

In the book's conclusion, the author summarizes three ways in which discrimination wrongs people: by unfairly subordinating them to others, by infringing their right to a particular deliberative freedom, and by denying them access to a basic good. She identifies a number of advantages of this theory. She relates the theory to the serigraph on the cover of the book, discussing the wrongful discrimination faced by indigenous peoples in Canada.

Keywords: discrimination, equality, subordination, indigenous, inferior, Haida

## Conclusion

In this book, I have laid out and defended a pluralist theory of when and why discrimination wrongs people. I started from actual legal cases, in which claimants alleged wrongful discrimination by other people or by the state. I suggested that we can understand these people's complaints best by thinking of them as complaints about different ways in which they were not treated as the equals of others—in particular, through unfair subordination, through the violation of their right to a particular deliberative freedom, or through the denial to them of a basic good, that is, a good access

to which is necessary if they are to be, and to be seen as, an equal in their society. I argued that each of these wrongs is distinctive, but that they are all ways of failing to treat some people as the equals of others. And I tried to show that both the state and we as individuals have a duty to treat people as each other's equals, in these three specific senses.

C8.P2

This pluralist theory of wrongful discrimination has a number of advantages, which I have also tried to draw out. Rather than treating only one of the many harms resulting from discrimination as the source of its wrongness, my theory suggests that a number of different harms are relevant to the wrongness of discrimination. My theory thereby enables us to explain and validate many claimants' thoughts about the ways in which they have been wronged, and it offers us a rich and nuanced understanding of what it is to fail to treat someone as the equal of others. The theory also helps to explain our ambivalence about certain special cases of wrongful discrimination. In some cases of affirmative action, and in cases such as Wackenheim's challenge to the ban on dwarf-tossing, it seems as though we wrong someone no matter what we do. My theory can explain why this is

so. These are cases, I have suggested, in which, if we adopt a certain policy, we discriminate wrongfully against one individual or group, but if we do not adopt that policy, we risk wrongfully discriminating in a different way against another individual or group. My theory also provides us with the resources to address a number of puzzles that have beset theories of discrimination—puzzles about the comparative nature of claims of wrongful discrimination and about whether the wrong in question is a personal wrong or a group wrong. I discussed these puzzles in Chapter Five, and argued that my theory offers helpful ways both of resolving them and of explaining why they have perplexed us. Lastly, as I tried to show in Chapter Six, the theory paints a compelling picture of why indirect discrimination is wrongful, and it gives us the resources to explain why it is often just as wrongful as direct discrimination. The theory enables us to see both direct and indirect discrimination as forms of negligence.

If my theory is correct, then there are a number of questions we need to think further about. I raised these questions in earlier chapters and offered some thoughts about them; but I have not tried to give complete answers to them in this book. They

are questions for future study. For instance, my theory leaves open the possibility that there may be other ways in which discrimination fails to treat some people as the equals of others—though, as I have suggested, I think that the three ways that I have discussed in this book are among the most important. Further work is needed to think through other ways in which discrimination fails to treat some people as the equal of others. I have also suggested that, although discrimination that wrongs people is most often wrong all things considered, there are nevertheless certain special situations in which either the state or an individual can wrong someone through discrimination, and yet be justified in doing so, all things considered. I offered some thoughts in the later chapters of the book about what might count as relevant justifying factors, and about the differences between the factors that justify the state in continuing to engage in wrongful discrimination, and the factors that justify individuals in continuing to engage in it. But more work needs to be done on which factors exactly these are. Lastly, and perhaps most importantly, I suggested in Chapter Seven that we need to think at much greater length about the ways in which the state can support

individuals, in discharging their duty to treat people as the equals of others. Anti-discrimination law is only one of these ways. As I argued in Chapter Seven, it is not always helpful or appropriate for the state to intervene directly to ensure that we comply with our moral duty to treat others as equals. But there is nevertheless a great deal that the state can do to help create the conditions under which we are able to relate to others as equals, and a great deal more academic work that needs to be done, in thinking through other ways in which the state can help us to treat others as equals, outside of anti-discrimination law.

C8.P4

Most of the ideas in this book have been presented through philosophical arguments. But of course, the arguments began as attempts to make sense of the complaints of people who have suffered from discrimination that they believe is wrongful—people such as Dutee Chand, Charlie Craig and David Mullins, Manuel Wackenheim, the servers in restaurants and bars who are subject to gendered dress codes, the people who need wheelchairs and so cannot access storefronts with a step leading up to them, and the indigenous peoples in Canada who lack access to clean water. So, in a sense, this is a book about their stories. It seems

fitting, then, for the book to end by relating their stories to another set of stories involving wrongful discrimination—the stories behind the faces in Robert Davidson’s serigraph on the cover of this book.

C8.P5

These faces are quite literally “faces of inequality.” They are adaptations of traditional Haida depictions of characters in their legends, drawn by the Canadian Haida artist Robert Davidson. For many years after colonization, the Haida people faced systemic discrimination. Their lands were taken from them; their children were sent away to residential schools where they could not speak their language or learn their stories; and many of the practices and rituals that were integral to their culture were made illegal, including those that kept alive the characters depicted in this serigraph. As a result, many of the stories associated with these characters were lost. This is particularly true of Mouse Woman, *kuugan jaad*, whose features appear in some of the faces of the serigraph. Her history is, like the history of indigenous peoples in Canada, a history of second-class citizenship and of loss.

And yet, the faces in the serigraph also carry a message of hope. The serigraph is entitled “I Am You and You Are Me,” and the artist, Robert Davidson, has said that this title is based on the Haida saying: “I am you, that is also you.”<sup>1</sup> This means, among other things, that there are echoes of each of us in every other

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<sup>1</sup> Davidson has written that “This print is based on a line in an oral history of Raven travelling: ‘I am you, that is also you’, and the wisdom in Haida culture that when you point out a fault in someone, you’re actually pointing out the fault in yourself. The two central design elements are reflections of each other, but they’re actually variations of each other. The design echoes the designs found in the ends of bent-wood chests and boxes, where the design elements are usually ‘non-conforming’ and do not follow the conventional symmetrical nature of designs found on the fronts and backs. There is not a single being depicted in the print, but *kuugaan jaad* (Mouse Woman) is prominent, as she is in bentwood boxes and chests.” See

[http://www.spiritwrestler.com/catalog/index.php?products\\_id=34](http://www.spiritwrestler.com/catalog/index.php?products_id=34)

person, and that we must therefore be careful of how we treat others. But if it is true that there are echoes of each of us in every other person, then it must also be true that we are capable of understanding each other, capable of working toward a society in which no one is a second-class citizen, and in which no one's stories are left to be forgotten. And indeed, the few stories of Mouse Woman that have survived tell us that she is a guide who leads people through transformations, and that she helps to restore equality between beings. So, in addition to telling a story about loss, the serigraph also symbolizes this hope for our future. The faces in the two circles are not exact reflections of each other. They are different, but also related. They are each a "you," that isn't exactly the same as the other "you," but is "also you." They point not just backward, to stories of loss and disenfranchisement, but forward, toward a possible future in which different faces, with different colors and different backgrounds, can stand together on the same page as equals.

Whether this will one day come to pass—whether our future will be a story of treating others as equals, or a continuation



Faces of Inequality

of our past, in which some have been treated as inferiors—is up to us.