

# Discrimination and the act of utilitarianism philosophy essay



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Discrimination may be defined as “ the wrongful act of distinguishing illicitly among people not on the basis of individual merit but on the basis of prejudice or some other morally invidious attitude.”[i]

Some forms of discrimination are unlawful under the act of law and some examples include Title VII of the Civil Rights Act as well as the Pregnancy Discrimination Act. But does it mean that acts of discrimination prohibited under the law are unethical and those that are not prohibited are ethical? If it is asymmetrical, where do we draw the line between acceptable and unacceptable discrimination, and whether or not it is ethical?

To answer these doubts, the various principles and rules of Mills, Kant, Rawls, Aristotle, Confucius and Nozick will be explored and applied. Consequently, a stand on whether each of them is for or against discrimination of working mothers will be reached.

Discrimination is no longer confined to the minorities. Gender discrimination in the workplace refers to situations in which an employer treats an individual or group of employees differently, based on their gender. This form of discrimination is chosen because such discrimination is a prevalent issue given that 66 million, which makes up 46. 8 percent of the total U. S. labour force, comprises of women.[ii]Further, workplace discrimination may occur at any or all of these stages[iii]- hiring, screening, promotion, compensation and discharge.[iv]In particular, discrimination against working mothers will be the focus.

Utilitarianism

Utilitarianism is based on consequences and outcomes where the greatest happiness principle is used to determine the morality of one's actions.

Utilitarianism can be broken down into Act Utilitarianism and Rule Utilitarianism.

### Act Utilitarianism

Under Act Utilitarianism, the decision is based on the consequences of a particular act and the case *Denise Batt vs Palmece Ltd, t/a Comfort Inn*, will be used. From the company's perspective, one of the reasons for its act of discrimination was that they needed a manager on the premise five days a week. However, when Denise went on sick leave for 3 months and a further 3 month on part time basis due to a burst appendix, no problems arose during the arrangements since there were reliable management systems in place. Hence, Denise's absence during her maternity leave would not have caused much of a disruption to the company. In fact, it was when the company promoted her replacement to the position Denise was holding, that caused confusion among the staff. Further, by discriminating, the company lost a competent employee which is evident from Denise's consistently good performance, her being held as a role model of good practice as well as the hotel which she managed winning 'hotel of the year' within the group. In addition, the company departed from their normal procedures of job applications and this may result in them not selecting the most suitable candidate for the job. Further, as a result of the discrimination, the company had to compensate Denise. As such, there does not seem to be much pleasures arising from the discrimination.

To determine the general happiness, the company has to take into account the happiness and pain of other parties and this includes Denise's pleasures and pains. The pain Denise may have suffered as a consequence of discrimination include the loss of self-development opportunity, skills turning obsolete and deterioration of health while being able to focus her attention to care and nurture her children without the distractions of work would constitute the pleasure. In Denise's case, the stress from such discrimination contributed to health problems. Further, the fact that she fought hard to keep her job by compromising and offering to work part-time showed that the job is of great importance to her. Also, she has been excelling at work and it is likely that she derives satisfaction from such achievements and consequently, higher pleasures. Hence, the pains of losing her job due to discrimination are likely to outweigh the pleasures.

Taking into account the overall pains and pleasures of the company and Denise, under Act Utilitarianism, the decision will be against discrimination since it does not provide greatest overall happiness. (change company to name)

### Rule Utilitarianism

Although a decision is reached under act utilitarianism, there is still a need to consider the big picture using Rule Utilitarianism to determine the long-term economic and societal impacts of discrimination.

Firstly, the economic implications of discrimination on a corporation are determined. Discrimination against working mothers will not only affect the work attitude of working mothers but women in general. This is because for <https://assignbuster.com/discrimination-and-the-act-of-utilitarianism-philosophy-essay/>

the majority of women, going through pregnancy and childbirth is a natural cycle and hence, they take such discrimination seriously because they will be the ones affected at a certain point in the future. This will lead to a loss of morale amongst women which negatively affects loyalty and efficiency. Further, discrimination lead to a loss of productivity since the competencies of mothers like Denise are not maximised. In a finding, it is shown that an increase in gender wage gap leads to a decrease in income per capital.[v]As such, discrimination has \_\_\_\_\_ economic implications on corporations. Further, the corporation may also expose itself to unnecessary law suits resulting in reputation loss which may further reduce its future profitability. Hence, when the corporation evaluates employees based on merits, it is most efficient way because they have the appropriate skills, competencies and knowledge and thus, promote productivity.[vi]which promote welfare. society, such overall goods and benefits would be extended to society leading to the progress of improvement of society.-> substantiation (welfare promoted).

