

Chapter 20

Age discrimination

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Abstract

Our social fabric, our relationships, obligations and entitlements, are fundamentally structured around age membership. We seem to believe that differential treatments between age groups are often unproblematic, and at least much less problematic than inequalities based on gender and race. This chapter asks when drawing distinctions based on age is normatively dubious. Age is indeed different from gender and race in at least one relevant way: we pass through the different age categories over time, whereas we do not change gender or race in the same predictable way. As a result, treating people unequally based on their age can be compatible with equal treatment of persons over time. More than that, in some cases treating people unequally based on their age may be our best chance of treating people fairly over time. I provide an account of the wrongness of age discrimination that takes into account the uniqueness of age while still providing grounds to oppose ageist discrimination.

1. Introductory remarks

Consider the following series of hypothetical examples.

Vote 1: individuals racialized as Black are denied the right to vote.

Vote 2: individuals below the age of 18 years old are denied the right to vote.

Jobs 1: in a context of job scarcity, a government urges employers to give priority to male workers in the labor market, making gender discrimination legal.

Jobs 2: in a context of job scarcity, a government urges employers to give priority to young workers in the labor market, making age-based discrimination legal.

Airline 1: an airline refuses to employ a qualified Black candidate unless he shaves his hair while not requiring the same of White candidates.

Airline 2: an airline refuses to employ a qualified 60 years old candidate, because they consider 60 years old to be too old an age to pilot a plane.

Premium 1: an insurance company charges men a higher premium than women, because men statistically cause more incidents than women.

Premium 2: an insurance company charges drivers below the age of 25 years old a higher premium than older drivers, because younger drivers statistically cause more incidents than older drivers.

Differential treatments based on race and gender often strike us as more clearly wrong than age-based differential treatments, even when the exact same important rights or opportunities are being denied, such as the right to vote or to a job opportunity. In all the examples above, for instance, where cases numbered 1 are instances of gender or race-

based discrimination while cases numbered 2 are instances of age-based discrimination, most people are likely to consider the first versions of each case as more serious than the age version of each of those examples. At the very least, we will think that *Vote 1*, *Jobs 1* and *Airline 1* are more concerning than their counterparts. In fact, *Vote 2*, *Jobs 2* and *Airline 2* are fairly realistic scenarios: most countries do deny the right to vote to children and teenagers; we often seem to deem some unfit for a job because of their age; and we sometimes force people to retire after a certain age or give priority to young people on the job market (like the recent EU proposal for a Youth Job Guarantee¹). *Premium 1* is perhaps less straightforwardly worse than *Premium 2*. Indeed, some readers may not find *Premium 1* very serious in the first place and will thus be equally unbothered by *Premium 2*. The European Court of Justice certainly thinks differently. Gender has recently been ruled out as an acceptable basis for differential treatment in fixing insurance premiums. Appealing to age to fix such premiums remains lawful.²

Our social fabric, our relationships, obligations and entitlements are structured around age membership without it being widely recognized as a cause of concern. As a general rule, we seem to believe that differential treatments between age groups are often unproblematic or somewhat less problematic than inequalities based on gender and race. In fact, as John Manicol points out: “Age distinctions, age stratifications, age judgments and ‘age-appropriate behaviors’ are subtly woven into our patterns of thinking, as a way of making sense of the world” (Manicol 2006: 4). We are all well aware of this, and yet we do not consider most of those cases to be wrongful. This is made clear by the comparatively low state of advancement of anti age-discrimination law. In the UK, for

instance, legislation to prevent race, gender and disability discrimination are well established, but age discrimination has only recently been legally recognized and is still comparatively underdeveloped (Manicol 2006). As Gosseries (2014) also claims, it seems that anti-discrimination law is treated with *more leniency* than race and gender in the US: there, “age is not covered by *title VII of the 1964 Civil Rights Act* and *the 1967 Age Discrimination in Employment Act* deals with differential treatment above the age of 40 only”. The EU also seems to subscribe to this special treatment of age as a ground for discrimination: “Directive 2000/78/EC includes specific provisions for age – notably article 6 – that leave more room to Member States than it does for other suspect grounds” (Gosseries 2014).

