

# Non-discrimination, in-work benefits, and free movement in the EU

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## Abstract

The Cameron government has recently negotiated a deal with the EU which permits the UK (temporarily) to restrict access to in-work benefits for recent EU migrants in the first four years of residence. Withdrawing access to in-work benefits will lead to significant inequalities in pay between British workers and their EU equivalents working at the same job, in the same general situation. The proposal has been widely decried as discriminatory. Is it? I do not, in this article, ask the legal question: Does it violate anti-discrimination norms implicit in the treaties (or wider human rights law)? Rather, I will ask the moral question underlying the legal one: Would, say, Polish citizens denied in-work benefits that British citizens receive be victims of wrongful discrimination? This question deserves consideration not simply because it will help us to evaluate some of the central concerns at stake in the Brexit debates but also because it will allow us to explore the role of norms against discrimination according to nationality within the EU, to address the nature of the European commitment to freedom of movement, and, in the reverse direction, to better understand our own moral commitment to anti-discrimination norms.

## Keywords

Discrimination, European Union, in-work benefits, Brexit, moral equality

The Cameron government has recently negotiated a deal with the EU which permits the UK (temporarily) to restrict access to in-work benefits for recent EU migrants in the first four years of residence. In-work benefits include, *inter alia*, income-based jobseeker's allowance, child tax credit, working tax credit (soon to be replaced by universal credit), child benefit, housing benefit, and council tax benefit. These benefits are designed to top-up low wages, increasing the take-home pay of an average family anywhere between 50% and well over 80% of their wage after

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deductions.<sup>1</sup> Withdrawing access to in-work benefits would therefore lead to significant inequalities in pay between British workers and their EU equivalents working at the same job, in the same general situation. The proposal has been widely decried as discriminatory.<sup>2</sup> Is it? Here I don't want to ask the legal question: Does it violate anti-discrimination norms implicit in the treaties (or wider human rights law)? Rather, I want to ask the moral question underlying the legal one: Would, say, Polish citizens denied in-work benefits that British citizens receive be victims of wrongful discrimination? The Polish ambassador to the UK, for example, puts it well: 'We pay the same taxes which pay for tax credits doing the same job. Imagine you have three people working for the BBC, one from Spain, one from Poland and one from the UK. They live here and they pay taxes here. Why should you discriminate against the Spanish and the Polish worker?'<sup>3</sup> This question deserves consideration not simply because it will help us to evaluate some of the central concerns at stake in the Brexit debates but also because it will allow us to explore the role of norms against discrimination according to nationality within the EU, to address the nature of the European commitment to freedom of movement, and, in the reverse direction, to better understand our own moral commitment to anti-discrimination norms.

## The role of differential concern

Assuming, for the moment, that restricting EU migrant access to in-work benefits for the first four years of residence in the UK is wrongfully discriminatory, we need to distinguish two sources of objection. (I will call the policy we are questioning from now on *In-Work Benefits* for ease of reference.) This is essential to get a clear view of our central question, and to isolate the role of differential concern in judgments of discrimination. The first objection claims that the restrictive policy is wrongful because it is a special case of the broader wrong of restricting access to in-work benefits for *any entrant worker* in the UK.<sup>4</sup> By putting already precarious workers in low-income and part-time jobs at a further disadvantage, the policy would be unjust to EU migrants in the same way, and *to the same extent*, as a policy that restricts access to in-work benefits for *all* entrant workers, whatever their immigrant status. On a view like this, there is nothing distinctively wrong about the government's *differential* concern for newly arrived EU migrant workers as against Britons. The fact that EU migrant workers are treated *differently* to Britons, the argument goes, is not relevant; what is relevant is the fact that the policy puts low-income and part-time workers at a further, and unjust, disadvantage *simpliciter*. The second objection agrees that there is an injustice in restricting access to in-work benefits for any worker,<sup>5</sup> but also believes that the government's differential concern itself provides grounds for an *additional* objection to the policy. The policy, the second objection claims, is wrong *both* because it disadvantages workers and because it does so differentially. Indeed, the second objector could still object, on the basis of differential concern alone, to the government's policy *even if the objector would have no qualm – from the point of view of justice – with a policy that restricts access to in-work benefits for all Britons, and hence independently of*

*their immigrant status.* The second objector might, that is, object to a policy solely because it grants benefits to a certain class of workers that it denies others, even if the government is under no obligation to grant the benefits in the first place. Our task in this paper is to explore the possible grounds for such an objection, which is at the heart of our concern with discrimination.

Such an inquiry requires, of course, a foray into moral theories of discrimination generally. I will do so in as compact and collected a form as possible, revealing enough of the contours of predominant theories of the wrongfulness of discrimination (including my preferred one) to illuminate our guiding question.

## The concept of discrimination

So far we haven't been very clear about the concept of discrimination we are using. Identifying the concept more carefully is important to avoid confusion, and aid us in narrowing our question further. There is much to say about why the particular account of the concept of discrimination I adumbrate below is favourable to alternatives, but I will not do so here. If the reader finds the account too revisionary, then one can take it as purely stipulative. For our purposes, the account of the concept should be taken as a springboard for further (substantive, normative) discussion, an effort to define a platform for discussion that avoids useless verbal misunderstandings, rather than something philosophically interesting in its own right (although I think it is also that).<sup>6</sup>

*Discrimination:* A set of acts or policies  $X$  discriminates against (or in favor of) individual member(s)  $M$  of a socially salient group  $Y(p)$  on the basis of  $p$  iff  $M$  is comparatively disadvantaged (or advantaged) by  $X$  in some dimension  $Z$  as a result, in whole or in part, of possessing  $p$ .

I highlight two features of this definition. First, a group is 'socially salient' when membership in the group is, as Kasper Lippert-Rasmussen writes, 'important to the structure of social interactions across a wide range of social contexts'.<sup>7</sup> Membership of a race or sex is socially salient; membership of a reading group is not. This restriction is necessary to narrow the field of potentially wrongful discriminatory acts or policies: if we didn't include it, then *any* act or policy that classifies and differentiates would count as discriminatory, which would imply that a moral theory of discrimination would lack specificity. For example, if we dropped the requirement of social salience, then a company policy that requires one to pay a fee to park in a certain place would count as discriminating against those who would like to park there. But why should we expect a moral theory of discrimination to tell us when and why such policies are wrongful (if they are)? As we will see in more detail below, interest in the morality of discrimination emerged along with a concern for the prospects and obstacles faced by vulnerable and structurally disadvantaged groups. Given this background, highlighting social salience allows us to track the moral urgency that accompanies any inquiry into discrimination. Second, notice that discrimination, on this view, is not always wrongful. For

example, a policy that reserves seats on the bus for pensioners discriminates in favour of pensioners and against everyone else. But no one would say such a policy is wrongful. The task of a theory of wrongful discrimination is to identify when and why discriminatory acts or policies are wrongful – wrongful, that is, insofar as and because they discriminate rather than for some other reason (compare the injustice with which we began). We need, then, to distinguish two different ways one might discriminate against (or in favour of).

