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The Deliberative Duty and Other Individual Antidiscrimination Duties in the Dating Sphere

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Abstract: What does morality require of individuals in their dating and sex life? In this article I challenge recent outlines of antidiscrimination duties in the dating sphere and present a plausible alternative: the deliberative duty. This duty avoids the risks and limitations of earlier outlines: it is time-sensitive regarding the malleability of intimate preferences, it avoids being too demanding on the duty-bearer and minimizes the risk of generating mere dutiful attraction behavior towards right-holders. In addition, it is better suited for universal action guidance in the dating sphere than earlier outlines of individual antidiscrimination duties.

Keywords: individual duties; discrimination; dating sphere; intimate; racism; lookism

1 Introduction

Love, sex and intimacy are central aspects of human flourishing and are desired by beauties and beasts alike. For many, happiness depends on the state of their intimate life to a significant degree. The problem is that the dating sphere is not a fair playground. While the chance of receiving attention in the dating sphere rises if you appear attractive, or if you are an Asian woman or a White man, it declines if you appear unattractive, or if you are a Black woman or an Asian man.¹ Of course, mere attention does not guarantee a breathtaking intimate life, but it increases the likelihood of meeting a match. Others have argued that some interactions in the dating sphere, particularly rejection and fetishization, appear to

¹ According to statistics from the dating website OKCupid, see Christian Rudder (2014).

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be wrongful discrimination on different accounts,² and the discriminatory structures of the dating sphere have been explored in relation to, for instance, race (Bedi 2015; Lazenby and Butterfield 2017; Liu 2015; Zheng 2016), attractiveness (D'Alessandro 2023; Midtgaard 2022; Minerva 2017) and disabilities (Appel 2010; Emens 2009; Nucci 2011). Some advocate structural reform efforts aimed at limiting discrimination in the dating sphere (Zheng 2016), such as eliminating the option of searching for dates based on race on dating websites (Bedi 2015), and others have suggested individual reform efforts aimed at limiting discrimination in the dating sphere, such as individual duties and behavior constraints in the dating sphere (Liu 2015; Midtgaard 2022; Mills 1994). It is the latter type of reform efforts this paper is concerned with. I will both assume that certain interactions in the dating sphere amount to wrongful discrimination and that we ought to do something about it, as others have done, and move to what I take to be problematic about individual duties. The question I aim to answer is this: What makes individual antidiscrimination duties implausible or undesirable in the dating sphere, and does a plausible version of such duties exist? I explore aspects of individual duties that I argue are, upon reflection, ultimately undesirable for both the duty-bearer and the right-holder, and criticize limitations of current putative individual duties. Because of the budding interest in the area and the special nature of intimate relationships, as opposed to friendships or collegial relations, I believe an exploration of what follows from social change efforts that place the onus on individuals is well warranted. The exploration yields a novel universal, individual antidiscrimination duty that better avoids the vulnerabilities I point out.

The paper proceeds as follows: First, I outline putative stronger and weaker individual duties against discrimination in the dating sphere. Second, I explore four issues of individual duties: I question the plausibility of the general malleability of intimate preferences, I raise the concern that individual antidiscrimination duties can be bad for the duty-bearer and bad for the right-holder, and argue that a plausible duty should avoid these risks. Third, I present the three faces discrimination can take in the dating sphere to show the limited vision of present duties in the dating sphere. Fourth, I propose an alternative individual duty in the dating sphere, the deliberative duty, which aims at limiting discrimination in the dating sphere while simultaneously mitigating the identified risks.

² For discussions on the wrongness of individuals' private interactions, see, e.g., on generalization, Xiaofei Liu (2015), on harm, Robin Zheng (2016), on objective-egalitarian accounts, Carina Fourie (2017), on deliberative freedom, Hugh Lazenby and Paul Butterfield (2017), on recognition respect, Søren Midtgaard (2022).

2 Individual Antidiscrimination Duties in the Dating Sphere

Individual antidiscrimination duties come in stronger and weaker versions. Let me begin with two examples of weaker duties. Søren F. Midtgaard proposes a duty to “look behind people’s appearances.” On this duty, X has a duty to not treat Y’s appearance (features) as a decisive reason against dating Y (2022, 11–12). A feature counts as a decisive reason when Y has a disliked appearance feature (by X), and it silences, or outweighs, other reasons for dating Y, for instance, that Y is nice and a good listener. On Midtgaard’s view, if X has a preference against an appearance feature that Y possesses and lets that feature count as a decisive reason against dating Y, X has treated Y wrongfully: “It is morally impermissible to reject interacting with individuals in various ways, including in dating or romantic relationships, merely because they have certain appearance features” (2022, 3). The desired implication of this duty is that altering what counts as decisive reasons to date someone will affect our behavior, and ultimately, these changes in behavior will lead to more Ys with unfavored appearance features being dated. Xiaofei Liu suggests another example of a weaker duty, which is phrased in the negative as two behavior constraints: “We ought not to intentionally deny a fair consideration to anyone whom we are already considering for appraisal or appreciation respect, and we ought not to constantly deny such consideration to someone whom we have encountered multiple times in our lives” (2015, 264). Liu strikes at the superficiality of the dating sphere; it would be better if people applied justified criteria directly contributive to relationships when they search for a partner, as this might limit discrimination toward racial groups. The implication of these consideration constraints is that if we no longer deny fair consideration to unfavored groups, this will manifest itself in increased interaction, and ultimately, more Ys with unfavored racial looks being dated. As such, both duties aim at bringing about a more equal dating sphere.

