-Discriminatee	Hiring Classic (gender)	6.52 (scale: 1-7)

To make a reasonable comparison, I will here draw at the vignettes that involve gender. Notice that the mean of 2.73 is out of a maximum of 5, and that the mean of 6.52 is out of a maximum of 7. Although not directly comparable,

6.52 is much closer to the maximum of 7, than 2.73 is to the maximum of 5. The Hiring Classic vignette elicited a much higher mean than the Comp. and Disc. Contrasting vignette. This is interesting – why is there a difference between these relatively comparable vignettes? Let us see what lies behind the means and check the response distribution. First come the two hiring vignette response distributions from "Discriminator-Discriminatee" as they were presented earlier in the dissertation:

Figure 4: Response Distribution of Hiring Vignettes ("Discriminator-Discriminatee")
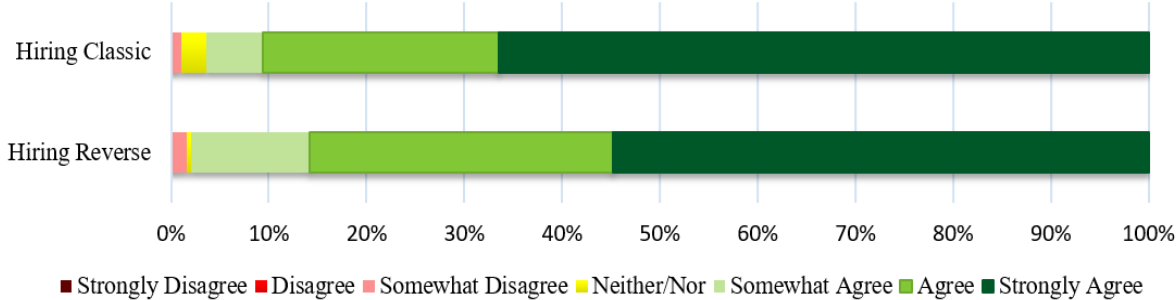
Note: This figure shows the response distribution by percentages. The respondent numbers are: H.C:186, H.R:187. ("Discriminator-Discriminatee": 25).

Let us then look at the response distributions from the gender experiment in "Comparator":

Figure 5: Response Distribution of Promotion/Gender Vignettes ("Comparator")
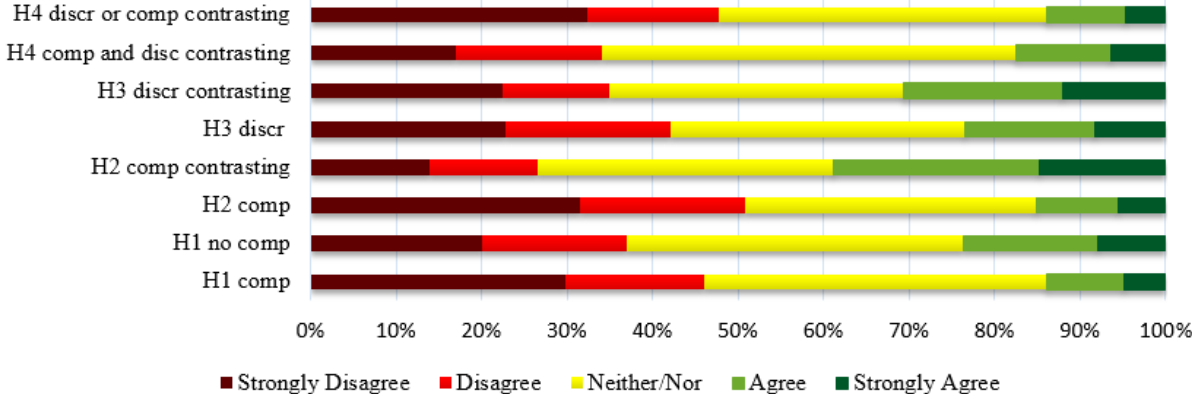
Note: This figure is not present in the paper and is made for this dissertation to visualize responses in a similar manner to the other x-phi paper. It shows the response distribution by percentages. The respondent numbers are: H1 comp: 1,014, H1 no comp: 1,010, H2 comp: 504, H2 comp contrasting: 510, H3 discr: 508, H3 discr contrasting: 506, H4 comp and discr contrasting: 255, H4 discr or comp contrasting: 506. Respondent N in total: 2,023

The response distributions are, frankly, remarkably different. The hiring vignettes in "Discriminator-Discriminatee" yielded a large number of "strongly agree" and affirming reactions from the respondents (and few disagree responses). In "Comparator", more responses fall on the disagree than on the agree side, generally speaking. Also, across the vignettes, a high number of DK respondents replied "neither/nor", the middle response, indicating that they were unsure of whether they found the act discriminatory. In comparison, very few US responses indicated the middle response across the vignettes. What might account for this difference in responses in the two papers?