On the other hand, there is no doubt that qualifications, skills and competencies are arguably the most important criteria for employee selection. However, as globalisation's impact and effect becomes widespread, the importance and significance of cultural and social diversity is elevated. Such diversity leads to the injection of new and innovative ideas which is crucial in the ever-changing and fast-paced society. The benefits of diversity are evident in the study " Impact of Diversity on Students: A Preliminary Review of the Research Literature" where diversity was increasingly related to satisfaction, academic success, and cognitive

development of all students.[vii]Hence, such beneficial effects are likely to spill-over to corporations when such students enter the workforce and improve company performance. Further, applying diversity directly to the workforce should yield similar or even multiplier effects especially in the present environment where multinational corporations, global operations and the influx of foreign talents are aplenty. Hence, discrimination, or rather, positive discrimination namely affirmative action yields economic rewards.

### Societal implications of discrimination

Although discrimination has a negative connotation attached to it, it may not be that bad of a thing because it is shown that discrimination leads to an indirect increase in fertility.[viii]This is positive to societies, especially developed countries, which face the problem of greying population due to low birth rates. However, discrimination may lead to another trend especially for women who place great importance on their careers where they may postpone pregnancies, decide to not have a child, or turn to abortion in order to avoid the route to discrimination of a working mother. Also, there are societal costs of discrimination such as where more than £30bn worth of talent is wasted due to the inequalities suffered by working women and disabled people, as reflected by the Equal Opportunities Commission.

[ix]However, there may be greater social costs of discrimination. According to an ILO study, besides the wastage of human talent and resources due to the widening socioeconomic inequality at the workplace, it can have potentially devastating effects on political stability and social cohesion.[x]

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However, a positive consequence in one society may have a negative consequence in another. For instance, discrimination increases fertility rate which is beneficial for developed countries but not beneficial for developing societies facing overpopulation. Hence, the consequence of an action will vary as the contexts changes.

In the context of a developed society, although the focus is on discrimination of working women, this has implications on all women because it is a cycle and taking into account the proportion of women in the workforce, and that women belong to different races, religions and cultures, the effect of discrimination on cultural and social diversity is huge. Further, with technology and globalisation taking on an increasingly larger role in the functioning of businesses and societies, the benefits of meritocracy diminishes relative to diversity. Hence, under rule utilitarianism, a stand for discrimination is reached.

There is a conflict between the decisions of act and rule utilitarianism. In the case of Denise, discrimination would bring more pain than pleasure.

However, in the long run, if the company discriminates, it will bring about more pleasure than pain. Also, there is a need to consider the duration of expected benefits and costs when deciding on the overall goodness of a decision. For instance, short term profitability should not be pursued at the expense of long term political stability. Hence, the pains of discrimination are disastrous while there are tremendous pleasures brought about by affirmative action. Hence, the decision is based on rule utilitarianism which concludes that discrimination should not be performed since the overall pain outweighs the pleasures and instead, affirmative action leads to greatest

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happiness. This is support by utilization analysis which remedies the disparate impact of unrepresented or excluded positions leading to better utilization and an increase in general welfare.

### Rawls Principles of Justice

Under Rawls' Justice as fairness, behind the veil of ignorance, a rational and self-interested person has no knowledge of his future race, gender, religion and status. A maximin approach will be used to efficiently distribute the various social goods using Rawls' two Principles of Justice. The moral actor will select the way that is advantageous for him and since he will not want to belong to a group that is discriminated against, he will conclude that discrimination is unjust, be it against gender, working mothers, race, religion or age.

