

Should It Be Illegal to Discriminate Against Someone on The Basis of Their Physical Appearance?

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ABSTRACT

This paper explores the conscience debate of appearance-based discrimination or lookism and its potential for legal regulation. Lookism, perpetuated by universal beauty standards, privileges individuals deemed conventionally pretty, neglecting and penalizing those who do not conform. Drawing from perspectives including Andrew Mason, Heather Widdows, and Peter Takáč, this paper examines lookism's moral, psychological, and economic implications. Advocates for government and legal intervention argue that look-based discrimination undermines a person's dignity and has detrimental effects on their holistic health, much like legally protected sectors such as race, gender, and handicap. Conversely, critics argue that legal intervention runs the risk of over-regulation, highlighting difficulties in defining beauty standards and its potential adverse effects on business industries. This paper argues against legal intervention due to the mutability of beauty, the complexity of enforcement, and the predicted harm of labeling people "ugly" by law. It suggests that awareness and reform within society may be more effective in combating the harmful effects of lookism without compromising individual autonomy or economic innovation.

Introduction

Discrimination based on race, disability, religion, belief, and sex are federally protected categories recognized as unjust practices that society must urgently combat. However, another claim of discrimination, lookism, is often overlooked. Lookism involves prejudice or discrimination based on physical appearance, while pretty privilege refers to the societal advantages that those deemed conventionally attractive receive. These concepts have grown exponentially in recent years, sparking discussion on whether discrimination based on physical appearance should be legally addressed.

Pretty privilege denotes the seemingly unearned privileges individuals receive being conventionally attractive. These advantages influence all aspects of an individual's life, from professional opportunities to social interactions. Lookism encompasses the prejudice and treatment of those not deemed conventionally attractive. This prejudice manifests in the negatively biased treatment individuals face daily. These concepts raise significant philosophical questions about the conceptual analysis of beauty, discrimination, and the ethical dimensions of valuing individuals based on appearance. This raises questions such as: Is it to reward or penalize individuals based on attributes they have little control over? Does appearance-based discrimination bear the same importance as racism and sexism? What does this say about the principles of equality in our society? By delving into these questions, the paper will ultimately discern whether discrimination based on physical appearance should have legal repercussions and how the legal framework should morph to address lookism, ensuring an equitable society.

Literary Analysis

The Moral Argument for Regulating Lookism

Andrew Mason contends that everyday lookism is commenting on and judging others based on appearance. Mason asserts this is morally troubling and often demeaning. He suggests that conventional beauty standards, those that fuel lookism, reflect more than just superficial judgment but reflect and reinforce harmful societal norms and prejudices (Mason, 2021).

Mason depicts the fault of appearance norms as their incorrect moral impact on our society. He claims they establish a superficial norm that credits people solely by their looks and not by their personal characteristics or skills. These norms diminish one's dignity and undermine legally protected social values such as equality and fairness. Mason's analysis also underscores that appearance-based discrimination, while seemingly benign, contributes to a broader pattern of social exclusion. For instance, marginalized groups often face heightened scrutiny over their appearance because societal beauty standards are typically constructed around traits associated with the dominant group. This intersection between lookism and other forms of discrimination magnifies the negative consequences, leading to compounded injustices for individuals who may already be disadvantaged by race, gender, or socioeconomic status. He suggests that by legally addressing lookism, society can combat these ingrained biases and work towards a system that values individuals beyond physical appearance (Mason, 2021).

Psychological and Physical Harm of Lookism

Mason also argues that lookism can cause significant physical and psychological harm. People striving to meet beauty standards may undergo risky cosmetic procedures, resulting in irreversible severe health problems. Those who do not comply with these norms often experience severe anxiety, lack of confidence, and low self-esteem. Mason discusses three types of cases where individuals suffer harm due to lookism:

Cases where individuals have no control over the harm (e.g., a child facing fat shaming).

Cases where individuals have some control, but it would be unreasonable to expect them to avoid harm (e.g., a person undergoing cosmetic surgery due to intense anxiety).

Cases where individuals could reasonably avoid harm (e.g., choosing risky cosmetic surgery for personal beauty standards) (Mason, 2021).