Whereas considerable attention has been given to the ‘Equality of What?’ debate in political philosophy, the question to know how the value of equality applies through time (the ‘Equality through Time’ question) has not been a central focus of attention. As a result, issues of age-based inequalities in general and age discrimination in particular remain under-theorized³. In fact, it is interesting to note that, when philosophers wrestle with what Hellman has called ‘the puzzle of discrimination’, they often appeal to cases of age-based discrimination to illustrate the fact that some forms of discrimination are not wrongful. Hellman starts her book on discrimination by giving the example of a parent who treats children differently based on their age - putting the 2 year old to bed earlier and letting the 4 year old play. Later on, she mentions an airline that refuses to employ pilots older than 62 (Hellman 2008: 2) and a State that refuses to license drivers under the age of 16 years old (Hellman 2008: 2). These examples, for Hellman, are taken to be

exemplar of the fact that distinction drawing is not always wrong. In other words, age-based differential treatment often serves an illustrative purpose of discrimination that is *not* wrongful.

The question that I want to ask in this chapter is thus the following: Are we mistaken to often tolerate differential treatment by age? After all, age, not unlike gender and race, is a feature of our identity we do not choose. We do not have control over it and yet others may fail to treat us as equals on that basis (cf. chapter 18). The most common and emblematic image of wrongful age-based discrimination is that of a 50 + worker being laid off because of her age. In such case, unless the government steps in to prevent employers to systematically discriminate older workers, she will be condemned to joining the ranks of the long-term unemployed. Perhaps we should simply treat age discrimination no more leniently than race and gender discrimination as a matter of general rule. If age is not relevantly different, let us get over our bigoted intuitions that the age-based differential treatment of the kind involved in the *Voting*, *Jobs*, *Airlines* and *Premium* examples should be tolerated more than their counterparts. Or perhaps that would be a mistaken move. If some cases of age-based discrimination will be found to be almost un-controversially problematic, some others will persistently strike us as acceptable, even in cases where important rights are denied. But then what – if anything – is the morally relevant difference between age-discrimination and other forms of discrimination? For shorter, is age relevantly ‘special’, as Gosseries (2014) puts it? If so, the singularity of our attitudes towards age would be explained and, more importantly, justified.

Accepting the basic view that drawing distinctions between people is not always wrong, this chapter asks when drawing distinctions based on age is normatively dubious. I first try to explain why we seem to feel differently about age discrimination than we do about race or gender discrimination. I argue, like Axel Gosseries and Norman Daniels have before, that age is indeed special in one relevant way - we pass through the different age categories over time, whereas we do not change gender or race in the same predictable way. As a result, treating people unequally based on their age can be compatible with equal treatment of persons over time (cf. chapter 10 and 11). More than that, in some cases, treating people unequally based on their age may be our best chance of treating people fairly over time (Section 2). Drawing on Deborah Hellman's account of wrongful discrimination and on my previous work on age-group justice, I then argue that we should still be concerned about instances of age-based discrimination that are demeaning – such as the exclusion of elderly people premised on ageism (Section 3). I then express concerns about drawing too tight connections between what counts as demeaning and the history of domination suffered by a given group. I argue that it may blind us to the wrongness of discrimination against the young (Section 4).

2. The puzzle of age discrimination

The *puzzle of age discrimination* can be phrased in the following manner: we seem to feel more strongly about race and gender discrimination than about age discrimination - are we right to treat age as a special category or should we treat it more like gender and race? To answer this question, we do not need quite yet to commit to a fully-fledged theory of

what makes discrimination wrongful. We may just focus on whether we have reasons to believe that there is something about age that sets it apart from race and gender as grounds for discrimination. If we start from the broad idea that discrimination is wrongful when it fails to treat persons as equals, we may ask whether there is something about age discrimination that makes it less likely to offend this general norm. Whether we answer this first question by the affirmative or not, we will then have to explain why some cases of age discrimination may be problematic and others not – why ‘ageist’ discrimination against the elderly may offend the norm of equal treatment, but not excluding children from voting in elections, for instance. This second question can hardly be answered without committing to a theory of discrimination. In this section, I will focus on answering the first question. I will then move on to the second question in the next section, this time appealing to Hellman’s theory of discrimination.

So, is age special – and if so what makes it special? Let me consider two answers: (1) relevance: age may be a better proxy for morally relevant traits than gender and race; (2) purpose: age-based differential treatment may serve more acceptable purposes than gender or race discrimination. Directly or indirectly, most theories of discrimination will find relevance and purpose to play some role (even if only instrumental) in explaining the wrongness of discrimination. So let’s see if age-based discrimination can be distinguished from other forms of discrimination by appealing to purpose or relevance.