### Principle of Equal Liberty (egalitarian)

Under the Principle of Equal Liberty, each person is to have an equal right to liberties and this includes but is not limited to freedom of speech, freedom of association and rights and liberties under the act of law. As Rawls quotes: 'liberty can be restricted only for the sake of liberty'[xi]Such restriction is possible because not all liberties are on par and hence, certain liberties may be restricted in order to achieve greater overall liberties.

Applying the principle, when an employer discriminates against working mothers to increase economic productivity and growth, the principle is violated because they are restricting liberty for the sake of an economic



gain. Going by Rawls' Principle of Liberty, liberty should not be traded for socio-economic advantages. As such, discrimination would be unjust.

#### Difference Principle (distributive justice)

The difference principle conveys a socialist approach where responsibilities and burdens should be distributed according to needs.[xii]In the workplace, working mothers may not necessarily be the least advantaged or the ones most in need because they are many other groups who have suffered a greater extent of discrimination or injustice such as African Americans or the blacks who may not even have an opportunity at a job to begin with. Hence, compared to working mothers, they are in a worse position. Hence, the difference principle is not applicable because one should start helping the least advantaged. If benefits were to accrue to working mothers, this will improve their position but at the same time, increase the disparity between working mothers and the least advantaged. This would go against the difference principle and hence, it is not applicable.

#### Fair Equality of Opportunity Principle

Equality of opportunity is the key issue surrounding discrimination because it directly leads to unequal opportunities. According to a study done by the University of Chicago, mothers are 44 percent less likely to be hired than women without children.[xiii]Adding on, according to a study of gender equality in the workplace, mothers are offered lower salaries and are perceived to be less committed compared to women without children even though they are equally qualified.[xiv]Hence, it is evident that discrimination

leads to unequal opportunities. Rawls would thus be against discrimination since it violates the Fair Equality of Opportunity Principle.

Rawls stand seems firmly against discrimination of working mothers as well as discrimination in general. In reality however, not everyone is equal. There are still people suffering from the unjust consequences of past injustice and inequality. Hence, even in the absence of discrimination such as in a system of meritocracy, this group of people have already lost the ability to compete at equal standing since they have been disadvantaged in terms of the opportunity to education or poverty and hence, are not as qualified. As such, there cannot be equal opportunity to being with. Thus, in order to achieve Rawls' two principles of justice - Equal Liberty and Equal Opportunity, some form of discrimination is required. This is done through affirmative action which aids in levelling the playing field and helps to restore the areas where such groups were excluded or underrepresented.[xv]Hence, even though Rawls is against discrimination, this suggest that he is for affirmative action, a positive form of discrimination

It can be argued though, that it is a form of compensatory justice, and although the privileged group were not the ones who practiced discrimination, nonetheless, they still benefited from it and hence, it is only fair that they return them and hence, justifiable. do not add to the stand?? Or add to Aristotle - compensatory and disctrimutive.

### Nozick's Entitlement Theory

Applying Nozick's Entitlement theory, when discrimination occurs, the rights of those discriminated against are taken away by unjust means and hence, <https://assignbuster.com/discrimination-and-the-act-of-utilitarianism-philosophy-essay/>

there is unjust original acquisition leading to unjust transfer. Oppression, rights and liberties being taken away, loss of ability to compete and psychological injuries are some of the many examples which unjust actions are exercised. As such, the Principle of Rectification comes into play. However, the principle does not take into account the damage that has been done on top of whatever that was unjustly acquired, and such damage are often unquantifiable. Hence, Nozick does not have a stand on discrimination because he is of the view is that as long as the act of discrimination is undone, it is just - It does not matter whether or not sufficient compensation is provided.

### Kant's Categorical Imperatives

Kant takes a deontological approach and believes that one should act based on moral duties rather than on inclinations, interests and consequences.

There are two Kantian Categorical Imperatives - Principle of Universality and Principle of Humanity.

### Principle of Universality

Under the Principle of Universality, we have to determine the relevant maxim which we at the same time, will that it should become a universal law.