Mason contends that legal frameworks are essential in challenging and changing harmful appearance norms. He argues that these norms will continue to perpetuate discrimination and social injustice without legal intervention. By implementing laws against lookism, Mason believes that society can work towards reducing the unfair advantages and disadvantages assigned based on physical appearance (Mason, 2021).

Rebuttal: The Legal and Ethical Dilemma

Andrew Mason is correct when he says that lookism can have serious adverse effects on one's physical and mental health. As he points out, people who try to live up to traditional notions of beauty frequently engage in dangerous cosmetic treatments that have a major negative impact on their health. These detrimental social influences can cause long-term emotional impairment as well as anxiety and low self-esteem (Mason, 2021). Other scholars like Heather Widdows and Deborah Rhode support the adverse effects of lookism. Rhode mainly focuses on cosmetic procedures and the psychological toll of not meeting societal ideals (Rhode, 2010). Widdows, as discussed more extensively later, highlights anxiety and low self-esteem that results from societal beauty standards (Widdows, 2018).

Mason's argument contends that legal structures are necessary to challenge these damaging appearance conventions, but this strategy might be over-simplistic. Legislation against lookism may have unforeseen repercussions, such as excessive control and challenges in establishing and upholding standards of attractiveness. Beauty is inherently subjective and culturally fluid, making it difficult to create a clear, enforceable legal standard. What constitutes "discrimination" based on appearance could vary significantly from one person to another, and creating laws that delineate what is acceptable or unacceptable could be overly intrusive or vague. Judging based on appearance is often an

unconscious process rooted in evolutionary and social psychology. People make rapid assessments of others based on appearance for reasons of survival, social bonding, or even simple efficiency. While this doesn't justify overt discrimination, it suggests that not all instances of lookism are morally charged—many are simply a natural part of human interaction. Mason contends that beauty standards reinforce harmful societal norms, but not all beauty judgments are demeaning or morally problematic. Complimenting someone's appearance or making judgments about beauty are often socially benign or even positive. To assume that any form of judgment based on appearance is inherently immoral overlooks the nuances of human interaction, where appearance-based observations can be a form of social connection rather than oppression. Therefore, lookisms' moral weight is context-dependent, and in many cases, it does not carry the same degree of harm as other forms of discrimination. Although Mason contends that lookism undermines dignity, labeling someone as a victim of appearance-based discrimination may inadvertently reinforce negative perceptions. Legalizing this form of discrimination could imply that certain people are "ugly" by law, which might be more harmful to their dignity than the discrimination itself. The legal system would end up perpetuating the very stigmatization it seeks to dismantle. The underlying causes of these biases, which are strongly ingrained in tradition and personal conduct, might not be sufficiently addressed by laws.

Global Beauty Standards

In Heather Widdows' work, *Perfect Me: Beauty As An Ethical Ideal*, she argues that a single homogenized beauty standard is becoming increasingly prevalent worldwide, fueled by the globalization of the exponential influence of social media. Widdows emphasizes that the global beauty standard expectation restricts local beauty standards and cultural diversity in beauty perceptions. Multiculturalism is legally protected, if lookism and universal beauty standards limit cultural expressions of beauty, it can be addressed as a form of cultural imperialism (Widdows, 2018).

Like Mason, Widdows argues that the pressure to conform to these beauty standards has significant psychological consequences. Individuals face increased pressure to meet these ideals, negatively impacting self-esteem and body image. This pressure affects both women and men, contributing to widespread body dissatisfaction and a loss of personal identity (Widdows, 2018).

The Role of the Beauty Industry

Further, Widdows highlights the economic incentives behind the promotion of universal beauty standards. She emphasizes that the beauty industry exists to help people's desires conform to these ideals. The industry thrives on selling products and services to help individuals achieve a particular look, reinforcing lookism and capitalizing on people's insecurities. Like Widdows, Naomi Wolf (1991) argues that deep-rooted companies have long associated beauty products with femininity and societal success. Wolf argues that the beauty industry, through various mediums, enforces unattainable standards, often pushing women to conform through cosmetic products.

