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Discrimination and Human Dignity

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A research report submitted to the Faculty of Humanities, University of the Witwatersrand, Johannesburg, in partial fulfilment of the requirements for the degree of Master of the Arts, Applied Ethics for Professionals.

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Abstract

The question I shall address in this research report is: Is it justifiable to use a person's past mistakes or current unfortunate position as a reason not to hire them to do jobs for which they are skilled or to discriminate against them when they are employed?

I will argue for the following claim:

It is not morally justifiable to discriminate against people on the basis of their criminal record. With the emphasis on the dignity of people, I will defend this claim using a Kantian approach, which I shall argue is preferable to the Utilitarian approach. My claim will be broken into sections.

These sections will consist of i) that candidates should not be discriminated based on their past; ii) candidates should not only be hired to do the dirty jobs; iii) an opportunity for them to be promoted within the company should be granted. I shall also iv) make an analysis to show the difference between Kantian and Utilitarian management styles, v) explore how respect and dignity can be restored, vi) respond to objections to my view and vii) suggest the solutions that I have in conjunction to the objections.

Declaration

I declare that this research report is my own unaided work. It is submitted for the degree of Master of Arts, Applied Ethics for Professionals, in the University of the Witwatersrand, Johannesburg. It has not been submitted before for any other degree or examination in any other university.



Alicia Hartley

22 day of January, 2020

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1. Introduction

The general ethical question that I shall address in this research report is: Is it justifiable to use a person's past mistakes or current unfortunate position as a reason not to hire them to do jobs for which they are skilled or to discriminate against them when they are employed?

More particularly, I want to focus on the injustice of hiring someone who is an ex-prisoner, and who has gone through the rehabilitation process, but then is only given the "dirty jobs" with no expectation of being promoted further. There are examples throughout the report that will explain the theory that is found in the articles, and will explain the theory in a practical way. I want to look at the following aspects of this situation: The denial of human dignity, the resulting lack of self-respect that accompanies this, and the worthlessness that they feel as a result.

I will argue for the following claim:

It is not morally justifiable to discriminate against people on the basis of their criminal record. There are many ethical theories that can apply to this topic, I will be highlighting points from two main theories (Kantian and Utilitarian) as a contrast but for the sake of this report and my claim, I will focus on the Kantian approach primarily, because the Kantian theory has an emphasis on the dignity of people, which I shall argue is preferable to the Utilitarian approach. For the purpose of this report, I will be looking at an ideal setting, where all ex-convicts have gone through the rehabilitation process and undergone a skills training of some kind while being incarcerated. I will be breaking up the claim that I want to argue for into sections.

These sections will consist of me arguing i) that candidates should not be discriminated against just because they are ex-criminals; ii) that candidates should not be hired to only do the dirty jobs; iii) that if the candidates are hired there should be an opportunity for them to be promoted within the company. I shall also iv) take a deeper look into the difference between Kantian and Utilitarian management styles, v) explore how respect and dignity can

be restored, vi) respond to objections to my view and vii) suggest the solutions that I have in conjunction to the objections.

By hiring people who have problematic criminal pasts and elevating them to the point that they are given the opportunity to earn a basic salary so that they are able to support their family rather than having to beg on the streets, a degree of dignity is restored. They are able to respect themselves as well as to find a way of respecting others around them. I say this because they went from being seen as unworthy and unwanted to being people who are contributing to society by earning a salary in a decent and legitimate way.

I believe that a person should be given the opportunity to be rehabilitated in prison and then be able to be reintegrated into society. If the rehabilitated prisoner serves their time in prison and studies a trade in prison, I think that they should be given equal opportunity to be hired as well as be given the opportunity to advance in the company, through being promoted.

Some of those with a criminal record have served their time in prison and in some cases even got the opportunity to study further while they were in prison. Once they are released (with all the necessary qualifications) they are still not considered for a position even after all the rehabilitation that they have had to go through. Out of many, the case of John Jones can stand as an example.[1] He contacted a recruitment agency saying that he was willing to do any job but no one got back to him. Because of this, he felt he had no choice but to turn back to crime because he needed a way to put food on the table.

I think that by learning a skill in prison, whether it is a theory-based skill (such as law or education) or a physical skill (such as sewing or brick laying) they have earned the right to be eligible for an employment opportunity. Once they have the qualifications to better their lives, they should be considered when the opportunity arises. In the rest of the research report, I will further explain and defend these views.

[1] *CNNMoney* (New York) First published October 30, 2015: 4:05 AM ET.

This research will look at those with criminal convictions and examine whether both their pasts and mistakes should play a role when they are looking to be hired for a job.

I will argue that this discrimination is unfair - when society expects a person who has been rehabilitated while serving the term that they have been given and learned a new skill to use once they have been released and does not allow them an opportunity to be reintegrated into society. If they are not given the opportunity, how can we blame them if they turn back to crime (steal, for instance) so that they are able to support themselves and their families?

2. My ethical framework

In my research report, I will explore discrimination against those with criminal records who were rehabilitated through their incarceration period and have undergone a skill training programme, using two influential moral philosophies. The two major approaches are consequentialism and deontology.

Consequentialist theories all agree that the wrongness or the rightness of the action can be determined by the “non-moral goodness of relevant consequences” (Darwall 2003:27). This means that the wrongness or rightness of an action is dependent on the value of the consequences, and different forms of consequentialism will give different accounts of that value. The most influential form of consequentialism is utilitarianism. Utilitarianism can be described as the position that says that an act is morally correct if the outcome creates the highest overall benefit. Most forms of utilitarianism understand ‘benefit’ – the ‘non-moral good’ mentioned by Darwall – in terms of happiness or desire satisfaction.

A Utilitarian will be required to make decisions that will benefit not the one person alone but rather the greater majority of people affected. Utilitarianism therefore claims that a decision is ethical when the outcome benefits the majority of the group that the decision affects. Utilitarianism focuses on the consequences of the decision rather than the focus being on the people as individuals. A Utilitarian will make a decision that will benefit the majority of an organisation, so that the benefits will be on the majority. The sacrifice of the minority is

permissible if it benefits the majority, because each person affected has been taken into consideration equally in calculating the consequences.

Deontology on the other hand is non-consequentialist. This means that the deontological theory “departs from consequentialism on a fundamental point” (Darwall 2003:30). The point that Darwall is talking about is that the theory deems the moral decision correct when they obey the duties that the decision speaks to. It also means that there are certain principles or duties that must never be violated, even if they will have better consequences. The deontologist will follow the rules set out according to their moral code. The deontologists believe that the action is right when the action is done from duty. According to Davis, deontology “comes from the Greek meaning duty” (Davis 1991:205). ‘Doing your duty’ is described as obeying a moral command.

Just like Utilitarianism is a specific kind of Consequentialism, Kantianism is a specific form of Deontology. When looking at the Kantian theory of ethics, it can be described as one deeming a decision ethical if the actions fulfil or are not contrary to the agent’s moral duty. Kant refers to the categorical imperative and this is the supreme principle of morality. The word imperative can be described as a command from our reason. The categorical imperative can be described as Kant’s golden rule. Roughly, it commands that when making a decision to act, you should choose the action that you would be prepared to have others act upon too. There are different formulations of the categorical imperative, two of which I shall describe here. The first of these formulations is Universalisation. According to Shafer-Landau, the principle of universalizability is that “an act is morally acceptable, if and only if, its maxim is universalizable” (Shafer-Landau 2012:157). Shafer-Landau describes a maxim as the principle of the action that is performed, that you give yourself when you do something. In short, a maxim describes what you are about to do and the reason you are about to do it. There is a three-part test that you can do to see if a maxim is universalizable. The first step is to formulate your maxim clearly. The second step is to imagine that everyone in the world supports and acts on the maxim. The last step is to ask if what your

maxim is trying to achieve will work in a world like that, either practically or logically. This formulation therefore requires consistency from agents, and rejects maxims that agents would not be willing for others to act on.

The other formulation, the one that I will be focusing on in this report, is the principle of Humanity. The principle states that you must “always treat a human being (including yourself) as an end and never as a mere means” (Shafer-Landau 2012:169). When looking at this definition more closely, Schafer-Landau explains that if a rational and autonomous person treats someone as an end-in-itself, the person is being treated with the respect that they deserve, as opposed to treating someone as a means, where the person is being used to achieve one of your personal goals. When treating someone in a way that is completely without respect and treats them purely as means to your goals, you are treating them as a *mere* means. Rational and autonomous people recognise the dignity of every person through treating them with respect and worth, not being used as a mere means. Kant describes a rational person as someone who is able to make up their own minds, using their rationality, to set goals. They are then able to pursue those goals in the most acceptable way possible without going beyond the lines drawn to distinguish something as being morally correct. When using the moral compass provided by this formulation of the categorical imperative as a way of making a decision, you will treat yourself and others around you in a way that will show respect. This respect will uphold the dignity of themselves and those around them. Being autonomous, according to Kant, is when a person has the responsibility for the choices that they make as well as the goals that they set for themselves. They are also responsible for the way they reach those goals and for setting themselves, and obeying, the moral law that is stated in the categorical imperative.

In the article, ‘Centring social economics on human dignity’, Mark Lutz gives a useful definition of human dignity. It is a definition that is taken from Kant.

> The adjective in ‘human dignity’ tells us that dignity is something that persons possess by virtue of their shared humanity and with it also the claim of equal human rights. For Kant, dignity is unconditioned, it is an attribute of persons as ‘ends in themselves,’ and has an ‘incomparable worth’ exalted above any price. Persons have dignity, while things have only a price. Furthermore, in Kantian philosophy, personal dignity is regarded as an ‘objective end’ in contrast to the subjective ends of instrumental or prudential action, and it serves as the foundation for his categorical imperative, known as the principle of humanity. (Lutz 1995:173)

Shafer-Landau shows how autonomy and respect can express or be connected to dignity. He uses Kant as his proof. Kant “argues that autonomy and rationality supports the dignity of each and every human being and because of those two traits, people should be treated with respect” (Shafer-Landau 2012:171).