*Direct discrimination:* A set of acts or policies X directly discriminates against (or in favor of) member(s) M of a socially salient group  $Y(p)$  on the basis of  $p$  iff M is comparatively disadvantaged (or advantaged) by X in some dimension W, and the expectation that M, as a result of belonging to group  $Y(p)$ , would be comparatively disadvantaged (advantaged) made a causal difference, in whole or in part, consciously or unconsciously, to the agent's deliberation regarding X.

*Indirect discrimination:* A set of acts or policies X directly discriminates against (or in favor of) member(s) M of a socially salient group  $Y(p)$  on the basis of  $p$  iff *Discrimination* but not *Direct Discrimination*.

Once again, I cannot here defend this particular (unorthodox) way of distinguishing direct from indirect discrimination. A quick set of examples to fix ideas. On these definitions, a policy that requires motorcyclists to wear a helmet indirectly discriminates against Sikhs. The discrimination is only indirect because (let us assume) the policy's disadvantageous effect on Sikhs did not make a causal difference, in whole or in part, consciously or unconsciously, to the course of the deliberations that led to the policy. On the other hand, a policy that imposes a 'racially neutral' IQ requirement on hiring and promotions directly discriminates against blacks if the comparative disadvantage that would be suffered by blacks as a result of the policy made a causal difference to the deliberations leading to the policy (as was the case, we may assume, in a case like *Griggs v. Duke Power*).<sup>8</sup>

*In-Work Benefits*, then, is uncontroversially an instance of direct discrimination according to my definitions (and any other definition of which I am aware). We now face the question, is it wrongfully discriminatory?

## Theories of discrimination: A survey (and critique)

There are two main approaches to the wrongfulness of discrimination. According to one, discrimination is wrong when and because it infringes a freedom or set of freedoms to which we are entitled.<sup>9</sup> According to the other, it is wrong when and because it violates a requirement of equal treatment. I will leave aside, in this paper, liberty-based views, and instead consider paradigmatic versions of moral<sup>10</sup> equality-based arguments, articulate their distinctive features, and then demonstrate that they would converge in the conclusion that differential treatment in *In-Work Benefits* would be wrongfully discriminatory. This will, among other things, help us to understand both the structure of moral-equality-based anti-

discrimination claims generally, and to sort out what is an objection from justice more broadly and what is an objection from discrimination.

Moral-equality-based views all share the following feature. First, differential treatment is wrong, they argue, when and because it fails to treat those affected in some appropriate sense as moral equals. This commitment defines the genus. I will focus on two main species within the genus.<sup>11</sup> *Disrespect-based views*, such as Benjamin Eidelson's,<sup>12</sup> claim that differential treatment is wrong when and because it fails to accord us the respect we are due as persons. *Demeaning-meaning views* claim that differential treatment is wrong when and because the treatment sends a message of moral inferiority, when, as Deborah Hellman puts it, the treatment *demeans*.

Both views also share two further features. First, both Hellman and Eidelson argue that, to determine whether a set of acts or policies is wrongful, we need to look at their *social meaning*.<sup>13</sup> We ought to look, they say, at the message the policy or act sends on the best interpretation of what that message is. And to determine what that message is, we need to consider the act or policy in light of the attitudes that it expresses against a wider social, cultural, political, economic background. Anderson and Pildes provide an instructive account of what is involved in 'expressing an attitude': '[a]n attitude to a person is a complex set of dispositions to perceive, have emotions, deliberate, and act in ways oriented to that person. . . . [T]o express an attitude through action is to act on reasons that attitude gives us'.<sup>14</sup> My visit to you in hospital might, for example, express my loyalty to and love for you, which gives it a certain social meaning against a particular socio-cultural background. Note that attitudes, on this account, include not only beliefs but also emotions, desires, broader dispositions to act or react in various ways (including, importantly, failures to act or react in various ways), commitments, even traits of character. For example, the disposition to judge young black teenagers taking drugs in inner cities more punitively and dismissively than white teenagers taking drugs in the suburbs counts as an attitude that can be expressed, for example, in a public policy response (inner city blacks should be incarcerated; suburban whites should receive therapy).<sup>15</sup> Furthermore, an attitude can be expressed by an agent without being a direct reflection of a particular mental state. Anderson and Pildes give the example of the melancholy expressed by a musician in playing a piece, which does not imply, of course, that the musician herself was in a melancholic state of mind.

Making social meaning a function of the broader attitudes expressed by an action or policy has a number of advantages. First, it allows one to explain how wrongfully discriminatory policies or actions need not reflect any animus towards members of the affected group, express beliefs about their moral inferiority, or be a function solely of the particular societal consequences of an action or policy. Suppose the owner of a city diner has a policy of turning away blacks, not because of any animus or prejudice, but because he believes his discriminatory policy will make his business more profitable. We can say, in this case, that the exclusion is wrong not only because it perpetuates the second-class status of blacks in that community (*if, indeed, it perpetuates it*<sup>16</sup>) but also because it expresses a morally

objectionable attitude of *indifference* to the weighty interests of blacks in protection from racism.<sup>17</sup>

Second, consider directly discriminatory policies that are not based on any beliefs about the moral inferiority of the excluded, or any animus towards them, but instead based on feelings of, say, racially- or ethnically- or sex-based special connectedness. An employer, for example, might only hire whites because they feel more comfortable with them, or feel that communication would be easier with them. Or someone might prefer not to be treated by a black doctor, not because of any animus toward blacks or beliefs about their inferiority, but merely because they feel uncomfortable around them.<sup>18</sup> According to a social-meaning based account, such a policy would be wrongful, we might say, because it expresses an objectionable disregard for the stigma attached to the race-based exclusion. In this case, once again, the objection is to the way such disregard changes the social relation between the employer and those excluded (or, in the other case, between the doctor and the patient), rather than on the broader societal effects of the exclusion, or on the faulty character of the actor's mental states.