A stronger version of antidiscrimination duties would simply require of X that X marries Y or enters a long-term relationship with them. As stronger duties more obviously infringe on our personal freedom than weaker duties, they are rather controversial and have not yet been proposed as an antidiscrimination means, to my knowledge. However, strong duties regarding who to date are not uncommon. An example of this is the American “miscegenation laws,” which legally prohibited interracial marriages. The White moral duty to not marry Blacks was (or is) usually based on the racist idea of racial purity paired with White supremacy. Commitment to strong duties of dating within one’s own racial group can also be found in the Black American community. In an article on such a duty, Charles Mills reconstructed several popular arguments for why Black men have a duty to marry Black women

from the perspective of the Black community (Mills 1994). The implications of strong duties are clear: Certain people do end up together, and supposedly, any duty-bearer takes the necessary steps toward complying.

In this paper, I am mainly concerned with the weaker dating duties, because stronger duties have not been advocated for in terms of limiting discrimination, probably due to their being too controversial for a liberal society. Further, since my arguments are against the weaker duties, they logically entail a critique of stronger duties too. The putative weaker duties are pertinent to a liberal dating context, which is too complex to exhaustively describe here, but which I will shortly outline. The relevant interactions to this paper are those that occur in the early stages of dating, that is, when someone chooses to (not) interact with someone with potential intimacy in mind. Rejection at this early stage hinders further interaction, hereby eliminating the chance of further intimate interaction. This is relevant to a specific type of dating that is currently prevalent in the Western dating sphere, where ideas of love and attraction are the main drivers of short and long-term relationships, and where dating is used for finding love, sex and intimacy. Traits of special interest are those that play a role in structuring our interactions in the dating sphere. Often, such traits are easily perceived visibly, such as race, gender and attractiveness, but they need not be limited to these traits. For instance, people with mental disabilities report being rejected from further interaction as soon as the date becomes aware of the to-the-eye invisible disability. I will leave much of this underdefined as my main concern is to identify vulnerabilities of putative duties that individuals have to limit discrimination in the dating sphere. Although the two mentioned putative duties mainly regard looks and racial looks, the conclusions of my arguments are likely relevant to a broader spectrum of traits. I now turn to question the plausibility of a fundamental premise in the antidiscrimination duties literature: the general malleability of intimate preferences.

3 Critique of Individual Antidiscrimination Duties in the Dating Sphere

3.1 The Precarious Foundation of the Malleability Premise

A recent movement in the private discrimination literature generally challenges the belief that sexual preferences are fixed or beyond our control to change (Liu 2015, 257; Zheng 2016, 415). The context is that people want to interact with potential dates who fall within their preferences, so if people could change their preferences to include those who are disadvantaged in the dating sphere, it would minimize

discrimination against, for instance, the unattractive or Black women. The duties could also require that we set aside whatever preferences we have because it is, after all, possible to consider, date and have sex with someone who does not fall within one's preferences, but this route would undoubtedly be both unpopular and implausible. The malleability of preferences is central to "duties to consider" certain groups, since such duties become fruitless if they do not bring about some change in preferences that manifests in behavior.

A recent movement accepts the premise that individuals' sexual preferences are generally malleable, especially along a racial and attractiveness axis. Some claim that preferences along the sex/gender axis are malleable too, meaning that one can come to feel attraction toward a sex/gender they did not feel attraction to before (Midtgaard 2022; Zheng 2016), while others deny that a preference along the sex/gender axis is malleable (Bedi 2015; Liu 2015). Preferences seem to exist on a spectrum from malleable to immutable, and where we place preferences on this spectrum today need not tell us anything "objective" about human sexuality but rather expresses what people currently take to be, or feel are, (un)malleable preferences. Where the literature on dating and discrimination often assumes that most preferences are malleable, with sex/gender being the most frequent exception, many people feel and think of their own preferences as (relatively) immutable across the board, often explained by reference to preferences being innate. Indeed, some will argue that preferences are hard-wired remnants of evolution: we have biological reasons to have the innate preferences we have, and even if we wanted to be attracted to the less attractive, we simply cannot. To those who defend this view of human sexuality, duties that require preference transformation seem obsolete, because "ought implies can." Yet, as others have argued in the literature, even if we face an immutable, hard-wired human sexuality, it is not clear that antidiscrimination duties to consider, for example, the unattractive, become completely obsolete, because we may have countervailing practical or moral reasons to not choose according to our natural inclinations.³ Alas, the complexities of human sexuality are beyond this paper to decipher. For the present purposes, I will bring forward two points that are worth considering regarding the malleability of preferences: a historical example serves to enlighten us about the potential extent of malleability, and a contemporary example serves to remind us to be cautious about assuming the malleability of preferences.