Several factors may be in play: 1) The "Discriminator-Discriminatee" hiring scenario includes some internal state or attitude of the discriminator toward the discriminatee, while the "Comparator" vignettes do not include any internal attitude, only the outcome of applying for a job. The internal attitude was not meant to convey animus toward a gender but rather a minor dislike or dis-preference for them as employees, yet, the responses clearly indicated that this was found discriminatory. It is not unlikely that knowing the internal attitude of the discriminator made the case of discrimination more clear-cut. Perhaps DK respondents are not used to think about indirect discrimination where for instance bad intentions are absent but a bad outcome remains. 2) Different populations: a US sample in "Discriminator-Discriminatee" and a DK sample in "Comparator". Cultural differences can mean that Danish respondents are more cautious about claiming that an act is discriminatory, as they believe it is a serious allegation, while US respondents use the concept more loosely compared to Danes. The fact that more than 50% of the US respondents found the Parental vignettes (where a mother/father joked and complained about fathers/mothers) discriminatory potentially supports this, as it may suggest that Americans are very sensitive to and easily pick up on negative differential treatment, however tiny the harm of the act may be. Having chosen two different population samples for the papers potentially reveals linguistic differences of "discrimination". It speaks to inter-linguistically and intra-linguistically conceptual inquiries. For instance, how similar is the Danish concept "diskrimination" to the American "discrimination"? And how similar is the US concept "discrimination" to the South African concept "discrimination" or the British concept of "discrimination" – all of which belong to the same linguistic community, namely English?[22] 3) A perceived difference in how high the stakes are between getting hired and being promoted could po-

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[22] Researchers of the concept of "democracy" have found similar discrepancies inter-linguistically, studying the US concept of "democracy" and the Senegalese French concept "démocratie" and Senegalese "demokaraasi" (Schaffer, 1998).

tentially account for some of the response differences. If someone is not promoted, they usually keep their job anyway, but not being hired means no income. Yet, hiring and promotion situations are generally considered high stakes in both Denmark and the US.

Finally, a word on a potential conflict between the two ways "ordinary usage" is operationalized in the two papers: The way we interpreted responses in "Comparator" can conflict with how I interpreted responses in "Discriminator-Discriminatee": "more likely to find X discriminatory than Y" versus "more than 50% find X discriminatory". In "Discriminator-Discriminatee", I analyzed responses in both ways, while in "Comparator", we only analyzed responses in the former way.[23] Let us imagine the type of case that shows the difference of this approach, with responses on a Likert scale of 1-5:

The mean of responses given in vignette X is 2.0 (slightly disagree), and the mean of responses given to the relevantly comparable vignette Y is 1.0 (strongly disagree). At the same time, more than 50% of the responses are indicated to be "strongly disagree" or "disagree". Depending on the way we interpret the responses, we can conclude that i) respondents are more likely to find vignette X discriminatory than vignette Y, or ii) respondents do not classify any of the scenarios as discrimination (although one elicits stronger disagreement about being discrimination than the other), because less than 50% classify the scenario as discrimination – or, more than 50% classify the scenario as not discriminatory.

If the first analysis stands alone, I think it potentially conflicts with our usual understanding of concepts. What we have found out is that in this case, vignette X is less *non-discriminatory* than vignette Y, and we have also found that respondents do not classify any of the vignettes as discriminatory – both times, the mean is below the average of the scale and in this scenario, more than 50% if the responses are on the disagree-side of the Likert scale.[24] On my view, it is meaningful to speak of discrimination as a spectrum only on the positive side of the Likert scale ("it's a bit discriminatory" or "it's very discriminatory"), but it does not really make sense to speak of discrimination as a spectrum on the negative side of the Likert scale ("it's very non-discriminatory" sounds odd). I take this view to be common in dominant views on concepts in philosophy: both on a family resemblance approach (Wittgenstein,

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[23] This was mainly due to us collecting data first for the "Comparator" paper and therefore something I had a chance to reflect on in view of analyzing the data. Therefore, I added this way of interpreting data to the "Discriminator-Discriminatee".