Third, consider an industry which is heavily male-dominated but it is unclear why. Initial inquiries reveal that the distribution of skill levels are roughly equivalent across males and females in various applicant pools, and that just as many women apply as men. Upon receiving requests to clarify possible causes for the disproportion, the members of the industry board decide to do nothing. One might argue that the decision not to make further inquiries expresses, once again, an objectionable attitude of indifference. Note that a social meaning account allows us to say this even if we assume the decision was not explained either by the board's beliefs about women's moral inferiority or by an intention to express indifference.

A second similarity is also important. Both views hold that social meaning is an objective property of an action. Whether or not some action counts as, say, *disrespectful* or *demeaning* (on which more below) or *empowering* or *celebratory* is not determined by whether participants – including both discriminators and those discriminated against – believe it is any of these things, but on whether the action really is. To be sure, the criteria for such a determination are set by normative standards whose application requires (I have claimed) essential reference to participants' attitudes (including beliefs and intentions) as well as to the social conventions and historical context of particular policies or actions, but the judgments are not reducible to any of them (singly or in combination). Put another way, any judgment regarding whether an action is, say, *demeaning* requires a normatively governed interpretation of the action in a particular historical, social, cultural, and political context, but the judgment cannot be read off from what individual participants themselves believe they are doing. Here's an analogy: a good interpretation of the meaning of a work of art must surely make reference to the context in which the artwork was produced<sup>19</sup> but cannot be reduced to either the meaning assigned to it by the artist or any member of the public (singly or in combination). In the same way, a particular policy might be disrespectful or

demeaning or empowering or celebratory even though those affected may not feel demeaned or disrespected or empowered or celebrated. Conversely, whether or not people feel demeaned, etc., might provide good evidence that the actions really are demeaning, etc., but the fact that they feel this way is not sufficient. Discriminators may be mistaken about the attitudes expressed by their actions, and so can be mistaken about whether those actions really are demeaning, etc., just as those discriminated against can be mistaken about the very same thing.

So far, we have isolated two similarities between *disrespect-* and *demeaning-*based views. Assuming both views are correct to focus on social meaning, we have yet to clarify the criteria by which we can determine whether particular social meanings are morally objectionable. Until we have such an account in hand, we will not be able to evaluate whether *In-Work Benefits* is wrongful. So: When and why are social meanings demeaning? And when and why are they disrespectful? In answering these questions, we will encounter a difficulty that is shared by both views, and that will spur the search for alternatives.

*What is it to demean someone?* As a paradigm of a social-meaning account, let me turn to Deborah Hellman's *When is Discrimination Wrong?* According to Hellman, 'To demean is to treat another as not fully human or of not equal worth'.<sup>20</sup> Hellman's account therefore resolves into her account of persons' equal moral worth, and so on answering two questions. First, in what sense and why are we equal in worth? And second: What kinds of constraints on discrimination do this commitment properly understood set? Surprisingly, however, Hellman doesn't provide an answer to either question. She assumes, along with most other liberals, that we are committed to moral equality, and that we already have some intuitive grasp of the idea that we can then use to decide whether an action is demeaning. But while this may not be controversial in paradigmatic cases of wrongful discrimination, such as segregation in the American South, how might it help us in less clear-cut cases? Indeed, how might it help us in evaluating *In-Work Benefits*? What criteria do we use to determine whether the social meaning of *In-Work Benefits* carries the message that EU migrants are 'less worthy of respect and concern' *in the relevant sense* any more than, say, an admissions policy that denies places to students who lack at least three A's on their A-levels carries the message that those thereby excluded are 'less worthy of respect or concern' in the same way?

*What is it to disrespect someone as a person?* According to Benjamin Eidelson, whose *Discrimination and Disrespect* is the most fully worked out exemplar among disrespect-based views, 'to respect a person's equal value relative to other persons one must value her interests equally with those of other persons, absent good reason for discounting them'.<sup>21</sup> As in Hellman's account, the argument must therefore turn on what Eidelson means by weighing interests equally. Eidelson writes, 'the point of the respect requirement. . . is to insist on the need to justify partiality on any given basis. That is the upshot of saying that people have, as beings of equal value, a presumptive claim to equal consideration'.<sup>22</sup> In this form, the 'respect requirement' is even weaker than what we might call the Aristotelian principle,

namely the principle that we ought to treat equals equally and unequals unequally, since the respect requirement only enjoins us to treat equals equally, leaving it open whether we ought to treat unequals unequally. Put another way, the requirement simply tells us to treat people the same (on account of their 'equal value') unless we have reason to treat them differently. To demonstrate his thesis, he gives the example of an employer that selects a white person over a person of Arab descent for promotion because he gives the person of Arab descent's welfare less concern on account of her race. Because 'race has no salience with respect to... the correlative concern one owes', the employer's discriminatory decision is disrespectful and hence wrong. But notice that none of the normative work is done by the idea of equal worth itself, which, as it were, just sets up the problem. All the work, instead, is done by the thought that race is not a good reason to treat people differently. But we are not told *why* (and indeed when) race is irrelevant. Eidelson writes: 'But this is a question we should be content to beg. There is simply no reason to think that Fatima's race *does* warrant discounting her reasons'.<sup>23</sup> This is striking: what we were looking for, presumably, was some account of the considerations – grounded in the idea of equal moral worth – that might explain why and when selection according to race is disrespectful; the idea that differential treatment is disrespectful unless it is justified, or, as Eidelson puts it, the idea that 'one must value... interests equally... absent good reason for discounting them' doesn't deliver that conclusion. It simply passes the buck to some independent account of the 'relevant reasons'. It is revealing that when Eidelson goes on to explain why discrimination against *white* candidates is justified at historically black colleges in the US, such as Morehouse, Eidelson writes that 'African Americans can find distinctive comfort and community in associating with other African Americans, for instance, without treating the interests of others as less weighty, or otherwise failing to give due consideration to something important about the standing of others as persons'. But why couldn't *white* solidarity be justified in similar terms? Why does black solidarity succeed in giving due consideration to something important about the standing of others as persons, whereas white solidarity does not? What marks the difference between the two? We need to have a substantive conception of equal moral worth that tells us the sense in which one practice is compatible with respect – compatible, as Eidelson sometimes puts it, with the recognition that others are due as persons – while the other is not. And this is what we are not given.

