

IS LOOKISM UNJUST?: THE ETHICS OF AESTHETICS AND PUBLIC POLICY IMPLICATIONS

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LOOKISM IS PREJUDICE TOWARD people because of their appearance. It has been receiving increasing attention, and it is becoming an important equal-opportunity issue. People we find attractive are given preferential treatment and people we find unattractive are denied opportunities. According to recent labor-market research, attractiveness receives a premium and unattractiveness receives a penalty. For both men and women, results “suggest a 7–9-percent penalty for being in the lowest 9 percent of looks among all workers, and a 5-percent premium for being in the top 33 percent” (Hamermesh and Biddle 1994 , p. 1186). Similar results were found in a study involving attorneys (Biddle and Hamermesh 1998, pp. 172–201).

These studies adjusted for other determinants, but they were unable to determine if beauty led to differences in productivity that economists believe generate differences in earnings. This is an important issue for economists because they seem to assume that a beauty premium might be justified if it is connected to increased productivity. In one study, Hamermesh and Parker (2003) concluded that it may be impossible to untangle productivity and discrimination. In an interview, however, Hamermesh, one of the principal investigators in much of the labor-market research, said that “hiring attractive staff had proved a successful strategy for some companies. He studied, for instance, 250 Dutch advertising agencies and found ‘the agencies that had better-looking managers did better, a lot better actually’” (Saltau 2001). In another interview he said, “Good looking workers

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who interact with the company's clients get paid more year after year, and that fact is reinforced when those good-looking workers inspire others and also increase their productivity" (Howse 1998). Despite scientific uncertainty, employers apparently believe that good looks contribute to the success of their companies, because the trend is to hire for looks, even though employers risk charges of illegal discrimination (Greenhouse 2003, p. 12). Based on an extensive literature in social psychology, Hatfield and Sprecher (1986) examine how beauty affects noneconomic outcomes. For an evolutionary viewpoint, see Etcoff (1999).

In our society aesthetic capital, like other kinds of capital, is unequally distributed. Lookism is like racism, classism, sexism, ageism and the other -isms in that it can create what may be unjust barriers to equal opportunity in the workplace and education. Lookism is not only an ethical issue. It has taken on, and not for the first time, what can only be called world-historical significance. With apologies to Postman (1986) and Debord (1995), we do appear to be amusing ourselves to death in the society of the spectacle. New visual media and technologies, infotainment, virtual reality, corporate image-projection, video games, internet voyeurism and many other developments all in their own ways reinforce the importance of appearances in things and attractiveness in persons. Institutions that have traditionally aimed to subordinate appearances, such as the church and the university, are scrambling to adapt to a generation with historically unprecedented visual receptivity.

We believe that we need to look critically at lookism. Due to our increasing sensitivity to discrimination, it is gaining status as a discussable issue in public policy. We will review the tradition of ethical thinking about aestheticism in general and lookism in particular, evaluate the current debate between social constructionists and evolutionary essentialists, and clarify positions on the justice or injustice of lookism and their policy implications.

NOMENCLATURE AND OBSERVATIONAL METHODS

In thinking about these issues, we considered a number of categories and terms. At first it seemed that what is really at issue is a prejudicial sort of "aestheticism," or even "physicalism." After all, the kind of discrimination we are talking about is a reaction to the body as well as the face. The victims include, among others, short men and tall women, however otherwise aesthetically unobjectionable. Besides the visible body, we routinely discriminate on the basis of accent, tone of voice, and smell. Yet these kinds of reactions do not seem different enough from the visual ones to warrant a separate category. Besides,

terms such as “physicalism” and “aestheticism” are too well established in other contexts to be of much use here.

The choice turned out to be between “looksism” and “lookism.” It seemed to us that “looksism,” with the “s” in the middle, connotes a somewhat objective situation in which one has one’s looks as one has one’s social markers of race, class, and gender. Although it would emphasize the role of physiology in attractiveness, it would tend to slight the role of culture and individual taste in personal appearance. “Lookism,” on the other hand, carries a suggestion of a person’s “look” or style, and thus tends to skew discussion toward the opposite pole, matters of culture and taste. But if that connotation can be mitigated, “lookism” has a metaphysical advantage. It implies a more general and perhaps more subjective reliance on visual perception of people and things. So we decided on “lookism,” which we define, following Ayto, as “prejudice or discrimination on the grounds of appearance (i.e., uglies are done down and the beautiful people get all the breaks).” The term was first used in the *Washington Post Magazine* in 1978 in reference to “fat people” who are “rallying to help each other find sympathetic doctors, happy employers and future mates. They are coining new words (‘lookism’—discrimination based on looks, ‘FA’—Fat Admirer)” (Ayto 1999, p. 485). One author from the self-help genre uses the term “appearance discrimination” (Jeffes 1998). Another equivalent expression is beauty prejudice or discrimination.

