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Paying minorities to leave

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Abstract
In April 1962, white segregationists paid money to African Americans agreeing to leave New Orleans. In 2010, the British National Party proposed paying non-white migrants money to leave the UK. Five years later, a landlord in New York paid African American tenants to vacate their apartments. This article considers when, if ever, it is morally permissible to pay minorities to leave. I argue that paying minorities to leave is demeaning towards recipients and so wrong. Although the payments are wrong, it is not clear if they are impermissible, given the benefits for the recipients. I argue that payments are impermissible if at least one of two conditions are met: The payments demean or harm other members of society, or the payments are provided to recipients who have failed to consent to the payments.

Keywords
discrimination, consent, immigration, voluntary transactions

Over 50 years ago in New Orleans, white segregationists gave cash and transport to African Americans who agreed to move to New York City (Webb, 2004). In a recent case in New York, a landlord paid black tenants $12,000 to leave their apartments, increasing the value of the property as only white tenants remained (Gibson, 2015). In a campaign proposal in 2010, the British National Party promised to pay $78,000 to each non-white resident who agreed to voluntarily leave the country and never return (Smith, 2010). In theory, a family of six could receive half a million dollars to move to Somalia, Ethiopia or Iraq.

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Is it morally permissible to pay minorities to leave?

When we think of wrongful discrimination, we often imagine a victim's options constrained. Victims are denied jobs, visas, apartments, places in universities and equal rights before the law (Lippert-Rasmussen, 2013; Segall, 2012). Rarely do we imagine victims receiving more options because they are unwanted. At most, we imagine them receiving the same number of options, as when children are segregated into separate schools. When individuals are paid to leave, receiving an option unavailable to others, it remains unclear whether such offers are morally permissible.

When I write that it is not clear if such offers are permissible, I do not claim that scholars ignore cases of discrimination where individuals benefit. Deborah Hellman discusses such cases, including one involving the US Food and Drug Administration marketing a specific heart medication to African Americans, statistically more likely to benefit from the drug. She suggests that advertising in this manner can reinforce the false belief that races are biologically distinct from each other. But in these cases, Hellman concludes, the government can avoid this harm by emphasizing that African Americans are not a biologically distinct group of people (Hellman, 2008: 67). No disclaimer is at hand when minorities are paid to leave in order to exclude them. The benefit arises precisely because of racism; had the payer not been racist, there would be no monetary offer at all. If there were no monetary offer, then some minorities would be worse off.

In the next and first section I argue that paying minorities to leave is demeaning towards recipients and so wrong. Although payments are wrong in this sense, it is not clear if the payments are impermissible, given the benefits for the recipients. In the second section I argue that payments are impermissible, and ought to be banned, if they demean or harm other members of society or if recipients have failed to consent to the payments.

Before proceeding, a brief note on my assumptions and limitations

I shall generally use the term 'discrimination' in its non-normative sense to describe any differential treatment. My goal is to consider whether paying minorities to leave is the type of differential treatment that is permissible.

I shall assume that acts can be permissible even if they are in some ways wrong. When I write 'in some ways wrong' I mean there are reasons to avoid the act, even if there are countervailing reasons to partake in the act. When I write 'permissible' I mean that, because these countervailing reasons are especially weighty, individuals are morally permitted to engage in the act, and others have reasons to permit the act.[1] I assume that one reason to permit a wrongful act is that the consequences are sufficiently beneficial for a victim who also consents to the act because of these benefits. For an example of such an act, consider a sexist individual who believes women are mentally inferior to men and so, as a result, helps women in need by providing donations to women's shelters. While this man's actions have some wrong-making features, including his sexist intentions and the demeaning nature of his assistance, his actions may still be permissible due to the benefit obtained for the women he assists. At the very least, it is worth considering whether such action is permissible despite its wrong-making features. This is not to claim that actions are permissible based solely on consequences or that, if an individual acts permissibly, they are not worthy of moral condemnation. Nor do I assume that, if an individual benefits from a permissible act, they must be grateful.

Rather, my assumption is merely that benefits can create countervailing reasons for establishing permissibility.[2]

When presenting my argumentation, I shall generally assume that paying minorities to leave has wrong-making features. Intuitively, this seems clear, and I shall present theories that explain this intuition. But although the payments have wrong-making features, the benefits may still constitute a countervailing reason to permit the act. My goal is to establish when this countervailing reason is sufficient to permit the act, and when it is not.

Throughout the article, I will largely remain neutral as to the full range of reasons discrimination is wrong. Some argue discrimination is wrong when it excludes individuals, others when it denies opportunities, others when it demeans and so forth. Some believe, as I do, that discrimination can be wrong for two or more of these reasons, depending on the context (Benatar, 2012: 5; Moreau, 2010: 157–160). My goal is not to prove that any one or more of these reasons explains the wrongness of discrimination. It is to demonstrate that, even when there are multiple reasons to view discrimination as wrong, there remains the competing consideration that victims consent to these payments because they benefit. When this competing consideration is present, a question arises as to whether the discrimination is permissible. It is this question I focus on.

When I speak of benefits, I speak primarily of monetary goods. I hold these benefits to be of moral significance not merely because victims gain materially, but because of the non-material goods that money can buy, including access to mobility and employment in distant cities, and the self-respect that comes with this employment. When individuals are very disadvantaged, money can also narrow the gap between the worst off and best off, helping individuals access opportunities they otherwise might not obtain, and the means to pay for rent, food, books, toys for one's children, leisure time and the moment of respite that comes with being handed a large amount of cash.

Although I focus on monetary benefits, we might also imagine non-monetary incentives to leave. Minorities might be offered free housing far away or free scholarships to study in a distant institution. We might imagine an employer who, rather than firing minorities, promotes them to better positions, with offices far away. I mostly put these cases aside. This is largely because, when minorities historically have been paid hard cash to leave, the racist and sexist intentions of the payers have been especially salient as have the benefits for the recipients. As such, the tension between two competing considerations is especially clear.