Widdows discusses the moral implications of promoting a singular beauty ideal, which can undermine personal dignity and reinforce harmful societal norms. The global beauty standard—defined by attributes like thinness, firmness, smoothness, and youthfulness—affects how individuals perceive themselves and others, often leading to a cycle of unattainable ideals. She insinuates that legal action must be taken to combat the cyclical damaging effects of lookism (Widdows, 2018).

Are Beauty Choices Solely Driven By Societal Pressure?

Widdows and Wolf's perspective leads to the belief that they would support legally addressing lookism. It is up to personal belief and interpretation whether beauty products and procedures are empowering or exploitative. Control of one's physical appearance offers individuals the freedom to express themselves and gain confidence. I question the

inherent assumption Widdows and Robinson raise for assuming that beauty choices are solely driven by societal pressure rather than personal autonomy (Widdows, 2018; Wolf, 1991). Camille Paglia explores how beauty and fashion can be powerful forms of self-expression linked to art and creativity. She views beauty not as something imposed by patriarchal structures but as an intrinsic part of human nature that can be celebrated (Paglia, 1992). In her view, beauty is a source of empowerment because it allows people to craft their image and exert influence within social and professional spheres. Similarly, Wolf also suggests that beauty does not have to be synonymous with submission to societal standards. The automatic assumption that using beauty products and procedures is exploitative and means a submission to societal standards is profoundly patriarchal and biased as it rejects the potential use of beauty as a method of self-expression and autonomy (Wolf, 1991).

Prospect of a Universal Beauty Standard

To legally address appearance-based prejudice, there needs to be some consensus on the definition of discrimination. How can we consistently enact legislation against lookism without a universal beauty standard? Widdows' focus on the shortcomings of a single beauty standard ignores the prospect that it could offer the framework required to recognize and legally oppose lookism. Widdow might contend that lookism should be addressed by societal changes and education rather than legal structures. In theory, the argument has no merit since it is also challenging to recognize lookism and address it through education in the absence of an explicit criterion. It also requires a defined universal standard. While addressing lookism by educating the public and not through legal regulation may superficially seem like a solution to avoid the need to legally define a universal beauty standard, in truth, it would be less effective and too would require the definition of a common standard, which Widdow argued against. This implies that, despite its drawbacks, a universal beauty standard might be required to address look-based discrimination within the law. Based on her beliefs, I am led to believe she would support legally addressing lookism. In her works, she makes it glaringly apparent that she is against a universal beauty standard, a fundamental concept required to address lookism legally. Thus, due to her contradicting opinions, her arguments lose merit.

The Role of Appearance in Customer-Facing Industries

Peter Takáč and other scholars who argue for the maintained legality of lookism argue the relevance of physical appearance in certain industries. For example, in fashion, entertainment, and hospitality, an employee's appearance can significantly impact customer satisfaction and the overall success of a business (Takáč, 2020). The rationale is that attractive employees can draw more customers, uplifting the atmosphere and overall business success. Ignoring demand preferences can damage a business's image and success (Bruton, 2017).

In the hospitality industry, customer-facing roles often prioritize a clean, well-groomed, pleasant appearance to align with a brand's preferred image and enhance customer satisfaction. Ignoring these customer preferences could potentially harm business interests. Similarly, appearance is often a major part of the job description in the entertainment and modeling industries. These industries argue that physical appearance is a legitimate criterion for employment in specific roles, and legal restrictions on lookism would impair their competitive edge. This raises significant questions about whether appearance-dependent industries should implement prevention measures for appearance-based discrimination (Bruton, 2017; Takáč, 2020).

Some other scholars argue that all individuals have a certain degree of control over their physical appearance. This can relate to grooming, clothing choice, makeup, and cosmetic procedures. From this perspective, lookism is less problematic as it becomes something people can manipulate and control, unlike other forms of un-manipulatable disadvantages such as disability and race (Takáč, 2020). This view suggests that personal and business choices regarding appearance should remain outside of strict legal regulation, emphasizing a person's autonomy and responsibility over their physical presentation.

