

Moral Equality and Age Discrimination: Bidadanure on Justice Across Ages

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ABSTRACT

A situation where everyone is equally well off in terms of their whole lives, but where, at any given moment, the young flourish while the old are miserable, seems unjust, but not as unjust as situations involving race and gender discrimination. In the light of the former noncomparative proposition about injustice, Bidadanure suggests that justice between age groups has a synchronic relational egalitarian component: members of different age groups must relate and stand as equals at any given moment. This demand requires the absence of relations of age domination, stigmatization, marginalization, etc., between members of different age groups. I argue, first, that the concern to avoid such relations is not narrowly tied to the ideal of equality: it is consistent with denying basic moral equality. Plausibly, the concern to avoid relations of domination etc. arises even when they do not take on asymmetric, anti-egalitarian forms. I argue, second, that since there are different concepts of age, and therefore different concepts of age discrimination, it is easy to overestimate the degree to which the alleged fact that we all age renders age discrimination morally less problematic from the perspective of equality than race and gender discrimination.

Keywords: age discrimination, concepts of ageing, discrimination, domination, moral equality, relational egalitarianism.

1. INTRODUCTION

Consider:

Unequal City: ... a city where elderly people live in miserable and overcrowded retirement homes with little prospect for happiness, while younger people live in lovely affluent residences. The older residents enjoyed the same happy lifestyles in their past, and the younger residents will end up in the same miserable homes themselves when they grow old. (Bidadanure 2021: 87; see also McKerlie 2013: 6)

For many people, there is something morally objectionable about this situation even if the young and old people's lives taken as a whole are equally good, and even if having an equal intrapersonal distribution of wealth, housing facilities etc. would not make anyone's life better.¹ It seems that, morally speaking, we care about more than people's whole lives being equally good if, indeed, we do care about that (*Unequal City* does not speak to this question).

Some theorists think that to explain our attitude to *Unequal City* we need to invoke values other than equality, e.g. appeal to a sufficientarian concern that everyone has enough at any given time in their lives. Others have taken *Unequal City* to show that the ideal of distributive equality concerns equality across not just whole lives but also simultaneous segments of lives (McKerlie 2013; Temkin 1993). Building on earlier work in her excellent and very rich *Justice Across Ages*, Bidadanure proposes an ingenious alternative to these two reactions. While she agrees with the latter group that *Unequal City* violates the ideal of equality, she thinks the violation is best understood in terms of relational equality. Relational equality among age groups excludes age discrimination even when the discrimination does not amount to a distributive injustice. It also rules out "demonization, exploitation, segregation, stigmatization, marginalization, and domination" (119), taking these phenomena in themselves to offend against relational equality whether they causally prevent the realization of distributive justice values or not.

In this article, I focus on two—as far as I can tell, unrelated—respects in which, in my view, Bidadanure's account of relational justice across ages can be improved. In section 2, I argue that while she may well be right that

¹ Would it make any difference to our intuitions if, in *Unequal City*, it were the young who were badly off and the old who were well off—with the upshot that presently miserable young people could look forward to improvements as they age? If it would, then it may be that our intuitions about *Unequal City* are influenced by our view (now revealed) that the location of benefits across a lifetime matters—i.e. that a life with increasing welfare from a low level at young age is better than an otherwise identical life with decreasing welfare from a high level at young age—together with a concern about lifespan prudence (50-84).

to account for the moral undesirability of Unequal City (and similar cases discussed in the literature) we need to appeal to a relational ideal, it is unclear that this ideal must be egalitarian rather than nonegalitarian. True, many card-carrying relational egalitarians think of our disapproval of phenomena such as domination as a relational egalitarian one, grounded in the assumption of the basic morality of persons, i.e. that, fundamentally, all persons have an equal moral status. But these phenomena are better thought of differently, or so I shall argue.

In section 3, I pursue questions about what age and, thus, age discrimination is. A few passages in her book aside, Bidadanure assumes a chronological understanding of age. This comes out most clearly in her explanation of why “we feel much less uncomfortable about” (24) age discrimination than we do about race and gender discrimination: “Contrary to gender and race, age is not a discrete and immutable feature. We all age ... As we pass through the different age categories, burdens and benefits that once applied to those older than us become ours” (29). Setting aside the fact that some people (admittedly in rich parts of the world a very small minority) die before they reach the age of 40, this explanans is true only if by “age” we mean chronological age. There are other notions of age, and on nonchronological ones it is probably not even roughly true—and clearly, literally false—that we all age and that therefore the “burdens and benefits” of old age will eventually accrue equally to all of us. As a result, age discrimination is probably more like race and gender discrimination than Bidadanure and like-minded theorists think. I should emphasize that I see neither of the two lines of argument that I develop in this article as constituting fundamental criticisms of Bidadanure’s project. Rather, I see both as friendly, though significant, amendments to her theory, which are very much in tune with its underlying motivation (as I understand it).