[24] In "Comparator", a few vignettes have a mean below 2.50: five out of eight of the gender vignettes, and one out of eight of the ethnicity vignettes (see "Comparator": 67-68), so I think it is worth reflecting on the difference between the analyses of data.

2009 [1953]: 36 [§66-67]) and a necessary and sufficient conditions approach (Lippert-Rasmussen, 2014, ch. 1), some acts or items simply do not fall within the concept's area. Perhaps this is a clash between common views on concepts in philosophy and empirical methods in political science. It is, of course, interesting to know whether vignette X is more likely to be perceived as discriminatory than vignette Y, but we also need to know whether an act would be classified as discrimination by most of the respondents. This speaks for applying both analysis i) and ii) to these types of conceptual inquiries.

Chapter 3.
Discrimination in the Dating Sphere

Discrimination in dating interactions, in our choices of whom to date or marry, is a relatively unusual case of discrimination in the literature and has received relatively little attention compared to discrimination in the public sphere (for instance, education, housing and voting). When philosophers discuss discrimination in the dating sphere, such as when people are rejected or fetishized on the basis of race, the general view is that such actions amount to wrongful discrimination (e.g., Lazenby and Butterfield 2018; Lippert-Rasmussen 2014: ch. 10; Moreau, 2020; Fourie, 2018, although exceptions exist, see e.g. Hellman, 2008; Eidelson, 2015). It is therefore puzzling that, so far, there are only few contributions on what to do about discrimination in this sphere. I suspect that the common position is that, even when we find discrimination in the dating sphere wrongful, it is hard to think of what we can do about it in a morally responsible way – a way that does not compromise our own liberty.

Many have noted the tension between two bedrock liberal principles: equality and freedom (Blake, 2006), and the private sphere has often been thought of as a sphere in which freedom trumps equality. Arguably, this argument has been defended while thinking of *laws* rather than *morality*: Some have stressed that the practical enforceability of a legal individual duty to not discriminate would be very difficult, if not absurd (Moreau, 2020; Alexander, 2008). Fortunately, in philosophy, we can leave aside concerns about a legal duty of anti-discrimination and focus on putative *moral* duties instead.

I will briefly defend why discrimination in the intimate sphere should receive philosophical attention: First, discrimination in the intimate sphere excludes some people from meaningful relations, which humans generally desire. Dating, sex and marriage are seen in many cultures as part of a good life, by some as the very pursuit of happiness. Empirical studies suggest that sex and marriage have positive physical and mental health effects (Emens, 2009). It can hardly be dismissed how important love, sex and intimacy are. Second, discrimination in this sphere affects discrimination in other spheres. Others have suggested that "private discrimination has tremendous consequences for social stratification and material advantage and opportunity" (Eidelson 2015: 125), a point that Elizabeth Emens accentuates so well in the following quote:

> [W]hom I hire shapes whom I meet and might desire, and whom my children meet and might desire. *And vice versa*. Whom I desire and date and marry, and whom my children desire and date and marry, shapes whom I know to hire. *And*

further. Whom I hire shapes who has the social capital to be good enough to date my children. And whom my children marry shapes the people I want to hire, the people to whom I want to give opportunities for advancement and access to the good life (Emens, 2009: 1373).

Given the detrimental problem discrimination in this intimate sphere is, what should we do about it? Anti-discrimination reform efforts generally take either an individual or a structural approach. Where individual approaches focus on what individuals can or ought to do, structural approaches focus on policies, rules, laws and norms (Madva, 2020). However, one need not subscribe to an "either-or" framework. In discussing implicit bias and what to do about it, Alex Madva argues that a "both-and" framework is better:

> The fundamental reason that it doesn't make sense to say things like, "don't worry about individuals' prejudices and stereotypes, just focus on changing structures," is that *individuals' prejudices and stereotypes are some of the most powerful factors shaping their willingness to support (or oppose) political and structural change* (Madva, 2020: 240).

