The Reality of Discrimination

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Abstract: Is it wrong to discriminate against a fictive person? We show that prominent accounts of the wrongness of discrimination provide conflicting answers to this question. This raises the question: must an account of the wrongness of discrimination, to be extensionally adequate, imply that discriminating against a fictive person is wrongful? We argue that answering "no" to this question either proves difficult or comes with significant costs. In this way, our investigation helps to address the broader, but neglected question: can wrongful (direct) discrimination occur even when no actual person is directly targeted? Our investigation thereby ultimately helps to determine the plausible scope of anti-discrimination theories.

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1. Introduction

Consider:

> **Stereotypical Reader I**: Johnny is reading the newspaper. A Black person has been arrested for shoplifting. Because of his racist beliefs, Johnny blames the Black person more than he would have done had the shoplifter been white.

> **Stereotypical Reader II**: Jimmy is reading a novel, but he believes that the book he is reading is non-fiction. A Black person has been arrested for shoplifting. Because of his racist beliefs, Jimmy blames the Black person more than he would have done had the shoplifter been white.

We take it to be an uncontroversial view that Johnny's act of blaming the Black person in Stereotypical Reader I amounts to wrongful discrimination.[1] After all, he blames the Black person more than he would have blamed a white person merely because the former is Black. Our question is this: Does Jimmy's blaming the Black person in Stereotypical Reader II amount to wrongful discrimination? We will argue

[1] We discuss the view that it is not in Section 3 and introduce another pair of examples focused on employment (if one does not believe that instances of wrongful private discrimination, i.e. discrimination by non-public agents, is possible—an argument we reject).

that answering this question is much more difficult than it may initially seem. In the first part of the paper, we argue that prominent accounts of what makes discrimination wrongful provide conflicting answers to the question.[2] Indeed, surprisingly, Lippert-Rasmussen's harm-based account might even imply that discriminating in Stereotypical Reader II is what one should do. And not only that. The question forces the accounts to put the cards on the table: it pushes them to tell us exactly where the wrongness of discrimination is *located*. Is it in the deliberations of the discriminating agent? Or in what is expressed by the act? Or in how it affects the discriminatee or third parties?

This brings us to the second part of the paper. Given that prominent accounts of the wrongness of discrimination reach different verdicts on Stereotypical Reader II, this naturally raises the question: should an account of the wrongness of discrimination, to be extensionally adequate, capture Stereotypical Reader II as an instance of wrongful discrimination? We will show why arguing that it should not either proves difficult or comes with significant costs. We end by pointing to the broader implications of accepting that Stereotypical Reader II amounts to wrongful discrimination. One implication is that discrimination may be wrong even if it does not wrong the discriminatee *at all*.

One might think that asking whether discrimination against fictive persons is wrongful is trivial. After all, fictive persons lack moral standing. If so, it should be all the more surprising that our findings highlight that prominent accounts of the wrongness of discrimination disagree about whether it is indeed wrongful (if the question is trivial, we should expect agreement among accounts), and that, in fact, *denying* that discrimination against fictive persons may be wrongful is either really difficult or costly. But to further bolster the importance of our investigation, note that the question of wrongful discrimination against fictive persons in fact points toward a broader question that has not received much, if any, attention in the literature: can wrongful direct discrimination occur even when no actual person is directly targeted?[3]

[2] Not only is it the case that different accounts provide conflicting answers. For some accounts, e.g., Hellman's account, it is also the case that they can be naturally interpreted in different ways implying conflicting answers to our question.
[3] Note that, for reasons of space, we focus throughout on direct discrimination and put the question of indirect discrimination aside. For an analysis of this distinction, see, e.g., Campbell and Smith (2023); Lippert-Rasmussen (2014).

By considering discrimination against fictive person, we take the first stab towards answering this question. Our investigation thereby ultimately helps to determine the plausible scope of anti-discrimination theories (which is, indeed, no trivial matter).[4]

Before we move on, one clarification is in order. It is common to distinguish between the question, "what is discrimination?", and the question, "what makes discrimination wrongful (when it is)?" There is disagreement about how to define discrimination. But since we are primarily interested in the second question in this paper, and since our arguments are not reliant upon a particular definition of what discrimination is, we simply assume the following generic definition of (direct) discrimination:

> An agent, X, discriminates against someone, Y, in relation to another, Z, by Φ-ing (e.g., hiring Z rather than Y) if, and only if:
>
> (i) There is a property, P, such that Y has P or X believes that Y has P, and Z does not have P or X believes that Z does not have P,
>
> (ii) X treats Y worse than he treats or would treat Z by Φ-ing, and
>
> (iii) It is because (X believes that) Y has P and (X believes that) Z does not have P that X treats Y worse than Z by Φ-ing (Lippert-Rasmussen, 2014: 15).

Nothing in this definition rules out that Y or Z, or both, are fictional persons. Nor does anything rule out that by blaming someone, one treats them in a particular way. Specifically, this definition is consistent with saying that just as we treat an actual person worse than another actual person by blaming them and not the other, we treat a fictional person worse than another fictional person by blaming the former but not the latter. (But with that said, we will return to the issue of treatment in Section 3).

[4] We thank an anonymous reviewer for suggesting this framing.

2. Stereotypical Reader II and the Wrongness of Discrimination

In this section, we will argue that prominent accounts of the wrongness of discrimination reach conflicting verdicts in cases in which the discriminatee is a fictive person. Of course, we will not have the space to discuss every account on offer—nor do we want to test the reader's patience by doing so—but this is also not necessary. By discussing three prominent accounts, we show that: one account is ambiguous such that Stereotypical Reader II might amount to either wrongful or non-wrongful discrimination (Hellman's account); one account implies that Stereotypical Reader II amounts to wrongful discrimination (Jonker's account); and one account implies that Stereotypical Reader II might even amount to *morally required* discrimination (Lippert-Rasmussen's account). This will further motivate our investigating, in Section 3, whether wrongful discrimination can occur when no actual person is directly targeted.

2.1 Hellman

Hellman has proposed an *objective meaning* account of the wrongness of discrimination according to which discrimination is wrong, when it is, because of what it expresses. More precisely, discrimination is wrong when and because it *demeans* the discriminatee. "To demean," she explains, "is to treat someone in a way that denies her equal moral worth … [it is] to put down, to diminish and denigrate. It is to treat another as lesser" (Hellman, 2008: 29). A demeaning act "expresses that the other is less worthy of concern or respect" (ibid.: 35). For an act to be demeaning, however, it must be true "not only that one express disrespect for the equal humanity of the other but also that one be in a position such that this expression can subordinate the other" (ibid.). She illustrates this point by imagining that she spits at her boss. This act is disrespectful. But it is not demeaning if she is not positioned such that she can put down her boss. Imagine, instead, that she spits at a homeless person. This act is demeaning "because (a) spitting is a conventional way of showing disrespect *and* (b) the relative disparity in status between a homeless person and myself allows my expression of disrespect to put him down" (ibid.). This illustrates, Hellman says, that demeaning has two aspects: a social aspect and a power aspect. Regarding the former, the specific

society's history, culture, conventions and social understandings determine whether a given act is demean*able*. And regarding the latter, if the person acting is positioned such that they can put down the other, the demeanable act becomes demean*ing*. As this illustrates, whether a given instance of discrimination is wrong according to Hellman's account is a contextual matter (ibid.: 33).