Although I focus on the puzzle of payments to leave, resolving it can help clarify the scope of wrongful discrimination more generally. By looking at cases where victims of discrimination acquiesce to discriminatory payments – because they benefit – we can better establish whether benefits matter in deciding when differential treatment is decisively impermissible. Resolving this puzzle can also build on current debates regarding monetary transactions more generally. It has been argued that certain markets are unethical because they function under unjust background conditions, or reinforce stereotypes, or strengthen objectionable norms (Phillips, 2013; Sandel, 2012; Satz, 2010). I shall show that paying minorities can have these impacts, but consider whether payments ought to still be permitted, given the benefits for minority members.

In describing minority members, I shall mostly focus on ethnic and gender groups, all of whom I shall call 'minorities'. I will not significantly address discrimination against other groups, such as disabled individuals or senior citizens paid to leave institutions, companies or buildings. This is for simplicity. If you believe that discrimination against other groups is similar, this is consistent with the argumentation I put forth.

Finally, I put aside cases of structural injustice, where no agent has an explicit intent to exclude (Pincus, 1994: 84). I limit myself to cases where the discriminator pays minorities with the motive of encouraging them to leave, because they are valued less. These cases have been oddly overlooked but are prevalent. Current theories of discrimination do not quite resolve whether such payments are permissible, nor how the state should respond.

Four theories

To demonstrate the limits of current theories in establishing permissibility, we can begin by considering the actions of an organization called the White Citizens' Council. Established in the 1950s, the Council spent years attempting to keep segregation legal in the American South, lobbying congressmen, boycotting black-owned businesses and even producing a children's book that taught heaven was segregated (Tyson, 2005: 182). By 1962, they failed to keep segregation legal, and so changed their tactics, offering thousands of African Americans money to leave southern states and move north. The first recipients of this offer were Louis and Dorothy Boyde and their eight children, all living in New Orleans. Louis had recently lost his job after falling ill, and Dorothy was expecting another child. They accepted the Council's $50, food and bus tickets out of town, arriving in New York City two days later, elated to start a new life with less overt racism, more stability and greater employment opportunities (Webb, 2004: 249). The Council had many goals in sponsoring their migration, but one was simple: to reduce the number of African-Americans in New Orleans (Webb, 2004: 253).

There are four theories we might raise to establish whether the Council's offer was permissible. The first three theories, I argue, struggle to establish the moral wrongness of payments at all, let alone if they are impermissible. I take this as a point against such theories, given the intuitive feeling that something is wrong with the Council's actions. The fourth theory establishes the wrongness of payments to leave, but does not establish if the payments are permissible, given the benefits and consent of the recipients.

Other features. The first theory is not quite a theory, but a claim: The Council's payments were not themselves wrong or impermissible. It was the other features of the case that indicated the impermissibility of the Council's actions.

There are three possible features of the case, other than payments, which could indicate impermissibility. The council engaged in other racist activities, and there was general racism in New Orleans. Payments, we might suppose, indicate other forms of wrongful discrimination and are not themselves wrong. Any institution that pays minorities to leave probably exists in a society where minorities cannot attend certain schools, buy certain houses or walk down the street without fear of being attacked. At the very

least, it is a society with widespread implicit biases and structural inequalities, and it is these inequalities alone that are wrong and impermissible to support.

Another possible wrong-making feature is related to the involuntariness of the Boydes' decision. As victims of severe poverty and general racism, they were compelled to accept the free transport and cash (Webb, 2004: 249). If ethnic minorities are compelled to leave town, they are victims of forced discrimination. It is the forced nature of their departure that disturbs us, we might suppose, rather than the offer of money itself.

Finally, some might argue that the Boydes were wronged because they were exploited, rather than because they were paid. In general, wrongful exploitation occurs when we enter a transaction with an individual whose rights have been violated, or who has no reasonable alternatives, and we profit as a result. If a factory owner hires a worker, paying her a piece of bread a day, and the reason she accepts such a low wage is because her land has been stolen, then she is being exploited.[3] Similarly, if the Boydes' reasons for accepting the $50 were because of general discrimination and poverty in New Orleans, they were wrongly exploited. The White Citizens' Council gained from the Boydes' unjust circumstances in the sense that, for a mere $50, the Council could encourage African Americans to leave, satisfying their racist preferences.

I do not believe that these other features of the case – racism in New Orleans, the involuntariness of the consent, or exploitation – can fully explain the intuition that there is something wrong with paying minorities to leave. Imagine the Council consisted of exactly one white supremacist living in a very tolerant city. She spent her days knocking on the doors of ethnic minorities, offering money on the condition that they leave town, and recipients accepted the money without facing any coercion, poverty or rights violations. Many may feel uneasy about such payments although they entailed no other forms of racism, coercion or exploitation. Something seems wrong, and a good theory of discrimination will explain why.

Harm and belief-based theories. There are two theories of discrimination that struggle to explain the wrongness of payments to leave, let alone if they are permissible. The first theory claims that discrimination is wrong if it harms its victims. Different theorists claim that different harms are morally relevant. Some claim it is wrong to exclude minority members, even if they are not made worse off (Collins, 2003). Others claim discrimination is wrong when it disadvantages the worst off in society (Lippert-Rasmussen, 2006). Some claim discrimination is wrong when it denies equal opportunities to minorities (Lippert-Rasmussen, 2013: 175; Segall, 2012). Finally, some claim discrimination is wrong when it widens the gap between advantaged and disadvantaged groups (Khaitan, 2015).