Perhaps the point is harder to see when we are considering paradigmatic cases of wrongful racial discrimination, since we can all agree that they *do* disrespect those comparatively harmed by them. So let us consider how we might apply the account to our own, less clear-cut case, namely *In-Work Benefits*. We ought to ask: Does *In-Work Benefits* fail to accord recent EU migrants with the respect they are due as persons? Using the 'respect requirement', Eidelson's answer should be that it does if and only if recent EU migrants' interests are treated with equal weight as the interests of long-term residents and citizens, 'absent good reason for discounting them'. This account of respect leaves us empty-handed, since it merely reframes what we are looking for: Is there, or is there not, a justification to treat the interests of recent EU migrants differently? On what basis should we decide?

## Moral equality, stigma, and discrimination

Is there any way out of this impasse? The way out, I want to suggest, is, first, to treat disrespect and demeaning (for our purposes) as synonymous, such that one wrongfully discriminates if the discriminatory act demeans/disrespects those disadvantaged by it. Second, we must provide a more substantive conception of moral equality that can give some content to the idea of demeaning/disrespecting, and hence that can give the account more critical purchase, including with respect to *In-Work Benefits*. This is what I aim to do in this section.

The key lies in reflecting what the point and purpose of discrimination law is and, historically, was. This gives us, I want to argue, a clue to the concerns that should be at the heart of any theory of wrongful discrimination. The emphasis on discrimination *law* may strike one as out of place in a theory of the moral wrongfulness of *any* discriminatory act. But, as I mentioned in the introduction, the law in this area and our moral concern with the effects and causes of wrongful discrimination went hand in hand. In its heyday in 1950s, 60s, and 70s, wrongfully discriminatory practices were increasingly seen as reproducing and exacerbating debilitating and unfair structural inequalities between races, ethnic groups, and religions; stoking racial, religious, and ethnic violence; and blighting the lives of its victims.<sup>24</sup> Discrimination law was a response to this awareness, at the centre of which was a concern, first, with the social, moral, and psychological consequences of *stigma*<sup>25</sup> and then, with respect to sex discrimination, the broader consequences of past and present practices of *infantilisation* – the idea of women as necessarily dependent on men for their own welfare.<sup>26</sup> Only later were the same concerns extended to inequalities between, for example, the abled and disabled, straight and gay, and so on.<sup>27</sup> I leave an analysis of infantilisation aside here, as it is not relevant for *In-Work Benefits* in a way that an understanding of stigma, as we will see, is.<sup>28</sup>

I want to argue that to treat someone as bearing a stigma that warrants disdain, contempt, or exclusion is to demean them (and so also disrespect them). It is to treat them, that is, as a moral inferior. If we are to make greater headway than the two moral-equality-based views we have just considered, we must be able to explain when and why stigmatisation of the kind just described is wrong, and to do so in a way that doesn't presuppose an already worked out view about moral equality. I will not say: to demean by stigmatising is wrong when and because it is to treat as a moral unequal. Rather, I will say: to demean by stigmatising is *a way of* treating another as an inferior; it then remains to be explained when and why doing so is wrong.

I will not, furthermore, attempt to provide such an explanation via an account of equal moral *worth*. I will not try to show, for example, that to demean by stigmatising is to fail to respond correctly to the incommensurable, absolute, and unconditional worth, or *dignity*, of our humanity (as embodied, for example, in our capacity for rational choice). Rather, I will argue that demeaning by stigmatising is wrong when and because, in short, it is an attempt to fracture the victim's capacity to develop and maintain a sense of self, and so undermines one of the structural conditions for a flourishing life.<sup>29</sup>

To set the stage for this discussion, and to isolate the issue we are concerned with, let us consider a paradigmatic case of racial discrimination, namely *Palmer v. Thompson*, decided in the US in 1971. In 1962, the mayor of Jackson, Mississippi, following Federal desegregation legislation, decided to close down five public swimming pools (four of which had been white-only, and one of which was black-only). The Mayor closed down the pools in order to avoid desegregating them: 'We will do all right this year at the swimming pools but if these [civil rights] agitators keep up their pressure, we would have five colored swimming pools because we are not going to have any intermingling'.<sup>30</sup> Should the pools be desegregated, all the pools would become, the Mayor warns, *de facto* all-black. This case is particularly relevant for our purposes because the freedom at stake, namely swimming in a pool, is relatively trivial, the opportunities available to blacks in Jackson – in this case opportunities to swim in public pools – were diminished to exactly the same extent as whites, and we might easily imagine that there were no further downstream effects on equality of socioeconomic opportunity more broadly considered. The reader surely agrees with me that the closing of the pools is an act of morally wrongful discrimination. But, if so, why? The case trains our attention on the *message sent* to blacks about their status in Mississippi.

To understand the social meaning of the closure, we must look at wider cultural and social patterns in the US at the time. In the 20s and 30s recently gender-desegregated public pools, especially in the hot South, had become, as one commentator puts it, 'leisure resorts', replete with sun decks, grassy areas, and artificial sand beaches.<sup>31</sup> Crowded with families, they were at the centre of public social life. And, of course, they were all white. In some bigger cities (as in Jackson), there were public swimming pools for blacks but they were badly funded, often delapidated, and much smaller in size. Desegregation swept away, in just a few years, the culture of the public swimming pool, as hundreds of pools were closed in just the same way as the ones in Jackson. In its place came the myriad private, residents' only, 'community' swimming pools we see across the US today. So why were whites so willing to give up a central aspect of their social life rather than to see it desegregated? According to Jeff Wiltse, part of the explanation lies in fears that blacks harbour communicable diseases that will easily be transmitted in water and changing rooms.<sup>32</sup> But the main explanation is another one. Recall that the pools had recently been *gender* desegregated. Jeff Wiltse writes: 'most whites did not want black men interacting with white women at such an intimate and crowded public space'.<sup>33</sup> Dominant here is the image of the sensual, hypersexualised black man and the vulnerable, precious white woman who needs protection. In the background is the fear of rape by black men, and Emmett Till, the 14 year old black boy who, in 1955, was famously lynched for speaking on friendly terms with a white female shopkeeper. It is striking how long the shadow cast by this past: black children in the US are, today, three times more likely to die of drowning than white children.<sup>34</sup>

The attitudes expressed by the closures are demeaning because they treat blacks as bearers of a stigma, as polluted and animalistic, and hence as outside the give and take of 'civilized' life. But why is such treatment wrong? The moral wrongness of such attitudes, it might be thought, can be explained by pointing to the way in

which they willfully misrepresent a series of self-evident facts. But this can't be the whole story. What if the whites involved sincerely believed these things to be true of blacks? Yes, one might say, but such beliefs, although sincerely held, failed adequately to take into account the relevant evidence regarding disease and criminality among different races. The explanation seems to make the dehumanising, stigmatising attitudes wrong solely because of their faulty epistemic status. But can the wrong here really be explained as a mere violation of epistemic norms governing the gathering of evidence and the formation of beliefs? Much more seems to be at stake.