First, one could make the argument that at least some age ranges - like very young or very old age - are better proxies for morally relevant properties like ability, competence,

or experience, than gender and race (cf. chapter 3). This is a hypothesis that Gosseries (2014) puts forward in his paper on age discrimination. This could help explain our peculiar reaction to age. In the Voting example above, we can explain our intuitions by appealing to the differences in competence and capacity for autonomy of children compared to adults. The process of ageing, from birth to adulthood, is correlated with various developmental and cognitive processes that make it *relevant* to ascribe differential responsibility, ability to consent and autonomy to children than to adults (cf. chapter 8). Age is also often a fairly accurate proxy for predicting behaviors. British men over 30 are 4 times less likely to commit crime than younger British men, for instance, and this basic fact underpins justifications for youth profiling by the police (Manicol 2006: 4). The effect of age on attitudes and behavior, at least in some cases, is quite important, which reinforces the view that age is different – it is simply a more reliable proxy for relevant traits like competence, experience and attitude.

The basic observation that age is often an accurate proxy is not sufficient on its own to set age discrimination apart from race and gender discrimination, however. Discrimination scholars are often reluctant to tolerate race or gender discrimination in cases where gender and race are accurate proxies for risky behavior or likelihood to commit crime, for instance. As Hellman forcefully argues, discrimination is often wrongful *and* an accurate proxy at the same time. A firm may refuse to hire women between 20 and 40 because pregnancies impose a cost on the firm and women outside that age bracket are much less likely to become pregnant. And yet, we do feel that these forms of exclusion are precisely the ones we should oppose when we regulate (cf. chapter

15). So, when addressing the issue of discrimination, the discussion of whether or not a category is a relevant proxy may be part of the equation, but it hardly suffices to establish the moral status of an instance of discrimination. In sum, the reliable proxy argument fails to help us isolate age discrimination because whether or not something is a reliable proxy is often an unnecessary condition to a discrimination being found wrongful. It may help us understand why we often *feel* differently about age, but it does not provide a sufficient reason to isolate age.

A second (compatible) justification for our special treatment of age could be that race and gender inequalities generally serve a worse purpose. The idea here is that depending on what one is trying to achieve when discriminating, we will be able to determine whether it is wrong or not. We may have a bigoted purpose and simply mean to exclude a group we deem inferior; or we may simply be trying to achieve a respectable goal: efficiency, security, stability, etc. Consider *Airline 2*. The airline may simply be trying to ensure that its pilots are in perfect physical condition (including good sight, good hearing, and good endurance). They know that it will cost them a lot to screen their pilots too often and so, they prefer to avoid the age bracket that will require more regular check-ups. The purposes of age discrimination are here security and efficiency. In *Airline 1*, the overt purpose of the discrimination is more trivial than security – it has to do with the professional presentation of the staff. The company accommodates biases to maximize profit thus serving to reproduce an idea of beauty that is grounded on racial prejudice and white privilege.

The second explanation that age discrimination differs in terms of its purpose does not work as an explanation for what makes age special though. Age discrimination can perfectly be grounded on ageism, just like gender discrimination may serve the sexist purpose of keeping women out. *Airline 2*, for instance, can be grounded on ageism. Safety is a serious concern, but the alternative of testing workers' ability is available to the company. More importantly, it is just by chance that here age discrimination is justified by efficiency or safety, whereas the race case is not. Gender and race discrimination is in fact also often justified in that manner. Think of the previous example of discrimination in hiring of women age 20-40, or think of racial profiling – those who argue in favor of these practices defend them on the basis of efficiency or security: in the first case for the companies to avoid costs and in the second case to save on 'unnecessary' stopping of white people, also saving costs. So the basic idea that age may typically serve more justifiable purposes is likely not factually true. In any case, in general, if purpose may matter in deciding whether an instance of age discrimination is tolerable, like relevance, it is not a sufficient condition. The purpose explanation thus does not set age apart because similar purpose justifications apply to age, gender or race; and because purpose does not seem sufficient, at least on most accounts, to justify discrimination anyway.

Insofar as we are willing to accept some instances of age discrimination, in cases where age is an adequate proxy or in cases where the purpose is noble and important, we are *still* in search of a reason why putting in jeopardy the principle of equal treatment would

be acceptable in age cases where it is not for the race and gender equivalent. So what else (if anything) makes age special?