Is Jimmy's blaming in Stereotypical Reader II an instance of wrongful discrimination according to Hellman's account? For context, let us assume that it takes place in a society like the US. A society in which Black people have suffered, and continues to suffer, from a host of injustices. And let us assume that Jimmy is a white American. Does his blaming amount to wrongful discrimination on Hellman's account? We do not think so. Hellman writes: "to demean is to treat someone in a way that denies her equal moral worth" (ibid. 29). But the Black shoplifter in Stereotypical Reader II is a fictive person who does not have any moral worth; so there is no moral worth to deny in this case.[5] Hellman's account requires that the discriminatee has moral worth and fictive persons have not.[6] Another way of seeing why Jimmy's blaming the Black shoplifter is not demeaning on Hellman's account is as follows. Recall that demeaning has two aspects: a social aspect and a power aspect. Even if conventions prescribe that such ways of blaming conventionally show disrespect, the power aspect is not satisfied in this case. To satisfy the power aspect, there must be a "relative disparity in status." But there is no shared social realm between

[5] Some might deny this is the case. Suppose the novel also contains the following sentence: "The Black shoplifter weighs 70 kilos." And suppose that Jimmy says, "It is not the case that the Black shoplifter weighs 70 kilos." In that case, intuitively, Jimmy makes a false statement—it is not as if Jimmy can say, e.g., "No, I am not saying anything false. The Black shoplifter is a fictive person and thus has no weight." Moving beyond intuitions: On an amended Russellian/descriptivist account of names, one could say that "The Black shoplifter does not weigh 70 kilos" is shorthand for "According to the novel, the Black shoplifter does not weigh 70 kilos," where "According to the novel" functions as an intensional operator such that the latter sentence is false even if "the Black shoplifter" does not denominate a real individual (cf. Kroon and Voltolini, 2023). (Saul Kripke (2013: 23-24), who canvasses a non-descriptivist theory of names, thinks that when reading a work of fiction, one should simply pretend that whatever is stated in the work is true and, similarly, pretend that whatever contradicts what is stated in a work of fiction is false, so on this account we should simply pretend that Jimmy's statement regarding the Black shoplifter's weight is false.) On the amended Russelian/descriptivist account, we can say that "The Black shoplifter has lower moral status" is shorthand for something like: "According to the novel, the Black shoplifter has non-moral properties, P, and having P confers lower moral status on an individual." Suppose the novel is not racist in this way and describes the Black shoplifter like any other person in terms of agential capacities (or whatever non-moral properties moral status results from). In that case, arguably Jimmy does implicitly and falsely deny the Black shoplifter's equal moral status. Nonetheless, Jimmy's instance of blaming would still fail to satisfy Hellman's power condition, as we explain next, so it cannot be demean*ing*.

[6] We put the question of whether deceased persons have moral worth aside here since it is not relevant to our main argument. The same applies to merely possible persons. For discussion of the former, see, e.g., Mulgan (1999). For discussion of the latter, see, e.g., Hare (2007).

Jimmy and the fictive Black shoplifter in which they are positioned in relation to each other. There is Jimmy's social world, and then there is the fictive social world which the Black shoplifter inhabits.

Yet, this analysis may be too quick. One could counter that even if Jimmy's blaming does not demean the Black shoplifter, it may demean other (living) Black people by expressing that they are of inferior moral worth to white people. Jimmy does satisfy the power aspect in relation to actual Black people: Jimmy, qua being a white man, is positioned such that he can put down Black people in a historically racist society. In this sense, Jimmy's act may demean Black people generally and thus amount to wrongful discrimination (cp. Jonker, 2019: 211-212).

We understand why one may be tempted by this suggestion. There is some ambiguity in Hellman's account since it could be understood either narrowly or broadly. Let us explain. She says, "demeaning is wrong because the fact that people are of equal moral worth requires that we *treat* them as such" (Hellman, 2008: 30; our emphasis). She points to *treatment* here. Who is subject to treatment in Stereotypical Reader II? One view is that only the fictive Black shoplifter is subject to treatment: they are being blamed. Another view is that not only the Black shoplifter but also other Black people are subject to treatment when Jimmy blames the Black shoplifter: because they share the relevant trait, other Black people are subject to being treated according to different standards than white people (cp. Jonker, 2019: 212n5).[7] The ambiguity between the two readings may be reflected in the following quote: "I have presented the view that it is morally wrong to draw distinctions among people and treat them differently as a result when doing so demeans *any of those affected*" (Hellman, 2008: 33; our emphasis). It is not clear whether "those affected" in Stereotypical Reader II is the Black shoplifter only, or whether it may include other Black people as well.

[7] More would have to be said about this view. Perhaps the idea might be something like this. Suppose Jimmy is reading the novel in the presence of a couple of Black friends and starts angrily blaming the Black shoplifter (simply thinking aloud). It may be that in this case, the friends could say that Jimmy demeaned, not just the Black shoplifter, but them too. If demeaning is a way of treating, then Jimmy also treated them by blaming the Black shoplifter. For our purposes, we do not have to determine whether such a view is plausible. We can simply point out that if such a view can be developed, there is a reading of Hellman's view according to which Stereotypical Reader II amounts to wrongful discrimination (as we explain shortly). See also our discussion of the targets of discrimination in footnote 39.

Hellman is, in any case, adamant that wrongful discrimination is an individual wrong: "It is possible to claim that the historical treatment and current social status of the *group* matter in assessing current policy and still maintain that they also matter in determining whether the policy treats *individuals* unfairly. To mediate the pull of the claim that group status matters with the intuition that an individual has been wronged, we need to find a way that the group status matters to the determination of *how the individual has been treated*" (p. 24; our emphasis). So, to maintain that Stereotypical Reader II amounts to wrongful discrimination on Hellman's account, one must establish that other Black people qua individuals are subject to *treatment* when Jimmy blames the Black shoplifter. Since we believe this is no easy task, we think the narrow reading of Hellman's account is the more obvious one, but we do not want to rule out the broad reading. Suffice it to say: Importantly, Stereotypical Reader II fruitfully identifies an ambiguity in Hellman's account between a broad and a narrow reading. Which reading she ultimately endorses will affect what her account says about discrimination directly targeting a fictive person. On the narrow reading of Hellman's account, Stereotypical Reader II does not amount to wrongful discrimination. On the broad reading, it does.[8]

2.2 Jonker

We have just seen an account which (on what we take to be its most obvious interpretation) focuses on the discriminatee: on Hellman's account, wrongful discrimination is a matter of whether the discriminatee is demeaned. We now turn to an account that does not focus solely on the discriminatee. Jonker (2019:

[8] Although we will not provide this argument here, Eidelson's (2015) disrespect account is similarly ambiguous between a narrow and a broad reading and is thus in a similar position as Hellman's account vis-á-vis Stereotypical Reader II. But there are important differences between their accounts: Hellman's account is expressivist, and Eidelson's account is not. On Eidelson's account, discrimination is wrong when and because it manifests recognition disrespect (2015: 73). Eidelson's account is also ambiguous as one can reach both conclusions depending on whether one judges that blaming the fictive Black person cannot be disrespectful—as fictive persons do not have any interests nor any autonomy that ought to be properly recognized in one's deliberations—or that blaming the fictive Black person is also disrespectful towards existing Black persons.

