

## **ABSTRACT**

### **“Wrongs, Wrongfulness, and Culpability in Indirect Discrimination Law”**

In this paper we examine the nature of the duty-imposing norms in indirect discrimination (ID) law. We aim to clarify two main issues. First, we determine the extent to which these norms should be understood as imposing relational duties – duties owed to particular individuals or as imposing simple duties – duties owed to no one in particular – or, perhaps, both. Second, we clarify the extent to which considerations of culpability should be considered to be aspects of the wrong(s) of discrimination. We find that indirect discrimination usually entails the breach of two distinct duties, making it wrong and wrongful. We also claim that while indirectly discriminatory acts can be wrongful though not otherwise culpable, culpability considerations are nonetheless relevant to supporting the liability regime for indirect discrimination. This paper is motivated by a recent trend in British and American law to doubt the legitimacy of the prohibition on ID and to attempt to curtail its operation. We show through these inquiries that the prohibition on ID is legitimate.