2. NONEGALTARIAN RELATIONAL EQUALITY AND UNEQUAL CITY

Bidadanure sees her account of justice across ages as egalitarian in both a “banal sense and in a substantive sense” (15). It is banally egalitarian because it is committed, like most other normative political theories, to “the basic view that all persons are moral equals and that they are due equal concern” (15). Indeed, this commitment is central to her outlook: “The conversations in this book assume the truth of this basic moral equality” (15, 48, 173-5). I take this to mean that if basic moral equality does not obtain, then Bidadanure’s relational egalitarian theory would not be justified. After all, if it would be justified even if basic moral equality

were false, then the conversations in her book might not need to differ, conclusion-wise, if we were not to deny “the truth of this basic moral equality”.² But the account is also substantively egalitarian, since it amounts to:

a broadly social egalitarian conception of justice—one that defines just social arrangements by appealing to the notion that individuals should be able to stand and relate as equals. My view is close to Tim Scanlon’s pluralist egalitarianism in that I recognize a variety of reasons we have to object to inequalities. (15)

The pluralism of Bidadanure’s egalitarianism can be seen in her view that while we have a distributive concern about whether people’s lives as a whole are equally good (but no such concern about whether simultaneous segments of the lives of different people are equally good), we also have a nondistributive, relational concern to ensure that at any given moment people relate to each other as equals.³ In *Unequal City* the second of these concerns is unmet, and for Bidadanure it is that feature—not segmental distributive inequality—that is objectionable:

Elderly residents are spatially segregated from the affluent youth. They are also likely to become marginalized from the rest of their community. Spatial segregation and unequal levels of affluence easily become associated with unequal status, unequal levels of respect, and power. For this reason, a relational egalitarian (at least one that is risk averse) still has reason to worry about the *Unequal City* example, and to treat it as dystopian, or potentially dystopian ... [W]hat is problematic in [examples like *Unequal City*] is precisely that these societies may

² Another possible interpretation of what “assumes” means is that basic moral equality is a premise in Bidadanure’s arguments (though it is not, I think, explicitly appealed to in this capacity in any of the arguments she offers in her book) even though she leaves open whether the same conclusions could be reached even if we reject basic moral equality. Perhaps it is simply indeterminate in the book how basic moral equality relates to Bidadanure’s substantive views of justice across ages. Readers who think so can read section 2 as an exploration of what to say about Bidadanure’s substantive views of justice across ages if we resolve the indeterminacy in the way I have interpreted her remarks on how her discussion “assumes” basic moral equality.

³ Her main reason for rejecting the McKerlie-Temkin view that there is a distributive concern about whether simultaneous segments of the lives of different people are equally good is that any attempt to delimit the relevant segments to be compared is bound to be arbitrary and no better than alternative ways of doing so (89-95). As I understand Bidadanure, she thinks distributive justice concerns both the distribution of resources (e.g. 123), and of opportunities (e.g. 118). When she introduces the “equality through time” debate (30-2), the discussion is cast in terms of well-being. In any case, the question of the currency of distributive justice does not take up a lot of space in her book, and nothing in the arguments below hinges on it.

not be relational equals at any point. (102)⁴

What, then, does relational equality require when it comes to relations between young and old? Bidadanure proposes the following principle:

Synchronic relational equality principle: Institutions should aim to establish communities whose members are able to relate and stand as equals regardless of their age. Inequalities between young and old are unjust when they constitute or enable relations of inequality (such as demonization, exploitation, segregation, stigmatization, marginalization, and domination). (119)

Note, first, that *Unequal City*, as it is described, does not clearly involve any of the relations (other than spatial segregation, to which I will return shortly) that Bidadanure includes on her list of those that are constitutive of unequal social relations.⁵ Her suggestion that *Unequal City* enables, or is likely to generate, relations of inequality looks plausible to me. However—and this is a second point—it is hard to see how something can be unjust simply in virtue of its enabling or being likely to generate relations of inequality. We would not say something similar about distributive inequality—i.e. that something that enables distributive inequality or renders it likely, such as the option of gifts, is unjust simply on account of doing so.⁶ And surely our reluctance to infer from the fact that something enables inequality or injustice, or makes either of these likely, to the conclusion that it itself is unjust generalizes beyond distributive inequality.

Third, like many other relational egalitarian theorists (Schemmel 2021: 11), Bidadanure says relatively little in her book about what, exactly, it is to relate and stand as equals. She mentions relations—as we have seen: “demonization, exploitation, segregation, stigmatization, marginalization, and domination” (119)—that she regards as incompatible with egalitarian social relations. Yet it is not clear that people relate as equals just because

⁴ The parenthesized qualification “at least one that is risk averse” introduces an element of uncertainty about whether Bidadanure is submitting that *Unequal City* is *merely likely to be* objectionable for relational egalitarian reasons, or more strongly that it *is* objectionable for those reasons. As I see it, she must make the stronger claim in order to make a case for a relational egalitarian account of the moral objectionableness of *Unequal City*.

