
Commentary on Professor Lempert's Presidential Address

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I am honored to be asked to comment on Professor Rick Lempert's Presidential Address. Professor Lempert accomplishes a rare feat: He couples the objectivity and detachment of the scholar with a thoughtful reflection on his childhood experiences that is not only illuminating but moving as well. In this brief commentary I will resist my inclination to go on at length extolling the many virtues of Professor Lempert's address.

Instead, I identify what seems to be a typical yet conspicuous absence in his discussion of racial inequalities and racial discrimination. Professor Lempert provides a useful overview of continuing racial inequalities with respect to education, employment, income, wealth, crime, and incarceration. He also effectively rebuts any assumption that racial discrimination is no longer a factor in American life. He sensibly supposes that discrimination can compound substantive racial inequalities.

What he does not do is consider that substantive racial inequalities may cause discrimination. Racial discrimination may constitute not only a cause of inequality but a consequence as well. Acknowledgment of this possibility simultaneously enriches and complicates our understanding of racial discrimination, racial bias, and ultimately race itself.

Professor Lempert seems to entertain the possibility of racial inequalities without racial discrimination. He says that it would be one thing "if all we had to confront were the materialistic disadvantages that are the legacy of 200 years of slavery and 100 years of segregation" (p. 451, this issue). He goes on: "In a discrimination-free world, even if economic inequality remained, no disadvantage would attach per se to being black" (p. 451, this issue). What strikes me as odd about this passage is the apparent assumption that it is plausible to imagine pervasive racial inequality that does not give rise to racial discrimination, or, put differently, that we could have substantial inequality along racial lines without disadvantage attaching "per se to being black." I confess that I cannot envision a society with the depth and extent of racial inequality as ours in

which people do not racially discriminate. Racial discrimination is, at least in part, a response to the social world people confront. They see that race matters in all sorts of ways, and their decisions are informed by that awareness. This is not to say that racial discrimination is desirable or socially justified. But it is to say that racial disparities may cause racial discrimination, and in turn shape the meaning of race.

To take just one example, consider the important research by Pager (2003) which Professor Lempert discusses. Pager examined the role of race and criminal record in the job-seeking process for black and white men. Pager found that white men with prison records were more likely to receive callbacks for interviews for entry-level jobs than black men who had never been incarcerated. One might view this finding as straightforward evidence of the depth of antiblack bias. My own take is that the study dramatizes one of the far-reaching consequences of the widespread incarceration of young black men, even for those black men who have never been to prison. Employers might well view young black men applying for entry-level jobs through the lens of the incarceration and criminalization that has devastated so many black communities. Many employers might well assume, in the absence of strong evidence to the contrary, that a young black man in an urban area has been to jail and in part as a result of that experience is not someone they would want to hire. The employers' discrimination could reflect that fear rather than any deep-seated animus toward blacks. This interpretation is bolstered by evidence that employers who ask about criminal convictions are more likely to hire blacks than those who do not.

Another consequence of the intertwining of race and various dimensions of inequality is that negative treatment of blacks will often reflect the whole cluster of characteristics with which race is associated. Consider one study of employer discrimination discussed by Professor Lempert. Résumés with either black- or white-sounding names were sent to employers; those with black-sounding names received fewer callbacks than the otherwise identical résumés with white-sounding names. This might seem a straightforward case of racial discrimination, but in fact it is likely that socioeconomic status played an important role as well.

It turns out that the black-sounding names were associated with much lower socioeconomic status than the white-sounding names. The researchers calculated the average educational attainment of the mothers who had selected each of the names used in the study (Bertrand & Mullainathan 2003). They found that the mothers of the children with the black-sounding names were much less well educated than the mothers of the children with the white-sounding names. In fact, the average educational level of the

mothers choosing each of the black names was substantially lower than the average educational level of the mothers choosing each of the white names.¹ The highest maternal educational level associated with any black-sounding name was lower than the lowest maternal educational level associated with any white-sounding name. This intertwining of race and class makes it extraordinarily difficult to conclude with confidence that the employers were responding only to the race-related connotations of the name. An employer who preferred the résumé of Emily to that of Laisha, for example, might have been responding simply to race or to class, or to the intertwining of race and class. An employer unwilling to interview Lakisha might have nonetheless been perfectly content to interview a black Emily (one of the most popular white names). To put it in more concrete terms, employers might have been hesitant to hire blacks who grew up in poor urban areas, but willing to hire blacks who grew up in middle-class environments and were acculturated to those norms. Without attempting to parse the interesting and complicated questions about how to define racial discrimination that this example raises, it seems fair to suggest that some substantial portion of the discrimination that burdens blacks reflects a response not simply to race per se so much as to other characteristics—markers of inequality—with which race is intertwined.

So here I'd like to emphasize two related points highlighted by these examples. One is that racial discrimination will often occur in response to racial inequality. Discrimination is in part the product of a social world pervaded by inequality. This approach counters any assumption that Americans are color-blind. How could we be? Racial inequality shapes practically every facet of life, from health to education to crime.