Individuals and structures are connected, and so efforts to combat discrimination are needed from "all sides" (McTernan, 2018). Although I focus on individual efforts in "Deliberative Duty", the duty I outline there is best seen as one individual effort among other structural efforts to limit discrimination, and thus part of the "both-and" framework. As far as actual proposed efforts, some defend major structural reforms to limit discrimination in the intimate sphere that focus on laws, neighborhoods and the architecture of cities (Emens, 2009), while others defend more minor reforms, e.g., that online dating platforms should eliminate search options based on race (Bedi, 2015). Defenses of individual reform efforts are very limited, some have mentioned individual reform efforts (Moreau, 2020; Emens, 2009), and few have defended fully fleshed accounts of individual anti-discrimination duties (Liu, 2015; Midtgaard, 2022). In particular, the duty to "look behind people's appearances" outlined by Søren F. Midtgaard, and a similar duty phrased as two behavior constraints during dating by Xiaofei Liu. Both duties are of a "weaker" type, as opposed to the "stronger" types that require that X and Y end up together. For this reason, weaker duties are less controversial than stronger duties, yet, the aim is the same: a more equal dating sphere ("Deliberative Duty": 2-3). My outlined duty is of a similar kind to the two key accounts in the literature.

I evaluate individual duties according to two desiderata: 1) Plausibility – are the duties sensitive to practical constraints? 2) Desirability – will these duties bring about good consequences? The more plausible and desirable a duty is, the better the duty. My perspective on this is entirely practical: If such

duties as reform efforts are to succeed in the real world, they should be apt for it and have a reasonable chance at reaching their aim of bringing about a more equal dating sphere.

"Deliberative Duty" contributes to this growing literature on discrimination in the dating sphere and what to do about it, specifically by raising issues with individual duties and by outlining a new individual duty that I argue better mitigates the problems and risks other individual duties are susceptible to. Importantly, it makes a contribution to the position that there is space for an individual duty, and however minimal the duty is, this might strike libertarians and some political liberals as deeply controversial.

3.1 Reflections on Methodology: Reflective Equilibrium

The second method of this dissertation, reflective equilibrium, is the standard method in contemporary analytic political philosophy. It is a method of theory or principle testing that aims at reaching a "mutual fit" between a theory/principle and considered judgements.[25] It allows us to test theories or a set of moral principles by considering the implications in light of different cases (List & Valentini, 2016: 541-542). Coherence between moral principles and considered judgements justifies normative claims: They act as a system of mutual support where the different parts obtain their justification by being part of a coherent system, a system in equilibrium (Rawls, 1999 [1971]: 21). It shares some aspects with coherentist theories of epistemic justification – of what it means for a belief (or a set of beliefs) to be justified, or for a subject to be justified in holding the belief: we are justified in holding a belief if it is coherent with different moral principles (Olsson, 2019).

To elaborate on the method of reflective equilibrium, it deals with three sets of beliefs: a person's (a) considered moral judgements or intuitions about a case, (b) a set of moral principles and (c) relevant background theories (Daniels 1979: 258-259; Daniels 2020). The process requires working back and forth among (a), (b) and (c), revising any of the elements wherever necessary in order to achieve acceptable coherence among them. Mismatches between the three sets of beliefs are likely to occur, and in such cases, John Rawls says:

> We can either modify the account of the initial situation or we can revise our existing judgments, for even the judgments we take provisionally as fixed points are liable to revision. By going back and forth, sometimes altering the conditions

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[25] I use "considered judgements" and "intuitions" interchangeably, and I have in mind the kind of "intuitions" John Rawls refers to – "judgements … given under conditions favourable for deliberation and judgment in general" (1999 [1971]: 42), that is, not a simple gut feeling or a first impression.

of the contractual circumstances, at others withdrawing our judgments and conforming them to principle, I assume that eventually we shall find a description of the initial situation that both expresses reasonable conditions and yields principles which match our considered judgments duly pruned and adjusted. This state of affairs I refer to as reflective equilibrium (Rawls, 1999 [1971]: 20).

In other words, the method succeeds when we arrive at an acceptable coherence among these beliefs, and this is when we achieve reflective equilibrium. A person who holds a principle or judgment in reflective equilibrium with other relevant beliefs can be said to be justified in believing that principle or judgment (Daniels, 2020; Olsson, 2019). Actually reaching reflective equilibrium might be impossible, at least according to Rawls – it "is a point at infinity we can never reach" (1995: 142), and in this way, it is an ideal we strive for yet may never achieve.