⁵ To be sure, the indented passage says that some of these relations are “associated with” spatial segregation and that the spatially segregated elderly residents are “likely to become marginalized from the rest of their community”. Also, she refers to how a risk averse relational egalitarian will assess the case, and she describes it as “potentially dystopian”. Hence the example can naturally be read as stipulating that while the elderly residents face a risk of marginalization etc., they might not be marginalized etc.

⁶ This is not to deny that the availability of some options might be unjust in virtue of it having the features of both making unjust distributive inequality likely *and* some other feature, e.g. that it involves the option of performing an action, which is unjust independently of how it affects the justice of distribution. The second conjunct might enable us to distinguish between, say, the option of offering a gift and the option of having a gun.

they do not relate as unequals.⁷ Anyway, let us have a look at the relations of inequality that she mentions as examples of “relationships of inequality”.⁸

It is not clear that all Bidadanure’s examples really are cases of unequal relations (which, of course, is neither to deny that the relations are undesirable, nor to imply that relational egalitarians do not, or should not, categorize these relations as undesirable). Take domination. Typically, relations of domination are asymmetric. There is a dominator and a dominatee, and the dominatee does not in any (local) way dominate the dominator. However, domination can be symmetric. Suppose by “domination” we mean the following: an agent dominates another “to the extent ... that they have the capacity to interfere on an arbitrary basis in certain choices that the other is in a position to make” (Pettit 1999: 52). Now imagine we have two agents, both of whom have the capacity to arbitrarily interfere in the other’s choices, and in the same way, e.g. they can both at any given time seriously harm the other person by shooting that person. This situation is clearly undesirable. My question is how this undesirability of (symmetric) domination relates to the ideal of equality. In my view there are two ways in which the connection is thinner than Bidadanure thinks.

First, it is unclear in what way agents who are in a relation of symmetrical domination do not relate and stand as equals. Suppose both agents in the relation refrain from ever interfering in the choices the other person is in a position to make, and that they both refrain from doing so out of respect for the other person as an autonomous individual with the right to make the relevant choices in the absence of arbitrary outside interference. Compare this situation to one in which one party abstains from exercising her ability to dominate the other while the other does not so abstain—that is, the other interferes out of a lack of respect for the first party as an autonomous being. This situation is worse than the first. Moreover, it is worse at least partly because it involves the absence of relational equality. Specifically, the agent exercising domination relates as a superior to the dominatee, not as an equal. But if that is so, then the feature of relating as unequals cannot be present already in the first situation involving symmetric domination. Hence symmetric domination does not involve relational inequality, which means that domination *per se* does not involve

⁷ Not doing the latter does not entail doing the former; since one can relate without relating as holders of social and political status (whether that status is equal or not).

⁸ Because they are introduced as examples of inegalitarian relations, we can safely assume that there are others. Elsewhere she mentions infantilization, normalization of financial dependency on one’s parents for young adults and mansplaining (8, 86, 104-10, 142).

relational inequality.⁹ This is not to suggest that we should not be concerned with domination *per se*. Rather, it is to suggest that insofar as we are concerned with domination *per se*, the rationale for this concern cannot be a concern for relational equality. Accordingly, Bidadanure might accept the present line of argument, submitting that while relations of asymmetric domination are objectionable on relational egalitarian grounds, symmetric relations of domination are objectionable on other grounds. However, to the extent that relational egalitarians do want to object even to symmetric relations of domination, this seems like biting a bullet.¹⁰

Second, it is worth querying whether the concern to avoid domination really presupposes “the basic view that all persons are moral equals and that they are due equal concern” (15). Suppose Superior—a person with, as the name indicates, superior moral status—has higher moral status than Inferior, and that Superior is due greater concern than Inferior. Even so, we might still think Superior ought not to dominate Inferior. Many people think that human persons have a higher moral status than dogs. Despite that, they might oppose the domination of dogs by human persons. This is to be welcomed by relational egalitarians, because it means that a social relation that relational egalitarians oppose is one that we can persist in rejecting even if we reject basic equality, e.g. even if we think that different people have incommensurable moral statuses (Lippert-Rasmussen 2022).¹¹ This implies that the concern to eliminate domination is not rooted in basic moral equality, as the opening remarks of Bidadanure’s book suggest, and thus that if relational egalitarianism is, then the concern to eliminate domination is ultimately not a relational egalitarian concern. This is not to deny that certain asymmetrical relations of domination, and indeed the sorts of social relations and dispositions that their existence generates (e.g. servility), are objectionable for reasons that are distinctively relationally egalitarian—reasons adding to those explaining why domination *as such*

⁹ This is not to deny that domination is rarely symmetric. Nor is it to deny that relations of symmetric domination are undesirable from a relational egalitarian perspective for instrumental reasons, principally because they are unstable and tend to transform into asymmetric relations of domination.

