

Racial Profiling

Reading: Annabelle Lever, “Why Racial Profiling is Hard to Justify.”

1. What is racial profiling?

According to Risse and Zeckhauser (whom Lever is discussing), racial profiling is “any police initiated action that relies on the race, ethnicity, or national origin and not merely the behavior of an individual.” (95)

2. The “Expressive Harm Thesis”

Racial profiling, according to Risse and Zeckhauser, causes feelings of “resentment, hurt and distrust” only in the context of a society that the racial group in question believes is racist. The wrong, then, arises from the profiling’s expressive power – it is a symbol of “racism or underlying socioeconomic disadvantages” – rather than wrong in itself. (95-6)

As Risse and Zeckhauser clarify their conception of expressive harm later in their article (pp. 154–55), it is “a form of harm that is itself parasitic on an underlying oppressive relationship that is independently present in society. And while indeed this sort of harm would not arise were it not for that underlying oppressive relationship . . . [the expressive harm] does not contribute to that oppressive relationship.” On this picture, racial profiling is not itself a form of racism, nor are the harms of profiling themselves forms of racism. Instead they are expressions of (racist) harms that occur elsewhere in society, leaving the motives behind profiling, the manner in which profiling occurs, and the consequences of profiling themselves magically clean, innocent, and unscathed. (96)

Lever asks:

- i) Is this plausible? Could profiling be carried out in a racist society in a way that would be respectful and fair? Wouldn’t there be other (better) ways to achieve the same ends?
- ii) Doesn’t this assume that profiling only “reflects” racism and doesn’t also contribute to it?

So, too, racial profiling will likely perpetuate, as well as reflect, white tendencies to draw invidious and complacent racial distinctions, and exacerbate unmerited indifference and hostility to the legitimate interests of black people. (97)

Think of the difference between an account of racism that treats it as a series of individual acts and an account of it in terms of oppressive structures. Lever suggests that we should view profiling structurally as contributing, for example, to systematic violence, marginalization, etc. For example, she draws an analogy between profiling and “flashing”:

...the harm caused by flashing, in a sexist society, is not an expression of some other harm, but one of the forms that sexism takes. It is often experienced as frightening and threatening, out of proportion to the harm caused by unexpectedly seeing a penis, because it is frightening and threatening, and *meant to be so* (99).

Lever suggests that profiling works as a mechanism of stigmatization. Elizabeth Anderson defines stigmatization:

The condition of racial stigmatization consists of public, dishonorable, practically engaged representations of a racial group with the following contents: (1) *racial stereotypes*, (2) *racial attributions* or explanations of why members of the racial group tend to fit their stereotypes, that

rationalized and motivate (3) *derogatory evaluations* of and (4) *demeaning or antipathetic attitudes* (such as hatred contempt, pity, condescension, disgust, aversion, envy, distrust, and willful indifference) towards the target group and its members. (Anderson *The Imperative of Integration* (2010), 48)

iii) But what about “reverse profiling”? E.g., the profiling of white men as serial killers. Risse and Zeckhauser suggest that whites don’t object, but is that true? Her thought is that each group responds to the experience of profiling in a way consistent with their position in the power structure. Those who are vulnerable will likely be more sensitive to the associations between their group and criminality than those who are less vulnerable. She says:

I think it unlikely that people are indifferent to the implied shame and condemnation of being associated with criminals, however remotely, and I suspect that the more ready we are to demonize criminals, and to favor retributive over other forms of punishment, the more affronted we will be by the idea that we are not self-evidently upright and respectable members of our society. (102)

3. The Incremental Thesis

According to Risse and Zeckhauser, the harms of profiling are “relatively small and insignificant.” What is so bad about being stopped and having one’s papers examined? (103) This is the *incremental thesis*.

i) Lever argues, however, that the harms are not slight:

In short, fear of violence and of death at the hands of the police—not just feelings of hurt, resentment and distrust—are likely to be among the harms of profiling in a racist society, and to occur even when the police officer one is dealing with appears to be polite and considerate. Thus, racial profiling has a high threshold to surmount in order to be justified, at least when it occurs in places, and in ways, that discourage bystanders from monitoring what is going on, or from intervening on behalf of its victims. (104)

ii) Moreover, on her view, profiling cannot be separated from other socioeconomic harms. In particular, it enforces residential segregation. “Profiling means that blacks and other minorities can only enjoy the benefits of such [attractive areas to live] at considerable risk to their pride, security, convenience and anonymity regardless of the attitudes and behavior of the residents.” (104) According to Lever, racism is a system that kills by a thousand cuts. Each cut may appear slight, but to understand the harm we must consider the broader picture:

For what it is to suffer racism is, in part, to suffer such harms as an ordinary part of daily life, and to suffer them simply because one is black, rather than white. Racial profiling inevitably compounds these harms, and gives them an official seal. (106)

4. Compensating benefits/advantages?

According to Risse and Zeckhauser the benefits of profiling outweigh the harms because the goal is to create a more just and safe society. Even racial minorities will benefit from this. Which is worse: to live in an unsafe community with no racial profiling, or to live in a safe society with racial profiling? Wouldn’t anyone prefer the latter?

Lever suggests, however, that insofar as much of the criminal activity of minorities is caused by systematic racism, it is only reasonable that those who benefit from the systematic racism bear the costs. To end profiling, we might simply impose random searches. If being searched is such a small thing, then why shouldn’t innocent whites be willing to undergo such searches (just as innocent blacks are being urged to do)?

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