These harm-based theories seem to imply, counterintuitively, that there was nothing wrong with the Council paying the Boydes, because they were not harmed. Although the Boydes left, they were not excluded in the traditional sense. They were never forced to leave, and the money helped them escape a society full of exclusion and join one with less segregation and far more job opportunities. While it is true that leaving New Orleans was likely a difficult experience, prying them away from friends, families and the home they knew, it also helped them obtain opportunities they preferred to have. Nor did the Boydes just happen to benefit from the Council's discriminatory payment scheme, as

when a person is denied a job opportunity, moves to another city, and happens to find greater opportunities in this new city (Lippert-Rasmussen, 2013: 157). The White Citizens' Council specifically intended for African Americans to benefit from migrating, to persuade them to leave and never come back.

The Boydes, as members of a disadvantaged group, were also never made worse off by the payments or denied equal opportunities to white residents. Nor did the payments widen the gap between their position and the position of white residents of New Orleans. Precisely the opposite: As they boarded the bus, cash in hand, they were given one extra opportunity that white residents did not have, including very poor residents who preferred funds to leave but could not access these funds. It seems oddly to fall under the category of affirmative action, which Lippert-Rasmussen argues is a form of justified discrimination. The bus tickets and money, to use his words, closed 'the gap between how well-off those who benefit unjustly from discrimination are and how well-off they would be if no discrimination took place henceforth' (Lippert-Rasmussen, 2013: 157).

Harm-based theories similarly struggle to establish the wrongness of other cases involving payments. Today, some attorneys claim that women can receive higher severance pay if they prove they were discriminated against, including in the termination of their contract (Bosin, 2015). If this is true, some companies may essentially pay women to leave, offering generous severance to women in return for their quiet acquiescence to the termination of their contract. These women may be better off than if they received no extra severance pay, and slightly closer, economically, to their male counterparts. We might even imagine a woman paid to leave a company and made economically better off than if no discrimination had taken place at all, receiving more money than the men received in their salary and severance pay. If we intuitively feel something is wrong about such severance pay, a good theory of discrimination will explain why.

A second set of theories, called 'belief-based theories', can better account for the intuition that something is wrong. These theories view discrimination as wrong when the result of racist or sexist beliefs, regardless of whether victims are excluded or disadvantaged (Alexander, 1992; Arneson, 2006). The Council had racist intentions when paying blacks to leave, and companies may have sexist intentions when paying women to leave. It is these intentions which are wrong.

Although belief-based theories explain the wrongness of these cases, they cannot explain the wrongness of paying minorities to leave without any racist or sexist intentions. Consider the case, from 2015, involving a Brooklyn landlord paying $12,000 to black residents agreeing to vacate their apartments, never paying white residents this money. His interests were financial: An all-white building increased the market value of his property, allowing him to charge more rent. He may have had prejudicial beliefs – a recent interview suggests he did (Gibson, 2015) – but if he did not, his actions would still seem disturbing. While it is true that discrimination can be wrong because of racist intentions alone (Slavny and Parr, 2015), it seems that paying minorities to leave is wrong even when there are no racist intentions.

Some may argue that the case of the Brooklyn landlord is a case of racist intentions. The landlord was responding to the demands of white renters willing to pay more to live in an all-white apartment building. These white renters had racist beliefs or at least

objectionable preferences and biases. It is wrong, some argue, to discriminate in response to the racist beliefs or biases of others, even if the discriminator himself has independent non-objectionable beliefs.[4]

But even if racist beliefs can explain the wrongness of paying minorities to leave in the above case, they struggle to explain the wrongness of paying minorities to leave in some fictional cases. Consider a case by Deborah Hellman, in which a principal asks black and white children to sit on opposite sides of the auditorium for purely aesthetic reasons, and completely unaware of the history of segregation. Clearly, his actions are wrong even if he holds no objectionable beliefs and is not intending to fulfil the objectionable preferences of others (Hellman, 2008: 26). We might easily imagine a similar intuition involving payments. Imagine the principal paid black students to leave the auditorium and sit in a separate auditorium, similarly for purely aesthetic reasons. It seems his actions would be wrong, even if his beliefs were not.

Expressive meaning. The 'expressivist' theory, unlike belief-based accounts, can effectively explain the wrongness of payments but, though explaining wrongness, does not establish permissibility.

According to Scanlon (2008: 73) and Hellman, both proponents of this general theory, discrimination can be wrong because it expresses an offensive or demeaning message that minority groups are 'not fully human or . . . of equal moral worth' (Hellman, 2008: 35). One can express a demeaning message even if one has no racist or sexist intentions, and even if one is not aware one is offending and demeaning others, as in the case of principal telling black students to sit on different sides of an auditorium for aesthetic reasons alone, completely unaware of the history of segregation. His instructions would be demeaning regardless of his beliefs (Hellman, 2008: 26).

One can even demean someone who is not aware they are being demeaned. A girl with cognitive disabilities may be demeaned if taunted on the playground, even if her impairment means she is not aware she is being taunted. Importantly, one can demean another even if they benefit in some ways. Hellman argues this point using an example of Nelson Mandela in prison on Robin Island. He and black inmates were forced to wear shorts, clothes normally reserved for children. Mandela may have benefited from cooler clothing on such a hot island but was wronged because he was treated in an infantilizing manner (Hellman, 2008: 27). We might imagine other actions with a benefit that entail a demeaning message. A woman may be given the opportunity to work in a pornographic film that is violent and degrading towards women. Let us put aside whether such practices are wrong (Hellman, 2008: 42; Phillips, 2013; Stark, 1997). It seems clearly wrong to go up to a woman on the street and ask if she would be willing to take part in violent sexual acts in return for money. Offers for extra options can be demeaning even if, in accepting such offers, some women profit.