¹⁰ I elaborate on this challenge in (Lippert-Rasmussen, forthcoming).

¹¹ One can welcome this as a subscriber to the view that all persons have equal moral status if one thinks that it is possible that one’s subscription is a mistake, e.g. in view of the various challenges that have been mounted to basic moral equality (Arneson 1999; Arneson 2015: 42; Husi 2017; Singer 2009; 2011). For recent defenses of (something like) moral equality, see Carter 2011; Parr and Slavny 2019; Waldron 2017. As Singer pointed out long ago, one can think that basic moral equality is false without thinking that moral status varies across race, gender and the like (Lippert-Rasmussen, 2023, forthcoming). One might think that basic moral equality is false because it is scalar. For example, one might hold that people with greater agential capacities have higher status than those with less capacity (and that, for reasons of agential capacity, some nonhuman animals have higher moral status than human beings). Obviously, the truth of such a view would imply that there are no moral status differences across groups defined by race and gender.

is morally objectionable. It is simply to say that the concern to avoid domination *as such* does not rest on the assumption of the basic moral equality of all persons.

So much for domination. Domination is just one of several examples of unequal social relations that Bidadanure offers—“demonization, exploitation, segregation, stigmatization, [and] marginalization” (119) are others. Hence it might be asked whether the points made above apply to these other relations.

In my view, the answer is yes—similar points can be made about demonization, exploitation, segregation, and stigmatizing. Even mutual and symmetric cases of these phenomena can be obviously morally undesirable, and not just because there is a risk that they will transform into their one-sided and asymmetric counterparts over time. On the other hand, they seem less bad than their asymmetric counterparts, where specific groups are singled out for demonization, exploitation, segregation, and stigmatization.¹² They seem less bad for the same reason that mutual domination seems less bad than asymmetric domination—at least they need not involve people relating and standing as unequals. Also, in my view one can soundly be opposed to these phenomena even if one rejects moral equality. Whether or not basic moral equality justifies opposition to them, basic moral equality is not necessary for such opposition. Specifically, one might think that the demonization, or the exploitation, or the stigmatization of certain groups is unjust even if one thinks that people’s moral status varies with their degree of agential capacities.

Marginalization, I accept, is different, since the concept of it has built into it an asymmetry between how members of marginalized and nonmarginalized groups are treated and relate to one another, meaning that, arguably, the concern to avoid marginalization is intimately tied to a concern to safeguard relational equality. Even here, however, one can oppose marginalization without accepting basic moral equality. Thus one might think that people with a lower moral status arising from their lower agential capacities—e.g. old people in the final stages of Alzheimer—should not be marginalized, just as young infants should not be, even though, typically, their levels of agential capacity are much lower than those of adults.

To summarize, then: it is unclear to what extent Bidadanure’s synchronic relational equality principle presupposes basic moral equality; and it can be queried whether the sorts of relation that Bidadanure takes to violate

¹² What I have in mind by a specific group being singled out for segregation is a situation where there are several groups, and where the members of all the other groups move from parts of town where members of that segregated group live or spend time in.

that principle always do so. As I have indicated, one response to the first of these claims is to welcome it. A moral principle that can be defended on fewer assumptions than had been supposed is in a certain sense strengthened by that fact—its defensibility's multiple realizability, as it were, shows it to have greater robustness. Where the second claim is concerned, one response would be to stick with Bidadanure's list of undesirable social relations between members of different age groups, or for that matter between different people, and to treat them as relations that we should oppose in all forms, even symmetric ones, and then simply to revise our idea that the concern to avoid these social relations is distinctly egalitarian. Here one might add that there is something particularly bad about asymmetric cases of the social relations in question (with domination being an obvious case in point) when they, as indeed they most often do, involve some people relating to others as superiors to inferiors (and vice versa). To my mind, this adds up to an important rethinking of how Bidadanure's substantive theory of justice relates to basic moral equality, albeit one which I think is very much in tune with the spirit of Bidadanure's project and which renders it more robust in the way I have explained.

3. THE MANY FACES OF AGE

Bidadanure says, as I noted in the Introduction, that we tend to think of age discrimination as less morally objectionable than race or gender discrimination. I agree. She plausibly suggests that we think this way because we all age and, thus, will all eventually face the same “burdens and benefits” (29) associated with being members of different age groups. There is a contrast here with race discrimination, where some people face the severe burdens overall of belonging to a disadvantaged racialized group, and others enjoy the minor burdens and ample benefits of belonging to a privileged racialized group, for their entire lives. Hence, when we think of distributive justice as measured against whole lives, age discrimination seems less morally objectionable (if it is objectionable at all). Call this the *comes-to-us-all argument*.