Keep in mind that the disadvantages of unattractiveness are only part of the story; the advantages of attractiveness have to be recognized as well. Let’s imagine an aesthetic continuum. Maximum unattractiveness, also known as “ugliness,” would be the negative pole. On the opposite, positive pole would be maximum attractiveness, also known as “beauty” (for women and, sometimes, boys and certain men), or “handsomeness” (for men and certain women). Being judged to be at the negative pole is an aesthetic variant of what Goffman (1985) calls stigma: an immediately recognizable abnormal trait that works subliminally to turn others away and thus break social claims. Being judged to be at the positive pole is aesthetic charisma, understood both in Weber’s political sense as a trait that is perceived to be a divine gift and in the sense that it is used in the entertainment industry as an equivalent of “star quality.” Like stigma, charisma is also both evident and obtrusive. It is abnormal in the sense of exceptional and immediately recognizable, and it too works subliminally, only in this case to attract others and thus to create social claims. The majority in the middle—men of ordinary appearance, women who used to be described as “plain”—are of

course as caught up in the gradations of the scale as the stars and monsters.

Arguing, as we do, for the pervasiveness of lookism in our culture undeniably presents us with the methodological difficulty that lookism is implicated in other forms of prejudice and the other forms are implicated in lookism. Just listen to the language. Terms that are used in the other -isms routinely invoke lookism ("colored," "Negro," "black," "brown," "mocha," "caramel," "white," "pale male," "redneck," "red," "yellow," "slant," "pink," "lavender," and "gray"). Correspondingly, terms used in lookism invoke other -isms ("classy" for attractiveness and "pigmy" applied to short men). We know that racism, classism and sexism are often motivated by judgments of personal attractiveness. Judgments of attractiveness, likewise, are often motivated by ideas associated with race, class and sex.

How do we tease out the specific contribution of lookism to the injustices of modern society? One way would be to look for lookism *as such*, taking it as some sort of existential substrate for the other forms of prejudice. But this hardly seems necessary. None of the other prejudices are clear-cut ideal types either, and this has not prevented plenty from being said and done to redress the social harm they cause. We do not need to construct a raceless, classless, ageless, sexless original situation or control group.

THE TRADITION

Lookism, along with all other forms of prejudice, is probably normal over the long run. The first recorded East/West conflict was famously precipitated by "the face that launched a thousand ships." This is by no means a Romantic conceit. Herodotus maintains that stealing women was a frequent cause of war. He also notes that poor men had no need for beautiful women, at least in Mesopotamia (Herodotus 2003).

Another kind of evidence for the historical normalcy of lookism is the nagging ubiquity of recorded warnings about the aesthetic attitude in general. To judge by appearances is to get entangled in the Veil of Maya; to gain pleasure from the senses is sin, or rather a set of sins ("vanity," "lust," "concupiscence" and the like). From ancient times until relatively recently, there was widespread worry about lookism, because the appearance of others may deceive, especially in romance, or it may be personally or politically imprudent to judge or act on appearances. Judging by appearances was prohibited by monotheistic religions ("no graven images") and criticized in ancient and medieval philosophies. Sceptics, Stoics, Cynics, Epicureans and

Scholastics elaborated various reasons to avoid or subordinate the role of appearances and pleasure in one's life.

The seeds of the current division between essentialism and constructionism can be found throughout these traditions. Essentialism predominated in the ancient world, most often in a metaphysical or theological form, based on the assumption that there is a reality behind appearances. Other kinds of essentialists, such as the Epicurean naturalist Lucretius, were in the distinct minority. Commentators who were concerned with attractiveness and how to use it, those who should have been budding constructionists, routinely contradicted their own evidence in an almost ritualized invocation of metaphysical essentialism. Even Castiglione, in his very savvy fifteenth-century makeover manual, *The Courtier*, winds up echoing the Neoplatonists. In the fourth book he has Cardinal Bembo definitively describe facial beauty as “an effluence of the divine goodness” as expressed in harmonious proportionality. Here, the relation of aesthetics to ethics is exclusively about the effect of being a value-observer, specifically a man, on his own virtue. Perceiving harmony, he reflects it in himself. More interesting to us perhaps are the positions of Bembo's interlocutors, Federico Gonzaga and Morella da Ortona, who together manage to introduce the perspective of value-holders, both male and female. Still concerned with virtue, both point out one negative effect of being a value-holder. As Morelo puts it, beauty makes beautiful women “proud, and pride makes them cruel.” To this sort of social constructionist notion Federico adds standard teleology, but with a markedly paranoid tone. Nature makes many bad men beautiful (i.e., graceful) “to the end that they might be better able to deceive, and this fair appearance is like the bait on the hook” (Castiglione 1959, pp. 341–42).