Here is what is truly different about age. Contrary to gender and race, age is not a discrete and immutable feature. As Manicol (2006) puts it, age is not a club you are born in. We expect to pass through the various stages of a life and old age is a club we know we will most probably join one day. As a result, differential treatment by age does not necessarily generate inequalities between persons over time, whereas treating people differently based on their ethnicity and sex does do: “a society that relentlessly discriminates between people on grounds of age can still treat them equally over their complete lives (...). Everyone’s turn [at being discriminated] comes” (Gosseries 2007). At first sight, it might seem like a wrongful discrimination between persons that some rights, such as voting rights, are only granted after a certain age (cf. chapter 29). However, this is fundamentally different from a case in which women cannot vote, for instance, since age restrictions on voting rights do not treat individuals unequally over time while sex discrimination does. Over time there is no differential treatment: young and old will have been treated equally with respect to their rights to vote. If we understand persons diachronically (and we do since we tend to believe in a continuous identity of persons between childhood and old age), then age discrimination is compatible with equal treatment of persons. If there is no differential treatment between persons, then it makes sense to think that there is no wrongful discrimination either.

The fact that age-based differential treatment may not create unequal treatment of diachronic persons still does not give us *reasons* to treat persons differently based on their age. This is where purpose and relevance can be linked back in. Youth profiling by the police, the denial of the right to vote to children, and age rationing for some jobs or healthcare opportunities, all can be justified by appeal to purposes like efficiency or safety. But it is only the fact that those treatments may be compatible with equal treatments of diachronic persons that sets it apart in a morally relevant way from similar cases of discrimination based on gender or race.

There is a particular kind of efficiency that often gives us reasons to treat different age groups differently. I call it lifespan efficiency. As Norman Daniels (1988) has suggested, we may convert our interpersonal problem of justice between age groups into an intrapersonal procedure where we ask, how would one distribute resources to maximize utility over a life course? Some scarce resources may be better distributed early in life (in childhood or young adulthood) even if this means denying your older self some of those resources. Lifespan efficiency may give us good reasons to justify unequal but adapted treatment by age that benefit us all on the long run. Some resources may be better distributed without attention to age membership – either because they are not scarce (voting rights) or because we want to ensure that people have enough of them at any point in their life. Appealing to this procedure, we may in fact not simply accept synchronic inequalities as long as they do not generate diachronic inequalities; we may in fact have reasons to do so: maximizing wellbeing over a life course.

Most importantly, we also often have reasons to distribute scarce resources unequally between age group in order to *ensure* equality between persons over time. Take the example of the youth job guarantee, which aims to protect young people from unemployment in contexts where they risk becoming a comparatively disadvantaged birth cohort in the labor market. Or think of expansive healthcare resources such as organ transplants, which we allocate as a matter of priority to younger patients (all other things being equal) to ensure the general principle that every person gets a chance to live a live of normal length. Here, equal treatment of diachronic persons not only *permits* but may *requires* an unequal treatment of synchronic persons (cf. chapters 10 and 11). Those cases are not uncontroversial or unproblematic. But they help us see what makes age special in at least one morally relevant manner. If discrimination is wrongful when it fails to treat people as equals, and if age discrimination is such that it often is compatible with or required for an equal treatment of diachronic persons, then it seems like we have a valid reason to think of age discrimination as special.

3. When age discrimination is demeaning: the case of ageism

Now, we need an theory of discrimination to draw on to answer a further question. Age discrimination is special and we have good reason to treat it somewhat more leniently than race and gender discrimination. But which cases of age discrimination are nonetheless wrongful? None? Some? Which ones?

For Hellman (2008), what matters primarily to decide whether a case of discrimination is wrongful is whether a given discrimination is *demeaning* (cf. chapter 7). The bedrock

principle that should guide us when deciding which instances of discrimination are wrong is that of the equal moral worth of all persons. Humans have an inherent dignity that requires that they be treated with respect. Traits like race, sex, merit, talent, or age do not affect this inherent dignity. So the question then becomes, when does differential treatment based on some traits undermine our commitment to this basic principle? Another way to pose this question, Hellman argues, is to ask when discrimination demeans: “To demean is to treat another as not fully human or not of equal moral worth” (Hellman 2008: 35). To demean means to put down and diminish; to degrade or debase another. It is to denigrate with the power (hierarchical or institutional) to do so, even if it fails to achieve that goal.