While there is something to this explanation, at least three reasons indicate that the difference Bidadanure is pointing to between ageism and forms of discrimination like racism and sexism is less sharp than she sometimes appears to suggest. First, as Bidadanure acknowledges, some people die young, and indeed some are aware for much of their short lives that they will probably die young. For such people, anti-youth age discrimination does not differ from race discrimination in affecting only part of an entire life. The *comes-to-us-all argument* offers them no

reassurance (see also Valente, this symposium).

Second, as Bidadanure observes, the “burdens and benefits” of ageist discrimination are intersectional. As she puts it:

ageism in fact often works in combination with sexism, racism, and classism. Older women, for instance, tend to be disproportionately stereotyped and stigmatized. Sexism and ageism operate together to create a perception of women’s ageing as a process of sexual disqualification. (14)

This intersectionality means that even if we all age in the sense that, for all of us, it is true that for each extra year we have lived, our chronological age will have increased by exactly one year, it is not true that all of us face the same “burdens and benefits” in becoming one year older, chronologically speaking. For reasons that Bidadanure herself points to, typically, a middle-aged woman who becomes one year older (unjustly) receives a less attractive package of “burdens and benefits” than a middle-aged man who becomes one year older.¹³

Third and finally, there are different notions of age, and it is unclear that what is crucial in age discrimination and age-related “burdens and benefits” is chronological age. In a recent article, Joonas Räsänen (2021: 34-6) helpfully distinguishes between chronological, biological, and experiential age. Chronological age is the length of time that has passed since one came into existence. This is the notion of age that Bidadanure mostly has in mind. For example, when she says “we have little control over our numeric age. We simply do not choose our date of birth” (173), it is chronology she is thinking of. Biological age is determined by one’s fitness and health. Presumably, it is this notion of ageing that Bidadanure has in mind when she writes that “workers age unequally” (162). People simply cannot age unequally in a chronological sense of age, and although chronological age is generally a good predictor of biological age, the two can come apart significantly. Hutchinson-Gilford syndrome, for instance, is a genetic disorder that causes children to age rapidly, biologically speaking, from their first two years of life. At the age of ten, people with the syndrome may have a biological age exceeding their chronological age by several decades. Turning to experiential age, this is a matter of the amount of time that one has been conscious in one’s life. Given such conditions as

¹³ In discussing retirement age, Bidadanure also points to another form of intersectionality, saying that “workers age unequally (partly because of the kind of job they do but also based on other factors)” (162). An old footballer will be much younger, chronologically speaking, than an old professor, as a result of the different requirements of the jobs and not just because the jobs affect people’s bodies differently. This form of intersectionality also means that even if we all age in a chronological sense, ageing does not involve the same “burdens and benefits” for us all.

coma and vegetative state, one can be younger, experientially, than one is chronologically (obviously the reverse is impossible). Finally, a separate notion of behavioral age can be conceived. By this I mean the average age of people who manifest the same sort of behavior as one does. An example will help. In their short-term memory behavior, some young people may appear older, chronologically, than they are, because they perform less well than would be expected for a young person. Equally, behaviorally, some older people could seem younger than they are, chronologically, in virtue of their unusually good short-term memory skills.¹⁴ In ways like this, behavioral and chronological age can diverge.

Generally, these four notions of age align, i.e. we generally age at roughly the same pace in all four senses of age. However, disparities between chronological age and, in particular, biological and behavioral age are significant enough to mean that we need to ask what sort of age is at stake in claims of age discrimination, as I shall now explain.

Let us start with direct age discrimination against older adults, i.e. cases in which an older person is treated worse than others because they are the older party.¹⁵ It is generally assumed that the notion of age here is chronological, but must it be? I propose to set aside experiential age, which, at least in terms of direct discrimination, seems to be an outlier in the present context, and focus on biological and behavioral age.¹⁶ No doubt there are cases where old people are discriminated against simply in virtue of their chronological age. Perhaps an employer automatically disregards applications from applicants whose date of birth lies too far back in the past (or in cases of discrimination against the young, is too recent) without knowing the biological or behavioral age of—or for that matter, anything else about—the applicant. However, cases can also be imagined in which an employer treats applicants differently on the basis of their biological or behavioral age and disregards—or, more realistically, gives less weight to—chronological age. If, say, the applicant can produce a medical test to the effect that his biological age is 30, perhaps the employer will hire him as a fitness trainer even though his chronological age is 50. Perhaps the employer would not hire an applicant with a biological age of 50 even

¹⁴ The skills may be elevated relative to the individual's chronological age, or perhaps relative to the species-typical age at which short-term memory peaks.