There are a number of reasons that offers can be demeaning, even if recipients benefit. One reason is that offers objectify recipients, as in the case of the women above, or because they express a lack of sensitivity to historical injustices, as in the case of the principal segregating children. Beneficial offers can also be demeaning if combined with an endorsement of racism or sexism, such as offering women fewer hours of work out of a belief that women are less capable, but paying them the same salary as men, benefiting

them in the process. Finally, discriminatory offers can demean others when treating them as members of a group, rather than as individuals with their own autonomous decisions, preferences and talents. Benjamin Eidelson (2013) evokes this point with an example of an orchestra director who selects an East-Asian violinist, despite her poor performance, because he is influenced by the stereotype that women of East-Asian descent are better at playing the violin. He disrespects her because he treats her as a member of a group, rather than an individual with her own unique character and skills. His actions are demeaning even if the violinist benefits.[5]

Expressivist accounts seem consistent with the intuition that the White Citizens' Council's actions were in some ways wrong. The Council was treating the Boydes, and all African Americans in New Orleans, as members of a group, rather than individuals to be judged according to their skills, character and unique attributes. Because the payments were combined with an endorsement of segregation, the payments also implied a demeaning message: 'We do not want you so much, that we are willing to give you money to leave'. The greater the financial benefit for the victims, the more strongly the discriminator is expressing how much they are willing to sacrifice personal resources to meet their racist preferences.[6] In this sense, payments are distinct from merely requesting that another person leave, without offering any money at all. The money is constitutive of the message and so constitutive of the wrong.

When the payer does not endorse racism, payments can still demean if they evoke a certain meaning derived from historical segregation. Such is the case when a principal pays black students to sit in a different auditorium for aesthetic purposes alone. This seems demeaning due to the historical meaning of such an action, even if the principal does not endorse any form of racism.

The idea that payments can be demeaning may be consistent with some harm-based accounts. If payments are demeaning, they can also socially exclude, in the sense that individuals are told how little they are valued in society. If such social exclusion is a harm (Collins, 2003: 25), then payments are harmful even if they involve monetary benefits. We might also suppose that, if payments are demeaning, they undermine equality of opportunity, in the sense that individuals no longer have the opportunity to be free from the demeaning message implied by the payments (Segall, 2012). If those who are demeaned are also the worst off in society, and harming the worst off is what makes discrimination wrong (Lippert-Rasmussen, 2006: 167), then we can view demeaning payments as wrong in this sense. In other words, harm-based accounts, if they view demeaning expressions as a harm, can view demeaning others as wrong regardless of benefits.[7] It remains the case that the expressivist account is useful for establishing why certain types of discrimination are wrong despite no clear reduction in well-being, resources or preference fulfilment.

The expressivist account is also useful for determining when paying minorities to leave is not wrong. Imagine an anti-racist NGO that provides funds to rescue minority members from a racist society. The NGO's actions need not be demeaning if the NGO provides money alongside lobbying for the end of racism, and makes clear that payments are to help individuals achieve equal opportunity, rather than to reinforce racial separatism.

We might imagine other cases where payments are not demeaning. Imagine a building society paying white residents to leave, creating an all-black building in an area

where blacks face discrimination. Imagine, similarly, a company paying men to leave, creating an all-female firm in an industry where women struggle to obtain equality.[8] In these cases, the payments need not express the message that whites or men are valued less. The payments may simply express the message that blacks and women ought to be valued more and that society ought to ensure greater equality. More generally, the extent that payments are demeaning may depend on the extent that those paid to leave are members of groups currently or previously disadvantaged.[9]

The above establishes when and why payments are wrong. It does not establish when payments are permissible. As Hellman herself notes, her theory of discrimination does not 'say when the wrongfulness of [discrimination] may be overridden by other considerations' (Hellman, 2008: 31). Other considerations may include the benefits minorities gain and their acquiescence in light of these benefits. Were minority members no longer paid to leave, they would no longer access money they wish to obtain. While the demeaning character of discrimination establishes its wrong, it remains unclear if the beneficial character of discrimination establishes its permissibility.[10]

Some might argue that benefits for victims – even significant ones – do not constitute a competing moral consideration, and so ought not make wrongful discrimination permissible. Hellman and Yuracko both discuss a case that evokes this intuition, involving a casino that forced female workers to wear makeup, forbidding male employees from doing so. For different reasons, Hellman and Yuracko both conclude that the casino wrongfully discriminated against the women (Hellman, 2008: 46; Yuracko, 2006). This case is interesting, I believe, partly because the employees gained a salary, were not forced to work at the casino and possibly benefited compared to alternative forms of employment. Despite these benefits, I still feel the women were treated in an impermissible manner, and the weight of the benefit seems insignificant.

Even if this is true, the example does not establish that benefits are unimportant in determining permissibility. The women were not benefiting from the discrimination itself; they would still gain a salary in a world where employers stopped requiring women to wear makeup, assuming the casino retained its customers when women ceased to wear makeup. As such, if the government banned sexist dress codes in casinos, it is unlikely women would be worse off. This is not the case with payments to leave: If the government banned paying minorities to leave, minorities would lose money because the discrimination is precisely what entails paying individuals money.

Some might argue that, even if minorities prefer payments to leave, such preferences are not strong reasons to permit otherwise wrongful discrimination. This is because, more generally, preferences hold little weight in establishing the permissibility of wrongful discrimination. If most women in a country prefer that all women be banned from voting, their preferences seem less important than our hope that all women are given the freedom to vote. But there is an important distinction between preferences for forced exclusion and preferences for voluntary incentives. Were women to oppose the vote, and insist they were not demeaned, we might claim their beliefs were the result of non-autonomously developed preferences, given that they were denied the vote their whole lives, possibly excluded from public life more generally.[11] We cannot quite say this about the Boydes: The money really did make their lives go better. It would be odd to

claim that they were somehow mistaken about their own beliefs, the way a subjugated individual may falsely believe they are not subjugated.

More importantly, when minority members support forced discrimination – such as women supporting banning female voting – they are denying other women the vote, including women who want to vote. At the very least, they are undermining the autonomy of other women, denying them the right to vote if they ever wish to vote. The same cannot necessarily be said about the Boydes. When they boarded the bus, nobody else was forced onto the bus. It was their private choice alone.