How have I applied the method of reflective equilibrium in this dissertation? Roughly, the sets of beliefs in "Deliberative Duty" were as follows in the stages (1-4) of reflection:

(a) Considered moral judgements/intuitions: (3) duties should not be implausible or have undesirable implications, particularly in the dating sphere, (3) potential risks in light of cases

(b) A set of moral principles: (2) Individuals have a right to freedom from discrimination (3) Individuals have a right to freedom of association

(c) Relevant background theories: (1) (Many) theories of what makes discrimination wrongful (when it is) claim that certain acts in the dating sphere are wrongfully discriminatory (3) Human nature in regard to sexuality

In relation to (c): As different accounts of what makes discrimination wrongful agree that some actions in the dating sphere amount to wrongful discrimination, I assumed this to be true to move the discussion forward from discussing whether such acts amount to wrongful discrimination. This is a choice you sometimes have to make to bring a discussion forward.[26] My starting point for reflecting on what morality requires of individuals in the dating sphere is the two bedrock liberal principles in (b). It is clear that the two principles in (b) can be in conflict with each other: If we *only* accept that individuals have a right to freedom from discrimination in the dating sphere, this would have far-reaching implications for how we can morally conduct ourselves when we

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[26] Had I written a book, then perhaps there would be enough space to also consider background theories, but for an article format, it is virtually impossible to question both intuitions, principles and background theories.

choose and reject intimate partners. Many are outraged by the thought of this – it is extremely important to people to have wide discretion when it comes to choosing a partner. If we *only* accept the other principle, that we have a right to freedom of association, then we are left with a dating sphere in which people can act completely discriminatory, disregarding otherwise viable potential partners because of a less popular trait of theirs. This scenario is also unappealing to many. Both principles are fundamental in liberal societies, each with a strong intuitive pull. Instead of "pruning" either principle, I explore whether outlines of anti-discrimination duties conflict with one of the principles, and I argue that they are particularly at risk of violating the second principle in (b). Notice though, that it does not take much limiting of our freedom to associate as we please to risk violating the second principle. I do so by considering different scenarios (a) – in a way, reflecting on what might plausibly happen if these types of duties were discharged today. I also rely on some knowledge of human sexuality (c), as this limits what morality can plausibly require of people. This sketches my main reflections that go "back and forth" between (a) and (b), and (c) to a more limited extent.

The paper concludes with an argument for the deliberative duty. I argue that this duty is coherent with two bedrock liberal principles: the right to freedom from discrimination and the right to freedom of association. The duty is coherent in a negative and positive way: The deliberative duty is not clearly in conflict with either of the two principles, although, it is often noted, they tend to be in deep conflict, particularly in the private sphere (Blake, 2006). It is also coherent in a positive way: if we agree that both principles are fundamental principles of liberal society, but we only honor one (freedom of association), our system of beliefs is less coherent compared to a scenario where we can honor both principles. The deliberative duty is the kind of individual duty that improves conditions for the anti-discrimination principle by requiring people to reflect on their intimate preferences in light of social oppressing structures.

3.2 Individual Anti-Discrimination Duties in the Dating Sphere

In "Deliberative Duty", I focus on individual anti-discrimination duties in the dating sphere, and I am particularly concerned with issues that make such duties implausible or undesirable. The positive contribution of the article is an outline and defense of a plausible alternative: the deliberative duty. As I consider the outlines of individual duties that have been defended so far, I bring forward and reflect on four challenges to those and similar individual duties. These issues risk rendering individual duties implausible and undesirable and are, in short:

i) They tend to overestimate the malleability of sexual preferences

ii) They risk being too demanding on the (putative) duty bearer

iii) They risk generating undesirable outcomes for the (putative) right holder

iv) They are not apt for universal action guidance

The first issue I raise regards malleability of sexual preferences. I take the "hard" case of preferences along a sex axis, because if *that* preference is malleable, then it seems likely that other preferences along a race and a looks axis are malleable too. Although scholars in the literature generally assume that preferences are malleable, sex preference is the most frequent exception. I use the contemporary example of "conversion therapy" and its unsuccessful effects to argue that those who face external (and potentially internal) pressure to change their sex-based preference are unable to do so. The second example is historical: The fact that sexuality was structured so differently in ancient Greece that they did not position their sexuality along a sex axis (but rather a power axis) tells us that norms of human sexuality could be radically different from what they are today (6). It follows that a plausible anti-discrimination duty should be time sensitive regarding the malleability of intimate preferences.