¹⁵ I set aside indirect discrimination here. It is possible that, in general, because the four notions of age go hand in hand, indirect age discrimination in one of the four senses of age also implies indirect age discrimination in one (or more) of the three other senses, in which case the discriminatee might have more than just one complaint about wrongful discrimination.

¹⁶ Discriminators rarely, if ever, treat discriminatees differentially on the basis of the amount of time the latter have been conscious.

though his chronological age is 30.¹⁷

The upshot of this is the following: age discrimination need not be discrimination on the basis of chronological age. Given this, and given that the processes of biological and behavioral ageing can vary significantly among individuals, some forms of age discrimination come only to some of us, and come in different degrees to those to whom they come.¹⁸ For example, some people will live relatively long lives and never reach old age, in behavioral terms, and those who do reach old behavioral age will do so in different degrees and for periods of time of varying lengths. This means that the comes-to-us-all argument exaggerates the degree to which age discrimination is less problematic—or at least the degree to which certain forms of age discrimination are less problematic—morally, than race and gender discrimination. My sense is that this conclusion is in conflict with the comes-to-us-all-argument. However, I think Bidanure could accept the points made here without needing to revise other parts of her theory of justice across ages. Actually, I see the discussion in this section as part of a development of Bidanure's work, not negative criticism of it. My points emphasize, I hope, that Bidanure's theory is more important than it might seem, since it addresses a phenomenon with greater moral urgency than she claims for it.

Before concluding, I want to respond to four challenges to my argument in this section. First, some might say that even in cases where the discriminator treats the discriminatee disadvantageously on account of her biological or behavioral age, what is really going on is discrimination based on age in a chronological sense, because the other two kinds of age are too tightly connected to chronological age for us to pull them apart in the way I suggest. Similarly it might be said that, although many women have never been pregnant, because the overwhelming majority of pregnant persons have been women, where an employer discriminates against pregnant employees on account of their pregnancies, we would want to say that the employer engages in gender discrimination, not—or not only—gender-neutral “pregnantist” discrimination (Jonker 2018). We would want to say this, it might be added, even if it so happens that the employer would have treated a pregnant male employee no better. Likewise, even if there can be discrepancies between people's age in different senses, the fact

¹⁷ If we think young biological age is a relevant qualification for being a fitness trainer and discrimination is treating some people disadvantageously based on irrelevant properties, then this employer will not engage in age discrimination. However, here I am simply making a more limited point about how differential treatment based on different age properties can come apart.

¹⁸ Because this gap can vary not just between individuals but also between, say, the rich and the poor, age discrimination is likely to intersect with socioeconomic discrimination. I thank Tom Parr for this observation.

remains that people's chronological age is too tightly connected to their ages in other senses for us not to regard differential treatment based on a person's biological or behavioral age as a case of chronological age discrimination.

In response to this challenge I note, first, that the mere fact that two forms of differential treatment—or, if you like, two forms of discrimination—X and Y, are tightly connected does not tell us whether X is a form of Y or Y is a form of X. Specifically, in the case at hand, why should we think of biological or behavioral discrimination as a form of chronological age discrimination in light of their tight connection, as the challenge claims? After all, cases of pure biological or pure behavioral age discrimination are possible.

Second, I suspect that this very idea, that if two forms of discrimination are tightly connected then one must be a form of the other, is a misunderstanding. Instead, we can think of the two forms as varieties of discrimination that go hand in hand in most cases, and can be hard to distinguish, but are nevertheless distinct. In the present context, the idea would be that age discrimination can take several forms which interact in complicated—sometimes surprising—ways. One such interaction, for instance, occurs when people's behavioral age diverges from their chronological age in a way that is generally seen as positive. For example, an energetic 70-year-old might be treated advantageously, and perhaps even benefit from favorable discrimination, relative to a similarly energetic 30-year-old.

The second challenge to my argument is this. Arguably, people are responsible in varying degrees for their biological age (a healthy lifestyle is a choice) and behavioral age (some patterns of behavior, at any rate, are under the individual's control).¹⁹ By contrast, and setting aside suicide, people have no responsibility for their chronological age. Moreover, it is worse to discriminate against people on the basis of properties they do not control than on the basis of properties they do control. If for no other reason, then because if you control whether you have the property on the basis of which you are being discriminated against, you control whether

¹⁹ Some, e.g. hard determinists, might deny that one's biological and behavioral age are to any degree something for which people are responsible and many, who unlike hard determinists acknowledge that people are sometimes responsible for some states of affairs, might deny that people are to any degree other than a very marginal one responsible for their biological and behavioral age (see my first response to the present challenge below). However, while, for present purposes, I remain agnostic on the truth of more permissive views of responsibility for biological and behavioral age, I suspect that these are sufficiently plausible to be worth addressing.

you are being discriminated against and thus can avoid discrimination.²⁰ If these two claims are true, then this supports the claim that the nonchronological forms of age discrimination I have been pointing to, to weaken the comes-to-us-all argument, are morally less objectionable than race and gender discrimination—for we have no control over our race or gender.²¹ Given this, the comes-to-us-all argument can be presented in a revised, slightly more complex form, as a *differential control argument*.