Like Takáč, Samuel V. Bruton argues similarly, discussing how appearance-based discrimination operates in different sectors, including those where appearance is crucial. Moreover, Bruton's review explores the implications of regulating appearance-based discrimination. While appearance-based criteria can be pivotal for industry performance, implementing legal restrictions might complicate business practices and affect individual outcomes (Bruton, 2017). This aligns with Takáč's concerns about how legal restrictions could impair the competitive edge of businesses that rely on appearance as a factor in employment decisions.

Next, imposing legal restrictions on lookism could limit individuals' freedom to make choices about their appearance. If someone chooses to undergo cosmetic procedures or adopt certain grooming habits to enhance their job prospects, they are exercising their agency. For some, enhancing one's appearance is a strategic decision to gain a competitive advantage in the job market. Legal restrictions on lookism undermine this personal strategy.

Peter Takáč and other academics who argue that physical appearance matters in some fields are correct. It is interesting to think about how much companies, particularly in fashion, entertainment, and hospitality, depend on how their staff looks to uphold their reputation and satisfy clients (Takáč, 2020). This demonstrates the conflict between a company's inherent desire to put appearance first and exercising their free will to do so and the moral implications of lookism. It raises the question of how we compromise between the moral ramifications of perpetuating appearance-based discrimination and a company's right to choose personnel based solely on appearance. Furthermore, I concur that individuals might alter their appearance to obtain a competitive edge through grooming, attire, or cosmetic treatments. However, this begs several crucial questions: How can immutable characteristics like race or handicap, which are constitutionally protected, be equated to lookism?

Economic Costs of Appearance-Based Restrictions

In summary, it is critical to acknowledge that everyone possesses the capacity to prioritize themselves and choose actions that serve their best interests, whether such actions have to do with regard to appearance or career. Implementing restrictions based on appearance could inadvertently hinder economic growth and innovation. One popular rebuttal is that the economic benefits gained from lookism must be weighed against the societal cost of perpetuating discriminatory practices. Scholars like Mehmet Ali Turkmenoglu advocate that employees seen as attractive often get better treatment when it comes to hiring, pay, and promotions. On the other hand, those considered unattractive might face discrimination. The study suggests that to address this issue, businesses should focus more on hiring based on skills and qualifications and strengthen anti-discrimination policies to ensure fair treatment for all employees (Turkmenoglu, 2020). Oppositely, often, in hospitality industries, the way one looks and presents oneself is a major skill and qualification.

Rationally, protecting innovation, economic growth, and business liberties is more critical than scrutinizing a potential form of discrimination. Restricting businesses' free will under the pretext of ethical concerns about lookism could have negative economic implications in sectors like hospitality, where physical beauty is crucial to company success, infringing their liberty. Restricting an organization's hiring capacity due to physical appearance would weaken its competitive advantage and make it more challenging to succeed in a market where brand image and customer satisfaction are key factors. Concludingly, the survival of appearance-dependent enterprises ultimately depends on maintaining this freedom.

Examining the Impact of Appearance Discrimination on Health

A South Korean study by Hyemin Lee, Inseo Son, Jaehong Yoon, and Seung-Sup Kim uses nationally representative cohort research to examine the connection between emerging adults' self-rated health and appearance prejudice. Although this research, like the findings of Widdows and Mason, sheds light on the negative effects of lookism on health, it further begs the question of whether discrimination based solely on appearance ought to be outlawed (Lee, Son, Yoon, & Kim, 2017).

Data from the Korean Education Employment Panel (KEEP) covering the years 2005–2013 were examined in the study. It evaluated the relationship between participants' self-rated health and reported discrimination based on appearance among those aged 19 to 24. Participants were categorized into four groups based on their reported experiences of appearance discrimination: 1) never, 2) repeated, 3) incident, and 4) in error. The research sought to ascertain the relationship between confounding variables such as body mass index (BMI), baseline health status, and self-rated health.

Repeated and Incident Discrimination: Participants who reported appearance discrimination at baseline and follow-up (repeated) or only at follow-up (incident) had significantly higher odds of poor self-rated health. This suggests that persistent or recent experiences of appearance discrimination are directly associated with worse health outcomes.