Because of the points that I raised in this section, I have chosen to focus on the Kantian approach because human dignity is upheld and it gives strict guidelines to ensure that respect is incorporated and dignity is maintained. The Utilitarian approach only benefits the majority and if the company wants to focus on the highly skilled and highly educated people, there will be the minority that will not be given the opportunity to provide for themselves.

3. Answers to the question.

In this section I will be looking at what other authors say on the moral question that I have decided to ask. There will be some examples included in this section as well. The examples will give an indication on how the points of view can be applied to a situation. One example is about a company that hires migrant workers. Migrant workers are described as people who move from one place to another to find work or better living conditions. Further information is not given about the employees with regard to where they are from. Assuming that there is a possibility that some of the employees are rehabilitated ex criminals, the following can be applied to the situation.

When individuals are employed, their self-worth is intrinsically linked to their occupation and therefore the lack of equal opportunity through prejudice and stigma in the workplace would affect their self-worth. According to Jamila Jefferson-Jones,

> … increasing recognition has been given to the psychological importance of not just work itself, but of dignity in the work environment. Thus, given the place that work holds in the psyche and in society, denials of the ability to work, and to avail oneself of the benefits of work, are examples of the dehumanization of those with criminal histories (Jefferson-Jones 2018: 882-883).

i. The different approaches of Utilitarian and Kantian managers

This opportunity of employment is seen in different ways according to the different ethically based managers. The Utilitarian and Kantian managers will have different approaches, based on whether their fundamental ethical convictions are utilitarian or Kantian. G. Stoney Alder and Joseph Gilbert examine the two ethical theories and how they account for hiring practices, and claim that each theory focuses on something different.

They go on to suggest that “the utilitarian theory requires that managers not only attempt to determine who is best qualified for a position but also to consider how any given hiring decision fits within the overall pattern of hiring of the department and organization over time” (Alder & Gilbert 2006:453).

This is how many managers approach the task of hiring someone for a position. They want what is best for their company. By doing this, they make sure that the position is filled by the best candidate and therefore the job will be performed at the optimum level. The results that the company are looking for will be what they receive.

Whereas for deontology, they say,

> … the ethical act or decision is the one that recognizes and respects the rights of others and the duties that those rights impose on the actor. In contrast to utilitarian theory, an

> action or practice that violates an individual's rights is unethical regardless of its impact on the greater good. Thus, according to this perspective, hiring procedures and decisions must be evaluated not in relation to an overall pattern of hiring but rather in isolation based on the impact of that decision on individual applicants' rights (Alder & Gilbert 2006:455).

Managers or the people instructed to conduct the hiring process could be doing what they think is ethically correct for their company based on which ethical theory they accept. There will be some who accept the Kantian theory and some who accept the utilitarian theory. At the end of the process, though, the managers need to follow the ethical framework that is set out for them by their company.

It seems the fairest way of being hired for a position is that the qualifications of the individuals should be considered. The individuals are most concerned with the fairness of the hiring process and with everyone who is part of the process being treated in the fairest way possible.

The person that is hired by the company is not hired without reason. As we have seen, there may be different kinds of managers that believe different things when it comes to ethics. The Utilitarian manager will want to hire someone that will be the best suited for the majority of the company, and will provide extra training to employees. The Utilitarian will be happy because the extra training will ensure that the person that is in the position is doing the best possible job and is the best candidate for the job. The Kantian manager, on the other hand, will hire someone who they can treat as being an end rather than just treating as a mere means. In saying this, the best thing for the employee that is hired is to ensure that they are given the correct means of being promoted within the company. The Kantian manager will also be happy because by ensuring that the employee is upskilled, the employee will have the result of being treated as an end and not merely as a means to an end. It will benefit everyone.

Every employee in a business is important and should not be taken for granted. All employees should be treated the same way, whether they have a criminal record or not. All employees have rights and these rights need to be upheld.

A company can use either of the two ethical theories mentioned above (Kantian and Utilitarian) and apply it to the company's culture. An employee should not feel that they are unimportant to the company though. They must be given the opportunity to grow and improve their skills. By doing this it will be beneficial for the company as well as constantly increasing the employee's self-esteem.

No matter which ethical approach the employers exercise, the well-being of the company and the individual is preserved and the rights of the company and the individual are being upheld. The Kantian manager will focus on the autonomy of the employee and the Utilitarian manager will focus on who is the best person for the position.

ii. The rights of the organisation and the potential employee

According to Helen Lam and Mark Harcourt (2003), there are certain things that need to be considered for the potential employees that have a criminal record. This is discussed in terms of the rights of the employee and how they are trying to re-establish themselves in society.

The first of those items is the protection of the employee's rights. The infringement of the rights of the employer can be referred to as negative rights and this could have a big impact.

A negative right is right not to be treated in a certain way. For example, an ex-criminal has a negative right that his (moral, legal) actions not be interfered with by others. However, Lam and Harcourt note that this negative right can conflict with the right of the public to feel secure, and for employers to use their property as they see fit.

Therefore, if employers see fit to use their money to ‘buy’ labour, in essence they should have the autonomy to do that. On the other hand, if the employer does not want to ‘buy’ or hire the labour, they should be able to choose that too.

Other than the idea of making a profit, the employer ought to be worried about the well-being of their company and the well-being of the staff that they already have. Lam and Harcourt say that if there is any risk of damage or loss of property that is brought upon the business due to hiring someone, the employer should rather remain risk free by not hiring someone who will bring the risks. Ex-prisoners may seem to be a risk to the company as a whole and because of this, the employer has the right to not want to hire an ex-prisoner. They continue by saying that employers must also by law protect the health, welfare and safety of the other people in the company.

However, when looking at the rights that the ex-prisoner has, once they are, they should be given a fair opportunity to lead a normal life once they have completed their rehabilitation into society. Lam and Harcourt suggest that the double jeopardy principle ensures that the ex-prisoner cannot be legally punished twice for the same crime. The ex-prisoner should not have to be discriminated against for the rest of their lives for the same crime.

One of the many reasons that people are sent to prison is that they must repent and pay for the wrong they did to someone else or to society in general. However, it seems unfair for the person to be discriminated against if they have been rehabilitated. All that they want is a second chance. They have been given the opportunity in the prison to study further so that they can do something with their lives when they are released.

Lam and Harcourt mention that “research does indicate that employers do make frequent inquiries about job applicants' criminal past”. (2003:241). They continue by saying that not including ex-offenders in the employment process may cause them to not have faith in the labour regulations as a whole. Therefore, there are very few options left for them to provide

for themselves and their families and they might consider staying on the path of committing crime.

Lam and Harcourt want to conclude that there must be some legal protection for the ex-criminals in the labour market. Their position is based on five reasons.

The first is that the ex-prisoners have the right not to be punished for the rest of their lives on top of their legal sentencing. The second is that the majority of the crimes that are committed do not involve harming anyone else (such as using an illegal substance, that you have grown yourself, in your own home) and are small in nature. The third is that when they reach their 20's or early 30's they pose little to no threat to others. The fourth thing is that there needs to be a legal intervention that takes place with regard to the discrimination issue. The last thing is that because of the systematic biases of the legal system in place, all of the convictions must have been determined in a fair and just manner.

Even though there are some risks that the employer has to take when considering ex-criminals for a job position, the ex-criminals also have rights. They have gone through the rehabilitation process and might have studied further while they were serving their sentence. The ex-criminal must be kept busy in the most productive way possible so that they can ensure that they do not return to what they did before they were incarcerated in the first place. The skills that the ex-criminal has gained could be a valuable asset to the company and they should not be discriminated against based on the fact that they have a criminal record. Especially in the case where their skills suit perfectly the requirements of the job.

As Lam and Harcourt explain about the rights that they have identified with regard to the employee and employer, Shaoping and Lin go a step further and link the rights of the employee to human dignity.

According to Shaoping and Lin, there are certain factors that play a role in the selection and hiring process. Firstly, there is voice, which will only be heard when the potential employee speaks in the interview. This will give the employer an indication on the communication skills

and the way they can articulate themselves. Secondly, there is accuracy and this consists of a fair and clear process of choosing the best candidates to perform the job. Thirdly, there is consistency which states that according to fairness, all procedures are applied consistently no matter who the person is or what they have done. Lastly, there is bias suppression which enforces an enhanced form of fairness, and that takes place during the selection decisions and ensures that the decisions are made without any form of self-interest.

All of these factors will be important for the individuals as well as the employers. This will ensure that the process is fair and that protocol is followed, and it will ensure that the best person for the job is hired, no matter what their circumstances are or what their criminal record states.

There are two dominant ethical theories in this report and those are deontology (Kantian) and consequentialism (Utilitarian). Both of these theories are used in the hiring process but companies will choose individually which of the theories are most applicable to the culture of the company itself. Two things that both theories have in common is that the self-respect in regard to the dignity of the candidate as well as other employees and the clients of the company must be taken seriously and the process on a whole must be done in a fair and consistent manner.

iii. Dignity in terms of respect shown to others and oneself

According to Gan Shaoping and Zhang Lin, in ‘Human dignity as a right’, there is a “link between human dignity and human rights” (2009:371). The human right that they are referring to is the right to be treated fairly and with respect.

The authors continue by saying that “any human being is entitled, naturally, to dignity, and this so-called dignity refers to that kind of nobility which is particular to human beings and which surpasses that of other species” (Shaoping & Lin 2009:373). Human beings should be held at a high level of regard. We have rights as human beings and so are entitled to having our dignity respected.

Employees need to treat themselves with respect. According to this theory, one can conclude that in order to preserve dignity, people should respect each other and treat others with the same respect. People are human beings no matter the age and no matter what they have done. No human being should have to resort to selling themselves or resorting to be treated like dirt in their jobs.