Of course, it was not quite their private choice alone. The Boydes' acquiescence to leave may have harmed others in society. This is a possibility I shall now address.

Conditions for establishing impermissibility

If the only reason payments may be permissible is that minorities benefit and consent without harming others, then payments are impermissible if third parties are harmed or recipients fail to truly consent.

Harming third parties. Harm towards third parties may be a justifiable reason to view discrimination as impermissible. Lippert-Rasmussen provides the example of a natural disaster with sectarian charities actively helping their own congregants but not others. Although the act of giving to one's own religious sect does not necessarily demean anyone, a state may justifiably pass laws requiring organisations to help all people in need, to prevent sectarian strife during an especially precarious period (Lippert-Rassmussen 2013: 269). Similarly, Deborah Satz writes that many market transactions are wrong because of how they impact others. In her example, surrogacy services may be wrong because they reinforce stereotypes of women as 'baby-making machines', and this may harm other women (Satz, 2010: 130). This would be true even if the surrogates themselves benefit from a given transaction.

More generally, when two parties enter a transaction that significantly harms third parties, this harm provides an especially weighty reason to view the transaction as impermissible. Were I to sell cars that significantly increased pollution for others, or were I to sell cars to white buyers alone, the transaction would be impermissible given that third parties have not consented to the harm they experience nor the demeaning message they face.[12] In contrast, when only two parties are impacted, we can at least conclude that both agreed to the transaction and felt it was all-things-considered preferable. If the Council and the Boydes were the only parties impacted by their transaction, and the Boydes decided the money they received was worth the demeaning nature of its acceptance, we should perhaps respect their decision. No such decision is made by a third party negatively impacted. Such third parties have a complaint that the Boydes do not: They have been forced to endure a negative externality against their will, without their preferences being fulfilled.[13]

This raises the question of how much weight we place on the harms third parties face. While it is difficult to establish a precise rule, it seems the more pervasive and significant the harm is, and the more disadvantaged the third parties are, the greater weight their interests hold. If paying minorities to leave creates significant and widespread harm

against those already disadvantaged, we have a weightier reason to view the payments as all-things-considered impermissible, rather than just wrong in one way.

There are a number of ways paying minorities can create pervasive harm for third parties. One way is by increasing implicit biases. If the public is unaware that there is an exchange of payments, it may assume that minorities are less willing to stay. This may reinforce stereotypes that certain groups are less willing or capable of staying, harming the opportunities for these already-disadvantaged third parties. Were a woman to retire earlier because she was given greater severance pay, and did not publicize this greater severance pay, others may believe she was retiring early because she wanted to work less than men, when in fact she wanted to retire early because she was paid more to leave than men. Her leaving may reinforce associations between being a woman and not willing to work as long.

Even when payments are publically announced, this may increase the legitimacy of racist and sexist views. Today, there is often a taboo against holding racist and sexist preferences. If individuals publically announce their preferences by offering money to leave, this may normalize such preferences. Payments may also reinforce attitudes of disrespect more generally, normalizing demeaning expressions, effecting those who never received offers of payments or who would rather they never existed at all.

Finally, payments can undermine efforts to counteract historical segregation, often associated with serious inequalities and injustices. If payments encourage ethnicities to voluntarily live in separate neighbourhoods, individuals may be less likely to interact with members of other ethnic groups, which may undermine mutual cooperation, often essential for community-building and mutual respect (Anderson, 2010: 2). In general, encouraging segregation, even voluntary segregation, may increase disparities along ethnic lines, contributing to unequal education, employment and housing. Because of these harms, governments have encouraged citizens to voluntary live in integrated neighbourhoods (Sundstrom, 2013). If a landlord pays minorities to move elsewhere, the landlord's actions mitigate such efforts.

Even when payments do not cause the above consequences, payments may still cause harm. If Hellman is correct that discrimination is wrong when it demeans, discrimination is wrong if it demeans third parties, even if they are never directly discriminated against. When a racist agent pays minorities to leave, she is not only expressing that she values certain individuals less than others. She is expressing that she values certain characteristics less than others, and this demeans others who hold these same characteristics. Imagine the CEO of a company paid an anchorwoman to retire earlier than men, never paying other female employees to retire earlier than men. These other employees understand that a characteristic they hold – their gender – is valued less even if, due to their particular position in the company, they are still valued. Similarly, other African Americans in Brooklyn, never paid to leave their particular buildings, are exposed to the general message that their ethnicity is viewed as indicative of their lesser worth. These other African American residents of Brooklyn are demeaned regardless of whether they personally experience an increase in racism or racial separatism from the payments. Importantly, they are demeaned without any corresponding benefit, unlike those directly paid to leave.

The impact on third parties may be more pervasive the more public the offers are. 'I am willing to pay money', the payer declares, 'to encourage members of this group to leave'. Other members of the group understand that, in a close possible world – a world where they lived in a particular building, or held a different position in a company – they, too, would be unwanted. And even when the payer is not endorsing a racist or sexist message – such as a landlord whose motives were purely financial – payments can still demean others. As noted in the last section, payments are partly demeaning because they express the payer's failure to recognize minority members as individuals, judging them based on their ethnicity, gender, sexuality or other characteristics (Eidelson, 2013). Other minority members may understand that characteristics they possess are viewed as indicative of who they are, treated as members of a group rather than as particular individuals.

Discrimination can even demean individuals who are not of the minority group paid to leave, but are members of other disadvantaged or potentially disadvantaged groups, including other ethnicities, religions, genders or sexualities. These groups, residing in the same town, building, or place of employment, may understand that, in a close possible world in which their group were targeted, they too would be unwanted based on their membership in a group. Being exposed to this possibility may be unsettling, and possibly offensive, without the corresponding financial benefit obtained by the parties directly paid to leave.