No Significant Impact from 'In Error' Reports: Those who reported discrimination only at one point but not consistently (in error) did not show a significant association with poor self-rated health, indicating that occasional or incorrect reports of discrimination may not impact health similarly to persistent experiences—the findings of the report support Mason and Widdows's emphasis on the detrimental health effects of lookism.

Modifiable Nature of Beauty

Cultural Context: In South Korea, a country with extremely high rates of cosmetic surgery and intense social standards, appearance plays a crucial role in social stratification. Discrimination based on physical appearance is prevalent, making it a significant social issue.

I concur with the study's findings that outside perceptions of beauty significantly influence general health. There is clear evidence linking appearance discrimination to low self-rated health because people who are subjected to unfavorable comments about their appearance frequently act in a self-deprecating manner and have low self-esteem. Anxiety and despair are only two of the health problems that can result from this poor self-perception. Nonetheless, this study takes on a compelling new dimension when considering South Korea's high cosmetic surgery rates. South Korea is well known for having a high rate of aesthetic treatments, which is indicative of the focus on changing one's physical appearance to conform to beauty standards. The concept that beauty is something that can be altered rather than something that is fixed is reinforced by the widespread use of cosmetics.

This observation poses an essential question regarding the nature of discrimination based just on appearance. Beauty is a controllable attribute, in contrast to immutable qualities like race or handicap, where discrimination is widely acknowledged and sanctioned by law. In communities where individuals possess the resources and chance to modify their physical appearance, the definition of beauty becomes malleable. If someone does not like the length of their eyelashes, they can get temporary extensions, permanent extensions, wear mascara, get them curled, and much more. If they are dissatisfied with their nose, they can contour it with makeup, get a rhinoplasty, or change themselves however they desire. If someone had a disability stopping them from walking, no amount of desire or effort they manifest in attempting to hide their disability would prove effective. Further, if someone is facing discrimination due to their Asian descent, they cannot change their skin tone, they cannot change the ways their eyes are shaped. Discrimination sanctioned on permanent, unchangeable attributes is more straightforward to define, therefore, legal action can positively contribute to the legal system. I pose a crucial question: Given that criteria of beauty are changeable, should legal safeguards against discrimination based only on appearance be reexamined? Does the case for shielding people from prejudice based on appearance become more complicated if beauty is malleable? The modifiable nature of beauty might require a more nuanced approach to legal protection and social intervention. The solution would be far too complex and would likely perpetuate an unjust system, deepening the detrimental health effects that discrimination can have on oneself.

Discussion

A significant argument against making lookism illegal concerns the subjectivity of appearance standards and the complexity of enforcing such laws. Physical attractiveness is inherently subjective, varying wildly across cultures and individual preferences. Creating legal standards to regulate appearance-based discrimination would be challenging due to beauty standards' fluid and personal nature. Implementing such laws would require a definition of beauty and a legally conventional beauty standard. This measure, implemented to deter appearance-based discrimination, would rather perpetuate a beauty standard that individuals worldwide attempt to meet.

The concept of beauty is not only subjective but also deeply embedded in cultural, historical, and social contexts. Different cultures have different beauty norms; what one culture or individual may find beautiful, another may not, and these standards are constantly evolving with time. The fluidity and inherent ambiguity surrounding the conceptual analysis of beauty make it nearly impossible to establish a universal or legally enforceable standard of beauty.

For instance, the preference for specific body types, facial features, or skin tones has varied significantly across different societies and eras. For example, the beauty standards for women throughout history have vastly varied, displaying often contrasting standards over short periods. In Renaissance Europe (14th–17th century), the ideal was a curvaceous woman with a fuller body, rounded stomach, and pale skin, symbolizing wealth, fertility, and higher social status. In the Victorian Era (1837–1901), beauty standards favored an exaggerated hourglass figure with a tiny waist, achieved through tight corsets, representing femininity and societal propriety. During the 1920s Flapper Era, a slim, boyish figure became the ideal, symbolizing a break from traditional feminine norms and reflecting the cultural shift towards modernity and independence (Facts.net, 2023; Ancient Past, n.d.; Share to Inspire, 2023). These examples demonstrate that beauty standards are highly fluid and culturally subjective. What is considered attractive in one era or society is undesirable in another. This variability underscores the difficulty of establishing a single universal or legally enforceable standard of beauty, as such standards are constantly evolving and are influenced by a wide range of cultural, social, and economic factors. The changing definitions of beauty illustrate how subjective and culturally contingent beauty standards are, further complicating any attempt to legislate against appearance-based discrimination in a way that would be fair and effective across different contexts.