Shaoping and Lin mention that “[h]uman dignity prohibits people from selling themselves as slaves” (Shaoping & Lin 2009:377). Shaoping and Lin are relying on a Kantian theory, as this also echoes what Kant mentions about treating someone as an end and not using them merely as a means to an end. People have a value that should not be taken advantage of even by themselves. A person should not be used or seen as a tool because if they are it is a violation of their dignity according to the “theory of end-in-itself dignity” (Shaoping & Lin 2009:377). This applies to people’s relation with themselves as well as community and society that they are from and being re-integrated into. People should not be selling themselves as slaves as a means towards being able to eat or provide food for their families. This does happen though, when people are not given the opportunity to get a proper job where they are able to work hard and be promoted, but rather get given the dirty jobs without hope of being promoted. When this happens, those people still need to feed their families and therefore they get desperate. There is no dignity in that.

When the ex-criminals are able to upskill themselves in prison it makes them feel as though they are worth something. With the upskilling it means that they have enough pride and dignity to apply for a job. Once they are hired and the employer only employs them with no possibility of being upskilled even more or being promoted, their dignity starts to decline. Once their dignity declines, their self-worth declines.

There are some people who are upskilled and they pride themselves in the dignity that they believe they have the right to. Once they have the job there are some who will rather give up the right to dignity in exchange for the right to life. There are some people who will stop

caring about their well-being and not care about their circumstances or the circumstances that they work in.

Shaoping and Lin think that dignity is not something that is promised to everyone and there are even some who will forgo dignity if it means that they are able to put food on the table for their families. On the other hand, there are some that value dignity and take pride in what they do. Just as Kant states that one should not be used as a mere means but rather as an end, they want to do their job to the best of their ability and that would include getting upskilled and doing a job that brings satisfaction and meaning to their lives. By being recognised as an end, the employee will want to be the best that they can be and show pride in their work as well as themselves.

In summary, what Shaoping and Lin are trying to portray is that an employee will only have a sense of self-respect if the work that they are doing is meaningful to society. An ex-criminal wants to be re-integrated in society but that will not happen if the only reason a candidate is declined for a position is because of a criminal record as opposed to what their actual qualifications are.

According to Sarkar, Kant defines dignity to be “an unconditional, incomparable worth as having no price. We think that because the dignity of rational persons cannot be compared with the price of nonrational persons, then a comparison of the dignity, or moral worth of a rational person cannot be made” (Sarkar 2005:779). Sarkar elaborates by saying that Kant says that “a human being possess dignity, an absolute inner worth” (Sarkar 2005:755). This means that a human being is not an object. A human being cannot be sold for a price.

Respect can be divided up into two types, according to Sarkar, “the two types of respect being merit respect and moral respect” (Sarkar 2005:758). Merit respect is earned on the basis of your successes and what you achieved professionally. Moral respect is a baseline of respect whereby, no matter what you have done that has landed you in prison in the first place, for instance, you are still respected in a way that you do not have to beg or earn it.

Dignity of a human being is something that is very personal in nature. It is the person's self-worth and what they believe that they are worth to others, and it is the respect that they are shown by others.

Sarkar explains that people should never be putting a nominal price on themselves or their dignity. Therefore, no person should consider that they are worth more or less than someone else. This means, for instance, that no persons should sell themselves into slavery. According to the idea of moral respect, no person has to earn moral respect, they should be shown respect no matter what. There is no need for the person to have to resort to something as unethical as slavery.

With regard to the two types of respect, there is another author that has similar views to Sarkar. This author is Stephen Darwall. The two types of respect that he cites are recognition respect and appraisal respect. Recognition respect is described as "the sort of respect that is owed to all people" (Darwall 1977:38). This means that there is appropriate respect given to people, who should be taken into consideration and whose dignity should be recognised. The second form of respect is appraisal respect. This is described as "respect that consists of positive appraisal of someone with regard to their character and behaviours" (Darwall 1977:39). Appraisal respect will be given when appropriate behaviours that merit this kind of respect is shown. This is important in terms of the hiring process because character and behaviour is important for fitting in with the culture of the company and whether they will prosper in the company.

When everyone is treated with recognition respect (according to Darwall) or moral respect (according to Sarkar), people will be treated as an end, rather than being treated as a mere means. This will mean that people will not deem the decision to use people as mere means as acceptable and will be seen as disrespectful.

If someone trusts you and they ask you a question, you must respond truthfully even if it means that you may hurt their feelings. This shows that even though you know the person

very well, you are firstly able to have an unbiased approach and secondly, you are treating them as a rational person and respect is shown in the form of telling them the truth and not sugar coating something just to spare their feelings. This way they may not like your answer but you are respecting their rationality. No matter what question is asked, the person responding should always answer in a truthful way, not in a way to hurt the other person but rather that they respect them enough to tell them the truth.

Any form of respect that could be gained will be lost. The merit respect will be lost because there will be no successes in their professional lives. There will also be no moral respect because the employer is limiting the employee based on the fact that they have a criminal record and minimising the person's self-worth in the process.

In relation to the minimising of self-worth and respect based on a criminal record, Rosa (college graduate) gave the following account based on her life experience:

> They were going to hire me, but the biggest obstacle was my criminal history. They weren't willing to take me because I had a couple of felonies. She said if I only had one felony, they might have been able to work with that. (Adams, Chen & Chapman 2017:12)

Jeffery Moriarty cites John Rawls, in 'Rawls, Self-Respect, and the Opportunity for Meaningful Work': "Rawls thinks self-respect requires believing that one's life plan is worth pursuing and that one can successfully pursue it" (Moriarty 2009:442), and he "implies that the opportunity for meaningful work is a social basis of self-respect" (Moriarty 2009:441; and see Rawls 1973). People who are judged on their past mistakes are sometimes seen as less than important and so not considered fit for any opportunities. By doing this, confidence and self-respect are taken away.

Moriarty suggests that people with the right talents and skills should be hired for a job. This should not affect your self-respect. The most qualified person should be hired. Those who applied for the job but do not have the correct or efficient qualifications should not feel as

though their self-respect will be affected, because it is not a personal reason for not being hired.

Moriarty quotes Rawls by stating that

> For citizens to have self-respect, it is not necessary that they be valued and supported by every association they belong to. Rather, it "normally suffices that for each person there is some association (one or more) to which he belongs and within which the activities that are rational for him are publicly affirmed by others" (TJ, 441) (Moriarty 2009:444).

In order for a person's conception of good to be considered as worth completing, it must start with the person having self-respect.

Moriarty suggests that with regard to people being used as a mere means to an end (cheap labour), a person will not have any self-respect if they perform meaningless work. They will only have self-respect when they are able to contribute to society in a meaningful way.

Because of this, I can conclude that Moriarty was citing Rawls with the intention of bringing some important points to the surface. When you apply for a job it should not be about where you come from or what you have done. It should be based purely on the qualifications that they have. If they do not have the required qualifications then they should not be applying for the job. If the application is declined based on their qualifications then the self-respect should not be affected. If the applicant has the incorrect qualifications and the process is declined, the applicant should do further studies to ensure that they do in future have the correct qualifications.

No person should be used as any form of labour that will affect their self-respect in a negative way. This means that if someone is hired, they should be doing a job that increases their opportunities and is meaningful to their lives in some manner. That is the reason that they applied for the job. They want to earn a salary but they also want to make some sort of

a contribution. They will not be able to do that if what they are doing is cheap labour and it affects their self-respect negatively.

iv. Dignity to be upheld of prisoners that have been rehabilitated

The dignity of the newly rehabilitated during the hiring and promotion processes seems not to be of much concern to some of the potential employers. For example, a company would hire rehabilitated ex-criminals (migrant workers) and let them clean but not supply them with gloves or any other sanitary equipment. They had to scrub the bathrooms with their bare hands. Many of the workers committed suicide, apparently because of their working conditions. Only migrant workers had to perform these tasks. Management stated that there would be no opportunity for promotion or being rotated to do other tasks.

Kant would explain this as being treated as only a means to an end and this will always hinder the employment relationship, because being treated as a means to an end shows that the employer does not care about the dignity and well-being of the employee.

v. The feelings experienced by not being treated with dignity

The authors unpack the situation further by stating that “freedom and dignity, of economic security and equal opportunity is a basic human right” (Lucas et al 2013:93). According to the constitution of South Africa, the following values are what South Africa is founded on: “Human dignity, the achievement of equality and the advancement of human rights and freedoms” (1996:3). I will argue that if someone who fits all of the requirements for a job should be treated fairly and with dignity by being given the opportunity to be able to get hired for the job and promoted.

Based on their research, the authors concluded that there are three factors that shows the infringement of the employees’ dignity. The factors are excessive work, mismanagement and abuse, and lastly, incursions on autonomy. Lucas et al. views dignity in the same way that Kant does. They outline what Sayer (2007) states, which is that “contradiction to dignity

because the workers are used as means to an end, and that they are replaceable" (Lucas et al 2013:98)

The first factor is excessive work. If for instance, the employees are forced to work 100 hours of overtime in one month. This figure is three times more than the legal requirement of the country. Some of the employees resigned because of the excessive working hours and others took their own lives. Those that resigned were unable to provide for themselves or for their families. They had to resort to crime and were sent back to prison. Those that committed suicide felt as though they were disappointing themselves and their families and they knew that would not survive on the street if they resigned and therefore took their own lives. After the suicides took place, overtime was limited to 80 hours. This amount is still over the legal limit. Even with the overtime reduced, the employers still demanded a higher output from each of the employees. The employees felt that they were not treated with respect because they were made to work like machines. They were extremely overworked with extreme amounts of output expected.

The second factor that Lucas mentioned was mismanagement and abuse. Where there is abuse, there are self-esteem problems. If management is physically or emotionally abusive to their employees on a regular basis it will affect the staff negatively and have a negative repercussion. The employees end up having low self-esteem because they are not being treated like they should be treated and therefore their self-worth diminishes. This feeling is possibly why there were so many suicides. The mismanagement and abuse are so extensive that it is likely that the employees would start to believe that this is an appropriate way of treating the staff and they are unable to defend themselves.