The second problem I raise is that individual duties risk being too demanding on the putative duty bearer. I outline what being a "saintly dater" would entail (9), namely a person who has preferences like the rest of us but who has decided to forego their interests in the dating sphere as they care deeply about morality. Foregoing one's interests in this sphere sounds wretched, I argue, because dating is an integral part of our pursuit of happiness. To the extent that individual duties demand that we act in dissonance with our preferences, they are guilty of demanding too much, essentially requiring that we compromise our pursuit of happiness (11). A plausible duty holds space for wide discretion regarding our dating choices.

The third issue I raise is that individual duties can be bad for the putative right holder; in particular, they risk generating mere dutiful attraction behavior toward the right holder. In "Deliberative Duty", I create an example that illustrates that individual duties risk generating an undesirable outcome. It highlights the potentially undesirable aspect of the following scenario: Were an acquaintance to ask one out on a date based on their commitment to an anti-discrimination duty, then it is likely that the date would be disappointed (12). Generally speaking, people wish that someone has a natural or spontaneous inclination toward them, yet, of course, this eventually depends on empirical facts about the person in question.

The fourth challenge is that individual duties tend to be overly concerned with only one of the multiple faces of discrimination: exclusion. I outline two other faces of discrimination: inclusion and low quality. The upshot from outlining these other faces of discrimination is that duties that only focus on one face (thus far mainly exclusion) are too narrow to provide universal action guidance in the dating sphere. A better duty is perceptive to the different faces and provides universal action guidance (15-17).

After delivering these challenges, I outline an alternative: the deliberative duty. It is an individual anti-discrimination duty like the others, and it requires that individuals reflect on how pervasive social structures inform their sexual preferences. A society in which many individuals routinely engage in such reflective processes would, presumably, be one with less discrimination in dating. Critically, this deliberative duty does not require that individuals alter their dating conduct (e.g., accepting or proposing dates) out of anti-discrimination considerations. In comparison to the earlier outlines of weaker duties, this duty is minimal (25).

Remarks

In the start of the dissertation, I asked RQ2: What moral anti-discrimination duty do people have in the dating sphere? In "Deliberative Duty", I offer a plausible outline of an individual anti-discrimination duty in the dating sphere. I argue that this duty is coherent with two bedrock liberal principles: the right to freedom from discrimination and the right to freedom of association – two principles that, it is often noted, are in deep conflict with each other. Not only is the deliberative duty not clearly in conflict with the two principles, it improves conditions for the anti-discrimination principle. This is potentially a profound change of perspective on individual anti-discrimination efforts in the private sphere. If two fundamental principles no longer necessarily are in conflict with each other – where one principle trumps the other completely – this can encourage us to reconsider and reimagine a number of assumptions about discrimination in the private sphere, for instance, friendship. I find it quite plausible that we, in light of the arguments made in this paper, can find room for individual anti-discrimination duties regarding friendship, something that thus far has not been considered seriously.[27]

Additionally, in debates on how to remedy wrongs, it is not unusual that much energy is directed toward arguing for efforts on *either* an individual *or* a structural level. Sometimes, the direction of these discussions is misguided, and the energy better used elsewhere, for instance, on what efforts can actually

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[27] Cordelli (2015: 685), for instance, in an excellent paper on friendship and justice, is quick to dismiss such individual duties.

be pursued on an individual and a structural level. My work takes place within a "both-and" framework and thus avoids the mentioned (sometimes) fruitless debates. Working within the "both-and" framework releases energy to imagine what can plausibly be done on each level. This can be particularly fruitful for pervasive injustices, such as discrimination in dating and friendships, internally to families (for instance, how parents treat their sons versus daughters), but also for injustices that seem to require a change in behavior on both a structural and an individual level, such as in the face of climate change and environmental protection.