First, historical analysis of human sexuality shows a striking variation in human sexuality over time. For instance, analysis of the recorded experiences of human sexuality in ancient Greece suggests that the modern fashion of positioning one's

³ D'Alessandro 2023, 344–346, and for arguments against biological appeals to choose attractive partners, see 346.

sexuality along a central axis of heterosexuality, homosexuality or bisexuality would be nonsensical for a classic Athenian. Instead, sexuality, and sexual acts and roles, were thought of and structured in terms of power; the superordinate (a free man) with a subordinate (slaves of either sex, foreigners, women of all ages, post-puberty free men who were not yet old enough to be citizens). Although entirely different from modern understandings of sexuality, we have no reason to not think that consensual sexual acts in ancient Greece were expressions of real, personal desire – desires shaped by society, to be sure, but personal, genuine desires nonetheless (Halperin 1989). Second, contemporary research on human sexuality has been particularly interested in preferences along the sex/gender axis because of the practices of conversion therapy camps. Conversion therapy is a practice based on the belief that one can change, “cure” or “repair” an individual’s sexual orientation and that doing so is a desirable outcome for the individual, family or community. Often, the methods of conversion are cruel, degrading and inhumane, but even conversion therapy in the form of talk can cause intense psychological pain and suffering (Dehlin et al. 2015; Haldeman 2002). The practice of conversion therapy made the World Psychiatric Association issue a statement that “there is no sound scientific evidence that innate sexual orientation can be changed” (Bhugra et al. 2016). The youths who attend conversion camps seem to have strong reasons to change their sexual preference (e.g., pressure from family and community, an internal wish to be “normal” etc.), yet appear unable to do so.

The first example might support the premise of malleability of preferences, even along the sex/gender axis, (and perhaps even to a great extent) across time and culture, but it does not prove that an individual’s sexuality is flexible, or any less real to any given individual, in any given society or era (Halley 1994). The change from Athenian power-based sexuality to Christian sex-based sexuality did not take place in one individual’s lifetime, and the fact that we can observe that change occurs across time does not mean that change can occur at will. This point can simultaneously dampen expectations and spark hope for those who work for a less discriminatory dating sphere. We need not commit to believing that contemporary human sexuality is set in stone, but we may have to admit that some preference changes require much time. This speaks in favor of a duty that is sensitive to the time that change likely requires.

The second example underscores that some preferences are not likely to be malleable in one individual’s lifetime, even in the face of strong reasons. Even those who would benefit in an obvious sense (by relieving internal and external pressure) from changing their preferences are unable to do so at will or through external interventions. Inevitably, one cannot be morally required to do what one cannot do, even when it would bring about great social benefits: “Ought implies can” is, after all, a minimal requirement of plausibility. There is a fine balance between urging and

requiring people to widen their preferential horizons. We have reason to be cautious when we hear that “your attraction can absolutely be changed. We need to rewire your brain, and it is completely doable ...”⁴ These two examples call for attention to the difference between asking whether an individual can change preferences and whether human sexuality is malleable. Notably, the examples suggest that the answer can be negative to the first question while affirmative to the second.

Since the current sexual norm is to structure sexuality along the sex/gender axis, most people experience or feel that (if nothing else) *that* preference is immutable, and that they could not change it even if they wanted to. Scholars have noticed that people tend to claim that racial preferences are immutable too (Lazenby and Butterfield 2017, 371). I do not aim to settle the complicated matter of human sexuality in this article, but it is worth raising the issue of the gap between how people seem to perceive or experience sex/gender, race and looks preferences as typically immutable and how the literature on antidiscrimination duties in the dating sphere views preferences as predominantly malleable. The upshot from this section is that it is currently unclear if all individuals can change their preferences and whether preferences along all axes are malleable, but also that, given a significant amount of time, even what people often take to be an immutable preference appears to be malleable. It follows from the lack of conclusive answers that we should be cautious with a premature acceptance of the premise of general malleability of preferences, and that a plausible antidiscrimination duty should be time-sensitive considering the complex subject matter.

3.2 Bad for the Duty-Bearer: The Sainly Dater Argument

The second critique of individual duties regards how such duties can be bad for the duty-bearer. In particular, I argue that antidiscrimination duties are susceptible to demanding too much of duty-bearers. First, a word on feasibility. I suspect that it is unlikely that a particularly large number of people are willing to override their usual dating behavior. While it is unthinkable for the racist to date or marry other races, it is questionable whether egalitarian-minded people do not discriminate in the dating sphere. According to statistics from OKCupid, 84 percent of its users claim that they would not date someone who vocalizes a strong negative racial bias, yet users’ dating behavior reveals plenty of racial and beauty bias. This is disquieting, considering that OKCupid’s users are generally well-educated, urban, progressive and self-described

4 Conversion therapist, from “Pray the gay away” – a TV program on homosexual conversion therapy happening in New Zealand (2018) as seen on the website 1News. Last accessed on 08/08/23 on <https://www.1news.co.nz/2018/06/17/pray-the-gay-away-homosexual-conversion-therapy-happening-in-nz/>.

liberals (Rudder 2014, 112, 127). The statistics suggests that even egalitarian-minded people discriminate in their dating life, which challenges the feasibility of the putative duties. But beyond bringing up the low feasibility, I also aim to say what is bad about the duties should they actually be discharged by someone. But who would discharge them? Let us call this well-intentioned individual a *saintly dater*, inspired by Susan Wolf's critique of the moral saint (1982), because I suspect only saintly daters would discharge these kinds of duties. By outlining what a saintly dater is and what they forfeit when they adhere to antidiscrimination duties, we will see why such duties are too demanding.

