

Defending the Perception Approach to Measuring Discrimination

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- The perception method of measuring discrimination: **names on résumés** (Bertrand and Mullainathan 2004), **audition screens** (Goldin and Rouse 2000), etc. Defended by Greiner and Rubin (2011).
- Criticisms: Kohler-Hausmann (2019) and Weinberger (2022)
- My aim: defend the perception approach.

- 1 Wrongful Discrimination
- 2 Causal Models of Perception Discrimination
- 3 Response to Critics

Wrongful discrimination

Wrongfulness Theories	Legal Types
Objectionable mental states	Direct discrimination
Consequentialism	Direct discrimination Indirect discrimination disparate impact
Disrespect	Direct discrimination Indirect discrimination?

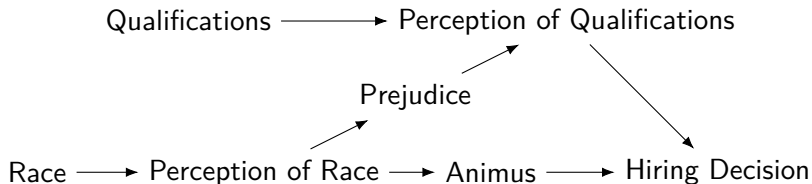


Objectionable Mental States Discrimination

- **OMSD:** *Wrongful discrimination occurs when a discriminator treats a discriminatee worse because of an objectionable mental state related to a protected attribute.*
- Animus, prejudice, etc...
- Appeal: historical and intuitive
- OMSD excludes:
 - Indirect discrimination/disparate impact
 - Algorithmic discrimination
 - Positive discrimination (affirmative action)

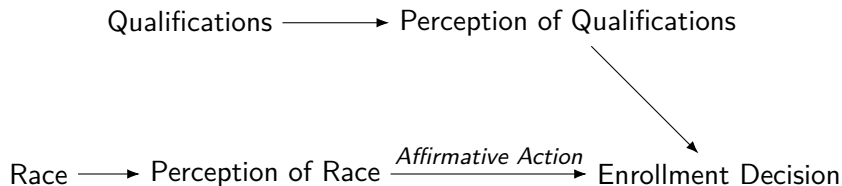
Causal Explication of OMSD

OMSD: A discriminator, X , discriminates against a discriminatee, Y on the basis of his group membership G if and only if X or an individual or group of individuals close to X has objectionable mental states concerning G which cause X to treat Y worse.



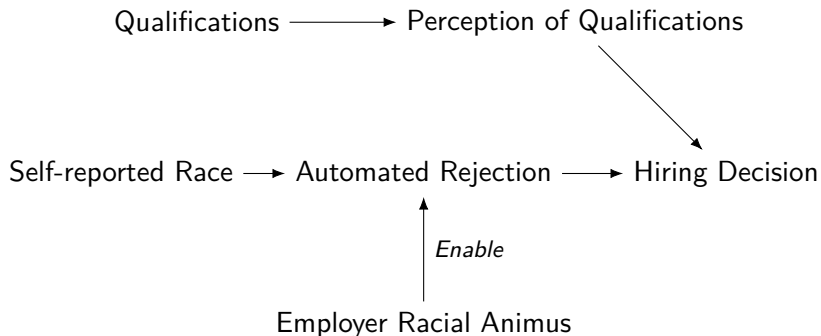
Claim: in most cases, race perception causes outcomes **iff** objectionable mental states cause outcome.

- **Affirmative Action** (No OMSD)



False Negatives

- **Automated Discrimination** (OMSD, no perception of race)



Two Criticisms

- ① Weinberger (2022): the perception approach fails to measure certain cases of wrongful discrimination.
- ② Kohler-Hausmann (2019): interventions on race perception are inconceivable.

Kohler-Hausmann's Argument

- P1: Intervening on an actual person's race is inconceivable (given social constructivism).
- P2: Intervening on race perception is like intervening on an actual person's race, but in the perceiver's mind.
- Conclusion: Intervening on race perception is inconceivable.
- ▶ Response: we are intervening on a **categorisation** in the mind, not the person's **characteristics**.

References I

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