The deliberative duty is my attempt of reaching reflective equilibrium between moral principles (the right to freedom from discrimination and the right to freedom of association), considered judgements (plausibility of duties and (un)desirable outcomes, potential risks and consequences of duties), and background theories (human sexuality, wrongful discrimination in the dating sphere). I considered the implications of other accounts of duties and asked whether these discharged in a liberal society fit considered judgement about dating and intimate relationships. By considering the implications of other duties, I revised aspects of those duties to a new duty which, I argue, is in line with principles, considered judgements and background theories. The process of going back and forth between these sets of beliefs was decisive for outlining the deliberative duty.

As the first part of the dissertation was engaged in x-phi and folk intuitions, one could raise a point about whether I should have surveyed laypeople on moral anti-discrimination duties, or whether I have used intuitions in "Deliberative Duty" in a way that is in conflict with the x-phi method I adhered to in Chapter 2. My reply is that there is nothing problematic about using intuitions in the more traditional philosophical way in this paper in the eyes of the x-phi program I subscribe to. Recall that that program is particularly apt for descriptive studies, while the topic of this chapter is of a normative character. Laypeople may lack the creativity or skill needed to craft an outline of a moral duty,[28] and asking them to do so would probably be infelicitous for an x-phi study. Instead, a more fruitful empirical venue could be to, for instance, have laypeople evaluate whether they find one individual moral anti-discrimination duty more plausible or desirable than another. Such a study could yield interesting and valuable input on which type of duty is more likely to be discharged by laypeople – precious insight for a reform effort. To summarize, the two methods used in this dissertation are not at odds with each other but can, if used carefully, complement each other in valuable ways.

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[28] This is not a tribute to myself, I am merely acknowledging and praising the many great philosophers before me who have crafted and outlined moral duties.

Chapter 4.
Conclusion

This dissertation seeks to make progress on two questions: i) Do laypeople's concept of discrimination overlap with academics' concept of discrimination? ii) If individuals have moral anti-discrimination duties in the dating sphere, what is a plausible outline of such a duty? The dissertation has investigated the two questions through three papers. Regarding the former question, the dissertation found that the folk concept is symmetric across a number of different contexts and traits, meaning that it is possible, on laypeople's concept of discrimination, for a minority agent to discriminate against a majority agent. Simultaneously, laypeople recognize that, overall, paradigmatic minority groups are more often discriminated against than paradigmatic majority groups. The dissertation also found that the folk concept is group-reflexive, that is, when two agents belong to the same socially salient group, one can discriminate against the other. Despite meticulous effort, the dissertation cannot conclude whether the folk concept is comparative. This has left open an interesting research gap.

Future studies may benefit from considering the following: how can you design a discrimination study where there is no comparator? I suggest returning to the literature, in particular to the discussions in legal theory about comparativity, to discover whether such cases, or reasonably similar cases, are suitable for vignettes in a survey. Additionally, future studies of a comparative character have the potential to uncover conceptual differences between different groups, for instance DK responses and US responses of identical vignettes. Studies of this sort can raise interesting philosophical discussions: Who are we referring to when we refer to "the folk"? In relation to "Discriminator-Discriminatee", future research may take a more normative character – which concept is better to use, the symmetric or asymmetric? The empirical finding that the folk concept is symmetric provides researchers with one good reason to use the symmetric concept, but other reasons – for example, strategic or political ones – can provide compelling arguments for using either. Outlining and analyzing such arguments will bring the discussion of the concept of discrimination further, from discovering what ordinary usage is to what it should be. In short, the two conceptual articles raise new interesting questions and open new promising venues for research on the concept of discrimination.

Regarding the latter question, the dissertation challenges individual anti-discrimination duties in the dating sphere and defends an outline of a minimal duty. This duty, I argue, is not as susceptible to the challenges I raise to other

antidiscrimination duties in the dating sphere. A substantive task of the paper was to reflect on what features of antidiscrimination duties render them implausible or undesirable given the sensitive and complex nature of intimate relations. Philosophers have sometimes been too quick to dismiss individual duties in the private sphere, taking them to be absurd and as compromising the right to freedom of association. My contribution is not clearly in conflict with this principle, in fact, it is coherent with two fundamental liberal principles. This, I think, is exciting philosophical news. It motivates scholars to revisit discussions about individual duties in the private sphere – for instance, in friendships.