Where the moral saint is devoted to acting morally good at all times, to be a saintly dater it suffices to be committed to antidiscrimination in the dating sphere. Like the moral saint, the saintly dater is not a superhuman of sorts. Rather, the basic ingredients of happiness are the same for them as for the rest of us. The saintly dater, like the rest of us, has preferences toward some and not toward others. What makes them a saintly dater is that they pay little or no attention to their own happiness when they consider the overall importance of morality in the dating sphere. The saintly dater, like the moral saint, sacrifices their own interests to the interests of others (Wolf 1982, 420). To use Wolf's words, they will be "charitable in thought as well as in deed. He will be very reluctant to make negative judgments of other people. He will be careful not to favor some people over others on the basis of properties they could not help but have" (1982, 421). The saintly dater will, with great devotion, do the right thing as soon as they become aware of putative duties and constraints in the dating sphere. The saintly dater is not someone who happens to have a preference for, for instance, the unattractive and acts on it. Instead, they decide to act on the antidiscrimination duty because they recognize that it is the right thing to do.

Being a saintly dater sounds wretched. But why? The saintly dater seems inclined to miss out on a certain kind of joy, a joy that pertains to acting accordingly to one's own interests and inclinations. Dating is a primary example of an activity that is generally pursued purely for one's self-interest; it is one's own happiness that is at stake. It seems that if daters do not act according to their interests and preferences, they risk missing out on the potential of a genuine connection, be it great chemistry or deep love. It seems essential that all act according to their preferences and pursue their own interests to increase the chance of a good match. If some daters became saintly (but seductive) daters, it would compromise the authenticity of the dating act – and we seem to value the potential that acting according to genuine preferences yields. I conjecture that many believe that in order to have a shot at genuine love or intimacy they must act according to their preferences, whatever they are. The general sentiment seems to be that, in this particular sphere, individuals' self-interest outweighs others' best interest, meaning that daters' discriminatory preferences outweigh others' interest in not being discriminated against. Alternatively, daters do

not believe that their self-interest outweighs others' best interests, because it is in others' best interest that *all* act according to their self-interests, lest we compromise genuine relations. Although Liu is thinking of those who are discriminated against when he says that intimate relationships "may be even more important than work or education" (2015, 263), this is true for discriminators and discriminates alike. Intimate relationships are important components of individuals' pursuit of happiness, and this makes the dating sphere a very costly sphere to be a saintly dater in. Discharging an antidiscrimination duty in the context of, for instance, hiring, may compromise someone's values or taste of colleagues, but it would be a stretch to claim that it compromises the very pursuit of happiness of the hirer, generally speaking.

In light of how important it is to have discretion to pursue genuine intimate relationships, which are intimately joyful to people, putative individual antidiscrimination duties that require we forgo our self-interest in this sphere demand too much of a duty-bearer (which likely explains why the existence of saintly daters is a scarce phenomenon in reality). In demanding that individuals (sometimes) act in dissonance with their preferences, the duties seem to misunderstand the special nature of dating – even if people became saintly daters, the relation risks being simulated rather than genuine. Surely, this is not really the intended consequence of such duties. To the degree that antidiscrimination duties in the dating sphere require one to act as a saintly dater, they are guilty of demanding too much, because they essentially require individuals to compromise their pursuit of happiness.

The duties could, of course, also be less demanding. Let us return to the initial case of a well-meaning individual who has a history of dating exclusively, for instance, within their own race and who is curious to discover whether they could have preferences that include other races. Say they pursue a few dates with someone they would not usually have pursued, because they recently became aware of their putative antidiscrimination duties. This is, all else being equal, not problematic on my view. The relevant difference between the two cases is that in this second case, the dater acts not only because it is in the interest of others to not be discriminated against, but also because it is in their own interest to discover the scope of their preferences. In this sense, they are also acting in their own best interest and not only in others' best interest. This illustrates that we should be careful in how demanding individual antidiscrimination duties are and that such duties should allow room for acting within one's interests, or more specifically, according to one's current preferences.

3.3 Bad for the Right-Holder: The Charity Date Argument

I now turn to a potential issue pertaining to the right-holder. In a similar discussion about putative duties in the dating sphere regarding who to date or marry, Mills

claimed that such obligations bear an unfortunate resemblance to duties of charity. I think it is worth considering the answer to a (perhaps rhetorical) question Mills posed: “How would one react to the declaration, or inadvertent discovery, that one had been sought out as a *charitable* obligation?” (1994, 141). Like Mills, I conjecture that most people would be disappointed or hurt to discover such a basis of action – as Amia Srinivasan succinctly says: ‘No one really wants a mercy fuck’ (2021, 87). We might think it misguided or insulting to individuals that others interact with them, particularly when it comes to intimate relationships, on the basis of an antidiscrimination duty. Let us explore this point further by turning to the literature on love and duties to love, where Anca Gheaus distinguishes between genuine love and mere dutiful love behavior (2017, 752). Similarly, we can distinguish between *genuine attraction* and *mere dutiful attraction behavior* in the dating sphere. If duty-bearer A decides to interact with right-holder B, despite B having traits that A dislikes, then there is a risk that B, who yearns for love or for someone to be attracted to them, cannot help but feel disappointed when, instead of experiencing genuine attraction from somebody, receives mere dutiful attraction-like behavior. Consider the following example.⁵

Suppose you are invited on a date by an acquaintance, Kim. You are flattered to have been asked out and thank Kim for taking the initiative, thinking they must have taken some preference in spending the evening with you rather than someone else. However, Kim protests that they always try to do what they think is their duty, what they think is best. You probably find Kim’s talk of duty somewhat strange. The more you two speak, the clearer it becomes that Kim was telling the literal truth, that it is not essentially because of you that they invited you on a date, but because they thought it their duty to ask out someone like you, either because you have a trait that is often discriminated against by others in the dating sphere or because it had been a while since Kim themselves had initiated contact with someone with a trait like yours.