When do we know whether an instance of discrimination is demeaning and offends the norm of equality? Hellman gives the example of a woman being denied a job by virtue of being a woman, for instance, compared to a case where people are being denied a job because their first name starts with an A. While the latter case may be silly and arbitrary, she argues, the first case is an instance of wrongful discrimination because it denies women the status of equal beings. We know that the two cases are different because there is no history of wrongful treatment of people whose names start with the letter A whereas there is such history of mistreatment in the case of women. Moreover, women are still members of a disadvantaged group - they are more likely to be victims of violence both domestic, in the workplace and in public spaces; they often enjoy inferior socio-economic status and are still not equally politically represented, for instance. This is not the case for

people whose name starts with an A, so we can see that the exclusion of women is demeaning when the other case is not.

Where does this leave us in terms of our initial project to decide which instances of age discrimination are wrongful? The relevant question here becomes ‘can age discrimination be demeaning and in what way?’ Does our unequal treatment of people by age runs afoul of the commitment to honor their equal moral worth? We have already seen that age inequality can be compatible with an equal treatment of persons over time. So perhaps sometimes we can treat people differently at a time without denying their moral worth as diachronic persons. In a paper on age-group justice⁴, I argued that we have egalitarian reasons to be concerned with inequalities between age groups, even if they do not generate diachronic inequalities, insofar as they generate synchronic relational inequalities between people. If elderly people are vulnerable to domination, exclusion, marginalization, or demonization, I argued, then the requirements of relational equality are not fully met. In the context of discrimination, I think that my principle of synchronic relational equality nicely translates into the following principle about age discrimination: even if age discrimination is compatible with diachronic equality in treatment (and does not offend the equal moral worth of diachronic persons), we should refrain from treating people in a way that is demeaning to their synchronic persons too. Just like the fact that women live longer than men on average does not alter the basic fact that unequal pay is demeaning, the fact that unequal treatment by age may even out over time does not amend the fact that a particular age group is treated in a demeaning way.

In practice, identifying which instances of age discrimination actually demean is difficult. Perhaps forbidding children to vote is not demeaning while disenfranchising elderly people is demeaning, for instance; but why? A possible answer can be offered by introducing one particular instance of demeaning age discrimination – age discrimination that is grounded on ageism.

Ageism, Confort argues, “is the notion that people cease to be people, cease to be the same people or become people of a distinct and inferior kind, by virtue of having lived a specified number of years” (Confort in Manicol 2006: 10). The term ‘ageism’ was first coined by Robert Butler in the 60s to describe “a process of systematic stereotyping and discrimination against people because they are old, just as racism and sexism accomplish this for skin color or gender. Older people are characterized as senile, rigid in thought and manner, and old-fashioned in morality and skills” (Butler in Manicol 2006: 7). Ageism is often implicit and commonly expressed through patronizing and infantilizing treatment of elderly people, who are shown pity but not respect. The aged are lumped together and stereotyped as lacking the qualities that younger people have. They are tarred with the same brush instead of being treated according to their own merit, talent and competences. Ageism exists both at the interpersonal and institutional levels (legal, medical, welfare, political, educational, media etc.).

Age discrimination is often underpinned by these crude and negative stereotypes about the aged, which then guide decisions relating to hiring/firing/promotion. As a result, on the labor market, for instance, the 60+ remain overrepresented among the long-term

unemployed. If we follow Hellman, whether age is an adequate or a crude proxy for competence is only indirectly relevant if it contributes to a demeaning process. If we think that age is partly socially constructed, then elderly people can be more than what we allow them to be. We can avoid the self-fulfilling prophecy that unfolds when older people are segregated and put in a situation where they are under-stimulated or feel like a burden. Technologies, health, transportation, and community life – all those factors play an important part in what elderly people are able to be and do. Hellman argues that discrimination is more likely to demean when it targets a member of a group that has a history of mistreatment: “differentiating on the basis of features that define a historically mistreated group or a group that currently occupies a low social position is more likely to demean than doing so on the basis of other features. This is because the history and current status of the group concerned affects the meaning of the distinction drawing” (Hellman 2008: 57). There is no history of lynching and enslavement of elderly people like for women and black people, but one only needs to think about the poor law infirmary in Victorian England, where elderly people were segregated in prison-like houses, and the general fact of total destituteness that accompanies old age in most of history, for instance to know that the treatment of elderly people has been abusive too. Currently, old age is also often associated with poverty, loneliness, depression and loss of purpose. On that basis, it is easy to understand how ageist discrimination can demean.