207) wants to show that "discrimination generally involves a *vicarious wrong* – an action which wrongs someone other than its primary object of disregard."[9] He asks us to consider (among other cases):

> *Adjunct*. K, a lesbian, is denied permanent employment as a professor at the community college at which she works, and ultimately not rehired. K claims that she has been discriminated against because she does not conform to gender norms (ibid. 209).

About this case, he says:

> It is at least as likely that an employer who mistreats a lesbian does so because they believe that women should act in certain ways and engage in only certain kinds of romantic relationships and sexual acts. That is an attitude about gender and its regulative norms, and an employer who dismisses an employee on the basis of that attitude discriminates against the employee because of her gender and her non-conformity to its norms. This is rightly thought of as a kind of associational discrimination, not because the discrimination is based on the fact of K's association with women, but because of the association between lesbianism and gender non-conformity. The employer mistreats K, but her attitude of disapproval targets, at least implicitly, any woman who fails to conform to sexist norms (Jonker, 2019: 211).

This is precisely a case in which the act wrongs someone other than the primary object of disregard. In this case, K is the primary target. And she is mistreated. But as Jonker sees it, the employer's attitude of disapproval targets not only K, but any woman who fails to conform to sexist norms. The employer's act

[9] Admittedly, Jonker's aim is not to provide a full account of the wrongness of discrimination. He is more interested in its *direction*. But it seems obvious to consider his argument in the current context.

therefore wrongs any such woman. The discriminatory act is a vicarious wrong. Now, return to Stereotypical Reader II. We may describe Jimmy's act in the same way. Although it is the fictive Black shoplifter who is mistreated, Jimmy's attitude of disapproval may be said to target not only the Black shoplifter, but any Black person. After all, Jimmy believes that he is reading non-fiction. Jimmy's discriminating act may thus be said to be a vicarious wrong: even though it does not wrong the Black shoplifter (since they are a fictive person), it wrongs actual Black people as they are targeted by Jimmy's attitude of disapproval.[10,11] We reach this conclusion on Jonker's account because his account is not only focused on the discriminatee (the one subject to differential treatment), but also on those toward whom the discriminator's disregard is aimed.

2.3 Lippert-Rasmussen

Let us look at one more account: Lippert-Rasmussen's harm-based desert-adjusted account. This is a particular specification of a generic harm-based account:

> *Generic harm-based account*: An instance of discrimination is wrong, when it is, because it makes people worse off, i.e., they are worse off given the presence of discrimination than they would have been in some suitable alternative situation in which the relevant instance of discrimination had not taken place (Lippert-Rasmussen, 2014: 154-155).

[10] But then it would seem that if Jimmy only had differential blaming dispositions toward fictive persons, Jimmy's discriminating act would not wrong actual Black people since they would not be targeted by his attitude of disapproval.

[11] One might hold that the effects on third parties only arise *when* there is a prior act of discrimination against a real person or group. Would Jimmy's blaming in Stereotypical Reader II amount to discrimination against a real group, namely Black people, in this sense? If it would, then adopting this view would not change anything regarding our argument in what follows. Although it would imply that there could be fictive cases that would not have these third-party effects, our examples are limited to cases in which there is a real group (Black people). If it would not, we don't think this view of discrimination's effects on third parties is plausible. Indeed, suppose I believe my colleague is married to a Martian. I hate Martians, so I treat my colleague badly. In this case, there is, on this understanding, no prior act of discrimination against a real person or group but there still seem to be relevant third-party effects. We thank an anonymous reviewer for this suggestion.

This account is indeed generic. It can be filled out in different ways, depending, inter alia, on which metric(s) of harm one employs (ibid.: 156). Lippert-Rasmussen fills it out as follows:

> *Lippert-Rasmussen's Desert-Accommodating Prioritarianism*: Discrimination is wrong, when it is, because it makes people worse off, i.e., they are worse off given the presence of discrimination than they would have been had the relevant instance of discrimination not taken place and we hold everything else other than the discriminatory act and what follows causally downstream from it constant; where the moral disvalue of an act of discrimination depends on three factors: (i) the greater the harm for individuals affected by the act, the greater the moral disvalue, (ii) the lower the level of well-being of those to whom additional units of harm accrues, the greater the moral disvalue, and (iii) the more deserving those to whom additional units of harm accrues, the greater the moral disvalue.

The account is prioritarian, cf. (ii), where "standard prioritarianism says that benefits that accrue to individuals with less well-being, not comparatively but absolutely speaking, have greater moral value than benefits to people with a higher level of well-being (Lippert-Rasmussen, 2014: 165, quoting Parfit, 1998). It differs from standard prioritarianism by incorporating a concern for desert, cf. (iii).

Now, what does the account imply about Stereotypical Reader II? Since Jimmy discriminates against a fictive person, his blaming clearly does not make the discriminatee worse off. The Black shoplifter does not exist. So Jimmy's discriminatory act is not wrong because it harms the discriminatee. If it is wrong, it is for another reason. Note that Lippert-Rasmussen's account is not limited to making the discriminatee worse off. It says that "discrimination is wrong, when it is, because it makes people worse off." With a few assumptions, this leads to a highly surprising result in Stereotypical Reader II.

The first assumption is the following. As recently argued by Tadros (2020; see also Brownlee, 2019), it can be bad to be a wrongdoer. He asks us to consider the following two cases:

Seating Arrangement: Billy and Bobby start a new school at age 7, and are very similar. On their first day, Teacher sits them in two free seats in class. In World 1, where Teacher sits Billy next to Jack, Jack becomes Billy's best friend. In a nearby world, World 2, Teacher sits Billy next to John and John becomes Billy's best friend. Things are *vice versa* for Bobby. In World 1, Jack is a bad influence on Billy. When they are 20, he persuades Billy to commit a single crime—a serious assault on Jeff—which Billy does intentionally and without excuse. This does not happen in World 2: Billy does not commit any serious wrongs in that world, as John is a good influence on Billy. Again, things are *vice versa* for Bobby. Other things are equal (ibid.: 229).

Amnesia: As *Seating Arrangement*, except that everyone in World 1, including Billy and Bobby, thinks that Bobby has assaulted Jeff. This is because Billy and Bobby were drunk on the night in question; drunk enough that they cannot remember what happened, but not so drunk that they lacked responsibility for what they did. Furthermore, it appears to Jeff that Bobby rather than Billy assaults him, which he then reports. And the incident is caught on camera in a way that makes the culprit look more like Bobby than Billy, so there is good evidence that Bobby was the wrongdoer. All of the bad effects that anyone gets from the judgment that a person is responsible for the assault, such as the bad feelings, the punishment and the legal obligation to pay compensation, thus fall on Bobby. The feelings of guilt are not very severe, and the burdens that he suffers through punishment and compensation are not awful. In World 2, things are vice versa between Bobby and Billy (ibid.: 231).