Rather, the stigmatising, dehumanising attitude is wrong, I want to suggest, when and because it is an attack on the victim's capacity to develop and maintain a sense of self. Consider that we are, at root, sociable beings who have a central interest in social recognition. We each develop a sense of self in dialogue and interaction with others similarly engaged. We are constantly involved in the presentation of a self to a world of other selves.<sup>35</sup> But our sense of self will not – without unusual strength and resilience – have any stability or integrity without receiving some positive echo in the societies of which we are a part. Put another way, we must have a limited, but not insignificant, power to control the terms in which we present ourselves to others. Rigid, imposed, and negatively tainted identities pervasively undermine that control, and hence undermine the sense that we are the authors of our own lives.<sup>36</sup> Because such control is as a structural feature of any flourishing life, stigmatisation attacks one of our central interests as social beings, namely an interest in recognition:

The central feature of the stigmatized individual's situation in life can now be stated. It is a question of what is often, if vaguely, called "acceptance." Those who have dealings with him fail to accord him the respect and regard which the uncontaminated aspects of his social identity have led them to anticipate extending, and have led him to anticipate receiving; he echoes this denial by finding that some of his own attributes warrant it.<sup>37</sup>

By making us liable to disdain, contempt, exclusion and the further material and social consequences of such attitudes, stigmatisation attacks our need to have our sense of self echoed and reflected by the societies in which we participate. And, as the passage cited highlights, stigmatisation has a further predictable effect on our ability to maintain and develop an integral sense of self. The attitudes which express and reinforce the stigma will ultimately be echoed in our own self-conception, and so infect the way we interact with others, both intimately and publicly.<sup>38</sup>

With this account in hand, the epistemic status of the beliefs that trigger the stigmatising, dehumanising attitudes becomes relevant in a new and perhaps unexpected way. Above I argued that whether the beliefs are held sincerely, or whether they are adequately responsive to evidence, cannot on its own explain their moral significance. The faulty epistemic status of these beliefs, however, can play a more indirect, yet still crucial, moral role. The faulty epistemic status of the beliefs is morally relevant because of the way it *reinforces* the social meaning of the actions

that are rationalised in terms of those beliefs. The fact that the beliefs are, for example, not responsive to widely available evidence, or very resistant to challenge, makes the stigmatising, dehumanising attitudes instances of contempt. The resistance to fact sends the following message: 'We really don't care what the facts about people like you are. You are objects of disdain and disgust *whatever the facts*'.

## In-Work Benefits and stigma

Can we use the account I have just presented to address *In-Work Benefits*? Of course, the stigmatic harms associated with *In-Work Benefits* are not nearly as grave and consequential as those of the racism we have just encountered. But they are still significant, and, more importantly, they fall within the same category.

As in *Palmer*, we need to examine the broader social context in which *In-Work Benefits* was proposed. Why was the Cameron government keen to restrict the access of recent EU migrants to in-work benefits? It is clear that the predominant reason, as emphasised repeatedly, was the desire to reduce 'fraud' and 'benefit tourism'.<sup>39</sup> The worry, central also to the recent rise in support for UKIP, was that EU immigrants, especially from recent accession countries in Eastern Europe, were abusing the system by claiming rights to reside in Britain under EU law and then collecting benefits while doing little or no work or study. Typical of this debate was Theresa May's repeated invocation, as the Home Secretary, of the 'beggars and thieves' that come to the UK to steal from the British people. In a widely reported 2013 speech calling for reform of the EU, for example, she mentioned the case of Lavinia Olmazu, a Romanian, who was convicted of fraud for helping to procure fake work documents for 172 Roma, who were then able to claim work-related social security such as tax credits, i.e., in-work benefits. She decried the 'abuse of free movement rights by some EU migrants', which, she claimed, was 'placing an unacceptable burden on our schools, our hospitals, our social security systems and our local communities'.<sup>40</sup> In response, the government has demanded (and is destined to receive) a right to re-impose 'some control' over the UK border by reducing the attractiveness of the UK as a destination for EU migrants (via restrictions on access to in-work benefits), and by imposing new measures to crack down more forcefully on fraud (via a relaxation of restrictions on deportation).

To further characterise the background against which to evaluate the social meaning of *In-Work Benefits*, we must also remember that there is very little, if any, empirical evidence that EU migrants are placing a burden on schools, hospitals, or social security systems. Indeed, when the Home Office was challenged to come up with statistical evidence supporting its 'unacceptable burdens' claim, it revealed that it kept *no figures* on how many EU migrants claim welfare payments.<sup>41</sup> And when pressed further, they gave the example, once again, of Lavinia Olmazu. But when one considers evidence produced by a wide variety of academic studies, it turns out that EU migrants are less likely than British citizens to claim out-of-work benefits, are net fiscal contributors (i.e., they pay more in taxes than they claim in benefits generally), and, while they claim a proportionately greater

share of in-work benefits (mainly child benefits and tax credits), they are less likely to claim such benefits in the first few years they are working in the UK.<sup>42</sup> Indeed, if one considers that east Europeans alone have, since 2000, *contributed* £5bn to the public finances, and that British citizens have *cost* the government £671bn, that means that each Briton cost the government about £15,000 on average over the decade, while each east European immigrant contributed £10,000 to the government's coffers.<sup>43</sup> London schools, furthermore, are outperforming the rest of the country, partly *because* of immigration.<sup>44</sup> And NHS waiting times are lower in areas with higher immigration.<sup>45</sup> The wider economic literature also suggests that immigration decisions are not made on the basis of the relative generosity of the receiving nation's social benefits;<sup>46</sup> rather, immigrants move in response to the availability and quality of work in the host country, and its relative lack in the immigrant's country of origin.<sup>47</sup> Therefore, it is unlikely that *In-Work Benefits* would significantly diminish the flow of migrants to the UK, as is hoped. Finally, there is very little evidence that inward EU migration has any substantial effect on the wages of UK workers in exposed sectors, as is often feared.<sup>48</sup> Immigration, finally, boosts foreign trade in services, an effect which is explained, in part, by the advantages of a diverse labour market and, independently, by productivity gains that immigrants bring to services aimed for export (especially but not exclusively exports to their own home countries).<sup>49</sup>