The story illustrates that individual duties risk generating an undesirable outcome for B. Although Kim is committed to a duty of antidiscrimination in the dating sphere, and Kim succeeds in acting on that duty, it does not necessarily lead to the consequences B yearns for – to experience genuine attraction from Kim. We can find Kim admirable for their commitment to antidiscrimination but simultaneously wonder what specifically B is doing on that date. Arguably, this tells us something about the nature of dating: it seems that Kim fails to react to B as a richly complex and unique individual. It seems calculated, when many wish for a natural or spontaneous inclination toward themselves (Gheaus 2017). Dates do not seem to be the kind of good that can be distributed easily or in a comparable way to how other goods can be distributed to a disadvantaged group, for example, how sandwiches can be distributed among those who are hungry (Srinivasan 2021, 87).

⁵ Inspired by Michael Stocker’s example of a dutiful hospital-visiting friend (1976, 462).

In a related discussion where X gives their acquaintance, the unattractive but otherwise compatible Y, a chance, William D'Alessandro argues that it is doubtful (and presumptuous) to claim that Y would prefer continued loneliness to a relationship with someone like X (2023, 9). Of course, this is ultimately an empirical claim that largely depends on Y's internal context, so I focus on which factors are likely to affect outcomes. I do not disagree with D'Alessandro's conclusion; since we know that X and Y have compatible interests, values and personalities, it would be foolish for them not to consider each other as potential partners, although X does not like Y's looks very much (and Y may be aware of this). Yet, I am not sure that the same goes for B in my scenario; there is a plausible risk that B prefers to pass on a date with Kim. So what is the relevant difference between the two scenarios? X and Y seem to have a good foundation for a genuine relationship – finding someone with shared interests and values, and a compatible personality is not a small feat. It is credible that Y will not feel humiliated in this scenario. It seems to me that in this example, there is already, or at least a potential for, genuine attraction to Y as a rich and complex person, even if X has issues with Y's looks. In contrast, in my example, there does not seem to be a good foundation for a genuine date or relationship, because A is motivated to act on the basis of a duty rather than some genuine attraction to B. A just happens to know B, acknowledges their antidiscrimination duty and realizes that B is the proper object for discharging the duty, because B has some undesirable trait. Assuming that B is yearning for genuine attraction based on who they are as a full person, discharging this type of duty risks disappointing or insulting B (let alone wasting B's time).

I suspect that antidiscrimination duties can result in both scenarios that D'Alessandro and I are concerned with. If such duties essentially play a small role, if they push X toward considering Y for a date, and X and Y have a good foundation for genuine attraction given their commonalities, I believe few Ys will find antidiscrimination duties objectionable. X seems to be urged to place less weight on Y's looks and more weight on their similarities. On the other hand, if the duties push A toward behavior based mainly on mere dutiful attraction behavior, then I suspect B will find the duties undesirable. Although much hinges on actual empirical circumstances, I think it is worth highlighting that if a well-intentioned A discharges antidiscrimination duties and as a result mimics rather than feels genuine attraction, there is a risk that B, who was supposed to benefit from the duties, feels instead deceived and humiliated. Anecdotally, on the Netflix Show "Love on the Spectrum," the autistic participants consistently express a desire to find "real love," and one explicitly expresses fear of going on a "fake" date, that is, with a person paid or persuaded by their parents to go on a date with them, for the sake of their experiencing going on a date. A fake date requires mere dutiful attraction behavior, while a real date requires genuine attraction. It seems that even for those who admit that finding dates is a

struggle, there is, generally speaking, a strong desire for dates to be based on genuine attraction rather than mere dutiful attraction behavior. The upshot from the Charity Date argument is that antidiscrimination duties that urge A to pursue their genuine attraction to B as a rich and complex person despite their less attractive features is more desirable for right-holders than duties that urge A to engage in mere dutiful attraction behavior toward right-holders. As I turn toward the task of outlining an alternative individual duty at the end of this article, I will endeavor to incorporate this observation.

3.4 The Faces of Discrimination Argument

My last argument returns to the putative duties to consider, and I outline how such duties are too narrow in scope to be of general use in the dating sphere. I argue that duties to consider do not accurately respond to the different faces of discrimination in the dating sphere and that the action-guiding implications of such duties are limited to certain social groups.

Discrimination takes on many faces in the dating sphere, and one of them regards *exclusion*, or being considered to such a small degree that one practically has very little chance to meet a partner. Intuitively, it seems that those who are deemed unattractive suffer from not being considered enough, or that, upon consideration, they are simply rejected because of their looks and that a duty to consider or “look behind appearances” may be helpful to such individuals. Arguably, because of existing dating structures and conventions where men are expected to “take the first step” and initiate contact, men are also particularly likely to experience exclusion as the main problem in the dating sphere. Additionally, an often-cited example in the discrimination literature shows that Black women in the US are deemed the least attractive racial group of women (Rudder 2014, 110), so exclusion appears to be a problem that particularly the unattractive of any gender, men and Black women suffer from.

Another face of discrimination is that of *inclusion*, which particularly American-Asian women in the West suffer from. As described by Zheng (2016), American-Asian women are sometimes pursued because of racial stereotypes of the sexualized submissive Asian woman. This leaves many of them wondering whether a potential partner is interested because of who they are as a richly complex person or whether the pursuer fetishizes them in a way that hinders that. Zheng argues that the existence of such a reason for being considered and pursued lurks in the consciousness of women of Asian descent and is harmful to them because they want to avoid being fetishized and are burdened with the task of figuring out the basis of attraction of a potential partner.