The second point is that race is intertwined with myriad forms of inequality, the coupling of which undermines the long-standing assumption that it is useful or sensible to think of race per se as a social category. In Pager's study, for example, not only do the young black men with the criminal records evoke a whole web of associations, but so too, depressingly, do the young black men without them. Unprecedented levels of incarceration among young black men in urban areas have shaped the social and cultural space they all occupy. Similarly, the names study suggests that the isolation and disadvantage of the black poor casts a shadow over all those with the markers of that condition. Laisha will be treated as though she grew up in the ghetto—even if she did not.

¹ The mothers who chose the black-sounding names had lower average educational levels than blacks generally, and the mothers who chose the white-sounding names had higher average educational levels than whites generally.

These two observations suggest my third point, regarding unconscious or implicit bias. Professor Lempert seems inclined to attribute a lot of discrimination to implicit or unconscious bias. After discussing evidence of racial discrimination by cabdrivers, landlords, and employers, he concludes that “the absence of self-awareness is part, and perhaps an important part, of the problem” (p. 453, this issue). He devotes considerable attention to the Implicit Association Test (IAT), the most widely publicized measure of implicit bias, and observes that “the motivational roots of discriminatory behavior are often hidden from those who discriminate, and many would *in all honesty* deny their implicit attitudes and actions based on them” (p. 454, this issue; emphasis in original).

The fact is, we don't know what people “in all honesty” would say about race. The one thing we do know is that people are unwilling to discuss race openly and honestly. We all have scripts that we follow. Whites in particular live in fear of being called racist. All the measures of unconscious or implicit bias depend on the ability to accurately measure people's conscious attitudes or beliefs. In the absence of accurate measures of conscious attitudes or beliefs, it is impossible to say whether the bias that the IAT, for example, identifies is implicit or merely covert. There in fact is little reason to reject the hypothesis that the bias uncovered by the IAT and similar tests is covert, an attitude of which people are aware but to which they are unwilling to admit. It could be the case that IAT scores would correlate perfectly with people's actual attitudes, if only we could get them to tell us what they are.

I suspect that many employers, for example, know full well that they racially discriminate but are unwilling to admit to doing so, for the obvious reason that it is illegal as well as because no one wants to own up to behavior or views that might cause them to be called a racist. The stigma of racism is real, and we should not underestimate the force of the incentives to avoid that label. In both the names study and the Pager studies, I would suspect that employers would know that they are discriminating, even if they are disinclined to own up to it. It seems to me that if the discrimination is a response to a social world in which race is intertwined with other characteristics, our initial and strong assumption should be that people are aware of the discrimination.

Even as this approach redirects attention from unconscious to covert bias, it also weighs in favor of de-emphasizing individual bias. I often have the feeling that analyses of racial inequality lapse into a hunt for the racist, an effort to identify and condemn the biased decision maker who contributes mightily to the racial disparities that we all bemoan. How about if we take a break from that pursuit? Might it be useful to understand racial bias as a social process? My own view is that the import of the IAT is not that it

tracks individual-level differences in “bias” or some propensity to discriminate, but instead that as its name—the Implicit Association Test—suggests, it identifies associations circulating through our society and culture that in turn reflect the concrete conditions in which so many people live. The import of tests such as the IAT is not that bias is unconscious so much as that it is best understood as a social phenomenon, not an attribute of individuals so much as a measure of the society in which we live, a society structured by and saturated in persistent racial inequalities.

In sum, I think that research about race, discrimination, and inequality would benefit from openness to the idea that racial inequalities cause racial discrimination, that people experience the social world in ways that prompt them to discriminate. If we embraced this view, it would lessen the pressure to find the racist. We would no longer feel compelled to join in the hunt for bias. We wouldn't suppose there was some bad actor responsible for whatever racial disparity we discovered, so much as we would incline toward considering how the social setting, including existing disparities, produced this problem. Racial discrimination would become less stigmatized, which might make it more possible for people to speak openly about race. It would lessen the pressure for people to insist (contrary to all common sense) that they are color-blind and don't even notice race. It would create a space where people could acknowledge race without the fear of being branded a racist.

Near the end of his address, Professor Lempert says that he would like to see “more work on how the law has worked and can work to ameliorate discrimination” (p. 457, this issue). I agree that I'd like to see more work on race, but I care less about how much of that work centers on discrimination. What I'd like would be work that considers how we might move closer to a racially just society, a task that sometimes would involve courts, but sometimes not, and that would sometimes entail eradicating discrimination, but sometimes not. When racial inequalities diminish, so too will racial discrimination.

References

- Bertrand, Marianne, & Sendhil Mullainathan (2003) “Are Emily and Brendan More Employable than Lakisha and Jamal? A Field Experiment on Labor Market Discrimination.” MIT Department of Economics Working Paper #03-22.
- Pager, Devah (2003) “The Mark of a Criminal Record,” 108 *American J. of Sociology* 937–75.

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