The above argument focuses on the public nature of the payments, as a public expression of disrespect towards all members of a minority group. I believe that even private payments could demean third parties. This is because discrimination can be demeaning towards individuals who are not aware of the discrimination and so never personally offended. Return, again, to the case of the girl with cognitive disabilities who is taunted on the playground, demeaned despite being unaware of the meaning of the taunting message. If one can be demeaned from a message one never comprehends, perhaps third parties can be demeaned from a message they never hear. We often use the word 'demeaning' in this way, as when we say women are demeaned by violent pornography, including those who do not know of this pornography.

Whether one accepts this claim depends on whether one accepts it is possible to wrong someone who is not aware they are wronged and experiences no reduction in welfare. Putting this debate aside, we can at least conclude that public payments constitute a clear expressive harm towards third parties. These third parties have been wronged without any corresponding benefits. As such, they have been treated in a manner with wrong-making features and no right-making features. As such, they have been impermissibly wronged.

This conclusion may have implications for some forms of indirect payments. Imagine a Brooklyn landlord – who I call Adam – pays another landlord – who I call Betty – money to lower her rent dramatically, luring Adam's black tenants to Betty's now-cheaper apartments, leaving only white tenants behind in Adam's building, increasing the value of his property.[14] Regardless of whether this wrongs the tenants who move, the transfer of money from Adam to Betty sends a demeaning message towards other minority members who understand how much Adam is willing to pay to fulfil the racist housing preferences of white tenants. Adam's payments also contribute to harmful consequences if, in taking part in this payment scheme, he contributes towards racial

separateness and normalizes racist preferences. Like with direct payments to leave, such actions may be morally impermissible due to harms towards third parties.

While the above examples all take place domestically, we might imagine governments paying ethnic minorities to leave the territory of the state, as when the British Nationalist Party proposed paying $78,000 to every non-white asylum seeker who agreed to repatriate from the UK (Smith, 2010). Indeed, in 2009 Japan paid thousands of dollars to migrant workers from Latin America to repatriate, never paying other migrants to leave (Tabuchi, 2009). More recently, Israel began providing $3,500 to African migrants agreeing to repatriate or move to another country, denying similar payments to non-African migrants of comparable legal status (Gerver, 2017).

Some might argue that such payments in immigration control are distinct from domestic payments. If states have a sovereign right to control their borders – a commonly held assumption[15] – they may have a sovereign right to pay non-citizen minorities to leave. More generally, principles of justice in the international arena are distinct from principles of justice domestically, and so we cannot simply apply my analysis of domestic payments to the case of immigration control.

But paying non-citizen minorities to emigrate may be a domestic injustice if payments demean citizens of the same minority. These citizens understand that a characteristic they hold – their ethnicity – is partly indicative of their worth in the eyes of their government, even if they are ultimately accepted because of their citizenship. Christopher Wellman, a strong proponent of states' right to exclude immigrants, raises a similar argument. States, he concludes, have a right to control their borders to prioritize citizens' interests. If so, states are not permitted to deny visas to all non-white applicants if this sets back citizens' interests. Such policies set back citizens' interests by deeply offending non-white citizens of the same ethnicity (Wellman, 2008). Building on Wellman's argument, we can conclude that, even if states have a prima facie right to control immigration, including the right to pay unwanted migrants to leave, they do not have the right to pay only unwanted ethnic minorities to leave. At the very least, states have weighty reasons to refrain from such policies, given the effects on their own citizens.

I do not believe that, in every case of domestic or international payments, third parties are significantly harmed or demeaned in the ways I describe. Payments may demean others less if they only occur privately – at least, this is a possibility I leave open – and payments need not reinforce racial separatism or bias if few accept the payments. If the landlord in Brooklyn had not advertised his actions, and if his actions were one-off, we might conclude that only those directly given money were significantly demeaned, and the payments were permissible. But given the public nature of the landlord's offer, and the possibility that such offers are pervasive, these payments are morally impermissible because they wrong others who experience no benefit.

Even when payments do cause harm to third parties, there remains the possibility that, if payments substantially benefit recipients, this benefit can outweigh the harms third parties face. The White Citizens' Council provided the Boydes access to basic goods, including an income and schooling for their children, and perhaps these goods could outweigh harm towards third parties if this harm fell below a given threshold. It remains the case that harms towards third parties can outweigh benefits for recipients, making these benefits impermissible, rather than just wrong in one way.

Lack of consent. When there is no harm towards others, and recipients substantially benefit from payments, the payments are still impermissible if recipients have not consented to their provision.

There are two groups of recipients who may fail to consent. One group is comprised of those who reject the payment offer, and have been forcibly exposed to the demeaning offer against their will, with no corresponding benefit. If women are offered greater severance pay to leave, or black families funds to relocate, they have been treated impermissibly if they have rejected the offer, even if no third parties are harmed. This is not to claim we should determine permissibility based on preferences alone. I merely claim that, if recipients of the offer reject the offer, there is no conflict between their preferences and the wrongness of demeaning treatment. Their preferences have not been met, and they have been demeaned. As such, they have been impermissibly demeaned.

Of course, there is always a possibility that individuals in the future will accept the offer, and so will benefit from the availability of this offer which they very much wish to accept. Such cases would be similar to cases involving third parties: The third parties harmed would be those rejecting the offer, and the beneficiaries those accepting the offer in the future. In such instances, the interests of the rejecters ought to be given special weight, given that they have been forcibly exposed to demeaning treatment against their will. More generally, the more individuals reject an offer, the greater reason we have to view the offers as impermissible.

The second non-consenting group is comprised of individuals who accept an offer but only because it was offered. Given the choice, they would never have wanted the offer to begin with.[16] This may occur when individuals feel that, once a demeaning offer is on the table, the expressive meaning has already been conveyed, and so they may as well accept the money and leave. Individuals may also accept an offer to be polite, or to avoid creating tension, while still wishing the offer were never posed.[17] As with the first group, their preferences have not been met and they have been demeaned. This may have occurred with the case of the Brooklyn tenants. They may have accepted money because it would be preferable to leave than to continue living in the building of a racist landlord. These tenants may have felt that, given the choice, they would have been happier had they never been offered the money at all.