There is a last face of discrimination we should consider, which is that of being harmed or not treated as an equal in a relationship. I call it the *face of low quality*. Of course, any person in the dating sphere can experience low-quality dates or relationships regardless of identity, for example, when one is stood up, personalities clash or a long-term relationship turns sour. Yet, some low-quality experiences seem particular to certain social groups and deserve illumination from a discrimination perspective. In fact, I suspect that the serious issues of the third face of discrimination have been largely overlooked due to the focus on sexual exclusion⁶ in the literature, which tends to center on the first date and intimate relations. However, for some social groups, discrimination issues arise on and after the first date, rather than before it. For instance, empirical studies on sexual satisfaction report that lower-status women are less satisfied with the sex they have than higher-status women are. In fact, lower-status women (e.g., Black women, less educated women, working-class women) reported having more frequent but less satisfying sex compared to what higher-status women reported (e.g., White, upper-class). Lower-status group membership for women predicts frequent, less satisfying sex, rather than no sex at all. They seemingly lack the social permission to deny others access to their bodies, and they do not feel as entitled to refuse sex. The researchers suggest that many lower-status women may feel pressured or are coerced into sex despite a lack of sexual desire (Fahs 2014; Fahs and Swank 2011). Chilling statistics also report that Black women are at particular risk of rape, sexual violence and murder by a person they know, and, perhaps needless to say, women in general are more at risk of these crimes than men are (MMWR 2014). Some men likely also experience a certain type of low-quality experiences related to discrimination, for instance, the gap between how Black men are fetishized as an exotic conquest versus the low number of interracial marriage with Black men; being considered “good enough for one night” or an entertaining “locker room story” but not being considered “marriage material” likely has serious consequences for one’s self esteem down the road. This illuminates the third face of discrimination in the dating sphere, which regards low-quality experiences, ranging from one’s sexual pleasure being taken less seriously to grave crimes being committed toward one by intimate or familiar others. Not least, it provides a grim truth about the dating sphere. It is a sphere both of pleasure *and* a site of harm and violence. I suspect this third face of discrimination plays an unfortunate role in the intimate life of a wide range of different lower-status groups, in particular different racial groups of women.

The three faces of discrimination in the dating sphere—exclusion, inclusion and low quality—illuminate different groups that are likely to suffer from different

6 Important work on exclusion in the dating sphere includes Bedi 2015; D’Alessandro 2023; Halwani 2023; Liu 2015; Midtgaard 2022; Räsänen 2023.

problems. Some groups probably suffer from more than one face of discrimination in the dating sphere. Duties to consider exclusively aid those who face the problem of exclusion and could potentially harm those who already suffer from inclusion. It is thus too narrow in scope to provide universal action guidance in the dating sphere. Proponents of such duties can plausibly accept the limited scope and argue that such duties should exclusively target groups who could actually benefit from being considered more often. In that case, it seems that people are left to decipher who right-holders and duty-bearers are, which can be an empirically vulnerable practice. I will now explore a duty that can provide more universal action guidance.

4 An Alternative: The Deliberative Duty

Given the limitations and weaknesses of individual duties, what can individuals then plausibly do in order to limit discrimination in the dating sphere? I propose a plausible duty that is individual but not as susceptible to the criticism I have pointed out: that is, time-insensitive regarding sexual malleability, too demanding on the duty-bearer, risks generating mere dutiful attraction behavior toward right-holders, and insensitive to the different faces of discrimination. I will take a first stab at developing such a duty here.

The alternative individual antidiscrimination duty in the dating sphere is a deliberative duty. The aim of this duty is akin to the aim of other proposed duties, namely, to minimize discrimination in the dating sphere. It is essentially about opening our eyes to the large pool of potential dates and hopefully experiencing dates based on genuine preferences. It is about critically reflecting on the restrictions placed on us by social hierarchies and, perhaps with time, leaving them behind. This duty has the bold potential to create a better dating sphere for everyone.

The deliberative duty that I propose is process-oriented as opposed to outcome-oriented. That is, the measure of success is not that an individual dates someone, properly considers dating anyone or does not reject interaction with someone. Rather, it is about asking oneself questions. Questions that are worth considering are inspired by a functionalist approach originating in a hiring context (Emens 2009), where an employer considers whether they should hire an applicant with a disability. In such cases, instead of either simply rejecting the applicant because the job is usually performed by a nondisabled worker or simply hiring the applicant because of antidiscrimination policies, the functionalist approach suggests that the employer should consider what the necessary components of the job are and what the abilities of the worker are. In other words, the employer should consider whether an individual has the “ability to perform” the job in question. Inspired by this scenario, Elizabeth Emens suggests that each individual ask themselves two questions in

the dating sphere. What essential functions are there for being A's intimate partner? And can B perform those functions? (2009, 1359–1366). Essential functions refer to what A takes to be necessary for the success of an intimate relationship, and if B cannot perform them, A sees no reason to associate (with intimacy in mind).

I suggest the following questions as part of the deliberative duty: (1) What do I consider to be essential functions for being my intimate partner? (2) In a sexist, racist, homophobic, fatphobic, ableist, lookist, classist and so on world, is there a chance my list of essential functions is affected by these structures or that the specific instances of essential functions are making me overlook viable potential dates? (3) In light of these structures, how might I aim to act toward others in the dating sphere while simultaneously acting in alignment with the preferences I currently have?