Given the fluidity of beauty standards across different environments, the challenge of enforcing laws against lookism becomes glaringly evident. How can we create and enforce legal standards when what is considered attractive varies dramatically over time and across cultures? Even if a legal standard were established, enforcing it would be inconsistent. Judges and juries bring their subjective views of beauty into the courtroom, leading to potentially biased decisions. Without a clear, objective standard, different cases might result in wildly different outcomes, making the enforcement of lookism laws unpredictable and unfair.

A problematic dichotomy is introduced when lookism is criminalized. In the event that a court determines lookism to exist in a particular case, it effectively proclaims that the plaintiff is officially labeled as "ugly." This would mean the person in question is deemed federally unattractive. Knowing the adverse effects of societal pressures to be conventionally attractive, such as psychological and physical health, such a decision to legally deem someone as "ugly" would worsen the psychological and emotional repercussions of lookism in addition to reinforcing unfavorable social standards of beauty. A person's sense of identity, mental health, and self-worth could all be negatively impacted by being labeled "ugly" by the legislation, doing more harm than the initial mistreatment.

This scenario presents an impossible choice for those facing appearance-based discrimination: either fight for their rights and risk being legally labeled as "ugly," or avoid legal action and continue to suffer discrimination in silence. Lookism is fundamentally different from other types of legally protected discrimination, like racial or disability discrimination. For example, to address racism, I would have to admit that I am of Chinese descent. That is something I can easily learn to embrace and celebrate. Conversely, acknowledging that you are "ugly" is a much more complex and intimate acknowledgment. Rather than being a fixed quality, beauty is a social construct that differs widely between people and civilizations. Being labeled "ugly" by law would impose a stigmatizing judgment that

cannot be easily overcome or accepted. Thus, legal recognition of lookism could force individuals into a position where they are not only discriminated against but also legally branded in a way that is profoundly harmful and difficult to reconcile with personal identity and self-worth.

Lastly, illegalizing discrimination based on appearance risks extending state control into private and subjective areas of life. The state may overreach by passing laws to combat discrimination based on looks, controlling people's and society's opinions of beauty in ways that are invasive and possibly tyrannical. It's difficult to define where beauty applies, whether it is purely the genetics one is born with or extends to include regulations on personal appearance, grooming practices, or fashion choices. These areas are deeply personal and culturally variable. If the state begins to control grooming practices and fashion choices, the majority of people, whether they believe in legislature around lookism or not, would recognize it as an infringement of personal freedoms and would be an overreach of the state. Balancing legal interventions with respect for individual autonomy is crucial to avoid legal overreach. Therefore, the state must not interfere with appearance-based discrimination to simplify legislation and avoid overreach and perpetuate disparities.

Conclusion

The idea that legal protection for beauty ought to mirror those for unchangeable characteristics like race or handicap is challenged by the complex nature of beauty in the discussion of lookism and appearance-based discrimination. The malleability of beauty complicates the argument for legislation prohibiting lookism due to cosmetic treatments and self-presentation, which raises important issues about individual autonomy, societal norms, and the state's role. Lookism has a strong negative impact on both mental and physical health, as demonstrated by research from South Korea and the writings of academics like Andrew Mason and Heather Widdows. However, by establishing legal criteria of "ugliness" and "beauty," laws prohibiting lookism may unintentionally uphold damaging beauty standards.

However, lookism undeniably contributes to inequality. Concentrating only on legal frameworks will oversimplify the problem. Enhancing awareness to question social norms while allowing people to choose how they want to appear in particular businesses could be a more balanced strategy. Promoting equality without impeding economic growth or personal expression is crucial, especially in areas where appearance is valued highly. Legal limits cannot address the deeply ingrained cultural biases around beauty alone; instead, a complete strategy involving economic innovation, education, and society reform may be more successful.

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