Tadros argues that it is disvaluable *as such* for a person to be responsible for wrongdoing. To see this, we need a case in which the negative consequences of being responsible for wrongdoing are absent. Seating Arrangement and Amnesia differ in this respect. In Seating Arrangement, we do not hear anything about the distribution of the negative consequences of being responsible for wrongdoing (and we may thus implicitly assume that they fall on the wrongdoer). In Amnesia, we do hear about the distribution: the negative consequences of being responsible for wrongdoing do not fall upon the wrongdoer (Billy in World 1) but the person who did not do wrong (Bobby in World 1). But, Tadros argues, it is still disvaluable for Billy to be responsible for wrongdoing:

> Imagine again that you are Billy's parent. I take it that parents have powerful reasons to hope that their children will not be wrongly accused, convicted, and punished for wrongdoing. Not only is Billy worse off in these respects in World 2, he is unjustly worse off. So, there are powerful reasons for Billy's parents to favor World 1, where Billy was responsible for wrongdoing, but is not accused, convicted, and punished for it. Nevertheless, overall, were I Billy's parent, I would prefer World 2, where although Billy is accused, convicted, and punished for something he didn't do, he wasn't responsible for wrongdoing […] Even those who conclude that Billy's well-being is greater in World 1 than World 2 tend to think that well-being is not all that matters, and that responsibility for wrongdoing counterbalances differences in the loss of well-being and the unjust treatment that Billy faces in World 2. Furthermore, even those who think that World 1 is preferable for Billy's sake find the question difficult, which suggests that something powerful counterbalances the bad effects of being wrongly accused of wrongdoing in World 2 (p. 232).

In Amnesia, Billy is badly off for being a person who is responsible for wrongdoing. In short: it is bad to be a wrongdoer.

The second assumption we need is that Jimmy's blaming the Black shoplifter in Stereotypical Reader II is wrong for a non-harm-related reason. This could be, for instance, because Jimmy's blaming follows from unwarranted animus or prejudice (cf. Arneson, 2006). Doing wrong makes Jimmy less deserving.[12] So suppose that he blames the Black shoplifter as in Stereotypical Reader II. All else equal, it is now less bad that harm falls upon him (Jimmy) according to Lippert-Rasmussen's account. Now, suppose that, thirty seconds later, Jimmy blames the fictive Black shoplifter again. This makes him even less deserving. And suppose he does it again thirty seconds later. This makes him even less deserving.[13] Now, suppose we know that, unavoidably, some future misfortune will happen to Jimmy. According to desert-accommodating prioritarianism, the less deserving Jimmy is, the less bad the misfortune he will face will be. This means that it is actually good that Jimmy blames the Black shoplifter because this makes him less deserving.[14] Hence, not only is Jimmy's discriminatory blaming not wrong, but it may actually be the right thing to do. This is, we take it, a highly surprising result. Thus, if we accept these assumptions, Lippert-Rasmussen's account may imply that Jimmy's discriminatory blaming in Stereotypical Reader II is not only not morally wrong, but morally right. If we reject these assumptions, then, on a natural reading, Stereotypical Reader II does not amount to wrongful discrimination.[15]

3. Stereotypical Reader II: Wrongful Discrimination?

We have now analyzed Stereotypical Reader II on three prominent accounts of the wrongness of discrimination. As we have seen, the accounts reach different and (partly internally) conflicting verdicts as to whether Jimmy's blaming amounts to wrongful discrimination. According to Lippert-Rasmussen's

[12] Could one deny that unjustly blaming a fictive person makes one less deserving? While this would enable Lippert-Rasmussen to avoid the present objection, we believe this move is inherently unappealing because of its making deservingness too dependent on circumstantial luck.
[13] Someone may doubt that Jimmy's actions are additive in this way since, in this example, he blames the same character repeatedly. If you are not ready to grant us that these acts are additive in the sense proposed, you may simply assume that Jimmy repeatedly blames Black characters more than white characters when reading fiction.
[14] This might be the case even if we assume that the marginal undeservingness is decreasing with more instances of blaming.
[15] Perhaps, given some assumptions, one can give a Jonker-style vicarious wrong story of why it may be wrong on Lippert-Rasmussen's account because it makes other Black people worse off.

account, Stereotypical Reader II does not obviously amount to wrongful discrimination. Indeed, given a couple of assumptions, it may amount to rightful discrimination on his account. According to Jonker's account, Stereotypical Reader II amounts to wrongful discrimination. And Hellman's account is ambiguous: whether Stereotypical Reader II amounts to wrongful discrimination depends on whether her account should be understood narrowly or broadly. Accordingly, we see that not only do these accounts have conflicting implications, but Stereotypical Reader II highlights some internal tensions for some of the accounts and raises important questions about how they should be understood.[16] This is part of the reason why it was worth it to spend some time analyzing Stereotypical Reader II on prominent accounts: it helps us to better understand existing accounts, but it also challenges them. This latter part will be further substantiated in what comes next.

Given this disagreement and these internal tensions, a natural question presents itself: should a convincing account of the wrongness of discrimination capture cases of discriminating against a fictive person, such as Stereotypical Reader II, as wrongful?[17] If the answer is yes, then accounts which do not capture Stereotypical Reader II as an instance of wrongful discrimination (such as Lippert-Rasmussen's) are *underinclusive*. If the answer is no, then accounts which do capture Stereotypical Reader II as an instance of wrongful discrimination (such as Jonker's) are *overinclusive*. Either way, how we answer the question will be important for which account(s) of the wrongness of discrimination we should (not) support.[18] In this way, Stereotypical Reader II might serve as an important test case for the many competing accounts

[16] Although we limit ourselves to analyzing Stereotypical Reader II on three accounts, partly to not test the reader's patience unnecessarily, other accounts of wrongful discrimination, such as Arneson's (2006) and Moreau's (2020) accounts, also imply (at least on some readings) that Stereotypical Reader II amounts to wrongful discrimination. Arneson (2006) situates the wrong-making feature of discrimination in the discriminator's attitude—that is, on whether the discriminator acts from animus or prejudice. Moreau (2020) argues that discrimination is wrongful when it involves social subordination, among other reasons. Her account can thus support the conclusion that Stereotypical Reader II is wrongful depending on how one defines social subordination. However, for reasons of space, we will not further develop this argument.

[17] As this shows, we pose extensional adequacy as a standard for evaluating theories of discrimination. Meta-theoretically speaking, there are of course other desiderata which a theory must satisfy, such as explanatory clarity and normative power. These are important, but for reasons of space we cannot address them here. All else equal, a theory which is extensionally adequate is preferable to a theory which is not. You may thus read our argument in what follows with this all else equal-clause in mind. We thank an anonymous reviewer for suggesting that we address this.

[18] It would also shed light on whether one should prefer the narrow or the broad reading of Hellman's account.

of what makes discrimination wrongful that have been offered. This thereby further motivates our investigation of whether wrongful discrimination can occur when, as in Stereotypical Reader II, no actual person is directly targeted.

We will structure our discussion around an argument for why the answer to the question is yes: a convincing account of the wrongness of discrimination must capture Stereotypical Reader II as an instance of wrongful discrimination. Let us call it the *Intuitive Argument*:

> P1: If Stereotypical Reader I and Stereotypical Reader II are not relevantly different, discrimination-wise, they should be captured as either both wrongful or both non-wrongful by an account of wrongful discrimination.
>
> P2: Stereotypical Reader I should be captured as wrongful by an account of wrongful discrimination.
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> P3: Stereotypical Reader I and II are not relevantly different when it comes to the wrongness of discrimination.
>
> C: Thus, Stereotypical Reader II should be captured as wrongful by an account of wrongful discrimination.