Early modern political philosophers were beginning to think in terms of naturalist essentialism, substituting human nature for the reality behind appearances. And they were beginning to take a more pragmatic interest in appearances, if only from the leaders' or elites' point of view. Machiavelli advises princes to deceive. Burke thinks royalty's legitimacy depends on royal persons' having a certain look. Marie Antoinette, queen of the old regime, “glittered like the morning star,” Burke (1963, p. 457) recalls in his 1790 *Reflections on the Revolution in France*. In his theory of the sublime Burke is a keen appreciator of the political effects of personal appearance. The sublime, the aesthetic value of power, is an attribute of God, governments and kings, and, by extension, all males; while young people and women can merely be beautiful (although this may give them a less obvious sort of power) (Burke 1968, p. 115). From his treatment, it is clear that both sublimity and beauty are to be placed on the positive

pole of the attractiveness scale. Although he notes beauty's power of seduction, Burke is especially taken with how patriarchal charisma, whether of the state, the church, or God himself, is perceived to be sublime. When men project power, they are experienced as sublime. Burke attributes the pleasure we find in this sort of experience to a power-exchange, from object to subject, or, as we would say, from the value-holder to the value-observer. This is standard Platonic mimesis-theory. What Burke does not acknowledge is that the sublime experience might also act as a power-drain, leaving us helpless towards powerful-seeming men. On negative aesthetic value, the unattractive pole, he is not insightful: "If the back be humped, the man is deformed; because his back has an unusual figure, and what carries with it the idea of some disease or misfortune" (Burke 1968, p. 102).

However holistic, these attempts to connect aesthetics with ethics reflected personal as opposed to social concerns. They resulted in prudential codes for the observers, not the holders, of aesthetic value. We find scant appreciation of the wider social costs of being looked at in these terms. Of course, all forms of essentialism make it difficult to think of behavior as a problem for social ethics. If it's essential, whether metaphysical or natural, then we have no choice but to do it and so do not need an ethics. But what about constructionism? What is constructed, after all, can be deconstructed; there seems to be more scope for choice. Shouldn't we expect the constructionist camp to show more sensitivity to the ethical implications of judging by appearances? Surprisingly, this does not turn out to be so. Even Mary Wollstonecraft, rights advocate and feminist, has little to say about lookism's impact on women, who have commonly been thought to suffer from it most.

Early forms of constructionism tended toward the subjective pole, especially in matters of love. Stendhal, perhaps the most subjective constructionist of his period, maintains that "crystalization" (what we might today call a very, very bad crush) can so blind a lover that even a woman scarred by smallpox can appear attractive. A pockmark, he notes, can mean a thousand things. But he also subscribes to straight Platonic essentialism. True beauty, uncrystalized, signals equanimity of character (Stendahl 1975, p. 66). More consistent constructionists emerged at the end of the nineteenth century. Nietzsche was one, the prophet of perspectivism; Oscar Wilde was another, advocating an inverted Platonic hierarchy privileging the visible over the invisible. They did not address the prejudicial effects of lookism because, in effect, they considered prejudice the proper foundation of judgment. Persons, situations and systems were to be assessed not according to moral justification, but according to the

amount of pleasure or energy they yield. Nietzsche (1967, p. 88) notoriously held Socrates's ugliness against him. Wilde, the self-styled socialist, can sound just as callous. "It is a sad fact, but there is no doubt that the poor are completely unconscious of their own picturesqueness" (Wilde 1968, p. 113). So we can see from history that even constructionism, albeit of a radically subjectivist kind, can have socially conservative consequences.

Until our own period, neither essentialists nor constructionists made the connection between lookism and social ethics. Both theories seem to have functioned as means of denial. But perhaps this should not be surprising. Most prejudicial practices have been considered normal at various times. Slavery was universal, and largely unremarked upon, in the ancient and early modern worlds. Racism was widespread in the modern world. Both were difficult to discern as injustices in the periods when they were widespread. The victims were the butt of jokes, and the notion that these forms of discrimination were unjust was widely considered ludicrous.

And perhaps it is not surprising that our own period is different in this regard. Lookism has been exacerbated, to an historically unprecedented degree, by cultural change (the growth of the youth market, for example) and technological innovation (especially in visual media). Such developments threaten to overwhelm other interests and other ways of life. Together with the increasing importance of social ethics, and the application of concepts of rights and discrimination to more and more areas of life, it is wholly understandable that lookism has taken on an entirely new profile.