The third and last factor is incursions of autonomy. This is done through only allowing the employees to go on bathroom breaks or for lunch once they have gone through a security check. Body searches are mandatory. The pressure from the employers could get so bad that the employees will feel under pressure to surrender all control to their employer,

meaning that they were not allowed to express any feelings or thoughts. In other companies the employees are able to express their thoughts and feelings and by doing this, they are able to express their sense of worth.

There are many different ways of looking at dignity and what is considered as the appropriate way of recognising dignity. Kant regards autonomy to be important with regard to human dignity. I will now be moving on to explore the social and economic structures that can be identified for human dignity.

vi. The outlook of the social and economic structures that ensure human dignity is upheld

If a person is seen as a product it can then be said that every employee that works for a company is 'hiring' out their skills to that company. This is a trade in the form of the employee's skills (seen as a product) being sold and utilised by the company in exchange for a monthly fee (wages or salaries).

Lutz explores Kant's outlook of the social and economic structures with regard to human dignity, in terms of the autonomy of each individual. I will describe it as being able to make decisions in a free and objective way (meaning that the decisions are made without emotions and personal feelings playing a role in the decision-making process) instead of using your subjective views (meaning that the decisions are made with emotions and personal feelings playing a role in the decision-making process) as a way of making decisions.

Marx, Freud and Darwin take an opposite approach to what Kant did with regard to autonomy by stating "that Man was nothing but a product of nature and whose intellect was no longer seen as free but determined by nature instead" (Lutz 1995:175). Kant, in contrast, believed that in the use of their reason, humans were free.

Lutz describes something that Kant would have said was unethical.

> For some time, one distinguished social economist, David Ellerman, has been making an eloquent case that one of contemporary humanity's basic institutions, the employment contract or the wage system, violates human dignity. As an employee rents herself for a wage during the period of the contract, she lets herself be treated more like a thing than a person: she alienates her decision-making power and her de facto responsibility for the fruit of her actions meaning the net profits or losses of the firm (Lutz 1995:185).

If the companies hire ex-criminals purely with the goal in mind of cheap labour or someone to do the dirty work, it is not respecting the person. No dignity is restored. Or, at least, any dignity that was restored through being hired is taken away. By treating someone as a means to an end rather than the ends in itself, it violates the person's dignity.

It seems to me that in some of the companies have a hiring process that could actually have a contradictory result to the ex-criminal. For instance, if company A hires an ex-criminal, it looks like they are doing good for the community. But if they are exclusively hired to do the dirty work, work excess overtime or work as though they were a machine, then all of the dignity that was restored by feeling worthy of a job, is taken away.

vii. <u>The effects of poor working conditions</u>

Agassi's literature uses a similar framework to that of Kant. When looking at the effects that poor working conditions have on an employee, Judith Agassi's article about dignity in the workplace has some important points that one must consider when hiring someone.

Agassi's article focuses on the alienation that jobs can bring about for an employee. She mentions that "high stress and high-work load jobs are seldom low on the level of skill they demand, and many of them even make exaggerated demands on the worker, such as the demand to make split second decisions, where a mistake may be very costly; or making conflicting demands that cannot be met" (Agassi 1986:273).

Agassi describes two important aspects of this psychological damage. The first of these two aspects are that there are some stress symptoms that can be exposed when the employee is over worked in the same field continuously. In other words, monotony in a high pace job that cannot be well managed will cause psychological problems such as insomnia or nervousness. The second of these two aspects is that when there is a case of mental stagnation (the employee is not being challenged on a mental level to grow within their job) there is a high chance of low self-esteem and diminished well-being to be a result.

Judith Agassi concludes her article with the following findings. The first is that “the negative effects brought about by millions of rank-and-file production and service jobs are due to the fact that these jobs do not satisfy the psychological needs of the working person for involvement, meaning, achievement, recognition and autonomy in work” (Agassi 1986:282).

When the ex-criminals are rehabilitated and hired for the dirty jobs, it is reasonable to assume that it is done according to the work design as mentioned above. This way ensures that the work is done in the cheapest way possible and it is deemed acceptable to have employees work over time. This way, it is thought, the job gets done efficiently and effectively.

After a while though, the extensive hours in a job that has no promise of promotion will start to weigh down on the employee. They will start to feel as though they are just machines for the company. No one actually knows them by name. All the dignity that was restored through being hired and believing that they are doing something valuable starts to decline. This will cause low self-esteem and this will make them feel inferior and even worthless. This will lead to psychological damage and emotional damage. This could end in two ways, the first being that the employee does nothing about their circumstances and burns out completely. This will lead to decline in work output and eventually will end in the employee being fired or asked to leave. The second option is to resign. This will lead to the person being without a stable income and therefore will resort to theft or other violent behaviour which will land them

back in prison. Either way, there is no dignity left after what was restored and they feel worthless, which means that they will resort to the same things that they promised that they would never do again.

viii. Further personal consequences of not being treated with respect

The consequences of being treated with no respect, and as having no dignity, both in and out of the workplace, are well covered in the philosophical and business ethics literature. In an article, 'Human dignity and Justice', Michael Pritchard mentions that philosophers "can sympathise (through the feeling of indignation, oppression, exploitation and injustice in any form) with those that are disenfranchised and complain that there is no dignity in being forced to live in an overcrowded area" (Pritchard 1972:299). Pritchard expands on this by explaining that some employees are oppressed in their workplace and therefore they may feel that their dignity or self-worth means very little. When the feeling of self-worth is diminished, they will accept their living conditions as what they deserve, no matter how poor the living conditions are. There is very little self-worth when someone who has been disenfranchised is trying to turn their lives around but is not given the opportunity, especially if this decision is solely based on the information that is given about their pasts and not what they are truly capable of. This point about living conditions is also applicable to working conditions. If the working conditions are poor and the employees are not treated with dignity, the employees will have a poor outlook on their lives in general, which could lead to living in poor conditions (as it's all they can afford) and therefore feel as though working is not worth it anymore. The working conditions can wear them down so much that they will affect their home lives.

Pritchard suggest that in a case of someone thinking themselves to be inferior to others,

> … it seems that he simply does not regard himself in terms of any kind of dignity at all. The notion of self-respect seems totally out of place. In addition to having no sense of his own dignity, he seems to have no regard for the dignity of others. This is

> shown in his lack of enduring concern for others and in his failure to have any genuine feelings of guilt or remorse for the ways in which he treats them (Pritchard 1972:303).

Once someone is treated as a mere means to an end and with no regard to their dignity, they will have decreased self-respect. This could lead to the employee reacting in the only way of living they know how, by disrespecting others and landing themselves back in prison. It is easier for them to revert back to their old ways when they are not treated with the moral respect that they should be shown. They end up not caring about themselves or anyone around them. It seems easier to hurt someone or to steal from someone because in that way they are earning some self-respect back (they are achieving something, even it is not done in the correct manner). They were willing to go through the rehabilitation process for a reason. Pritchard and Sarkar use two words for the same understanding of a phrase. What Sarkar calls merit respect, Pritchard uses the term self-esteem: “These achievements often give one a sense of accomplishment, enhancing self-esteem. But equally if not more important, failure can result in loss of self-esteem” (Pritchard 1972:303). Less self-esteem will lead to not being ashamed to resort to dirty jobs because the money gives you food. However, it could cause the employee to give up on the job and resort to doing what landed them in prison.

Given an opportunity to gain at the expense of injustice to others, someone with a sense of justice may regard resorting to such means as beneath his dignity. If he thinks he has already this way, he may feel shame, or unworthiness. To explain this, Pritchard uses the example of Socrates. Socrates decides because he does not want to commit an injustice against the state, he will not try to escape his death sentence. This is based on Socrates acting in such a way that dignity is preserved. He wants to preserve his integrity and if he had to escape, it would go against everything that he believed in.

According to Pritchard, there are some similarities among people who have had their self-worth diminished: They share “attitudes such as indignation, resentment, guilt and shame” (Pritchard 1972:300). This is especially applicable to those with a criminal record, because they could be ashamed of where they come from and feel worthless as a result. The resentment and guilt can stem from having no self-respect. If the ex-criminals are only given the dirty jobs based on where they come from or are not hired at all, there is no dignity restored and the cycle of resentment and shame continues.

Moreover, “threats to the various forms of integrity arouse resentment because it is felt that one has a right to have them respected. Thus, resentment as a defensive reaction is an expression of one's sense of dignity” (Pritchard 1972:305). Shame will bring about pain and this will either allow you to rise above the shame or sink lower because you feel as though you have failed. If the employee is not feeling respected, they will end up resenting themselves or even their colleagues. There will be a sense of failure. This failure could speak into resentment towards oneself as well. The person has failed to present themselves as autonomous people that deserve to be respected. There is a sense of not feeling welcome in the company and only there to fulfil the role of being a number in the office. There will also be a sense of them not deserving anything else. The cycle will continue and they will feel as though they have failed and are not worth anything but the dirty jobs.

When people know what they are worth, they will try everything that they can to not go back on what they have learned to get to that point of self-worth. Ex-criminals may have been rehabilitated and restored before they exit prison. They may have respect for themselves. They may want to make a positive difference in society. If so, they should be given the proper opportunity to prove that they have been rehabilitated and that their intentions are pure. This can be done through being given the opportunity to work themselves up the corporate ladder. By proving their worth and starting at a company and build themselves up.

ix. Opportunities to be upskilled and be promoted

When someone is hired for a position in a company, it is fair to assume that the person will have to start with the most menial job or 'dirty jobs' and then work their way up the corporate ladder. There is no discrimination if there are opportunities for promotion. But if the people that are employed are given only 'dirty jobs' then there is a form of discrimination. It is motivating to start at the bottom and work your way up within the company. Someone has to do the dirty jobs in the company but the employee should not be forced to stay in that position. As cited above, Darwall mentions appraisal respect, this is respect that is given when appropriate behaviours that merit this kind of respect is shown. As the person progresses, they are given training and learn new skills while working on the job. Through the appraisal respect approach, the employer notices that the employee is learning new things on the job and performing to the best of their abilities, therefore there is a potential promotion that could be afforded to the employee.