P1 simply represents the view that X and Y should not be treated differently when it comes to discrimination when there is no relevant difference between them when it comes to discrimination. In the beginning of the paper, we took it to be an uncontroversial judgment that Stereotypical Reader I should be captured as an instance of wrongful discrimination on any extensionally adequate account of the wrongness of discrimination.[19] P2 simply restates this judgment. P3 states that Stereotypical Reader I and II are not relevantly different when it comes to the wrongness of discrimination. One may think this premise

[19] All we need is that, on some understandings of the case, it does amount to wrongful discrimination. We ask you to imagine that it refers to such a version (and that Stereotypical Reader II has the same features except for the shoplifter being fictional).

receives intuitive support. When we consider Stereotypical Reader I and II, it is difficult to see why they should be different when it comes to the wrongness of discrimination. The only difference, one might think, is that one is reading a newspaper, and the other is reading a novel (indeed, Jimmy in Stereotypical Reader II even believes that he is reading a non-fiction book). Now, if one wants to challenge the Intuitive Argument, one may challenge either P1, P2 or P3. We will not discuss denying P1 since that would be quite revisionary. Moreover, the premise—or at least the suitably generalized view pertaining to the adequacy of accounts of what makes actions wrong underpinning the premise—is not specific to the issue of discrimination, which is our topic here. Instead, we will focus on P2 and P3.

3.1 – Rejecting P2?

One could argue that Stereotypical Reader I should not be captured as wrongful by an account of discrimination. One argument could be that since there is no harm, there is no wrong (Arneson, 2017: 157). To make this argument, one may assume that harm is a matter of having unpleasant mental states. Since, we might assume, the (actual) Black shoplifter in Stereotypical Reader I will never find out about Johnny's discriminatory blaming, the blaming will not affect their mental states and will thereby not harm them. And since it does not harm them, the discriminatory blaming is not wrong.

But there are other views on harm and well-being. One view is a preference-based view according to which well-being is a matter of having one's preferences satisfied. If one has a preference against X, one is harmed by X happening. In this sense, you may be harmed by your partner's infidelity, even if it never affects your mental life (in part because you never find out). The Black shoplifter may (reasonably) have a preference for not being subject to discriminatory blaming standards (being more subject to blame solely because of their (perceived) race). If we assume this view of harm, the Black shoplifter in Stereotypical Reader I is harmed by the discriminatory blaming, and may therefore be wronged. Thus, if one wants to deny P2 by saying that Stereotypical Reader I does not amount to wrongful discrimination because it involves no harm, one needs to assume a particular view of what harm and well-being amount

to that is not tied to people's actual preferences. In this sense, this response to the Intuitive Argument is limited. It cuts no ice, for instance, against those who believe that harm has to do with both mental states and with whether the world is such that one's preferences are satisfied (in the sense that both may be sufficient for harm).[20] More importantly, it is not clear what the relevant alternative view is. Two alternative views are the ideal preference-based view and the objective list theory. Roughly, on an ideal preference-based view, well-being is constituted by people's ideal—as opposed to actual—preferences, e.g., the preferences people would have after "cognitive psychotherapy" (Brandt 1979). It is unclear, however, why, even after cognitive psychotherapy, the shoplifter might not prefer not being subjected to discriminatory blaming. Similarly, it is unclear why being judged on such a standard cannot make one's life go less well on an objective list theory.[21]

Another way to attack P2 is to employ a distinction between *public* and *private*. If individuals act in a public capacity (or if their act takes place in the public sphere), they are subject to norms against discrimination. To discriminate in public would be wrong. But when individuals act in a purely private capacity (or if their act takes place in the private sphere), they are not subject to norms against discrimination. As Arneson (2017: 151) says, "Discrimination might be thought to be a wrong uniquely perpetrated by governments or by public officials acting in an official capacity."[22] Some might be drawn toward such a view by the belief that discrimination in romance and friendships is non-wrongful (Lazenby and Butterfield, 2018; cp. Fourie, 2018). If one employs this public/private distinction, one might argue that since Johnny's discriminatory blaming takes place in the private sphere, it does not amount to wrongful discrimination. This is why Stereotypical Reader I should not be captured by an account of the wrongness of discrimination, pace P2. Going in this direction seems to be a high price to pay to avoid the Intuitive

[20] Interestingly, a preference-based view may reach the opposite verdict of the one we are exploring. If the actual Black shoplifter has a preference that Black characters in novels are not subjected to racist blame, but has no such preference regarding themselves, then Stereotypical Reader I involves no harm, but Stereotypical Reader II does. But that would imply that the latter is more wrong, all else equal.

[21] We thank an anonymous reviewer for encouraging us to make explicit that our argument does not rest on the assumption that well-being amounts to satisfaction of actual preferences.

[22] This is not to say that Arneson defends this view. He points to Dworkin (2000) as a proponent.

Argument. After all, the relevance of the public/private distinction has been heavily criticized by, for instance, feminists (Chambers, 2017; Pateman, 1988; Okin, 1989; see also Cohen, 2008). Moreover, such a view of the wrongness of discrimination seems underinclusive. If Mr. White blames a Black person for trespassing on his property much more than he would blame a white person for trespassing, because he believes that Black people are morally inferior, this would not amount to wrongful discrimination on this view. Neither would it amount to wrongful discrimination if Mr. White refused to befriend Black people for the same reason. So there are costs involved here. But, still, it is one way to reject the Intuitive Argument: to maintain that private acts of discrimination are not wrongful and should not be captured by an account of the wrongness of discrimination.

However, notice that although endorsing the public/private distinction may work to reject that Stereotypical Reader I is wrongfully discriminatory, it says nothing about whether it is possible to wrongfully discriminate against fictive persons *per se*. Consider the following two cases:

> *Employer I*: An employer is looking to hire one new employee. The employer ranks Black applicants lower than white applicants simply based on race and only invites white candidates for an interview.
>
> *Employer II*: An employer is looking to hire one new employee. Unbeknownst to them, they are part of an audit study. The employer systematically ranks the fictional Black applicants lower than the fictional white applicants simply based on race and only invites white candidates for an interview.

Employer I is, of course, a paradigmatic instance of wrongful direct discrimination.[23] However, the question remains: is *Employer II* wrongfully discriminating against the fictional Black applicants?

[23] We take it to be uncontroversial to say that employers are public actors. Here, we understand public actors as entities having taken on a public role, such as employers, providers of public goods and services, political institutions, etc. (Moreau 2020: 15).

Since this is an instance of putative discrimination taking place in the public sphere, appealing to the public/private distinction will not establish that discriminating against fictive persons is not wrongful.

Adding this pair of examples should also help to address the following worry.[24] It is common to distinguish between whether an agent is *blameworthy* for what they did, and whether what they did was *wrong*. In response to Stereotypical Reader I, some might be tempted to suggest that what Johnny does—discriminatorily blaming the Black person he is reading about in the newspaper for shoplifting—is blameworthy, because of his acting on his racist beliefs, but this does not make his discriminatory blaming wrongful (cp. Sangiuliano, 2024: 68; Thomsen, 2022). Even if we were to assume that this is a plausible response to Stereotypical Reader I, it does not seem to be a plausible response to Employer I. Employer I is a paradigmatic case of wrongful discrimination. (Perhaps, you might think, the distinction between blameworthiness and wrongfulness can be used to explain why there is a relevant difference between Stereotypical Reader I and II (and Employer I and II). This would challenge P3, so we save this concern for the next section.)