The first question of the deliberative duty centers on each individual as the proper agent of our intimate life. While it urges us to be curious about our preferences and why we have them, it does not presuppose a correct answer. This, I believe, makes it something everyone can do, even those who are asexual or embrace celibacy (either temporarily or permanently). The deliberative duty makes us consider who is now in our potential dating pool and who is now excluded. This is potentially a healthier standpoint that supports agency rather than obsessing with who excludes us from *their* potential dating pool. The deliberative duty simultaneously accepts that a trait such as attractiveness is considered an essential function for an intimate partner for many and requires that we reflect on what we take to be the essential functions of a partner. As such, the deliberative duty is not guilty of ignoring what people want in a partner, which in part motivates people to engage with one another, while it acknowledges that what people want is unlikely to be completely arbitrary. As we reflect on what is essential to us in an intimate partner, we may discover that shared values or interests are essential, or that a good partner for us is someone who is a great communicator or listener. Perhaps, in light of features that are truly essential to good intimate relations, race or looks can be perceived as nonessential or play a smaller role.

The second question relates to our preferences to the structures of the society we live in. The main point from the reflections on human sexuality in the earlier section was that social structures influence many of our preferences at any given time. Considering the possibility that, sometimes, our genuine preferences might differ from our structurally influenced preferences and that, at times, such structures might limit who we take to be potential intimate partners, reflection about such structures may open our eyes to folks we had not considered before. To take an example, imagine a heterosexual man who would usually describe his dating type as a conventionally attractive woman who is as passionate about doing sports as he is. Initially, this sounds like a rather short list. Upon critically reflecting on his preferences and how they exist in a world structured by social hierarchies he may discover

that actually, the list is longer: additionally, the type of woman he has in mind is of a certain race, age, educational level and is also able-bodied. This would not be too odd given the pervasive social hierarchies. Now that he realizes he may have inadvertently limited his dating pool to women of a certain look, race, age, class and ability, and to those who share a passion for sports, he can make a conscious effort to discover whether all these women really fall outside his preferences. If it turns out that the shared passion for sport is the most essential to him, while race or ability status is of less importance, he could potentially be more open to women of different races, or he may discover he is attracted to a certain woman who competes in the Paralympics. What might he gain from reflecting on whether homophobic and sexist structures have influenced his preferences, given that he is a heterosexual man? In relation to sexism, he may discover that he usually only considers very feminine women (in dress or looks) to be attractive, and that, on reflection, some less feminine women also fall inside his dating preferences. In relation to homophobia, he would reflect on whether no men fall within his preferences. Importantly, upon reflecting on social hierarchies' potential influence on one's preferences, one may discover that the scope of potential partners is broader than what one thought it was, or one may discover that the scope of one's preferences is unaltered. As the deliberative duty is process-oriented, it ultimately does not matter what one's preferences are after reflecting upon them, but it is central that one does reflect on one's preferences in light of social hierarchies.

Not least, being active in the dating sphere inevitably entails, for most of us, experiences of rejection. The third question prompts us to consider how we can navigate rejecting others without doing unnecessary damage. It prompts us to consider how we *express* our dating preferences. We usually reveal our preferences to signal our interests, which in many cases is morally unproblematic. But when some (and some supposedly do) have a discriminatory preference that targets one or several disadvantaged groups, such as the caveat "No Fats, Femmes, or Asians" seen on Canadian gay dating profiles (Liu 2015), the signaling seems morally problematic, because stating disinterest in already disadvantaged groups reinforces a degrading social message that they are not "good enough," and unnecessary, because in many instances strangers do not need to know why they were not chosen for further interaction. Is it similarly morally problematic to reveal one's disinterest in a certain sex, considering that the sexual norm today is to structure sexuality along a sex-axis? Since most people structure their sexuality around sex and expect others to do the same, revealing disinterest on this basis does not necessarily bear the same harmful or degrading social message other excluding preferences do. In societies today, revealing disinterest along a sex-axis is likely innocuous to the rejected party compared to disinterest along other axes. While expressing this preference when rejecting a person is likely not as cruel as it would be on the basis of race, looks or

ability status, it is still, generally speaking, unnecessary to reveal why one is not interested. It is not useful feedback to the rejected because they often could not change this aspect about themselves even if they wanted to, and it is unnecessary in a practical sense because communication often requires both parties to express interest in each other (at least in online dating), and last, we are not entitled to know strangers' preferences and are ultimately not owed an explanation for our rejection, especially not in the early stages of dating.

Considering that preferences may be prone to change during one's lifetime, the deliberative duty is best thought of as a continual duty. The interval with which one should assess one's preferences will vary from individual to individual, but it is a life-long duty. Even for those who have very stable preferences, it seems that nothing is lost by considering whether one's preferences are really one's genuine preferences at the present time. The duty does not require us to know our preferences at all times, as uncertainty is likely a considerable part of being a human navigating in the dating sphere. Taking the history of human sexuality seriously, this duty could be relevant for generations. As it is a step toward a more equal dating sphere, it can, as most social reform efforts, become superfluous one day when the aim is achieved.