There is something to this challenge, but it does not successfully rehabilitate the comes-to-us-all argument. First, it is true that people have more control over their biological and behavioral age than their chronological age. However, it is important not to exaggerate this difference. People who are 58 have no control over whether, biologically speaking, they have the age of a 38-year-old. They just do not (Amarya *et al.* 2018). Second, on many views of it, the wrongness of discrimination can be accounted for without reference to responsibility. One view has it that discrimination is wrong because it is demeaning. On this view, it is unclear that responsibility makes any difference to when something is demeaning and, thus, to the wrongness in question (cf. Bidadanure 2021: 173-5). Would the availability of a “sexual orientation pill” that makes sexuality something one can control, in an important sense of “control”, make homophobic discrimination any less demeaning than it was before the pill was made available? It seems that it would not, in which case this lends some support to the view that, on an account of the wrongness of discrimination that rests on demeaningness, responsibility makes no difference, or at least often makes no difference, to the wrongness of discrimination. If so, the differential control argument is weakened. Third, while the differential control argument might do something to shore up the conclusion of the comes-to-us-all argument, it does not rescue it from the criticisms I have pressed by appealing to the notions of biological and behavioral age.

The third challenge to my argument is this. If most instances of age discrimination were instances of, say, biological age discrimination, then that would indeed weaken the comes-to-us-all argument. However, as a matter of fact, most instances of age-discrimination are chronological age

²⁰ If this property is tied to the discriminatee’s self-identification, thus making it unreasonably costly for the discriminatee to exercise their control in such a way that they no longer have this property, then this might imply that control makes no, or only very little, difference to the wrongness of discrimination (see Cohen 2004).

²¹ There are various ways in which one might think that degree of control matters morally. The most uncontroversial is probably the view mentioned above: that discrimination based on a property that the victim can control can be avoided by the victim. More controversially, it might be thought that subjecting people to disadvantageous treatment on the basis of properties they cannot control is more unfair than subjecting them to similarly disadvantageous treatment on the basis of properties they can control.

discrimination. Moreover, in most instances where people are discriminated against because of their behavioural or biological age, this was the result of their chronological age triggering examination of their nonchronological age. Thus most instances of behavioural or biological age result from prior chronological age discrimination.²²

In response, I note that this challenge rests on an empirical premise which, while presently unsubstantiated, plausibly cannot be quite true. For instance, one's biological age is signalled by one's looks, and much appearance discrimination consists in discrimination against people whose biological age is perceived to be high. To the extent that the premise is true, however, I could narrow the scope of my challenge to Bidadanure's comes-to-us-all argument and say that while this argument might have force when it comes to chronological age discrimination, it has little force when it comes to behavioral and biological age discrimination.

Fourth and finally, it might be pressed against me that while, in most contexts, race and gender is irrelevant, in many contexts age is relevant—if not in itself, then as a reliable proxy—and, accordingly, age discrimination is more likely to be justified than race and gender discrimination, e.g. it is justified to use chronological age as a proxy for ability to work as an airline pilot, but it is not justified to use race or gender as proxies for the same target property.

In response, I note that to the extent that this challenge is well-taken, it is not a challenge to my critique of Bidadanure's comes-to-us-all argument. Rather, it offers a different argument for the conclusion that the comes-to-us-all argument is supposed to justify. Note next that it might be questioned whether this challenge in fact succeeds in justifying that conclusion, since it seems that chronological age is no different from race and gender in that, in itself, it is relevant in almost all contexts. An airline pilot's chronological age of, say, 90 is irrelevant in itself to the pilot's ability to do their job well—if the nonagenarian had the eyesight and reflexes of a thirty-year-old then their chronological age would not be a problem. Of course, chronological age is nevertheless a quite reliable proxy for the ability to perform certain jobs, e.g. a chronological age of 90 is a good proxy for having a reduced ability to fly a commercial airplane safely. However, something similar could be said about race and gender in a racist and sexist society; where, say, from the perspective of an employer, gender is a reliable proxy for likelihood of taking parental leave and race is a reliable proxy for level of education. Hence it is not clear to me that the present alternative to the comes-to-us-all argument succeeds in justifying the latter's conclusion by

²² I thank an anonymous reviewer for this and the next challenge.

appealing to other premises.