What is the relevance of these facts to determining the social meaning of *In-Work Benefits*? The fact that government policy – and the portion of the broader public that it reflects and embodies – is impervious to such well-established empirical research is relevant because of the attitudes it expresses. In effect, the government is saying: 'We don't care what the facts are, and are willing to proceed merely on the basis of widespread beliefs about recent EU migrants as mainly benefit frauds and exploiters'. This imperviousness cannot but be understood, not as violating merely epistemic norms regarding the formation of beliefs, but as willfully reinforcing and deepening the stigma that inevitably comes along with being foreign and poor. It is a staple of the sociological literature on stigma that the 'outsider' or 'foreigner' is commonly taken to be dangerous, untrustworthy, exploitative, and unwilling to integrate.<sup>50</sup> The government's policy willfully takes advantage of this common perception, and does nothing to combat it. So when the government proceeds to cut the take-home pay of recent EU migrants by 50% to over 80%, it sends the message that EU migrants deserve this, not in virtue of the facts, but in virtue of the stigma that attaches to their position. The social meaning is therefore contemptuous and demeaning. While this is not as consequential or serious an attack as expressing the belief, through the closure of public swimming pools, that blacks are hypersexual, dangerous, and animalistic, it is within the same category. For this reason, I conclude that a moral-equality-based argument for the wrongfulness of discrimination should lead us to conclude that current government policy is wrongfully and directly discriminatory.

To bring out some of the nuance of the general theoretical framework I have presented, it is useful to consider some variations of the facts. Suppose, for example, that the 'unacceptable burdens' claim was in fact empirically *true*.

Suppose, in other words, that there was a significant strain on public goods such as healthcare, education, and systems of social benefit due to recent EU migration. Furthermore, imagine the government justified *In-Work Benefits* on this basis, and did everything in its power to diminish the stigma attached to being foreign and poor.<sup>51</sup> Would the policy still be wrongfully discriminatory on the moral-equality-based grounds I have presented above? *No*. In the absence of a policy that reinforces and perpetuates stigma, or that otherwise sends a message of moral inferiority, the policy is not wrongfully discriminatory on a moral-equality-based view. However, it is important to emphasise that (a) it may still be unjust, and (b) it might still be discriminatory *on other, non-moral-equality based grounds*. Let me take each one in turn.

*Regarding (a)*. Recall the distinction I drew above: there is a difference between objecting to *In-Work Benefits* because it denies EU migrants benefits to which they are entitled *simpliciter*, and objecting to it because it treats EU migrants differently than Britons. The former objection gives no role to the differential treatment of EU migrants; the objection would be the same were any Briton to be denied benefits on an equivalent basis. So in the modification of the facts I just aired, we might still argue that recent EU migrants are entitled to in-work benefits because, say, of their contribution to the society of which they are a part. If, for example, we take the view that demands of egalitarian justice are triggered among all those who cooperate in maintaining and reproducing a basic structure through taxation, compliance with law, etc., then EU migrants, just on that basis, are entitled to in-work benefits (just as Britons are).<sup>52</sup> Notice how our judgment will change along with our view of the grounds of social justice. If, alternatively, we believed that egalitarian demands of justice are only triggered among those who share a national identity, then we would have an objection only according to the actual facts of the case, and not in our modified scenario.

*Regarding (b)*. The moral-equality-based view articulated above only identifies a set of jointly sufficient conditions for wrongful discrimination. It claims that these conditions cover the paradigmatic cases of wrongful discrimination, but leaves it open whether there might be other grounds for objection. Another, often overlooked, ground of objection focuses on the special role of European law in creating a supranational institutional order that changes, often in fundamental ways, justice-triggering relations among member states. To set the stage for this point, consider that everything I have said thus far (including under [a]) applies *in equal measure* to non-EU migrants (or Third-Country Nationals, TCNs for short). Indeed, it could be argued that the objections apply with even greater force given that TCNs in Britain are denied – at least until they acquire indefinite leave to remain – a wider variety of benefits than EU migrants (including under *In-Work Benefits*), and given that many of the same facts apply to them as to EU migrants.<sup>53</sup> So, to simplify our hypothetical, modified scenario, let us further assume that TCNs also impose an ‘unacceptable burden’ on public services to the same extent as recent EU migrants, and let us also assume that there is no social-justice-based objection to *In-Work Benefits* in either the EU migrant or TCN case. There would still be, I want to suggest, an objection to the government’s policy vis-à-vis EU migrants – an

objection, in addition, that does not apply to TCNs. The objection points to the fact that *British* workers residing in other EU member states would continue to have access to the same social benefits and advantages as host country nationals under *In-Work Benefits*. On this reading, *In-Work Benefits* would be wrongfully discriminatory because it claims a special privilege for Britons working abroad that is denied to other EU nationals in comparable circumstances. In this scenario, we therefore compare recent EU migrants to Britain with British workers *abroad*. This differential treatment is wrongful, I am suggesting, not because of moral-equality-based considerations, but because of the demands of reciprocity among member states cooperating in maintaining and reproducing the EU. Exploring this objection further would require a foray into theories of inter-, supra-, and trans-national reciprocity, so I will say no more about it.<sup>54</sup> But it is important to mention, if only to demonstrate the wide variety of grounds for objecting to *In-Work Benefits*, and for the sake of distinguishing clearly among those grounds.

## An objection

Before concluding, I want to consider an objection: Does the fact that recent EU migrants have moved here voluntarily make a morally relevant difference? It might be thought that it does. After all, one might say, the migrant EU citizen can, if he or she doesn't like *In-Work Benefits*, just return home (or never come to Britain in the first place). The fact that the EU migrant is here voluntarily marks a morally relevant difference between EU migrants and Britons (and others, such as refugees) – a difference which appropriately suspends concern with the inequality in take-home pay between the low-wage EU migrant and the low-wage Briton with which we started this paper.<sup>55</sup>

This argument fails for three reasons. First, the claim that the voluntariness of EU migrants' residence in Britain marks a morally relevant *difference* with respect to Britons is plainly false. After all, Britons, let us not forget, can move just as easily as EU migrants. Why couldn't the same argument be put to British workers: 'If you don't like the way we run the welfare state in this country, you are free to move anywhere else in the EU'? If the voluntariness of one's residence in a country were sufficient to suspend concern with socioeconomic inequality, then it should suspend concern with inequality among Britons, too. Perhaps, one might counter, it is more costly (and so less voluntary) for Britons to move abroad as it is for EU migrants to return to their own countries of origin. But is this so clear? What counts as a relevant cost here, and a relevant baseline of comparison? What if the socioeconomic prospects of the EU migrant in their home country were much worse than the prospects of an average Briton working abroad? Second, it is not clear why the voluntariness of one's movement across a border should suspend concern with inequality (for the Briton or for the EU migrant). I have addressed this question elsewhere, so I will not repeat the arguments I marshal against coercion-based views here.<sup>56</sup> I mention it simply to alert the reader that the normative premise on which the objection rests is far from obviously true. And third, the argument strikes me as at most querying our *justice-based* objections to