While more empirical research is necessary to establish whether the tenants preferred no offer at all, a recent case from Israel exemplifies such non-consent. In 2015, a woman named Ms. Rabinowitz was seated on an El-Al flight next to an ultra-Orthodox man. The man told the flight attendant he preferred sitting next to men, and the flight attendant asked Ms. Rabinovitz if she would like a better seat near First Class. Ms. Rabinowitz consented, but wished she were never offered the better seat, later suing the airline for wrongful discrimination (Kershner, 2016). Regardless of whether this is truly a case of wrongful discrimination, it demonstrates that one can consent to an offer without consenting to being given an offer. If an individual has not consented to being given an offer, then she has not voluntarily experienced the offer. She also does not subjectively feel she is benefiting compared to a world where the offer was never posed. In this sense, her experience is similar to discrimination involving a disadvantage against one's will. Even if one believes that a truly consensual and substantial benefit can deem an act permissible, no such consent or benefit arises if an individual has not consented to being offered a benefit to leave.[18]

Some may claim that, even if particular minority members do not want the offer to leave, the offers should still be permitted if no third parties are harmed or demeaned. If minorities are never told about the offer, they will never be able to accept it, including those who wish to accept the offer. Importantly, we cannot know if an individual would have consented to being given the offer unless they are asked 'Do you want me to offer you money to leave?', and this question would be tantamount to an offer.[19] To address this concern, we may wish to distinguish between the ways in which offers are posed. Very public advertisements on billboards, and very intrusive offers on the street, may be more demeaning towards those who do not want the offers compared to private offers. As such, if payments should ever be permitted, offers should be limited to discretely advertised announcements, similar to the types of advertisements for pornography, or for hiring actors for pornographic films. Some may argue that minorities have still not consented to being exposed to discrete advertisements, and minorities can be demeaned by hidden advertisements they are unaware of, as I argued above. If this is true, all offers should not be permitted.

The above domestic cases are very different than immigration cases, where the state pays non-citizen minorities to leave a country. Assuming citizens are not harmed or demeaned, some might claim that payments are permissible even if the migrants have not consented. This is because migrants are owed less than citizens, and because states have a sovereign right to control their borders even without the consent of would-be immigrants. Indeed, even those who support open borders might hold that states are permitted to pay minorities to leave. Consider, again, the case of Japan paying Latin American migrants to leave. Imagine there were no ethnic minorities in Japan other than these migrants, such that only Latin American migrants were demeaned. Perhaps, some may claim, the Japanese government's actions would be permissible, even if wrong in one way, because the state has a right to prioritise citizens, and no citizens were harmed.

Even if one holds that states are permitted to control immigration by paying non-citizens to leave, we may still reach a modest conclusion: The benefits for migrants in being paid to leave, and the consent they provide in leaving, is not a relevant consideration if these migrants feel their lives would be better had they never been offered money at all.[20] As such, states cannot justify their actions by appealing to the consent of the migrants. This leaves open the possibility of other justifications for permitting payments, such as states' sovereign right to control their territory.

Conclusion

Many minorities would prefer assistance to leave than to face continued discrimination where they are, unable to find a job or apartment, or interact with others as equals. Others wish to leave not because they face widespread discrimination, but because they hope to find better opportunities elsewhere, far easier if paid to leave. While such payments may seem intolerable, they help minorities escape intolerance, or start their live anew, making it easier to resettle, find a job and integrate into a new neighbourhood, company or city. And while such payments are demeaning, they place resources into the hands of the demeaned, helping ensure their exit is smoother than it otherwise would be, at times enriching them more than if no discrimination took place at all.

To consider when such offers are impermissible, it is not enough to consider if individuals are demeaned or harmed, given the tremendous benefits they can accrue. We must appeal to other considerations, the first relating to third-party harm. Payments are impermissible if they harm minority members never offered assistance to leave. Such harm may arise if payments reinforce biases, contribute to inequality or demean others never paid. These other minority members understand that, in a very close possible world, they too would be encouraged to leave, given extra cash, severance pay or a free bus ticket out of town, because their physical presence is not welcome.

Even if no third parties are harmed or demeaned, payments are impermissible if recipients wished they had never been offered money at all and are only accepting the money because it was offered. Such individuals have been exposed to a demeaning choice they prefer not to have and so harmed compared to no payments at all.

Accounting for such harm is essential for establishing a more complete theory of discrimination. It is true that the Boydes preferred to leave New Orleans, feeling $50 and a bus ticket provided more opportunities then staying where they were. Nonetheless, we ought to shift our gaze away from them and onto the status of other minority members. In doing so, we can consider a broader array of people and outcomes, better establishing when discrimination is wrong and when it is impermissible.

Author's note

Mollie Gerver will be affiliated to Newcastle University, UK from 1st July, 2017.

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Notes

1. There may be a distinction between claiming a person is morally permitted to engage in an act and claiming that others have decisive reasons to permit the act. I shall generally not distinguish between these two understandings of permissibility, as nothing in my argument rests on this distinction.
2. The idea that a permissible act can be wrong is not new. Julia Driver (1992) discusses such cases, referred to as suberogatory acts. In her cases, an individual is permitted to partake in a wrongful act to avoid very high costs, such as refusing to donate a kidney to one's brother, given the costs involved. I, in contrast to Driver, am discussing cases where an individual acts wrongly yet permissibly because the benefits for recipients are substantial. It seems that such

benefits can provide reasons to view an act as permissible, especially if the victim of the act has consented.