In the dissertation, I have not explicitly discussed questions of institutional design, yet some of the findings may have practical implications. Importantly, I think duties in the dating sphere are, and must be, thought of as moral duties and not legal duties. This implies that the state, in the most direct ways, should not enforce anti-discrimination duties or criminalize discriminatory acts such as rejections or fetishizations based on race or looks in the dating sphere. Whom adults consensually choose (and reject) for our intimate relations is far too complex a matter for any state to interfere with, let alone try to decide for us. But is there room for the state to meddle in this intimate sphere, given that the duty I outline is importantly connected to the structures of society? The answer, I think, is yes. The state plays a major role in structuring society, in how the architecture facilitates or hinders who meets whom – our schools, clubs, neighbourhoods and jobs. In this way, a practical implication of this dissertation is that a state concerned with antidiscrimination can take action to minimize it by considering its societal architecture, but not by enforcing a moral duty as a legal duty.

The dissertation started with the overall questions: what is discrimination and what should we do about it. It is outside the scope of this dissertation to provide full answers to these broad questions, and I have focused on answering two more specific RQ. Through my papers, I have taken steps to illuminate aspects of what it is, and what individuals should do to reduce it. Of course, many interesting aspects of ordinary usage of "discrimination" remain unstudied, and it is unlikely that the deliberative duty settles the discussion about what we ought to do in our private life regarding discrimination. My contributions to the discrimination research field lie not only in uncovering ordinary usage of discrimination and defending an individual duty, but also in raising issues and starting conversations about both topics.

English Summary

This dissertation offers answers to the overall research question, "what is discrimination, and what should we do about it?" The simple expression conceals complex conceptual and moral issues, for instance, what is ordinary usage of discrimination, and what moral duty do individuals have to counteract discrimination in their private life? The first part of the dissertation studies ordinary usage of discrimination through the experimental-philosophical method. It does so in respect to three aspects of the discrimination concept: whether minorities can discriminate against majorities (symmetry or asymmetry), whether minorities can discriminate against minorities (group reflexivity), and whether the concept is comparative. The empirical results suggest that the folk concept of discrimination is symmetric, that is, minorities can discriminate against majorities; group-reflexive, that is, minorities can discriminate against minorities; whether the folk concept is comparative remains a puzzle. The second part of the dissertation is a normative inquiry into the ethics of our most intimate choices. Here I argue, in contrast to the common philosophical position on the topic, that individuals have a moral anti-discrimination duty even in their dating life and advance a plausible outline of such a duty. As a whole, the dissertation illuminates new aspects about discrimination and the people: the folk concept of discrimination and individuals' moral duty to counteract discrimination in the private sphere.

Dansk resumé

Denne afhandling undersøger de følgende to overordnede forskningsspørgsmål: "Hvad er diskrimination, og hvad skal vi gøre ved det?" Bag disse enkle spørgsmål gemmer der sig komplekse begrebsmæssige og moralske spørgsmål – hvad er for eksempel almindelig sproglig brug af diskrimination, og hvilken moralsk pligt har den enkelte til at modvirke diskrimination i privatlivet? Den første del af afhandlingen undersøger folks sproglige brug af diskrimination ved hjælp af den eksperimentel-filosofiske metode. Det gør den i forhold til tre aspekter af diskriminationsbegrebet: om minoriteter kan diskriminere mod majoriteter (symmetrisk eller asymmetrisk), om minoriteter kan diskriminere mod minoriteter (gruppe-refleksivt), og om begrebet er komparativt, dvs. om en komparator skal eksistere førend vi kan tale om at en handling er diskrimination. De empiriske resultater tyder på, at det folkelige diskriminationsbegreb er symmetrisk, dvs. at minoriteter kan diskriminere mod majoriteter; at begrebet er gruppe refleksivt, dvs. at minoriteter kan diskriminere mod minoriteter; det er ifølge de empiriske resultater endnu uklart, om det folkelige begreb er komparativt. Den anden del af afhandlingen er en normativ undersøgelse af etikken i vores mest intime valg. Her argumenterer jeg for, i modsætning til den udbredte filosofiske holdning til emnet, at individer har en moralsk pligt til ikke at diskriminere, selv i deres datingliv, og fremlægger en plausibel skitse af en sådan pligt, som jeg kalder den deliberative pligt. Som helhed belyser afhandlingen nye aspekter om diskrimination og lægfolk: folks diskriminationsbegreb og individers moralske pligt til at modvirke diskrimination i privatsfæren.

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