According to Alexander Bertland, in 'Virtue Ethics in Business and the Capabilities Approach', in an ideal world people "are given the opportunities to develop skills in an organisation so that they can function at a level of human dignity" (Bertland 2009:25).

Bertland continues by stating that "the objective of an institution, then, is to create arenas in which individuals have the freedom and the resources to develop their own capabilities as they see fit" (Bertland 2009:28). It is therefore part of the company's responsibilities towards their staff to provide the employee with the space to improve themselves and their skills. When employees are treated with respect and not given just the 'dirty jobs' there is a sense of self-worth that is cultivated because the employees know that there is a space for them to be elevated and potentially get promoted.

Bertland mentions that the ethical system that a company adopts should be in line with what allows for further development of an employee to ensure the enhancement of their dignity. Bertland's article focuses on proving that the capabilities approach gives a guideline to fully

understanding that developing employees results in increased effectiveness. As a means of enhancing the human dignity of the employees.

Bertland continues by referring to the research conducted by Martha Nussbaum, saying that the list of capabilities includes:

> Such as basic as life, bodily health and bodily integrity. It also includes the capability to feel emotion, to develop a sense of practical reason and to develop the imagination. Further, the list includes the capability to have control over one's environment both in the sense of having the ability to own property and the ability to participate in politics (Bertland 2009:28).

Bertland mentions that a virtuous manager will want to create a relationship with their clients that could foster a positive growth. The virtuous manager will want to foster a relationship with the stakeholders that goes beyond monetary terms, it will encourage participation in the running of the business as a whole. By doing this the business will function better and will flourish.

Bertland makes a valid point by stating that “managers should help others learn, grow and develop. There are many managers who see as part of their profession developing the talents of employees and the businesses of customers” (Bertland 2009:30). But, Bertland also mentions that the culture that the business cultivates should encourage their employees to want to develop their talents and improve on what they can already do. This could ensure that they become the best employees that they can be.

4. My view on the topic

i) Candidates should not be discriminated against just because they are ex-criminals.

When applying for a job, you need to start at the bottom. Before that can take place, the interview and hiring process must be positive and dignified. If an ex-criminal is invited for an

interview then they should be treated the exact same and fair way as anyone else that had applied for the job.

When the candidate arrives at their interview, they will undergo the same questions as anyone else that has applied for the job. This assists in the restoration of dignity. It also shows that they are being treated as a human being, they are treated with respect.

If the employer is happy with the applicant and what they have to say in the interview then that should count in their favour. With the employer showing an interest in the ex-criminal by basing the interview on their qualifications and not that they have a criminal record (i.e. only focusing on what they have done wrong), then I think that Kant's principle of treating everyone with respect is being upheld. All of the self-worth that was taken away in the process of being in prison is slowly restored due to being treated as a person who is deserving of respect.

In the interview the topic of a criminal record can be brought up. I say this because they were given a fair chance as they were not disqualified from the hiring process purely because they have a criminal record. The candidate was restored and rehabilitated as part of serving their time in prison. If the person qualifies for the position, they should be given an opportunity to apply for the job. The fact that they have a criminal record must not be kept a secret from the employer if the employer does ask. The ex-criminal must be honest when talking about their criminal record. The most important thing to remember is that the criminal record alone should not disqualify someone who has the correct qualifications. If the employer does ask about the criminal record, they must be honest and explain to the employer what happened to bring it about that they were incarcerated. By being honest with the employer, they show the same level of respect towards the employer as was shown to them by the employer when inviting them to the interview. The employer needs to uphold the policies of the company and make sure that the person that is hired is the best fit for the environment that they will be working in.

In the scenario that there are two candidates left and they are both equally qualified but the one has a criminal record and the other does not. I believe that it would not be justifiable to hire someone based on them having no criminal record. I think that the most justified way for the scenario to play out would be that both candidates should be given the opportunity to have an interview and then based on that they will be judged on who is the best fit for the culture of the company. Taking the assumption of the report into account, the person with the criminal record has served their sentence and has gone through rehabilitation therefore the criminal record should not be a deciding factor.

I quoted Lutz in the previous section when he explains what Kant has to say on the subject of respecting others. He says that everyone should be treated with respect and as an end rather than using someone merely as a means to an end. As explained earlier, this means to not simply use someone to get something that you want, using them in a way that disrespects who they are. By treating someone as an end as well as a means (and therefore, not as a *mere* means), the situation will be mutually beneficial. The employer will get exactly what they want, which is a job well done and in the best way possible, and the employee will be doing the job, getting compensated for it and having the promise of potential promotion; both parties maintain respect for themselves and each other.

Lutz mentions that if each person is being shown respect then the basic rights of freedom and well-being are preserved. I agree with this statement in this context, because if the employer shows respect to the employee then there is a sense of dignity restored through their right to well-being being recognised and supported. The ex-criminal may be scared that their past will be held against them even though they have been rehabilitated and hope to be re-integrated into society. Being given the opportunity to apply for a job is a big step in the right direction for the ex-criminal. This step shows that they are once again seen as citizens and worth someone else's time and effort. This small effort of inviting them to an interview is already something big in terms of the reclaiming their dignity and self-worth. This is especially true if there is a family involved. Once the ex-criminal is re-integrated into their

family, their right to freedom is restored not only because they have been released but also because they are now able to choose to do anything (legal) of their own free will. The right to well-being is also important because they now want to provide for the well-being of their family, meaning that once they are able to do that, they will regain some respect from society as well as from their families and themselves. Their own well-being is affected by being able to firstly see themselves as contributing citizens (meaning that they are worth something) and this will ensure that they do not turn to crime. If they commit a crime, they may get caught eventually and then go back to prison meaning that their well-being is once again tarnished. By being able to provide for themselves and their families, they are restoring the respect that was taken from them when they went to prison. The loss of faith in them from their families when they were arrested is restored because the family now sees that the ex-criminal knows what they did was wrong and is willing to work and fight for the restoration of the respect lost from before.

Turning someone away from a job solely based on the fact that they have a criminal record that in some instances has nothing to do with the job that they are applying for will break their self-esteem down rather than restore it. They know that what they have done was wrong in the eyes of the law but they have served their sentence and have been rehabilitated. In the kind of cases that most interest me, they have even found a need to study and better their lives (and the lives of their loved ones) so that when they are released, they are able to provide for their families. This cannot be done if they are not even given the opportunity to be given an interview, especially if they qualify for the job and the only thing in their way is the criminal record.

Once they are able to provide for their families (or themselves in the case of their not having family) they will feel as though they are part of society again. Their self-worth will increase. Someone showing them respect will in turn encourage them to respect others. By restoring the self-worth there is a slim chance of them reverting to the person they were and being a repeat offender.

Lam and Harcourt mention something that I believe is the heart of my report and that is that an ex-criminal should be given the opportunity to resume a form of a normal life once they are released. I agree with this statement. In general, when speaking of the hiring process of the ex-criminals, there are five things Lam and Harcourt believe should be considered about ex-prisoners in general, which I have already briefly mentioned in the previous section. I will be looking at the five things that need to be considered and then expand on them by explaining why I feel each of these are important for the hiring process.

The first thing that Lam and Harcourt believe is important to consider is that an ex-criminal should not be punished indefinitely on top of their sentencing. I think this is really important. When the crime was committed, they were given a sentence. That sentence is (for instance) carried out in a jail cell. While in jail, there is a form of rehabilitation, studying and recovery that takes place. Once the sentence is carried out and the ex-criminal has been released their crime and criminal record should not be the sole thing that people see when this individual enters a room. For example, someone is incarcerated for a minimal offence. They go through the rehabilitation to ensure that they know that what they did was wrong and should not repeat it. They also grasp and understand that they are worth something and that there are other people out there who care for their well-being. Once they have served their term, their criminal record should not be held against them, and they should be re-integrated into society.

The second thing is that in many cases many of the offenses that were carried out are minor and generally do not include anything that will cause someone harm. In this case (minor offenses) there are examples such as vandalism, petty theft, public intoxication, prostitution etcetera. In these cases, the criminal record can seem minor when applying for a job. There are even cases where the person who has the criminal record has been falsely accused or was an indirect accomplice. They had to serve their time and because of that they are not eligible to apply for a job. The most unfair injustice that takes place with these cases is that the person is not even given an opportunity to explain what happened. The simple fact that

they have a criminal record is enough reason for an employer to turn the person away. An example of this is a man by the name of Graham.[2] When he was 20 years old, he was caught drinking and driving. This incident caused him to have a criminal record on his name. Every time he applied for a job and they saw that he had a criminal record (it did not state what the criminal record was for), he was not considered for the job. Even though the criminal record has nothing to do with the job. He has subsequently never done anything of the sort again but because of a, as he describes it, “one-time silly mistake as a young person” he had no hopes in being hired to do anything.

The third thing that is mentioned is that most offenders are aged between 20 and 30. Jeffery Ulmer and Darrell Steffensmeier agree with this reasoning. In one of their chapters, they discuss that “physical abilities and aging show that there is a plausible link between age and criminal involvement” (Ulmer & Steffensmeier 2014: 379). The whole phenomenon surrounding age and criminal activity can be explained as follows: that people who are older will not be happy to risk something criminal if it could result in something dangerous. Once they have left prison, there is no need or desire for them to commit another crime. The reason for that is because there is so much more at stake. They did something silly once and because of this there were severe consequences. They know what these are now and do not want to repeat this process. Therefore, the risk of them committing a crime is diminished. The ex-criminals often want to prove to themselves and their families that they are worth more and are more than just people who have a criminal record. They want to be given the opportunity to provide for themselves and their families. They want acceptance and basic respect. They want to restore the dignity that was taken from them and be seen as someone that is part of the community again.