3. This theory of exploitation is slightly different than that raised by others, such as Valdman (2009: 3 and 12), Steiner (1984: 233–235 and 2013) and Wertheimer (1996: 230–231). All three claim that, to wrongfully exploit another person, the exploiter must profit above some counterfactual state of affairs, such as a state of affairs where the exploited did not have her rights violated. This formulation is problematic. Consider the following example: A starving person agrees to accept a piece of bread to work in a factory because her land has been unjustly stolen. Had her land not been stolen, however, she would have been wealthy, and volunteered for the factory during her free time. It seems she is exploited even though, in a counterfactual world where her rights were not violated, she would have accepted the same or less payment, allowing the factory owner to profit the same amount. She is exploited, I believe, because her reasons now for accepting only a piece of bread are that her rights have been violated.
4. For example, it is wrong to only hire white salespeople to successfully sell to white racist costumers. This is close to an argument raised by Benatar (2012: 7).
5. Sometimes, such treatment is not demeaning, or seems less demeaning. If a white man is elected because of his gender and ethnicity, despite poor performance, perhaps he is not demeaned, despite being treated as a member of a group, rather than an individual. It may only be demeaning if the minority group is in some ways disadvantaged, or has been historically disadvantaged. See Khaitan (2013: 145).
6. Indeed, some argue that whenever we undermine the dignity of others, we are essentially expressing a certain offensive message. See Khaitan (2012).
7. This move, it is important to note, risks viewing harm in an extremely broad manner, including instances where individuals experience no negative psychological or physical effects at all. The expressive account avoids a commitment to a controversially broad notion of harm and so has this advantage over the harm-based accounts. Slavny and Parr raise a similar response to a similar argument. See Slavny and Parr (2015: 11).
8. For a fictional example of such a case, consider an episode of the television show The Good Wife, where female partners of a law firm attempt to buy out the male partners, leaving behind a female-led firm (The Good Wife 7x18: Unmanned).
9. Just as racial or sexist slurs are more demeaning when uttered to groups currently or previously disadvantaged, paying minorities to leave is demeaning when provided to group currently or previously disadvantaged. See footnote 5, where I discuss this possibility.
10. Slavny and Parr (2015) suggest a similar possibility that, even if discrimination is wrong, discrimination may still be permissible (or not 'all-things-considered wrong') if the victim benefits significantly. They raise the example of a racist admissions officer in a low-ranking university who hopes to reduce the number of dark-skinned students. Rather than rejecting these applicants, she persuades the admissions team at Oxford to accept them instead. The students are happy with this result. Slavny and Parr conclude that 'Sufficiently large benefits may be capable of defeating the wrongness of the discrimination' (p. 12). It is not clear, however, when such large benefits defeat the wrongness, or at least make the discriminatory act morally permissible, and free from state interference.
11. For a discussion on autonomously developed preferences, see Arneson (1994) and Stoljar (2000).
12. I assume that demeaning others could constitute a harm, as noted in the previous section.

13. A similar argument has been raised in support of banning pornography: If pornography can be shown to increase violence against women, then pornographic transactions ought to be banned, just as polluting cars ought to be banned. See May (1998: 73).
14. A special thanks to a reviewer for raising this example.
15. For example, see Miller (2005) and Wellman (2008). Due to space, I do not address the broader justification of when, if ever, states are permitted to prioritise their own citizens and prevent the entrance of non-citizens. I merely consider whether, if states are permitted to control who resides in their territory, states are permitted to pay minorities to leave their territory.
16. As David Velleman puts it: 'Preferring to accept an invitation is consistent with wishing you had never received it' (Velleman, 1992: 672). Nozick makes a broader point: If X and Y enter a transaction, and Y would have been better off had X not existed at all and never posed the offer to Y, then X has no right to benefit from the transaction. One reason that Y might not benefit is because, subjectively, she prefers the offer had never been posed at all (Nozick, 1974: 84–86).
17. Velleman raises similar arguments in the context of euthanasia. One reason that states ought not to grant the right to euthanasia is that, once a patient has the option, they may feel pressure to accept it. More generally, we often would be better off without an offer even if we would consent to an offer once it was given. For example, in a country where dueling is legal, individuals may consent to duel to save their honor; but many would prefer to never have the option to duel, to avoid being in a position where they must accept a duel to save their honour (Velleman, 1992: 676).
18. Imagine the flight attendant had not asked for Ms. Rabinowitz's consent to move but merely asked another man if he was willing to swap with the ultra-Orthodox objector. In such a scenario, Ms. Rabinowitz would have still been demeaned, in a similar manner that a black man would be demeaned if a white supremacist refused to sit next to him, and a flight attendant asked another passenger to swap with the white supremacist. If Ms. Rabinowitz would be demeaned in this scenario, then she also would not have consented, and the flight attendant's actions would be impermissible.
19. A reviewer has raised the following counterexample to this claim. Imagine the landlord asked all residents, both black and white, if they wished to receive an offer of money to leave. The landlord then approached the black residents who preferred having the offer, providing them money alone. In this scenario we might suppose the landlord's initial question was not demeaning, as all were asked if they wanted an offer of money, and the actual offer was permissible because only black residents who supported the offer were given the offer. But it is not true that black residents who received the offer supported the offer. They only supported an offer that was provided to all residents, black and white; they never supported an offer that was targeting black residents alone. For the landlord to be certain the blacks consented to being given an offer aimed at black residents alone, he would need to ask the black residents if they would support a policy of only black residents receiving money to leave. This question would itself be tantamount to a demeaning offer. This is true even if the question was not individual-specific, and the landlord made a general announcement to all, asking them to express their preferences about a scheme where only blacks were offered money to leave. The announcement would be tantamount to an offer, and demeaning for a similar reason: It would express the landlord's desire to have fewer black residents in the building.

20. If, in the case of Japan, all Latin American migrants welcomed being offered the payments, and there were no other minorities in Japan, then the payments would be permissible, even if wrong in one way.

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