THE CURRENT DEBATE: ESSENTIALISTS VS. CONSTRUCTIONISTS

Prima facie, lookism may be difficult to see as a prejudice because judging people on the basis of how they look is in many areas of life an indisputable good. After all, much depends on our ability to make valid aesthetic judgments. The most obvious case is sexual attraction. As in nature, so in culture, romance, friendship, familial affiliation, imagination, art and major sectors of the economy are unthinkable without judging by appearances. When and where lookism is triggered—that is, its economic sector or social context—determines whether it might result in unjust discrimination. What is ordinarily and unobjectionably exclusionary in a romantic situation, for example, might be unjust at work or at school, where lookism can be construed to pervert a natural impulse. What is otherwise normal may become abnormal.

Today, the debate is still between essentialists and constructionists, but the essentialists have become evolutionary and the constructionists have become social. Both sides are on the whole more informed by ethical and political concerns than was the case in the previous debates. What decides which camp you are in is the proportionality you give to those venerable determinisms, nature and nurture. If an unjust behavior is more natural than nurtured, or in other words “essential,” it is more difficult to discern as unjust and therefore more difficult to change. By contrast, if an unjust behavior is more nurtured than natural, in other words “constructed,” it is easier to discern as unjust and therefore easier to change.

Most of the time, beauty signals health, both physical and mental; health signals reproductive success. Ugliness, on the other hand, sometimes signals disease, hence reproductive failure. What could be more essential to the human project than desire for pleasure, disgust with pain, and, determining everything else, the need to reproduce? In such contexts it makes sense to say that we are naturally inclined against ugly people and in favor of beautiful people, however those categories may be interpreted. Paying attention to aesthetics in these contexts is discrimination in the positive sense, akin to prudence.

Lookism directed at ourselves is perhaps one of the most intimate experiences of determinism we can have. While I may normally consider my own body to be largely under my control, my body’s appearance to others seems much less so—hence the myriad regimens and artifices which promise such control. And what is the point of control? I want to succeed in attracting a sexual or marriage partner and greater rewards in the workplace. Economists have begun to study “efforts to ameliorate deficiencies in pulchritude and how those efforts might affect labor-market outcomes,” but they have so far determined that for women only a small percentage of spending on clothing and cosmetics results in higher earnings (Hamermest, Meng, and Zhang 2002, p. 361). There seems to be a deep but barely conscious awareness that beauty makes a difference, so we keep trying to put our most beautiful foot forward even in areas of life in which we receive only a marginal benefit for our efforts.

Lookism is pre-ideological. It is primarily an aesthetic experience, an immediate attraction or repulsion at the physical presence of others. We judge people on the basis of their attractiveness within seconds of meeting them. In the literature we find that the lookist response, insofar as we can isolate it, is a fragrant psychic stew of instantaneous recognition, perceptual distortion, physiological automatism, erotic gratification and/or disgust, and wish fulfillment, among other elements. It is, in short, irrational, but in a perhaps more

disturbing way than the over-generalized theories and shoddy argumentation behind the more ideological –isms.

There is, indeed, increasing recognition among social scientists that lookism may be the product of that specific variant of biological determinism we call evolution. The argument is that beauty is a biological adaptation.

The argument is a simple one: that beauty is a universal part of human experience, and that it provokes pleasure, rivets attention, and impels actions that help ensure the survival of our genes. Our extreme sensitivity to beauty is hard-wired, that is, governed by circuits in the brain shaped by natural selection. We love to look at smooth skin, thick shiny hair, curved waists, and symmetrical bodies because in the course of evolution the people who noticed these signals and desired their possessors had more reproductive success. We are their descendants. (Etcoff 1999, p. 24)

The understanding of beauty as a biological adaptation is a recent development.

As anthropologist John Tooby and psychologist Leda Cosmides have pointed out, the standard social science model (SSSM) that developed over the past century viewed the mind as a blank slate whose contents were determined by the environment and the social world. (Etcoff 1999, p. 20)¹

One reason for the historical predominance of the model is that it provided a way by means of cultural relativism to discredit “claims that races, ethnic groups, classes, women and so on were innately inferior” (Etcoff 1999, p. 21) By contrast, social scientists are now increasingly open to the view that culture is in part driven by evolutionary impulses: genetically programmed strategies of self-preservation and species-perpetuation. This new view represents a significant departure from the standard social science model. From the standpoint of evolutionary psychology, lookism would seem to be a requirement, if only to ensure reproductive success. The instantaneousness of the lookist response could be due to our need to quickly size up others as friend or enemy, threat or opportunity.