The fourth thing that Lam and Harcourt believe is important is that legal intervention must take place as soon as there is discrimination on the part of an employer towards an ex-

[2] Graham is known to me and told me his story in person.

criminal. I find this the most important thing out of the five that Lam and Harcourt mention. The potential employee has already served their sentence. There is no reason for them to be disqualified from a job opportunity based solely on their criminal record. If the person has the correct qualifications for the job, they should be afforded the opportunity to apply and be called for an interview. They should not be shunned because they have a record. If they do not fit in with the culture of the business then it is a different story. To be judged purely on the fact that they have a record (whether the sentence is even relevant to the job or not) would not be justified.

The last thing that they believe is important is that convictions are not always determined fairly. An example of this is if someone breaks into your house and you defend yourself and your family, putting someone in hospital. If you are given a legal sentencing as well, it could be seen as unfair. It was self-defence but it could be seen as attempted murder or man-slaughter. In this case, you serve your sentence and then are not considered for a job once you are released. You did what you knew to be right and protected your family and yourselves. Now, after serving you term, you are judged solely on that same sentence on whether or not you should be considered for a job.

ii) Ex-criminals should not just be hired to do the dirty jobs only.

Kant mentions that people should never put a price on themselves or their dignity. They are worth more than that and should be shown respect, no matter what they have done prior to, or to cause, their criminal record. They should not have to be used as a charity case in order for the company to look good, or on the other hand, not be considered for a job. When looking at the company using an ex-criminal as a charity case, I mean the hypothetical case where a company hires the person so that they are not shown up as discriminating, but behind the scenes the employee is only given the dirty jobs with no promise of any job rotation or promotion.

Each person is entitled to something called moral respect. This is when someone is shown respect no matter who they are and no matter what their background is. As Sarkar says, “not only is moral respect not something that we need to earn, to speak of it in that way is to yield to a view that is inherently abhorrent” (Sarkar 2005:758-759). There is no way of earning this type of respect, it should be shown to and for everyone. As mentioned in the previous section, Stephen Darwall discusses two kinds of respect. The two kinds are “recognition respect and appraisal respect” (Darwall 1977:38&39). Darwall describes recognition respect as respect that everyone is entitled to because it is the sort of recognition granted to everyone simply as a person. The other kind of respect is focused on the character of the person, meaning that this respect is not necessarily shown to everyone.

Once someone has been rehabilitated and released to be reintegrated into the community, they should be treated with what kind of respect. This does not include resorting to selling yourself as slave labour in order to receive an income.

Just like everyone else, the ex-criminal must be given a chance to apply for a job and even if it is cheap labour it must not be something that they will do for the rest of their lives. There must be some sort of a possibility of promotion. This way there is something to strive for and they are given the incentive to not go back down the wrong road.

Cheap labour is not characterised as physical labour only. Having a physically active job can be an asset. Cheap labour can be described as when an employee works incredibly hard and the amount of money that they receive for the work is not equivalent to the amount of work done. The employee is dramatically under paid. This can be shown in the examples of a cleaner in a company that is expected to clean the whole office by themselves and is not given the correct tools to do the job or someone who just captures data, working twelve hour days and gets paid less than minimum wage.

Applying for a job that offers you the opportunity to provide for your family and that you are happy doing is something that everyone should strive for. On the other hand, oppression can

be shown in the example of when the employer expects the employee to work longer hours than is legally permitted and the wages received are not equivalent to the hours that are worked. I think that cheap labour can be equated with slavery and therefore can be seen as an example of oppression.

In the example that I used earlier, where the company employees were expected to work over the legal limit. On top of those working conditions, they were expected to work (such as cleaning without the proper tools or chemicals needed) within the company without the necessary equipment. This company, to me, is an example of oppression. Iris Marion Young states the following about oppression, “[S]ocial rules about what work is, who does what for whom, how work is compensated, and the social process by which the results of work are appropriated operate to enact relations of power and inequality” (Young 2014:14).

According to what is happening in the company (used in the example) I can see that the employees are being used by the company as a form of cheap labour in order for the company to seem physically clean for anyone who visits the company. But they are expecting inhumane practices to be acceptable to the employees because they know that the employees need their jobs. According to the opinion of Young as stated in the above paragraph, one can see that this example shows that the workers in the company are being exploited due to the difference in social class. The workers are of a lower social grouping to the executives in the company. If their jobs are taken away, they will not be able to provide for themselves or their families. In the worst-case scenario, this could lead (as was the case for some of the employees) to suicide or following an illegal path (substance abuse or selling) to ensure that they are able to provide at home.

iii) Opportunities for promotion.

As was discussed above through the example that was presented, there are companies that use people to perform slave-like jobs and do not give them the opportunity to be promoted. This practice has a repercussion for the employee, as seen in the previous paragraph, but it

will also leave the company to face other consequences that will be explained a little further on in this section.

I agree with Bertland (2009) when he says that part of the company's job is to provide the employee with the space to better themselves as well as better their skills. If employees are given the opportunity to better themselves, they will feel motivated to work harder and to achieve new goals. By allowing the employees to better themselves, the companies will also be providing better services and more work will be done.

I also agree with Bertland (2009) that in order for the hiring process to be fair there should be a starting point for all employees in terms of an entry level position into the company, and that employees should not be given the high earning positions based on who they know in the company. Every employee should be given the opportunity to gain knowledge and skills in the company with the hope of advancing their careers. In the event that the ex-criminals have been given the opportunity to study and has all of the correct qualifications, why should that person not be given the same opportunity as anyone else to be promoted?

The consequence that the company will be facing if they do not give the possibility of promotion is that the employees will always be busy in the same space and 'arena' in the company. Without motivating the employee to improve in their job by upskilling themselves, they will feel stuck in the same position. This means that the company will end up with employees that only have one skill-set. With only one skill-set, the employee will not be able to provide the company with an asset by providing the company with better services and work will not be done with a new level of quality.

This may be an advantage in some cases, such as being able to specialise, but if the company does have competitors, the company will need to ensure that the employees are upskilled so that they maintain the competitive advantage. If the competitor enhances their employees' skill-set then that will ensure that they will be chosen over the company that is not interested in upskilling or promoting their employees. The employees that are upskilled

will have a higher sense of purpose and self-respect. This will reflect in the work that they produce for the company.

Not up-skilling and promoting your employees means that the company has the exact same employees doing the same job for a long period of time. This may not seem like a bad thing but with the world changing at such a rapid pace, there are people leaving institutions with better ways of doing something.

The employees that are given the same job for the foreseeable future will not be given the chance to learn anything new and therefore will end up feeling worthless. There are going to be people that are better qualified to do the job and because the company is not willing to allow upskilling and therefore promotion, the self-worth of the employee is diminished significantly.

Kant argues that you should not use someone as a mere means to an end. This is a good example of that. The company is using the employee as someone who is just there to get the job done and learn nothing new in an industry, or who is not given the opportunity to rotate their job within the company. Such a person will only feel like a ‘number’ in the company and not a valued employee. An employee (and any person essentially) should be treated as an end, as opposed to a mere means to an end.

As quoted before, Bertland says that “the objective of an institution, then, is to create arenas in which individuals have the freedom and the resources to develop their own capabilities as they see fit” (Bertland 2009:28). According to Bertland, a company should want their employees to succeed and better themselves when they can. If the employees are well equipped, then the company is well equipped.

Bertland speaks about creating a space for the employees to be able to better their capabilities. If a company can do this for some of their employees, would it not be seen as fair and just to the employees that are ex-criminals to be given the same opportunities? I

think that it would be seen as fair and just, and that it would be *correctly* seen in that way – i.e. that it would indeed be fair and just practice.

I would think that once an ex-criminal is reintegrated into the community and hired by a company, it is very important to them. They feel as though they are officially part of society again and that they are able to contribute constructively.

After having gone through the rehabilitation process they want to prove that they are worth something again, not just to the ones that they left behind while serving their sentence but also to themselves.

Once they are hired to do the job, they will once again want to prove that they have in fact gone through all of the necessary steps to fix their lives and made a success of the life that they have now that they have been released. Being able to say that they are employed will restore some of the dignity that was taken away from them.

For an employer that hires an ex-criminal and does not do it purely for cheap labour, I would think that giving the employee a chance to upskill themselves and eventually work themselves up to a promotion, will be beneficial for the company and the employee.

Lucas explains why promotion is so important to an ex-criminal in terms of dignity and getting up skilled to be promoted. “Dignity was dependent, in part, upon symbolic acts of others recognizing their competence and contribution in order to build or maintain a sense of self-worth and self-esteem as related to their particular job role” (Lucas 2015:633).

The employer will have an employee that is more qualified and will therefore perform better for the company, bringing in more business and more profit for the company. According to the Kantian approach, this will have a good result for the employee, as they will have more self-respect and their self-worth will increase. Whereas with the Utilitarian approach, they will not feel the urge to jeopardise the job that they have, meaning that the loss of that job will not be in the best interest for the company. Once those skills are ‘lost’, the company will

have to find someone else for the job and while doing this, the work is not done and the company suffers. With an upskilled employee it will bring in more resources for the company and the possibility of providing the same opportunities for other employees to be upskilled. Therefore, looking at these considerations, both the Kantian and Utilitarian reasons have been looked at. Due to the considerations being discussed, I am now going to describe the differences between the Kantian and Utilitarian approaches when applied to management styles.

iv) Kantian management versus Utilitarian management in detail.

As stated earlier, every company is going to have a different management style, based on the culture that they cultivate. There are two distinct management styles that I am going to be focusing on for this report and that is Kantian management style and the Utilitarian management style. I will be describing more in detail what each theory entails according to my understanding of the two ethical theories and then give a scenario where each is prevalent to portray the difference.

A Kantian manager will make sure that they treat the employee as an end. All employer/ employee relations will contain an element of ‘using as a means’, for example, the employer will use the employee as a means to business success and the employee will use the employer as a means to a salary. But this is morally permissible, says Kant, as long as people are not treated only (‘merely’) as means; as long as they are also respected as having dignity and value as ends in themselves.