Moreover, it is important to point out that various forms of exclusion often work together. Sociologists tell us that people may be oppressed or discriminated because they find themselves at the intersection of various categories. Ageism often works in combination

with sexism, for instance. As Manicol argues, societies often see ageing in women as a process of gradual sexual disqualification and so older women are more likely to experience ageism in some contexts. Similarly, when Butler coined the concept of ageism, it was in relation to elderly black people being subject to the hatred of affluent middle aged Whites around a housing project. So even though ageism is defined as a distinct kind of prejudiced approach, it often comes with other forms of discriminations (cf. chapter 5). This is particularly important if we subscribe to Hellman's account of wrongful discrimination as demeaning: if one is excluded as an elderly person and as a woman, for instance, the discrimination is even more likely to be demeaning than if it was only based on ageism.

Because age is special in the way we have described, it may be that using it as a proxy for experience, competence and ability may be less problematic than using gender as a proxy. The fact that discriminatory treatments fall disproportionately on the same groups over time increases the demeaning potential of any given discrimination aimed at members of this group. To understand this, think of cases where black people have to endure a racist joke, or think of women being catcalled. Because the individuals subjected to those treatments have to go through them over and over again, each instance of mistreatment has more power to demean than if it was not persistent over time. Insofar as this is the right way to think about the demeaning potential of discrimination, and because age discrimination does not fall on the same people over time, it is plausible to think that it has less demeaning potential than gender and race discrimination. But, because it does affect people for an important portion of their life, because it tends to

happen to groups that are otherwise disadvantaged disproportionately and because it normalizes widespread negative stereotypes on old age, ageist discrimination should be taken to be a potentially demeaning form of discrimination.

Just like other forms of discrimination, therefore, age discrimination can be wrong when it is demeaning. Whether a particular instance is demeaning or not may depend on many factors. When crude generalizations or stereotypes are used, when the vulnerabilities of an elderly person are ridiculed or taken to be the most important thing about them, the discrimination will be more likely to demean. When age discrimination simply amounts to a differential treatment of different age groups in ways that does not treat an age group in such stereotypical manner (in a non-ageist manner), it may not be demeaning. For instance, think of the example of *Jobs 1 and 2*, where under conditions of job scarcity, we make age discrimination legal. In *Jobs 1*, we give priority to men on the labor market and in *Jobs 2*, we give priority to young people. We can see that *Jobs 2* is fundamentally different from *Jobs 1* in that (1) it is compatible with equal treatment of persons over time; and (2) it may actually promote diachronic fairness by ensuring that new entrants get access to jobs too. What's more, it does not rely on the view that the aged are incompetent or of lower worth. It attempts to distribute a scarce resource between diachronic persons in an equal manner, and so it may not be demeaning.

4. The wrongness of youth discrimination

Manicol and Butler mainly describe cases of discrimination that are related to the process of 'ageing'. As a result, they focus primarily on anti-elderly discrimination and they

conflate this with age discrimination. Similarly, as we have seen before, Hellman associates quite strongly the question to know whether a particular instance of discrimination is demeaning with the question of whether the group that is discriminated has been dominated and oppressed historically. As a result, she also focuses mainly on ageism and anti-elderly discrimination and does not discuss the possibility of anti-youth discrimination. If, as Butler and Manicol postulate, we live (and have always lived perhaps) in a youth-centered society – a society that despises ageing and valorizes youth - then we should indeed not worry much about cases where young people are discriminated against since it is unlikely to be demeaning. Take the example of white people who don't get a job and file a discrimination complaint. Hellman responds: “There is no history of whites qua whites being excluded that gives this interpretation traction. More plausible is the claim that the school's decision demeans blacks because the lowering of standards seems to track the stereotype of blacks as intellectually inferior” (Hellman 2008: 80; cf. chapter 7). If a form of discrimination does not track a historical exclusion, then it is less likely to demean, and so it may not be a wrongful instance of discrimination.