*In-Work Benefits*. What it does not address is the moral-equality-based argument I have elucidated in this paper. It strikes me as obvious that the voluntariness of one's movement across a border makes no difference at all to the appropriateness of the stigmatising attitudes we have discussed above. While one might argue that the disdain and exclusion associated with stigmatising attitudes is (perhaps) an appropriate attitude to take with respect to those who have severely and unjustifiably harmed others (such as murderers) or who hold morally wicked views (such as a member of the Ku Klux Klan), it would be hard to argue that the mere act of taking advantage of the EU's free movement provisions is on a par.

## Conclusion

I have had two main aims in this article. First, I have sought to address in what sense and to what degree *In-Work Benefits* is wrongfully discriminatory. Second, in doing so, I have sought to reconstruct a plausible and appealing moral-equality-based account of the wrongfulness of discrimination. My hope throughout has been that reflection on a pressing, real-world case could help us to think more carefully and clearly about our commitment to anti-discrimination norms both in the EU and more broadly. At the same time, and in the reverse direction, my hope has been that an exploration of the philosophical basis of anti-discrimination norms could help us to distinguish and clarify the diversity of objections to *In-Work Benefits*.

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## Notes

1. <http://www.migrationwatchuk.org/briefing-paper/284>
2. See, e.g., <http://www.euractiv.com/section/central-europe/news/in-work-benefits-emerge-as-main-stumbling-block-ahead-of-brex-it-summit/>
3. <http://www.theguardian.com/politics/2014/nov/24/benefits-ban-work-eu-migrants-discrimination>
4. NB: *de facto*, this could mean restricting access to in-work benefits for Britons returning to Britain after living abroad for a number of years, and possibly include any Briton entering the labour market, including, say, 18 year olds.
5. I note, in passing, that this judgment would, of course, need to be explained. I cannot do that here. For my own attempt to explain why egalitarian concern ought to extend to any worker, independently of immigrant status, see my Sangiovanni (2007, 2013). I return to this below.

6. I discuss and defend this concept of discrimination at greater length in Sangiovanni (forthcoming b), Ch. 5.
7. Lippert-Rasmussen (2013).
8. Notice that, on these definitions, we may not know whether a particular instance of discrimination was direct or indirect, since we may not have any evidence regarding how a particular factor affected, consciously or unconsciously, the deliberations leading to the policy. This is not an objection to this way of drawing the distinction, since our concern is not to devise a legal test for direct as against indirect discrimination. Rather, our aim is to identify when a policy or act that discriminates is morally wrong. And, though I cannot show this here, I believe that whether and how a particular factor entered into a deliberation can affect the wrongfulness of the act or policy independently of other factors. Consider this example: A landlord turns away a black family because they are black, but no one knows about it. This is a case of wrongful, direct discrimination, even if no one but the landlord knows on what basis the family was turned away. The same thing is true if the family was turned away due to unconscious bias (in which case the bias unconsciously made a causal difference to the deliberation's leading to the decision).
9. See, e.g., Moreau (2010). I believe that liberty-based views would also converge on the judgment that *In-Work Benefits* is wrongfully discriminatory. For Moreau, discrimination is morally wrongful when and because it violates our 'deliberative freedoms', which are 'freedoms to have our decisions about how to live insulated from the effects of normatively extraneous features of us, such as our skin color or gender' (147). A trait, in turn, is 'normatively extraneous' when someone ought not to bear the social burdens of taking that trait into account in making decisions, for example, regarding whether to take up work. Because, for reasons I will adduce below, *In-Work Benefits* is both unjust on the merits and expresses an attitude of contempt towards EU migrant workers by willfully reinforcing and exploiting the stigma attached to being a foreigner, it imposes an unfair cost on EU migrants deciding whether to continue working in the UK.
10. It is important here that what is at issue in moral-equality-based views is *moral* rather than *distributive* equality.
11. There are, of course, others, but I believe the two under consideration to be broadly representative.
12. Eidelson (2015).
13. Here I focus on the similarities between the two views. Eidelson points out that his account of social meanings differs from Hellman's (and Anderson and Pildes') insofar as they allow (in a way he does not) for social conventions to determine social meanings independently of the attitudes *actually held* by actors. For example, for Hellman, Anderson, and Pildes unknowingly making a rude gesture in a foreign culture counts as expressing disrespect even if the act does not express any attitude of indifference, hostility, or malice actually held by the tourist, i.e., even if the tourist didn't know the conventional meaning of the gesture. See Eidelson (2015). This subtle distinction has no bearing on the argument I will make, so I leave it aside. I discuss it at greater length in Sangiovanni (forthcoming), Ch. 5.
14. Anderson and Pildes (2000).
15. The example is from Loury (2009).
16. Note that our judgment of the (pro tanto) wrongfulness of the policy would persist even if we imagined it to *decrease* the stigma associated with being black in that community.
17. Cf. Eidelson (2015).
18. Cf. Eidelson (2015) has a good discussion of cases involving special connectedness.