Treating the employee as an end would entail that the employee is treated with respect. It will show that the employee and their well-being is important and considered by the employer. The employee feels as though the work that they do will make a difference and is of great importance to the company. The employee does not feel like a number or a ‘slave’ to the company but rather someone that is contributing something that is worthy of being noticed positively by their employer. For an employee that has recently been rehabilitated

and hired by a company, this is exceptionally important for them. They are not seen as just any employee. Who they are and what they do for the company means that they have worth and that they are respected. This is important to them because they will also not consider turning back to illegal activities. They have a renewed sense of dignity and belonging. Kantian management will also realise that the best thing for the employee and the company is to treat the employee with respect, just like everyone else in the company, and to give them the opportunity to be upskilled and potentially be promoted within the company. This will show that the employee is being treated as an end and not just a means to an end.

It is not helpful to the restoration of their dignity to give them a job but then treat them like ‘slaves,’ or to not give them opportunities to learn new skills and to better themselves, or to have them do work that no one feels is good enough. They had let society down through committing a crime, but society is now letting them down after they have put in the effort to fix themselves, be rehabilitated and reintegrated into the same society.

A Kantian manager can be illustrated by the following examples. Employee A is being treated as a mere means to an end by their employer. This is because Employee A is being used as ‘menial labour’ and is instructed to just get the job done. It does not matter whether they have to work extra hours or if the working conditions are poor. As long as the results are favourable, the employer is happy. When this takes place Employee A will have a decreased sense of self-worth and they will feel as though they are just a number to the company that is forced to keep the company happy and that is it. In contrast, Employee B is employed by a company that prides itself on using a Kantian approach to management. This means that the manager will only ever treat Employee A with respect and as an end, not a mere means to an end. The employer will ensure that Employee A is treated in a way that makes them feel valued as an employee. This will make the employee feel wanted and their self-worth will increase significantly. A company with a Kantian approach to management will not let their employees feel like slaves. Just like every company, they are interested in results and the best way to make a profit, but this does not include making employees work

overtime without compensation and feel like their efforts mean nothing. With a Kantian approach, the manager will ask Employee A to perform, but instead of belittling Employee A, A will feel uplifted and will make sure that the job is done to the best of their ability. This will strengthen the ties and relationships within the company. It also means that Employee A will not have to rush their work in order to achieve results but rather do their work properly. Management treats Employee A with the dignity and respect that they were not treated with before and as a result Employee A will ensure that the job is done without taking short-cuts.

The Utilitarian manager is most interested in ensuring that the person that is chosen to be hired is the best candidate for the job because that will benefit the majority of people in the company and its shareholders.

Alder and Gilbert sum it up perfectly when they say “the utilitarian theory requires that managers not only attempt to determine who is best qualified for a position but also to consider how any given hiring decision fits within the overall pattern of hiring of the department and organization over time” (Alder & Gilbert 2006:453). The Utilitarian is most worried about whether the candidate has the correct qualifications that have been set out in the prerequisites. The candidate must tick all the right boxes in terms of what the company has set out. Only once that is done will they be deemed worthy or sufficient to be considered for the job. This tactic is not to make people feel less than what they are but rather it shows that the manager wants what is best for the company because this will benefit the majority (the shareholders) rather than the minority (potential new employees). The second part of that statement means that the manager must ensure that not only does the candidate look perfect on paper but also looks and fits in perfectly to the mould that the company needs them to fill. If the candidate has the needed qualifications and has the right attitude so that they fit into the atmosphere of the company then the manager will feel as though they have done their job. They have chosen the best candidate for the position that will benefit the company the most.

A Utilitarian manager can be seen when looking at the following example. There are three people that have been short listed for a job: Candidate A, Candidate B and Candidate C. The manager has yet to interview them. According to the requirements that the company has set in place, two candidates (Candidate A and Candidate B) fit the requirements perfectly. The Utilitarian manager will not consider the third candidate (Candidate C). The two fitting candidates will be called in for interviews. The manager will have two separate interviews and each interview will comprise of company culture related questions. The manager knows that they are both qualified for the job on paper but they have to now choose the best fit. Candidate A has the right qualifications and more experience in the field than Candidate B, but does not have the right attitude towards themselves or the company to fit into the existing culture of the company. Candidate B on the other hand fits perfectly into the existing culture of the company and has the needed qualifications that had been set out beforehand. Based on this, the Utilitarian manager will choose to hire Candidate B over Candidate A. Candidate A may have the needed qualifications and more but will not fit into the company's culture whereas Candidate B has the needed qualifications and the right attitude to fit into the culture. Candidate B will be the most beneficial person to hire in terms of the company, which is why it is seen as the manager acting in an ethical manner when making the hiring choice.

In the Utilitarian example, the management is more interested in the company's needs and what will be the perfect fit for the position, but the Utilitarian management approach does not take the respect and dignity of the individuals into consideration at all. With regard to applying these to the ex-criminal, the Utilitarian management style could be seen as not aiding the restoration of dignity or being respectful. Whereas the Kantian management style takes the respect and dignity of the individuals into consideration as well as the needs of the company.

v) Respect and dignity are restored.

In this report I am arguing that the Kantian management style should be used, because the Kantian approach has the main focus on the self-respect, self-worth as well as autonomy of the individual. The Kantian manager will be focused on helping to restore respect and dignity in the individual while still considering what is best for the company. I think that the following can be done to ensure that respect and dignity is restored.

Once the hiring process is done and it is done fairly, there is a degree of respect and dignity restored to the individuals. They used to be treated as though they were the scum of the earth, whereas now they are treated as people and they are able to prove that they are worth so much more.

When the ex-criminal is given the opportunity to flourish and provide for themselves (and their families) they are given a purpose and a drive to strive for more. There is a sense of dignity and respect that is restored. They are people and they are now seen as people that are contributing to society in a positive way. This means that they are no longer seen as outcasts or bad people but rather as people who want to turn their lives around and help their community. They start to see people around them taking them seriously and praising them as well as giving them constructive criticism when needed. This helps them to improve in what they have already done. It also gives them a sense of pride to try even harder to do well. By upskilling the employees, the employer is showing the employee that they believe in them and have seen their potential. The employer wants to see their company do well and therefore they should be seeking to upskill and enhance the skills of their employees. Having the opportunity to be upskilled and promoted will have a positive effect on the employee and the employer. The employee will show a greater amount of pride and care in what they do and try to perform even better. It will also boost their self-esteem and self-worth. Ensuring that the employee is upskilled and promoted shows that they are worth investing in. The

work that is produced will be of high quality and the results will show in the profit and increased attention given to the company.

When the employee is not treated with respect, such as when the employer treats them as a mere means to an end rather than as an end, their own self-respect declines. As the employee's self-respect declines the chances that the employee will have pride in their job and want to go the extra mile for the company is diminished. No matter the past mistakes of the employee, they will not be happy at the company and may lash out. This could affect the company, colleagues and even the family of the employee. A worst-case scenario could be in the form of the employee stealing from the company (time or property) as a means of trying to ensure that there is food on their table at home. This could lead to being incarcerated and therefore any respect and dignity that was restored will be lost.

When the employee has self-respect then there is a motivation to pursue their life's ambition. With a greater form of self-respect there is a view of worthiness and the need to want to do better. After having to go through the ordeal of feeling worthless while serving a sentence or having to endure the ridicule of having a criminal record, praise and someone believing in them will go very far in the pursuit of building their self-respect. When looking further into what Rawls said about self-respect, I would think that the following is important with regard to this report. Rawls says that "self-respect is a primary good" (Rawls 1971:440). The reason why he states that self-respect is in fact a primary good is because if there is no self-respect then nothing will be worth doing, that there is no true motivation in fighting for something good to happen in their lives because there is no value in it. In general, looking at the Kantian theory, the sense of self-worth is lost and the experience of this loss is described as shame.

Having a heightened sense of pride and ambition, they will push themselves to achieve more and to do the best possible job that they can. By believing in the plan that they have to better

their own lives as well as those around them, such as their family's lives, they will make sure that they are able to achieve this goal.

With their employer showing that they believe in them and that they have potential, it will encourage them to believe in themselves and that they matter to those around them. They will try hard to succeed at the plan that they are pursuing. By being upskilled they are giving themselves the opportunity to do that as well as building up self-respect.

By showing that they want something such as a promotion, they are showing that they want to better their lives and that they aspire to improve themselves. By them being upskilled and promoted it will encourage others that are in the same position that they were in to try to pursue their own dreams and make a success out of it.

vi) Objections

Just like any other subject there will always be people that could not agree. I am going to mention three of these objections to my own views on the topic.

There are another three potential objections that can be identified in the article written by Lam and Harcourt. I will be explaining what each of these objections mean as well as give an example where these objections are valid. I will then explain why I agree or disagree with the objections.

Lam and Harcourt believe that an ex-offender should not be punished indefinitely, the issue of discrimination needs legal intervention and the criteria of what can be classified as being a convict can be biased. On that basis, the following objections could be raised.

The first objection is that the company is the property of the owners and they have the right to choose whether they want to hire someone to work in their company or not. I think this is a valid statement from the perspective of the owner. It is the right of the owner to choose whether or not to hire someone for a job in their company. I also think that they have the

right to choose the best candidate for the job as well. At the end of the day, the company belongs to the owner and they have the right to turn someone away if they deem it fair.

The term ‘ownership’ can be applicable to a privately-owned company or a public company. The only difference is that with a privately-owned company, there is only one person who makes the decisions whereas with a publicly-owned company there are shareholders who make the decisions, but they decide as one entity and what they decide ‘becomes law’ for the company.