I worry that this reveals a risk of circularity in Hellman's account – if we have failed to see an inequality as wrongful in the past, and we still fail to recognize some groups as disadvantaged, will we tend to underestimate the extent to which discrimination against them can be demeaning? Young people may not have been historically oppressed and excluded as a group, but they are victims of negative stereotypes and are often set aside in morally dubious manners. They are more likely to be infantilized, patronized, and demonized as lazy and violent, marginalized from the labor market and from political

institutions. This should I think urge us to be concerned with discrimination of the young, even if there is no history (or at least no recognized history) of mistreatment of young people.

Hellman uses a telling example involving young people: a case where a one-time landlord refuses to rent a flat to young men. She concludes: “Though the implication of my refusal to rent can surely be read as insulting (“they are going to trash the place”) and would-be tenants surely are denied the possibility of renting a house they may like, my actions does not demean them” (Hellman 2008: 37). Among the reasons that she gives is the following: “the implication that young men just out of college like to party and do not take good care of possessions does not implicate their equal moral worth – in part because they do not form a group that has been subordinated in our culture” (Hellman 2008: 37). In this example, we are considering a discrimination against young educated men. But let us now imagine that the landlord refused to rent the place to young people in general, based on the crude generalization that young people will trash the place. I am not sure that we should think of this as acceptable too quickly drawing on the fact that there is no history of youth oppression. This is especially true when we see that those seemingly unproblematic stereotypes are found in various institutions and have an impact on the opportunities and benefits young people have access to. Indeed, in addition to voting at disproportionately lower rates than other age groups, young people below the age of 30 years old are almost absent of parliaments. This is an objection of limited impact to Hellman since she does not believe that a history of domination is *necessary* for demeaning treatment.

Let me thus take what I take to be a serious example of anti-youth discrimination: the denial of a guaranteed minimum income in France to young adults below the age of 25 years old⁵. This was considered a wrongful discrimination by the French highest discrimination authority (the Halde) in 2009. Hellman interestingly appeals to a very similar case in Québec – Gosselin vs Quebec. Citizens below the age of 30 years old were denied full social security and the Supreme Court then declared the age-based differential treatment unlawful. One way to respond to those two cases would be to recognize that young people also form a stereotyped group and are denied important social and political rights as a result. The differential treatments in question tell the young that there are second-class citizens who can't behave, are not sufficiently virtuous and can't be trusted to make good decisions. One natural conclusion here would be to conclude, therefore, that such anti-youth discrimination is likely to be demeaning. Interestingly, Hellman offers another response. She suggests that in the Gosselin vs Québec case, the discrimination may be unjustified for justice-based reasons. On this view, the discrimination may not be demeaning, or therefore wrongful, it may be unjust in that young people were not getting the minimum they deserved. I think this is an awkward move that is made without sufficient justification. When young people are denied an important social right without adequate justification and against a background of marginalization from political and labor institution, it is natural to worry that discrimination against them can be demeaning.

5. Conclusion

To recap, age inequalities are in principle compatible with equal treatment of persons over time, and this makes age somewhat special. We often have reasons to treat age groups differently: to maximize lifespan utility (granting more of some resources to elderly people to bring them to a sufficient level of functioning or reserving some expensive educational resources for childhood); or to ensure diachronic fairness. We may only follow these reasons to discriminate by age *because* it is compatible with equal treatment of diachronic persons. As we saw in Section 2, reasons of efficiency would be far from sufficient to justify differential treatment in other cases like race and gender discrimination. The intuitive sense that age discrimination is special and should be treated as such is thus explained and, at least to some extent, justified. If we follow Hellman's insightful theory of when discriminations are wrong, one may nonetheless object to a range of cases of age-based differential treatment – those that demean. Ageist discrimination, I have argued is a clear example of age discrimination that has the potential to demean. Youth discrimination, when it is grounded on negative stereotypes of the young as inadequate humans and citizens who cannot be trusted, I have argued, can also be demeaning and should therefore concern us too.

Biographical notes (max 40 words):

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¹ The proposal consists in guaranteeing a job to all young adults under the age of 25 years if they are been unemployed for more than 4 months.

² For a very interesting and detailed discussion of how the European Court of Justice treats age see Gosseries (2014) and Gosseries and Colla (2013).

³ For more on age group justice see for instance Daniels (1988), McKerlie (2013) and Bidadanure (2016).

⁴ Bidadanure (2016).

⁵ Bidadanure (2012)