Attractiveness varies from culture to culture, but it is not constructed *ex nihilo* by each ethnic group. Take, for example, the most notorious instance: the practice of the Ubangi tribe in Africa in which disks are inserted in young women’s lips to stretch them out gradually to form two plates extending from the front of the mouth. Exceptional, granted; but at least the plates are on the same plane.

¹See also Pinker (2002).

Both lips are horizontal. And the young women's faces are otherwise attractive, in whatever cultural terms. Symmetry has some sway, even in the tropics.

It is true that social context can trump the evolutionary impulse in many ways. In certain fields (academia? science? police?), women and men are discriminated against if they are judged to be *too* attractive. But relativism, as always, turns out to be incoherent, and the commonalities between cultures on basic matters of personal appearance turn out to be more important than the differences.

JUST AND UNJUST DISCRIMINATION AND POLICY IMPLICATIONS

Social scientists have been accumulating evidence for beauty prejudice or discrimination, even for good purposes, but they are unable or unwilling to pass judgment on the justice or injustice of lookism. Matters of justice cannot be adjudicated empirically. We need a moral argument that lookism is unjust and that some kind of policy intervention is justified. John Rawls provided such an argument over thirty years ago in his 1971 liberal classic, *A Theory of Justice*, although he did not specifically deal with the issue of lookism.

Rawls argued that "natural assets," natural talents and abilities, were arbitrary from a moral point of view. At the time, the natural assets Rawls (1971, p. 72) had in mind were abilities, talents, or character traits whose development was mediated by social circumstances.

The existing distribution of income and wealth, say, is the cumulative effect of prior distributions of natural assets—that is, natural talents and abilities—as these have been developed or left unrealized, and their use favored or disfavored over time by social circumstances and such chance contingencies as accident and good fortune. Intuitively, the most obvious injustice of the system of natural liberty is that it permits distributive shares to be improperly influenced by these factors so arbitrary from a moral point of view.

According to Rawls, the common understanding of equality of opportunity, that no one should be disadvantaged because of her race, sex, or social background, ignores the way in which opportunities are related to underlying factors such as natural talents and abilities—assets that are morally arbitrary. The common understanding is appealing because it rightfully assumes that an individual's life prospects should depend on her choices and actions, not her circumstances, but it does not take into account these underlying factors. Following Rawls's logic, beauty is clearly a natural asset if it improves opportunities or increases income and wealth.

The difficulty, however, is that no one deserves his beauty any more than one deserves other natural assets and social circumstances.

It seems to be one of the fixed points of our considered judgments that no one deserves his place in the distribution of native endowments, any more than one deserves one's initial starting place in society. The assertion that a man deserves the superior character that enables him to make the effort to cultivate his abilities is equally problematic; for his character depends in large part upon fortunate family and social circumstances for which he can claim no credit. The notion of desert seems not to apply to these cases. (Rawls 1971, p. 104)

Rawls rejects desert as a standard of justice in order to advocate equality, his preferred standard. The idea of a standard in our analysis is derived from Joel Feinberg's (1973, p. 100) suggestion that material principles, "criteria of relevance for various contexts of justice," differentiate alternative theories of distributive justice. In Rawls's (1971, p. 303) theory, all social primary goods should be distributed equally, unless an unequal distribution would benefit the least advantaged. Rawls includes the exception in order to compensate those who were not fortunate in the "natural lottery." The exception is one part of Rawls's (1971, p. 302) famous "difference principle." Although natural assets or social circumstances are not deserved, they should not necessarily be eliminated. The difference principle provides Rawls (1971, p. 102) with a way to justify inequalities, but only if the inequalities compensate the less fortunate by increasing their advantages.

No one deserves his greater natural capacity nor merits a more favorable starting place in society. But it does not follow that one should eliminate these distinctions. There is another way to deal with them. The basic structure can be arranged so that these contingencies work for the good of the least fortunate. Thus we are led to the difference principle if we wish to set up the social system so that no one gains or loses from his arbitrary place in the distribution of natural assets or his initial position in society without giving or receiving compensating advantages in return.

What are the policy implications of Rawls's theory of justice? The basic problem is that there is no way to determine all the effects of beauty discrimination. Remarkably, upon reflection, it becomes apparent that the implications, such as they are, are incoherent. If beautiful people receive more and better opportunities and greater financial rewards and they improve the welfare of the less beautiful (and even ugly), for example, through increases in productivity, then a beauty premium can not be considered unjust. The difference

principle justifies a premium. Beauty discrimination is unlike discrimination based on race and gender, which can never benefit those who are discriminated against. If, however, beauty discrimination does not benefit the less beautiful, it is unjust and subject to the same moral and legal sanctions as discrimination based on race and gender.