In a scenario, the following could be taking place. Owner A has just established his company. A lot of his own time and effort has gone into making the company a success. Owner A wants to ensure that he is doing everything according to the law so that he is compliant. He wants the best possible people to help him run his company, therefore he ensures that he surrounds himself with the best candidates. When Owner A decides to hire his staff, he does everything the ethical way by advertising the various posts. There are many candidates that apply for the various posts. Owner A ensures that the managers that he has employed will hire the right staff on his behalf. This is done by giving the managers the requirements that he has set out as priority when the interview process begins. The candidates that are short-listed are then given to Owner A. Owner A will then go through the various resumes as well as results from the interviews. He will make the final decision on who should be offered the job and who should not.

After setting up a company, I feel that the owner has the right to choose who they want to employ for the various positions. Each of the potential employees has rights as well but at the end of the day it is the choice of the owner. The owner (public or private) decides whether it wants to take the risk with regard to the positions that are filled. There is a set of criteria that is set up, a detailed description of what the owner wants in terms of characteristics. The owner is concerned with making the company successful and may not want to take unnecessary risks.

After explaining why I understand the objection from the employer perspective, I also understand and want to defend the position from the employee's perspective. Even though it is the right of the owner to choose who they want to hire, I don't think that the employer should immediately disqualify someone based on the fact that they have a criminal record. They have served their sentence and they should not be punished further. They knew that what they did was not right and they have paid penance. They went the extra mile to ensure that they did something constructive while in jail and got an education. They did this to ensure that when they leave, they can give themselves the best chance to turn their lives around and be a positive force in society. A criminal record should not be the distinguishing factor. If the candidate has exactly what the company is looking for, then they should be given a chance to prove that they are not the same people they were. They should be given a fair chance to show that they have changed their lifestyles and do not want to repeat what they did before.

If the employer really is looking out for the best interests of their company then they should be hiring the best candidates to fulfil those roles. If the person with the criminal record is the best candidate for the job but their criminal record is the only thing that is disqualifying them, that is not fair and should not be happening. It is detrimental to the person as well as the company.

The second objection is that the owner should not have to hire someone if there is going to be a risk of loss or damage to their property. From the perspective of the owner, it is a valid and realistic statement. No owner wants to inject their investment with capital and then do something that will risk it being lost or damaged. They want to protect their investment the best way they know possible and that is by not putting themselves or the company in a risky situation.

In a scenario, the following could take place. Owner B wants to ensure that the candidates that are hired to fill the various roles in their company are the best type of citizen in the

society. They want the candidates to have the right qualifications as well, but in order to protect their investment they need employees who have no questionable information on their resumes. Owner B knows that if they hire someone who does not fit the high-quality standards of the company, there is a high degree of risk that will befall the company. The company is an investment that has taken a lot of time and money to build and Owner B does not want to risk anything or anyone that will disturb that. Being the owner, they have the right to choose who they want to choose (as explained in the previous paragraphs) and this works to their advantage, because it means they do not have to take any unnecessary risks that could cause damage or loss to themselves and the company. It is better for the owner to completely avoid any situation that will cause them to spend unnecessarily because of loss or damage.

After explaining why I understand the objection from the employer perspective, I also understand and want to defend the position from the employee's perspective. Even though the candidate has a criminal record, it does not mean that they are going to be detrimental to the company. It is possible that the thing that they did to get the criminal record was done when they were young and were being rebellious, or they were desperate and did not see any other way out of a situation. Again, I highlight Graham's case from before. He was rebellious one evening and therefore got caught drinking and driving. Since the criminal record, he has made sure never to cross that line again. He knows what the consequences are and has been suffering those consequences in the form of not being employed. This also does not mean that people in Graham's position will destroy their second chance. They have served their term in jail and have paid penance for it. They want to make their lives better and provide for themselves.

While I recommend that a criminal past not be held against someone when considering them for employment, there are exceptions to this such as hiring someone with a violent past to work with people or someone who has paedophilic tendencies to work with children. However, if it is someone who has been to jail because of a minor offence then why judge

them based on that? On the other hand, there may be candidates who have been hired who look like the best candidates on paper and even in interviews, but as soon as they are in a situation in the office, they damage property or steal from the company. Any person that is pushed into a tempting or high-pressure situation could choose to make a bad decision and this could come from someone who does not have a criminal record. The potential employee wants a second chance to prove to themselves and to their community that they are not who they used to be.

It may seem to be a risk to hire someone with a criminal record but not all risks are only bad. If an owner makes the decision to hire someone who seems to be a risk, they could turn out to be the most hard-working employee and bring in the most revenue to the company. A risk is not always a risk but rather sometimes an opportunity.

The third objection is similar to the second objection but it touches on another aspect. The owner has the obligation to protect the health and welfare of their employees. This means that the employer is legally required to ensure the safety of their staff and ensure that no harm comes to any of them. The employer is not allowed to make any decisions about their company that will impact the employees (or themselves) in a bad and unavoidable way. They are legally required to strategize and implement these strategies that will reasonably protect anyone that they have employed.

In a scenario, the following could take place. Owner C is legally required to ensure the safety of all of their employees. Owner C holds a meeting with all of the managers of the company. In the meeting there is a set of requirements that are decided on when interviewing potential employees. The set of requirements forms part of the strategy that Owner C approves of to keep all of the current employees safe. By ensuring that the requirements are adhered to, Owner C ensures that no one with a criminal record is successful in their application for a job. Owner C asks all the managers to implement this strategy. When all of the interviews are done, Owner C looks over the candidates who have been selected as the short list.

Owner C approves all the candidates. Owner C is very happy that there are no candidates who have a criminal record, as was approved beforehand. Owner C has met their legal obligation to keep all their employees safe from harm and ensure that their well-being is taken care of.

However, a month into the new employment, Employee A has a violent outburst and physically attacks two of their colleagues. One of the colleagues is badly injured and the other is in critical care. Owner C does not understand how this could have happened, because all of the candidates were screened as being good candidates for the job. Employee A did not disclose that they have violent tendencies, whereas the candidate that was overlooked was someone who had a criminal record based on a minor offence that would never cause anyone any harm. Owner C was not in the wrong, they thought that what they were doing was in the best interest of all of the employees in term of keeping them from harm, but disqualifying someone based on the criminal record could be seen as unfair and unjust and overly conservative towards risk.

After explaining why I understand the objection from the employer perspective, I also understand and want to defend the position from the employee's perspective. Even if the candidate has a criminal record, it does not mean that they are going to do everything in their power to hurt those around them and jeopardise the second chance that they have been given. They have already paid for the bad decision that they made previously. They have received the help and guidance that they needed to work through it and the consequences that had occurred due to the bad decision. There are cases (such as in the scenario described above), in which people find themselves in a situation where they are unable to cope with what is happening around them and they lash out at others; just because they did not go to jail for it does not mean that it will not happen. It is the owner's legal obligation to keep their staff safe from harm, but that does not mean that it will be someone who has a criminal record who will cause harm. It is not just to assume that

someone that has served time in jail will hurt anyone that they come into contact with when they have been released.

vii) My suggestion for the hiring process

I want to explore the potential of changing the recruitment process so that it will go as follows: The first round is based solely on the curriculum vita that is received to make sure that the candidates are chosen for a short list based solely on their qualifications and skills. For the second round (short list) there can be a formal interview. Stating that you have a criminal record is seen as relevant information and should be discussed within the confines of the second interview. It should not be the overriding consideration for someone to be considered or not. By doing this, you are allowing everyone an equal chance to apply for a job based on them having the relevant skills to do the job, rather than what their past consisted of. In the second interview, the company can ask about whether there is a criminal record and that way the applicant can explain what the record is for (whereas the recruiter judges purely on the words on a page). While explaining about the record they are able to explain the skills that they did receive through the qualifications studied and rehabilitation that took place. The manager should then hire the best candidate for company because it will maximise the outcomes for the company and at the same time, it will preserve the dignity of the applicant because they were treated fairly and equally in the hiring process. This approach minimises the risk of recidivism and maximises the opportunities for both restorative justice and the restoration of dignity.

A similar approach is recognised by Dallon Flake when he says: “Perhaps the most promising development is the growing “Ban the Box” movement, which seeks to remove criminal background questions from job applications and to delay background check inquiries until further in the hiring process to give ex-offenders an opportunity to interview and explain why they are qualified for employment instead of being automatically disqualified because of their criminal record” (Flake 2015:48-49).

The recommended solution mentioned in the paragraph above is only one potential solution to restoring the dignity to a process that has been used for so long. This new process will negate possible discrimination in an ethical and dignity restoring manner. It will ensure that the previously discriminated population of ex-criminals will now be treated fairly in the hiring process and it will benefit the companies as well. The candidates will have the needed skills to ensure that the company flourishes. This will benefit the ex-criminals because they are treated fairly, their dignity is restored. Afterwards, they are reintegrated into society and they are able to support their families.

As a conclusion, I think that it is unjustifiable to it use a person's past mistakes or current unfortunate position as a reason not to hire them to do jobs for which they are skilled or to discriminate against them when they are employed. The managers that are in charge of the hiring process will have different sets of criteria for the potential employee. The two styles of management in terms of ethical approaches are the Kantian and the Utilitarian approaches.

The Kantian approach consists of the employer treating the employee as an end and not as a mere means to an end. It also consists of the employee not resorting to selling themselves as slaves as this will take away any self-esteem or respect that they have. The Utilitarian approach consists of the manager hiring the person that is best for the job. Their decision will be what is best for the entire company and not specifically for the employee.

The management style that I chose to focus on is the Kantian approach. With regard to the question which I ask and my answer, I say that the answer to the question I raise in this report is that it is unjustifiable, because according to the Kantian approach to human dignity the potential employee needs to be shown respect.

I believe that the potential employee should not be discriminated against based on the fact that they are an ex-criminal. They should be given a fair chance. Once the ex-criminal is given the opportunity and they are hired, they should not be given only the dirty jobs to do without the opportunity to be upskilled and promoted.

By ensuring that the rights of the employer and the employee are considered and recognised, it is my conclusion that the respect and the dignity will be restored for the ex-criminal. It also means that the employer is treating the ex-criminal as an end and not as a mere means. Therefore, the dignity and respect are restored between the ex-criminal and their employer as well as between the employee and their family.

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