Let us consider one final way of denying P2. One might argue that Stereotypical Reader I should not be captured as an instance of wrongful discrimination simply because it is not an instance of discrimination in the first place. Recall the second condition in the definition of discrimination proposed by Lippert-Rasmussen: "X treats Y worse than he treats or would treat Z by Φ-ing" (2014: 15). One might say that when Johnny blames the Black shoplifter he is reading about in the newspaper at home—say, when he shouts his blame in his apartment—Johnny does not *treat* the Black shoplifter in any case. The Black shoplifter is not subject to treatment.

Even if one could say this in response to Stereotypical Reader I, it is dialectically inert in the present context. We may simply switch to Employer I (and II) since the Black applicants are clearly

[24] For which we thank an anonymous reviewer.

subject to treatment in that case: their applications are denied simply because they are Black. One may then respond that there is a difference between Employer I and Employer II in that the latter has to do with fictive applicants, and you cannot subject a fictive person to treatment. But this is to attack P3 (and not P2). Thus, we will consider this response in our discussion of P3.

3.2 – Rejecting P3?

Perhaps there are other ways in which one could challenge P2. But denying P2 seems to come with significant costs. One might challenge P3 instead, that is, one might argue that Stereotypical Reader I and II are relevantly different when it comes to the wrongness of discrimination. Here is one way of challenging P3. Following Parfit (2011: 150-152), we may distinguish between three senses of 'wrong.' Consider:

> *Case One*, I give you some treatment that I believe and hope will save your life, but which kills you, as it was almost certain to do (ibid.: 151).

In Case One, I do not act wrongly in the *belief-relative* sense since I did what I believed would save your life. This sense of wrongness is maximally subjective.[25] The *fact-relative* sense of wrong, on the other hand, is maximally objective. What I do in Case One is wrong in this sense since the act would be wrong "if we knew all of the morally relevant facts" (ibid.: 150). In between these two senses, there is the *evidence-relative* sense of wrongness. Wrongness in this sense is a matter of the evidence available to me. I act wrongly in Case One in the evidence-relative sense because the evidence available to me suggests that the treatment will almost certainly kill you (ibid.: 152).[26]

[25] We borrow the 'maximally subjective' phrase (and the 'maximally objective' phrase in the next sentence) from Fogal and Worsnip (2021: 310).
[26] With this tripartite distinction in hand, one might wonder what sense of wrongness the accounts we discussed earlier—such as Hellman's, Jonker's and Lippert-Rasmussen's accounts—employ. We didn't introduce the distinction in relation to

One might employ this distinction here and say that whereas Stereotypical Reader I is wrong in the evidence-relative sense, Stereotypical Reader II is not. But why are the two cases different in this respect? In this dialectical situation, it will not do much to repeat the argument from an account which entails that Stereotypical Reader II is not wrong (such as Lippert-Rasmussen's account). After all, one could then similarly repeat the argument from an account which entails that Stereotypical Reader II is wrong (such as Jonker's account). We are considering whether an account of the wrongness of discrimination *should* capture Stereotypical Reader II as wrongful. To answer this question, we should not take the truth of a particular account thereof for granted. So we need an argument for why one is wrong in the evidence-relative sense, and the other is not. One argument might be the following. Consider:

> *Bieber Doll.* Suppose in the grip of rancorous and hostile emotions, while standing on the sidewalk of a busy part of the city, I angrily stick pins in a Justin Bieber doll, expressing my unjustified hostility to him, but knowing this expressive act is harmless (Arneson, 2017: 157).

Arneson says about the case: "This act might well be stupid, but it seems a long stretch to say it is morally wrong" (ibid.). Now, one might say that we should regard the fictive Black shoplifter in the same way that we regard the Justin Bieber doll. They are both without moral standing. And just as it is not wrong to stick pins in a Justin Bieber doll, it is not wrong to discriminatorily blame a fictive person. This is why Stereotypical Reader II does not amount to wrongful discrimination in the evidence-relative sense. But there is a difference between the Justin Bieber doll and the Black shoplifter in Stereotypical Reader I: the

those accounts because it is not a distinction that has been used by the proponents of the accounts (they don't tell us whether their accounts are belief-relative, evidence-relative or fact-relative). Moreover, we believe that most, if not all, of the accounts can be constructed in a belief-relative, evidence-relative or fact-relative sense. And, in any case, the analysis we provided in Section 2 of what the accounts imply in Stereotypical Reader II is not dependent on a particular understanding of wrongness. This means that there is not much to gain, for our purposes, from grouping them according to this distinction. We thank an anonymous reviewer for suggesting that we address this.

latter is an actual person. And it is wrong in the evidence-relative sense to discriminatorily blame an actual person based on their race. This explains why Stereotypical Reader I is wrong in the evidence-relative sense, but Stereotypical Reader II is not.

What should we think of this argument? It is important first to get the dialectics clear. We are investigating the question, "should an account of the wrongness of discrimination, to be extensionally adequate, capture Stereotypical Reader II as an instance of wrongful discrimination?" If we want to answer this in the negative, not only do we need to show that Stereotypical Reader I and II are different when it comes to the wrongness of discrimination. We also need to show that Stereotypical Reader II is not wrong qua discriminatory *at all*. It might be that the Bieber argument succeeds regarding the former, but not regarding the latter. To see why, note that there may be a difference between Bieber Doll and Stereotypical Reader II. Whereas the Bieber doll may be thought to represent only Justin Bieber, the fictive Black shoplifter may be thought to represent Black people. This difference might affect our intuitive judgment. So we need a doll case which is similar to Stereotypical Reader II in this sense. Suppose, instead, that the doll is a Martin Luther King doll and is taken to represent Black people. Now, suppose Jimmy has this black doll and a white doll and he sticks pins in the black doll, but not in the white doll, because he is racist. At least, it seems that this case is less clear, in terms of evidence-relative wrongness, than Bieber Doll. So perhaps this argument does not go all the way to showing that Stereotypical Reader II is not wrong qua discriminatory *at all*.

A complicating factor here is that Stereotypical Reader II may be wrong for a *non-moral* reason. Consider the following account of the wrongness of discrimination:

> Irrationality Account: Discrimination is characteristically objectionable when, and because, it involves substantive irrationality (Bengtson and Munch, 2024: 16; cp. Alexander, 1992; Schauer, 2003).