With these points in mind, I suggest that the second challenge rescues neither the comes-to-us-all argument nor the view that age discrimination is morally much less problematic than race and gender discrimination.²³

4. CONCLUSION

Bidadanure's book presents a rich and innovative treatment of the theoretical and practical issues raised by justice between age groups. Here I have focused on just two issues of the first kind. My main claims are these. First, it is unclear that Bidadanure's synchronic relational equality principle is narrowly tied to the ideal of equality. Not only can one accept it even if one rejects moral equality, but many of the relations that Bidadanure explicitly says the principle instructs us to avoid need not take inegalitarian forms.²⁴ I believe the former claim should be welcomed by Bidadanure, since it increases the robustness of her substantive account of justice across ages. Second, we have different notions of age, so we have different notions of age discrimination. Often, ageists do not discriminate on the basis of the discriminatee's chronological age. This means we cannot simply say that age discrimination is less unjust than, say, race and gender discrimination because we all age and therefore all face the burdens and benefits typical of different age groups. The latter is not, as stated, true, suggesting that age discrimination (as we know it) is more like race and gender discrimination (as we know them) than many theorists of discrimination, Bidadanure included, think it is. What we can say is that if age discrimination—especially age discrimination based on the discriminatee's nonchronological age—is indeed distinctive in being less unjust in the way Bidadanure believes, then that is for reasons other than those given by the comes-to-us-all argument. To my mind, this shows that Bidadanure's topic—justice across ages—has an even greater importance than she claims on its behalf.²⁵

²³ Admittedly, "much less problematic" is imprecise and needs to be elaborated, so the second claim needs further explaining and defense. Also, I am not contending that age discrimination is just as problematic as race and gender discrimination. Nor do my arguments above justify any such claim—the comes-to-us-all argument might survive my challenges in some considerably weakened form, and race and gender discrimination might be more problematic than age discrimination for reasons other than the one articulated by the comes-to-us-all argument. Hence Bidadanure's and my views might not be too different at this point.

²⁴ The examples of relations I have discussed are all given by Bidadanure (119) when she defines the synchronic relational equality principle.

²⁵ I thank two anonymous reviewers and Tom Parr for very helpful comments on an earlier draft of this article. This work was supported by the Danish National Research Foundation (DNRF144).

BIBLIOGRAPHY

- Amarya, S., Singh, K., and Sabharwal, M., 2018: "Ageing Process and Physiological Changes", in *Gerontology*, ed. G. D'Onofrio, A. Greco, and D. Sancarlo, InTech: <<http://dx.doi.org/10.5772/intechopen.76249>>.
- Arneson, R. J., 1999: "What, If Anything, Renders All Humans Morally Equal?", in *Peter Singer and His Critics*, ed. D. Jamieson, 103-28, Oxford: Blackwell.
- Arneson, R. J., 2015: "Basic Equality: Neither Acceptable nor Rejectable", in *Do All Persons Have Equal Moral Worth? On 'Basic Equality' and Equal Respect and Concern*, ed. U. Steinhoff, 30-52, Oxford: Oxford University Press.
- Bidadanure, J., 2021: *Justice Across Ages*, Oxford: Oxford University Press.
- Carter, I., 2011: "Respect and the Basis of Equality", *Ethics* 121: 538-71.
- Cohen, G. A., 2004: "Expensive Tastes Ride Again", in *Dworkin and His Critics*, ed. J. Burley, 3-29, Oxford: Oxford University Press.
- Husi, S., 2017: "Why We (Almost Certainly) Are Not Moral Equals", *Journal of Ethics* 21: 375-401.
- Jonker, J., 2018: "Beyond the Comparative Test for Discrimination", *Analysis* 79: 206-14.
- Lippert-Rasmussen, K., 2022: "What Is It for Us to Be Moral Equals? And Does It Matter Much If We're Not?", *Journal of Contemporary Legal Issues* 23: 307-30.
- , 2023: "Wrongful Discrimination Without Equal, Basic Moral Status", *Ethical Theory and Moral Practice* 26: 19-36 <<https://doi.org/10.1007/s10677-022-10343-3>>.
- , forthcoming: "Expressionist, Relational Egalitarianism".
- McKerlie, D., 2013: *Justice Between the Young and the Old*, Oxford: Oxford University Press.
- Parr, T. and Slavny, A., 2019: "Rescuing Basic Equality", *Pacific Philosophical Quarterly* 100: 837-57.
- Pettit, P., 1999: *Republicanism*, Oxford: Oxford University Press.
- Räsänen, J., 2021: "Age and Ageing: What Do They Mean?", *Ratio* 34: 33-43.
- Singer, P. 2009: *Animal Liberation*, updated edn., New York: HarperCollins.
- , 2011: *Practical Ethics*, 3rd edn., Cambridge, MA: Cambridge University Press.
- Temkin, L., 1993: *Inequality*, Oxford: Oxford University Press.
- Valente, M. S., this symposium: "Longevity and Age-Group Justice".
- Waldron, J., 2017: *One Another's Equals*, Cambridge, MA: Harvard University Press.