The penalty for ugliness that social scientists have uncovered is a different matter. This is an issue that did not arise for Rawls, probably because he did not imagine that individuals would receive a penalty for their *lack* of a natural asset. One might receive a benefit for natural talents and abilities but not a penalty for their absence. One implication of Rawls's theory is that ugliness is arbitrary from a moral point of view, that it clearly does not qualify for an exception under the difference principle, and that it is therefore unjust. In this case, ugliness might be classified as a disability and perhaps legally included under the Americans with Disabilities Act (1990). One does wonder, however, if it can be said, and empirically demonstrated, that ugliness substantially limits one or more of an individual's life activities. And what might a "reasonable accommodation" of the disability of ugliness entail? Another alternative is affirmative action for the aesthetically challenged, but determining who is challenged and precisely how will be difficult and expensive. Discrimination against the ugly may be unjust but impossible or too costly to redress through policy. And logically, even though natural assets are not deserved, it does not follow that people who lack these assets should be compensated by those who possess them.

In 1974, Robert Nozick offered one of the first sustained criticisms of Rawls's theory of justice in another classic, *Anarchy, State, and Utopia*. In this libertarian classic, Nozick developed what has become the most debated justification for a libertarian theory of justice. Rawls's argument that natural assets and initial social circumstances are undeserved may be more fundamental than one might think, because it is an assumption that underlies Rawls's entire egalitarian theory. Nozick put forth three criticisms of Rawls's argument.

Nozick's (1974, p. 214) first criticism is that Rawls simply leaves out any "mention at *all* of how persons have chosen to develop their own natural assets." Why is this important? Nozick charges that this omission shows that Rawls's theory really can not be premised on the dignity and self-respect of autonomous being, because it attributes "*everything* noteworthy about the person completely to certain sorts of 'external' factors."

This line of argument can succeed in blocking the introduction of a person's autonomous choices and actions (and their results) only

by attributing *everything* noteworthy about the person completely to certain sorts of “external” factors. So denigrating a person’s autonomy and prime responsibility for his actions is a risky line to take for a theory that otherwise wishes to buttress the dignity and self-respect of autonomous beings; especially for a theory that founds so much (including a theory of the good) upon persons’ choices. (Nozick 1974, p. 214)

Nozick’s second criticism is that Rawls does not give a reason for the assumption that a person’s natural assets are arbitrary from a moral point of view. Rather, he seems to think that it is intuitively true. This may be a blind spot in Rawls’s (1971, pp. 34–40) theory, since he believes that it escapes the inadequacies of intuitionism. The question is whether or not a person has these assets illegitimately. A person may just *have* these assets: “Some of the things he uses he may just *have*, not illegitimately. It needn’t be that the foundations underlying desert are themselves deserved, *all the way down*” (Nozick 1974, 225). This line of reasoning suggests to Nozick that whether or not these assets are deserved is irrelevant, if people are entitled to them. “Whether or not people’s natural assets are arbitrary from a moral point of view, they are entitled to them, and to what flows from them” (Nozick 1974, p. 226).

Nozick’s (1974, p. 228) third criticism is that Rawls violates the separateness of persons by treating the natural assets of individuals as a collective asset.

Rawls’ view seems to be that everyone has some entitlement or claim on the totality of natural assets (viewed as a pool), with no one having differential claims. The distribution of natural abilities is viewed as a ‘collective asset’.

What’s wrong with this kind of treatment? Essentially, it means that some individuals, the more fortunate, will be used as resources for other individuals who are less fortunate. Rawls is convicted by his own standards. He argued that utilitarianism is seriously flawed because it fails to recognize the separateness of persons and simply treats them as means to some utilitarian end (Rawls 1971, pp. 22–27).

Nozick’s first and third criticisms seem to be cogent, given Rawls’s own assumptions, but it is unclear that his second criticism is decisive. He doesn’t really explain why the foundations of desert need not be deserved *all the way down*. Jan Narveson, another libertarian, may provide a more serious criticism.

Jan Narveson says that if Rawls’s argument is correct, then it undermines all arguments for desert. The reason is that if individuals do not deserve the bases of their endowments, all the way down,

then they do not deserve anything at all. “The correct inference is that we shouldn’t give anything to anyone” (Narveson 2002, p. 146).