19. Or, at the very least to the formal structure of the work of art itself, as in formalist theories of artistic interpretation.
20. Hellman (2008).
21. Eidelson (2015). I note that Eidelson points out two ways of disrespecting people. The first, which we will focus on in the text, is by treating less as less worthy of our concern. The second is by disrespecting their autonomy. The second ground for disrespect helps Eidelson to explain what is wrong with generalisations and stereotypes even when they do not reflect unjustified differential moral concern for others. Since, as I will show, the wrong involved in *In-Work Benefits* is best characterised as a failure to respect the moral equality of EU migrants than as a failure to ‘treat them [in some relevant sense] as individuals’, I focus on the former and leave aside the latter.
22. Eidelson (2015).
23. Eidelson (2015).
24. See, e.g., the landmark *Brown v. Board of Education* decision.
25. See, e.g., *Brown v. Board of Education* 347 US 483 (1954). In the Court’s decision, Justice Warren wrote of a segregated school system: ‘To separate them from others of similar age and qualifications solely because of their race generates a feeling of inferiority as to their status in the community that may affect their hearts and minds in a way unlikely ever to be undone’ (494).
26. See, e.g., *Frontiero v. Richardson* 411 US 677 (1973): ‘There can be no doubt that our Nation has had a long and unfortunate history of sex discrimination. Traditionally, such discrimination was rationalised by an attitude of “romantic paternalism” which, in practical effect, put women not on a pedestal, but in a cage’ (684).
27. For the history of anti-discrimination legislation in Britain, see Thane (2010).
28. Though see <http://www.independent.co.uk/voices/why-the-eu-emergency-brake-on-migrant-benefits-is-sexist-a6854936.html> (accessed 18 April 2016).
29. I address and discuss both the rejection of ‘dignity’-first views and the moral importance of attacking another’s capacity to develop and maintain a sense of self at much greater length in Sangiovanni (forthcoming).
30. *Palmer v. Thompson* 403 US 217, §87.
31. Wiltse (2014).
32. Wiltse (2007).
33. Wiltse (2007).
34. See, e.g., the ‘Red River’ tragedy, in which six black teens died, in 2010, in shallow water in a Louisiana river. See also <http://www.nytimes.com/2006/09/18/us/18pool.html?page-wanted=all> (accessed 18 April 2016) and <http://www.theatlantic.com/politics/archive/2015/06/troubled-waters-in-mckinney-texas/395150/> (accessed 18 April 2016).
35. For a powerful account of how such self-presentation works on a daily basis, see Goffman (1956), to which I am indebted.
36. Cf. Franz Fanon: ‘And already I am being dissected under white eyes, the only real eyes. I am *fixed*... I am laid bare. I feel, I see in those white faces that it is not a new man who has come in, but a new kind of man, a new genus. Why, it’s a Negro!... Shame. Shame and self-contempt. Nausea. When people like me, they tell me it is in spite of my color. When they dislike me, they point out that it is not because of my color. Either way, I am locked into the infernal circle’ (Fanon, 1952).
37. Goffman (1986).
38. See, e.g., the powerful account of the wrongness of racial inequality, and its roots in stigma, in Loury (2009), Ch. 2. See also Fanon (1952), esp. Ch. 5, ‘L’expérience vécue du

- Noir' (or 'the lived experience of blackness', translated in the English edition, somewhat misleadingly, as 'The Fact of Blackness').
39. <http://www.telegraph.co.uk/news/politics/9783545/David-Cameron-we-will-keep-out-EU-benefit-tourists.html> (accessed 18 April 2016). The connection between benefit tourism and fraud, on one hand, and specifically EU migration from Eastern Europe on the other, had already come to the fore in Michael Howard's attempts to question Blair's decision not to impose transitional controls after Eastern enlargement in 2004. See, e.g., <http://www.theguardian.com/politics/2004/apr/27/immigrationpolicy.immigration> (accessed 18 April 2016). Before that period, worries about fraud and benefit tourism had almost always been associated with asylum seekers, rather than EU migrants. Since that time, the emphasis has shifted (though, of course, never completely, especially given widespread conflation of asylum and migration issues).
  40. <http://www.telegraph.co.uk/news/uknews/immigration/10102001/Theresa-May-demands-crackdown-on-EU-migrants-who-abuse-welfare-system.html> (accessed 18 April 2016). See also Cameron's letter to Donald Tusk, President of the European Council, at [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/475679/Donald\\_Tusk\\_letter.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/475679/Donald_Tusk_letter.pdf) (accessed 18 April 2016).
  41. <http://www.telegraph.co.uk/news/worldnews/europe/eu/10361971/Britain-admits-it-has-no-figures-on-EU-welfare-tourist-numbers.html> (accessed 18 April 2016).
  42. Dustmann and Frattini (2014).
  43. For this calculation, based on the figures in Dustmann and Frattini (*ibid*), see Martin Sandbu, 'Cameron's diversionary deal' *Financial Times*, 22 February 2016.
  44. See <http://www.theguardian.com/commentisfree/2014/nov/14/london-schools-immigration-children-education> (accessed 18 April 2016).
  45. See Giuntella et al. (2015).
  46. See, e.g., Barrett et al. (2013) and <http://wol.iza.org/articles/welfare-magnet-hypothesis-and-welfare-take-up-of-migrants/long> (accessed 18 April 2016).
  47. See, e.g., Burrell (2010) and <http://www.geog.ucl.ac.uk/about-the-department/news/news-archive-2015/march-2015/polish-emigration-to-the-uk-after-2004-why-did-so-many-come> (accessed 18 April 2016).
  48. See, e.g., [http://www.niesr.ac.uk/blog/how-small-small-impact-immigration-uk-wages??ftcamp=crm/email/\\_DATEYEARFULLNUM\\_\\_DATEMONTHNUM\\_\\_DATEDAYNUM\\_\\_nbe/MartinSandbusFreeLunch/product#.Vup2-cfHm21](http://www.niesr.ac.uk/blog/how-small-small-impact-immigration-uk-wages?ftcamp=crm/email/_DATEYEARFULLNUM__DATEMONTHNUM__DATEDAYNUM__nbe/MartinSandbusFreeLunch/product#.Vup2-cfHm21) (accessed 18 April 2016) arguing that the 'impact of migration on the wages of the UK-born in this sector since 2004 has been about 1%, over a period of 8 years. With average wages in this sector of about £8 an hour, that amounts to a reduction in annual pay rises of about a penny an hour'.
  49. <http://www.voxeu.org/article/immigration-trade-and-productivity-services> (accessed 18 April 2016).
  50. See, e.g., Falk (2001), Ch. 10.
  51. The second qualification is important: it could be that, though true, the government might mobilise these facts to stoke anti-immigrant sentiment generally, and therefore to increase the stigma already associated with being an immigrant. In this case, the policy would still be wrongful according to a moral-equality-based view (though to a lesser extent). This has implications for other cases of 'statistical discrimination', where the statistics used to make evaluations of policy are true.
  52. I argue for this view at length in Sangiovanni (2013, forthcoming a).
  53. With some exceptions. See, e.g., Dustmann and Frattini (2014).

54. I do so in Sangiovanni (forthcoming a).
55. This argument might be buttressed by appeal to coercion-based views regarding the grounds of distributive egalitarianism, such as Blake (2001); Nagel (2005). For reasons to reject such accounts, see Sangiovanni (2011, 2012, forthcoming c).
56. Sangiovanni (2011, 2012, forthcoming c).

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