Assume a maxim of the employer: ' I should be allowed to discriminate against working mothers even though they are equally or more competent than other condidates'. This maxim supports workplace discrimination based on pregnancy or childbirth. If this were to be applied universally, the economy will be filled with unsuitable employees leading to a decline in

productivity, efficiency and effectiveness. Further, given that one is <https://assignbuster.com/discrimination-and-the-act-of-utilitarianism-philosophy-essay/>

intrinsically incentive-driven by nature,[xvi]women will no longer be motivated at work since they are not rewarded based on job related performance. If the extent of discrimination escalates, it may even result in social unrest and hostility. Discrimination will prevail, but only at the expense of social peace and meritocracy. Consequently, this will lead to a less efficient and productive society which a rational employer will not want as a universal law. Even if one were to argue that a society can function normally with discrimination from the Indian caste system,

### Principle of Humanity

The Principle of Humanity states that one should treat people as a means to an end, and not simply as a means. Employers, by their acts of discrimination against individual employees, such as in Denise's case, are treating them as a means to their ends where the employee is a profit-making tool for the company's end of deriving profits.

Accordingly, both categorical imperatives are not fulfilled and hence, to Kant, discrimination would be unethical and morally impermissible. Further, discrimination goes against Kantian specific duties of developing one's talents and capacities as well as showing benevolence towards others.

### Aristotle

#### Virtues

Aristotle focuses on achieving human happiness – good life. Such good life is possible only for persons who practice virtuous activities. Examples of virtues include respectfulness, fairness, justice and compassion which lie in <https://assignbuster.com/discrimination-and-the-act-of-utilitarianism-philosophy-essay/>

the mean. Discrimination against working mothers goes against the virtues of compassion, fairness, benevolence and hence, Aristotle is against discrimination since it is not virtuous.

To achieve good life, one has to do the best thing a person can do with his life. To do so, there has to be a goal or objective. During Aristotle's time, women were primarily responsible for childcare and domestic duties. According to the social theory, sex-based division of labour constrains and reinforces gender stereotypes of women as being emotionally expressive, nurturing and caring.[xvii] While men, being providers of the family, were portrayed as dominant and aggressive. Division of labour along sexual lines was most efficient and led to overall societal well-being. Discrimination based on sexual lines or status was common and seen as the best and most efficient way of allocating duties then. Hence, Aristotle is for discrimination.

Do what you do best

However, in modern society, such discrimination is less apparent and visible although still present. According to Edward O. Wilson of Harvard University, females tend to be higher than males in empathy, verbal skills and social skills.[xviii] Hence, women are better at certain jobs such as personal relations, administration, counselling and human resource as compared to men. However, since women are known to be best at childcare and domestic roles, according to Aristotle, that is what women should be doing. As such, even though women may be better than men in the abovementioned areas, the job goes to the men. Hence, Aristotle supports discrimination. In addition, depending on the purpose of the job, discrimination is against

supported. For instance, if the job is to achieve uniformity in race, discrimination is allowed in order to achieve it.

division of labor along sexual lines is most efficient and best promotes the general welfare because the natural (nurturing, sensitive, emotional) abilities of women suit them best to childcare and the natural (aggressive, competitive, rational) abilities of men suit them best to exercise authority and control over business and financial matters.

(Which is in line with Confucius Ethics)

Distributive Justice: Equal Work = Equal Reward

Applying Aristotle's distributive justice of equal work for equal reward, if working mothers work as much as other employees, they should receive an amount of compensation equal to the rest. Hence, Aristotle is against discrimination since it would be unjust under his principle of distributive justice.

Compensatory Justice

Aristotle supports compensatory justice as he is of the view that victims who have been wronged should be compensated. Hence, working mothers who have been denied equal pay or opportunity should be compensated accordingly. Extending Aristotle's concept of compensatory justice to discrimination in general, he will be for affirmative action since certain injustice and past wrongs can only be amended through affirmative action.

Equality consists in the same treatment of similar persons

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As Aristotle quoted, “ Equality consists in the same treatment of similar persons.” The case Bliss v. Canada supports Aristotle’s view. According to Aristotle, even though working mothers are discriminated, so long as all working mothers are treated similarly, it is just and equal. This is despite the fact that working mothers also being to the bigger group of women yet working mothers are subjected to different treatment from other women which accords to discrimination. Hence, Aristotle is for discrimination.

### Doctrine of Voluntary Choice

If discrimination is involuntary, such as unintentional discrimination or due to compulsion, the discrimination should not be adjudge as not virtuous or immoral.

### Confucius