As they explain, let us suppose that an agent is *substantively rational* just in case they are responsive to the reasons that are available to them, where 'reasons available' are understood in the evidence-relative sense (see also Fogal and Worsnip, 2021; Kiesewetter, 2017; Lord, 2017; 2018).[27] Let us understand this broadly such that being substantively rational also requires not being responsive to reasons that lack reason-giving force. Return now to Stereotypical Reader II. Jimmy, in blaming, is responding to (his perception of) the race of the shoplifter. He is taking the shoplifter's race to be a reason to blame them more (than if they had been (perceived to be) of a different race). He is taking the shoplifter's race as a consideration in favor of attributing more blame. But race as such lacks reason-giving force here. So Jimmy fails to be responsive to the reasons available to him. That is, he is substantively irrational. Now, it is often assumed that it is a normative requirement that one is substantively rational in the sense that one may be subject to criticism for failing to be substantively rational (see, e.g., Kiesewetter, 2017: ch. 2). Indeed, even those who are skeptical of the normativity of rationality admit that "ordinary attributions of irrationality are commonly understood as criticism" (ibid.: 39).[28] If so, then there is a normative flaw in Stereotypical Reader II. And this may be a reason why, even if Stereotypical Reader II is not as wrong as Stereotypical Reader I, it is still wrong in a sense that should be captured by an account of the wrongness of discrimination. (This is, of course, compatible with discrimination often being wrong for moral reasons as well, such as harm or inequality).[29]

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[27] This is not a matter of morality (in the evidence-relative sense of wrongness pointed to above). The evidence-relative sense pointed to here is a matter of which reasons are available to the agent (it is a matter of rationality).

[28] So those who deny that substantive rationality is a normative requirement "are committed to a quite radical error theory about ordinary irrationality ascriptions. They are committed to holding that we are all deeply misled in believing that there is anything criticizable about irrationality. And they owe us an explanation of why we all went wrong in thinking this" (Kiesewetter 2017: 41). So avoiding the argument by denying that substantive rationality is a normative requirement does not come cheap.

[29] Our aim here is not to defend the Irrationality Account. We introduce it to show that it is by no means obvious that the flaw in discrimination need always, and only, be moral. Indeed, in many cases of discrimination, there might be both a moral flaw (say, harm) and a normative flaw (such as substantive irrationality). Given that it plays this dialectical role, we will not address common objections to the Irrationality Account. But for what it's worth, we think that some of the common objections—e.g., that "we are not in *general* required, morally, to treat people on the basis of relevant grounds (Lippert-Rasmussen, 2013: 106) and that "the problem with the irrationality account is that it equates rationality with morality" (Laborde, 2024: 3)—miss the mark in the sense that the Irrationality Account does not, or in any case need not, say that substantive irrationality is a moral flaw (see also Hellman's distinction between the comparative and noncomparative conceptions of discrimination which we lay out in footnote 38). For a recent defence of the Irrationality Account, including an argument

So, we have just established two important points: (a) to reject P3 in a way that undermines the Intuitive Argument, it is not enough to show that there is a difference between Stereotypical Reader I and II (and Employer I and II) in terms of wrongness: one must show that Stereotypical Reader II (and Employer II) is not wrong qua discriminatory *at all*; and (b) the wrong in cases of discrimination need not necessarily be moral (it may be a normative flaw, e.g., substantive irrationality). Building on these points, we can provide further support for the claim that Stereotypical Reader II should be captured as wrongful by an account of the wrongness of discrimination.

To further illustrate this point, consider debates regarding *moral luck*. In that literature, the following pair of cases is commonly considered:

> Case 1: Lee is an assassin who has placed himself near a window on the fifth story of a building overlooking Elm Street. He carefully and skillfully draws a bead on his intended victim driving by below. He pulls the trigger, and the victim is shot and killed [as a result].
>
> Case 2: Lee is an assassin who has placed himself near a window on the fifth story of a building overlooking Elm Street. He carefully and skillfully draws a bead on his intended victim driving by below. He pulls the trigger, but a bird flies into the path of the bullet and the [intended] victim is spared (Khoury, 2018: 1358-1359; see also Nagel, 1979; Williams, 1981).

Those who do not believe in moral luck regarding moral responsibility say that there is no difference in terms of blameworthiness between Case 1 and Case 2; those who do believe in moral luck say that there is such a difference (Enoch, 2010: 43). Now, even if you do believe that there is a difference in moral responsibility between Case 1 and 2—that murder is more blameworthy than attempted murder, as it

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that the Irrationality Account is well-positioned to explain the wrong in cases of consensual discrimination (unlike accounts which point to a moral flaw), see Bengtson and Munch (2024). We thank an anonymous reviewer for suggesting that we clarify this.

were—you probably do not believe that attempted murder is not morally wrong *at all*. Similarly, even if there is a difference in moral responsibility between Stereotypical Reader I and II, or between Employer I and II, this does not go to show that the latter in the two pair of cases is not wrong at all (as opposed to, say, less wrong).[30] Attempting a racist killing might well be wrong, even if not as wrong as a racist killing.

But, you might point out, there is still a relevant difference to our case where the one directly targeted is a fictive person. True, so let us now add a bit from the literature on the ethics of fictive wrongdoing.[31] In this literature, the *Gamer's Dilemma* plays a central role.[32] It arises due to an apparent incompatibility between two intuitions which most people seem to hold: virtual murder is morally permissible, but virtual paedophilia or rape is morally impermissible. The challenge is to explain why there is this intuitive difference between the two judgments (or, alternatively, to explain it away). A recent response to the Gamer's Dilemma is due to Cecchinato (2023). He argues that, in fact, both virtual murder and rape may be morally impermissible. Indeed, both may also be morally permissible. What makes the moral difference is whether they amount to fantasies or not. Fantasizing about a wrongdoing is special, Cecchinato argues, because fantasies "are a class of imaginings that entertain their fictional content as a real-life possibility" (p. 79). He proposes that to fantasize about A is

> (i) to actively and extensively imagine A (ii) in the context of your own life and (iii) as the object of some pro-attitude, such as desire or approval (Cecchinato, 2023: 80).

[30] This also speaks to the following. Saying that there is a relevant moral difference between Stereotypical Reader I and II because the latter is attempted discrimination, and the former is discrimination—similarly to the difference between attempted murder and murder—does not settle much since attempted discrimination might also be wrong (even if less wrong) in a way that should be captured by an account of the wrongness of discrimination. We return to this distinction between attempted discrimination and discrimination at the end of Section 3.

[31] We thank an anonymous reviewer for suggesting that we look to this literature to further substantiate our argument.

[32] For discussion and possible solutions to the dilemma, see, e.g., Ali (2015), Bartel (2012), Levy (2002), Luck (2009), Montefiore and Formosa (2023), Young (2016). We say some more about Levy's suggestion in footnote 34.

Cecchinato exemplifies: When you engage with The Sopranos, for instance, you might have a pro-attitude towards Tony, but you imagine the fictional wrongdoing in the context of Tony's life, not your own. This is a more "*impersonal* kind of imagining" (ibid.). A fantasy is *personal*: you are fantasizing about something within the context of your own life. As Cecchinato says: "For a fantasy to be morally wrong, it is sufficient that the imaginer intentionally and extensively projects their identity into the imaginative context where the immoral act is performed, embracing their imagining with a pro-attitude" (ibid.). And since the fantasy/non-fantasy distinction cuts across the distinction between virtual murder/rape, both virtual rape and murder may be morally (im)permissible. He illustrates this by adding the following cases:

> The Uncorrupted Player: A psychologist performs virtual sexual molestation in computer games to impersonally observe the typical features of this activity, without any intention to fantasize.

> The Degenerate Player: A morally degenerate player who fantasizes about murdering others … and so plays the game with the sole purpose of enacting his fantasies (ibid.; borrowing from Ali, 2015: 269).