If we do not deserve anything for which we do not, in turn, deserve the basis on which we allegedly deserve it, then we do not deserve *anything*, regardless of how many other people are similarly or differently situated. That I deserve *x* neither more nor less than you do doesn’t show that all of us do deserve it, and this argument of Rawls cuts to the bone: if it is right, then none of us deserves anything at all. If justice is regarded as a matter of giving people what they deserve, and Rawls’ argument is sound, then the correct inference is that we shouldn’t give anything to anyone. (Narveson 2002, p. 146)

Narveson clarifies what is actually morally significant for libertarians. He contends that “desert is fundamentally a *three*-placed affair, at a minimum” (Narveson 2002, p. 143). There is the benefit, the bestower of the benefit, and the person who deserves the benefit. The crucial factor is the person who bestows the benefit because she identifies those who are deserving on the basis of her values, or, in other words, she benefits as deserving whomever she chooses to benefit.

Narveson’s argument suggests that choice is the central standard of the libertarian theory of justice. Desert depends on what individuals choose. We are led back to Nozick’s (1974, p. 160) maxim, “from each as they choose, to each as they are chosen.” This maxim, of course, is a revision of Marx’s (1972, p. 388) well-known maxim, “from each according to his ability, to each according to his needs.”

What are the policy implications of the libertarian theory of justice? The implications are straightforward. Since desert and beauty are in the eye of the beholder, individuals are free to reward others as they choose. They are free to associate with whomever they want, and, as employers, they are free to hire, fire, promote, demote, or pay employees as they choose. The familiar employment-at-will doctrine is based on a libertarian assumption. Employers may fire and employees may quit “at will.” There need be no reason or cause, morally right or wrong, only individual choice. Individuals have no right to a job and no right to keep a job even if they fulfill the job requirements. Employment is strictly an employer’s choice.

In fact, of course, under current state law, there are two major limitations. Employment discrimination is prohibited on the basis of some protected classifications: gender, race, nationality, age, and handicap. The second limitation exists if a union contract contains a requirement that employees can only be discharged for “just cause.” The most significant prohibition, however, may be labor market dynamics.

Labor markets usually constrain irrational, arbitrary, or capricious employment decisions. After all, employees must be able to contribute in at least a satisfactory way to the success of an organization. Additionally, competition assures some degree of productivity.

Most libertarians do not approve of the limitation on employment discrimination based on protected classifications. The reason should be obvious. Discrimination is not unjust, in any area of life including employment, if the decision to discriminate is not directly coerced. The real injustice lies with the antidiscrimination laws, which coerce individual choices. Lookism is no exception. Beauty prejudice and discrimination that are in the eye—and at the hand—of the beholder are just. They are just not only in romance and marriage but also in employment.

Ordinary people may believe, “with John Hospers, that ‘justice is [simply] getting what one deserves,’” but most philosophers reject desert as a single standard of justice for a number of reasons (Sher 1987, p. 206). Some philosophers, such as Rawls and Nozick, dismiss desert in favor of other preferred standards. Others reject desert as a single standard

because how well a society promotes what is deserved is *not* the only thing that determines its justice. Also required, at a minimum, is that it treat its citizens equitably, safeguard their basic rights (whatever those ultimately are), and provide an adequate range of opportunity for all. (Sher 1987, p. 210)

A theory of justice based only on desert is reductive. Still other philosophers maintain that the notion of desert entails many insuperable problems. Some of these problems are the difficulty of measuring desert, the prospects of unwarranted coercive interventions in the lives of citizens, the impossibility of comparing the relative deserts of people, and the difficulty of ascribing credit for actions given the influence of heredity and environment (Campbell 1988, pp. 161–68).

Despite the reservations of philosophers, desert remains a popular standard of justice. Although not usually acknowledged, it is a traditional, conservative standard. The focus is on some feature or features of the person who receives the benefit (reward or prize), not the bestower of the benefit or the benefit itself. The concept of desert seems to have several bases: effort, achievement, performance, productivity, and contribution. Merit, which involves excellence and virtue, is a closely related concept. Effort, regardless of philosophical justification, is probably the most familiar basis. “Of all the bases of desert, perhaps the most familiar and compelling is diligent, sustained effort. Whatever else we think, most of us agree that persons

deserve things for sheer hard work" (Sher 1987, p. 53). There is obviously a difference between effort and the other bases of desert. "People deserve to get good grades or win prizes if they have worked hard in the past; they deserve the grades and prizes themselves for their actual performances" (Sher 1987, p. 53). One has to attend to the context to know what basis is assumed. This does not mean, however, that effort should be the preferred standard.

Desert is often implied in situations in which it is not overtly mentioned or perhaps even in awareness. We often compliment people for what they have *done* to improve their appearance and the *result*. Here, effort and another basis of desert are implicated. In fact, we even compliment people for characteristics over which they have no control or for those they have not produced—their natural assets. "You have a classically shaped nose." The immediate response is, "Thank you!" We thank people for admiring our natural assets as if we deserve them. Another typical example is from the workplace. We seem to assume that a reward for good looks is unacceptable, representing unwarranted discrimination, if it is not related to productivity. Beautiful people, however, deserve rewards *if* they uniquely contribute to an organization's success in some way or increase productivity on the part of others. For this reason, economists seek to untangle productivity and beauty discrimination. Discrimination that favors good-looking people by rewarding them with promotions and higher salaries is justified if productivity increases.