Since my own proposal is an individual approach too, I will briefly consider whether it is vulnerable to the criticism I have given other individual approaches. First, in regard to the time sensitivity of intimate preference malleability, the deliberative duty does not require anyone to change their sexual/dating preferences, and it does not rest on any particular view of sexuality and sexual preferences. On the contrary, it is possible to fulfill the duty for both the celibate and active dater. Not least, it is time-sensitive, which sexual malleability seems to require. Hence, the problem of the precariousness of how sexual preferences operate is dodged. Second, regarding the undesirable burden on the duty-bearer, few seem willing to be saintly daters and forgo acting on their own preferences in the dating sphere. Even if someone would be willing to do so, such as the saintly daters, we may argue that, because of the crucial importance of intimate relationships to our well-being and its central role in our pursuit of happiness, it is bad for the duty-bearer to forgo her interests in this domain. The deliberative duty risks no such forgoing of interests for any duty-bearer, because it allows us to act in alignment with our preferences at present and thus allows the pursuit of our own interests. Third, regarding undesirable charity dates for the right-holder, since the deliberative duty is process focused rather than outcome focused, fulfilling a duty does not necessarily lead to any interaction, let alone a date. As such, it abstains from nudging people to go on charity dates, hence circumventing the risk of experiencing mere dutiful attraction behavior for the right-holder. By its functionalist design, it pushes daters to reflect on what is essential to them in a partner. If two people are compatible in many ways, except one has a less desired look, or is of a different race, the duty requires one to

consider whether such features are essential or not. If such traits are not essential upon reflection compared to how essential it is to have compatible personalities and shared interests, then the deliberative duty increases the chance of people acting on genuine (deliberated) attraction. If traits like race and looks, for some reason, are as essential to someone as sharing values is with a partner, then the deliberative duty does not push them toward dating people who fall outside one's preferences, that is, it does not encourage mere dutiful attraction behavior. Fourth, regarding the different faces of discrimination, the deliberative duty is sensitive to both the problem of exclusion and inclusion. The face of low quality is not so easily solved, even with the deliberative duty. Of course, other moral duties demand of us not to hurt or harm others in the way low-quality experiences do. Yet, perhaps even here, the deliberative duty is a step in the right direction because it urges awareness of the power structures in the dating sphere and because it is process focused rather than outcome focused. I hope to have shown that the deliberative duty is not vulnerable to the concerns I have raised about the other putative duties and behavior constraints.

I will now consider some objections to the deliberative duty. First, some may object to individual approaches to minimizing discrimination, arguing that discrimination is a problem so pervasive that it must ultimately be dealt with on a structural level. As has been clear throughout the paper, I find no reason not to support structural reform efforts. Drawing on existing research on bias and prejudice (Madva 2017) as well as climate change efforts (Brownstein, Kelly and Madva 2022), I suggest we take the individual deliberative duty to be *symbiotic* with structural reforms, that is, it is part of a both/and package of changes that ought to be made to limit discrimination in the dating sphere.

Others may object that the deliberative duty regarding our preferences is too demanding. In return, I claim that assessing one's preferences is part of most people's lives, a part of growing up and becoming romantically or sexually active. The deliberative duty simply explicitly prompts one to ponder whether one's preferences really are one's preferences versus, for example, what your family or current group of friends deem attractive, or what mass media portrays as attractive or preferable.

Third, some may object that the duty is underwhelmingly demanding, that is, not demanding enough. It is true that the deliberative duty suggests a cap to what is required from agents in the dating sphere. It requires carefully deliberating one's preferences once in a while, but it does not, strictly speaking, require one to act on one's preferences, and in this sense it is the weakest type of antidiscrimination duty. I have, through the Sainly Dater argument, argued that the alternative is too demanding on individuals, so I willingly admit that the deliberative duty is relatively less demanding. However, I also argue that this feature makes the duty more plausible. Proponents of the more demanding alternative have yet to explain the plausibility of their relatively more demanding duties. Additionally, we can distinguish between advocating for

deliberating and *acting on deliberations*. Oftentimes, we would expect an agent, after careful deliberation, to act on what they have learned about their preferences. In many cases, this will be a consequence of the deliberative duty. However, there may be grounds for not acting on one's deliberated preferences, both on the part of the deliberator and those they have a preference for. History does not lack examples for why one might want to not act on one's sexual preferences. Homosexually oriented people have been shunned from families and subjected to horrible treatment, and interracial or inter-caste marriages can, in some families and societies, result in similar treatment. In essence, there can be compelling reasons – such as safety regarding one's life or well-being in a local community – to not *act* on one's preferences. The individual will have to assess what is right for them.

Fourth, some will wonder about potential outcomes of the deliberative duty. For instance, what if someone has fulfilled their deliberative duty at present only to find they are attracted exclusively to Hollywood types, that is, the most beautiful, wealthy and talented? If an agent has deliberated only to uncover that their preferences are wildly discriminatory in the dating sphere, it follows, perhaps controversially, from the duty that it will not require more from them at the present time. Recalling that it is a life-long duty, they ought, as any other agent, to revisit their preferences again at a later time. However, on my view, it is ultimately within their rights to have such preferences, but it is also within the rights of everyone else to reject them without giving them further consideration.

5 Conclusions

There is much more to be said on this complex intersection of ethics and human nature. I hope to have delivered some weighty challenges that demonstrate why we should be cautious of individual duties in the dating sphere, even when we agree with the aim of limiting discrimination in this sphere. I have presented an alternative individual duty, which I argue is time-sensitive regarding preference malleability, avoids being too demanding on the duty-bearer, reduces the risk of generating mere dutiful attraction behavior toward the right-holder, moves a step in the right direction regarding handling the different faces discrimination takes in the dating sphere and, in sum, is a more plausible antidiscrimination duty in the dating sphere.

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