As noted, one of the problems with desert is that it is difficult to ascribe credit for actions that are influenced by heredity and environment. As we have seen, this is an important problem that Rawls tried to address by arguing that our natural assets and initial social circumstances are morally arbitrary. Libertarians maintain that these assets and circumstances are morally irrelevant. Conservatives do not see the moral necessity of separating choices and actions for which we are responsible from the influences of heredity and environment for which we are not. For religious conservatives, natural assets and initial social circumstances are neither morally arbitrary nor irrelevant, because they are gifts from God that we are expected to develop and move beyond. How can we question God's choice in the distribution of assets and circumstances? God is the only one who is responsible for them. For nonreligious conservatives, these assets and circumstances are morally neutral but relevant, because they are the "raw materials" we use to construct meaningful lives. The significant factors for both kinds of conservatives are our efforts and what we have made of ourselves out of the assets and circumstances we have been given by God, chance, heredity or environment, not the assets and initial social circumstances themselves. Both

effort and one or more of the other bases of desert are implied in the conservative standard of justice.

The policy implications of the conservative view of justice are illustrated in standard employment theory and practice with which we are all familiar. Jobs should be analyzed to determine the traits, knowledge, and skills a person should possess to fulfill them. These traits and required knowledge and skills should be codified in a job description which is the only just basis of hiring. Employees should not be hired on the basis of traits that are irrelevant to a job. Hence, gender, race, nationality, age, and handicap are usually not relevant. Handicap is perhaps the most ambiguous. Beauty should be no exception, unless it can be shown that beauty is related to achievement, performance, productivity, or contribution—one or more of the bases of desert. Decisions about promotion and remuneration should also be similarly deserved.

As we have seen, Rawls would say that this conservative, desert-based approach to justice ignores the influences of natural assets and initial social circumstances. But, in the conservative view, these factors are distributed by a higher authority, which we cannot completely fathom, or they are neutral, because justice concerns what we have done, not what we have been given. Another problem is measurement. The conservative view requires that we measure effort, achievement, performance, productivity or contribution. In employment situations, this requirement creates persistent controversy. Human resources departments are never able to determine to everyone's satisfaction that individuals have matched the relevant personal traits, that they have fulfilled the job requirements, or that their relative deserts and corresponding rewards have been fairly compared and decided. This failure leads to the charge that an employee has been hired, fired, promoted, or rewarded on the basis of what is in the eye of some beholder, not objective, job-related factors that are deserved. To a conservative, this libertarian outcome is unjust. Despite these problems, conservatives exhort us to keep trying. Justice requires it. And conscientious human resources departments, tacitly acknowledging the exhortation, continue to refine their measurements and procedures hopefully to ensure that employees only get what they deserve.

CONCLUSION

We have considered two prominent and much-debated theories proposed by Rawls and Nozick and one theory that we believe is often assumed by ordinary people. There are, of course, other theories. Will Kymlicka (1990), for example, surveys six contemporary

theories of justice: utilitarianism, liberal equality, libertarianism, Marxism, communitarianism, and feminism. A plethora of theories leads us to agree with Sher (1987, p. 210) that justice is a “pluralistic notion” and that the “prospects for a unified account of justice” are not favorable.² Justice seems to be one of those contested concepts for which consensus is not forthcoming.

We do not see how any policy interventions to redress beauty discrimination can be justified. We have the problem of clearly deciding when beauty discrimination has occurred. The basic contours of beauty may be universal, but there may well be a greater range for what counts as good looks in the eye of the beholder than what counts as race, gender, ethnicity, age, or handicap. Even discrimination based on these categories is often difficult to establish in fact. Beauty discrimination is certainly more difficult to prove.

In the absence of an uncontested standard of justice, individuals should be free to discriminate on the basis of their own values. This means that institutions are free to enact policies that prohibit discrimination against or benefit in some way those who are aesthetically less fortunate. Institutions may also engage in aesthetic discrimination or refrain from enacting any policies related to beauty discrimination. It also means that we should not enlist the coercive power of the *state* to try to eradicate beauty discrimination. The state is likely to fail because of the difficulty in conclusively identifying beauty discrimination, and state intervention is not justified on moral grounds. *Laissez-nous faire, laissez-nous passer*, until it can be shown that beauty discrimination is unjust.

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²See also Walzer (1983).

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