The psychologist in Uncorrupted Player is not fantasizing about sexual molestation—they are not imagining it within the context of their own life—but this is not true of the Degenerate Player. The Degenerate Player is fantasizing about murder. In this pair of cases, virtual murder is wrong, but virtual rape is not. This explains away the Gamer's Dilemma, Cecchinato concludes:

> Whether of rape or murder, the wrongness of an imagining increases proportionally to its subjective closeness to the actual world. The gamer's dilemma is then explained away by the fact that it is

> quite common to entertain murder as an impersonal imagining, while it is comparatively rare to imaginatively engage with sexual violence if not to fantasize (2023: 80).[33]

Importantly, Cecchinato does not want to say that fantasizing about virtual rape is as morally wrong as actually raping someone—consequences also matter to morality, as he says—but the subjective closeness to the actual world involved in fantasizing about wrongdoing—including its element of endorsement—is sufficient to make it wrongful. Now, Stereotypical Reader II (and Employer II, we may add) does not merely involve fantasizing. Jimmy is in fact discriminatorily blaming what he believes is an actual Black person. In that sense, there is more subjective closeness to the actual world in Jimmy's act than in the Degenerate Player's act. But in the same way as the Degenerate Player, Jimmy is *endorsing* his racist beliefs that Black people are morally inferior to white people. This endorsement is crucial in making Jimmy's discriminatory blaming morally wrongful (even if, because of consequences, not as wrong as Johnny's discriminatory blaming in Stereotypical Reader I).[34]

Some might still be unconvinced. This takes us back to a distinction which we visited earlier between an agent being *blameworthy* for what they did, and whether what they did was *wrongful*. One might insist that this distinction explains the difference between Stereotypical Reader I and II and, importantly, why what Jimmy does in Stereotypical Reader is not wrongful at all. Because Jimmy is directly targeting a fictive person, one might insist, he is blameworthy for what he does, but precisely because a fictive person is targeted, his discriminatory blaming is not wrongful.

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[33] This is in line with Director's recent criticism of Sher's (2019; 2021) wild west of the mind account of the mental. Crucial to Director's criticism is "Endorsement: It is *prima facie* wrong to endorse morally wrong ideas or agents" (Director, 2023: 429). For more on the epistemic commitments of non-discrimination, see Hellman (2021).

[34] There are also other responses to the Gamer's Dilemma which may be useful in our context. For instance, Levy (2002) argues that virtual child pornography eroticizes inequality in a way that, in a sexist society, contributes to the subordination of women. If so, it might similarly be that virtual racism (say, a virtual racist murder), in a racist society, contributes to the subordination of Black people and is wrong for that reason.

But, one might ask, why is Jimmy blameworthy for what he does in this case? If what he does is not morally wrongful, why would we find it blameworthy?[35] One could, of course, maintain that it simply exposes a character flaw, and this is just blameworthy.[36] But there is another available option here: Jimmy is blameworthy for being substantively irrational. He is taking the shoplifter's race as a consideration in favor of attributing more blame. But race as such lacks reason-giving force in this case. Jimmy therefore fails to be responsive to the reasons available to him. This is what makes Jimmy blameworthy. But rationality is different from morality. Thus, if this explanation captures everything that goes wrong in Stereotypical Reader II, what Jimmy does is not *morally* wrongful. Thus: we have an explanation for why what Jimmy does in Stereotypical Reader II is not morally wrongful.

That is fine as far as that goes, but that simply takes us back to the other point we established earlier, namely that the wrong in cases of discrimination need not necessarily be moral. Sometimes it may simply be a normative flaw. And, indeed, it might be that such flaws should also be captured by an account of the wrongness of discrimination. (But, recall, this is compatible with discrimination, in most cases, being wrong for moral reasons as well.) Simply saying that such flaws should not be captured by relying on an account of discrimination which points to a moral flaw will not do in this dialectical context.

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[35] Here's Director pushing this line of thought: "Consider these cases:

Smith: Smith is a typical person with typical beliefs, none of which are all that objectionable. He is generally nice to people in his life.
Nazi Jones: Jones is identical in all respects to Smith, but he also harbors horribly anti-Semitic beliefs. Although he never acts on these beliefs, Jones essentially subscribes to the Nazi political ideology.

By stipulation, both Smith and Jones will be generally nice people for most of their lives. So, the only difference between them is that Jones is a closeted Nazi. Intuitively, it seems clear to me that Jones is a morally worse person than Smith. The only explanation for this is that Jones endorses morally wrong ideas" (2023: 429). And he adds in a footnote: "I mean that the fact that Nazi Jones has a worse character than Smith is best explained by the wrongness of Jones's mental actions. So, the point here concerns a conduct-based evaluation, not a primarily character-based one" (2023: 429n19).

[36] But this is basically just to restate the distinction; it does not provide an explanation. In any case, we might simply compare Jimmy, Stereotypical Reader II, with Stereotypical Reader III. The latter has the same character flaw as Jimmy. But when they are reading the novel, their character flaw is, for some reason, not activated such that they do not blame the Black shoplifter. There seems to be a difference between Stereotypical Reader II and III. If so, that might be because what goes wrong in Stereotypical Reader II is not just a matter of a character flaw.

Let us consider one more way of challenging P3. As we pointed out in our discussion of P2, one may argue that there is a difference between Stereotypical Reader I and II (and Employer I and II): the latter has to do with a fictive person, and you cannot subject a fictive person to treatment. But since a necessary condition for discrimination is that "X *treats* Y worse than he treats or would treat Z by Φ-ing" (Lippert-Rasmussen, 2014: 15; our emphasis), Stereotypical Reader II does not amount to discrimination. Since you can subject an actual person to treatment, Stereotypical Reader I amounts to discrimination. So there is, after all, a difference between the two cases, pace P3.

It is hard to know whether this challenge is successful. The reason is that discrimination theorists have not said much about what it is to treat another.[37] And the objection also does not specify how we should understand what treatment amounts to. Presumably, the objection assumes some kind of *causal* understanding of treatment, according to which you treat another if you causally affect them. But this understanding, on its own, seems underinclusive. Suppose you cheat on your partner, and that they will never find out. In that case, you do not causally affect them. But it seems that you *do* subject them to treatment by cheating on them. We can make the same point in relation to many instances of blaming. They might also not causally affect the blamee. Yet blaming another still seems to be to subject them to treatment. As this shows, there are costs to assuming the causal understanding as necessary for treatment.

This becomes even clearer in the context of discrimination. Take Employer II again, in which the employer is unknowingly taking part in an audit study. When the employer discriminates against fictive Black applicants, they are not causally affecting them (since you cannot causally affect a fictive person). If so, it would not amount to wrongful discrimination qua not being an instance of discrimination in the first place on the causal understanding of treatment. But most people, we take it, *do think* that this amounts to wrongful discrimination. Again, there are costs to maintaining the causal understanding as necessary for treatment. In any case, nothing in Lippert-Rasmussen's definition entails that treatment must be

[37] Beeghly (2021: 549-556) is an exception. She argues that stereotyping can constitute discriminatory treatment. So what we say in this, and the following, paragraph is, we take it, in line with Beeghly's argument in that she objects to the causal condition as necessary for treatment.

understood only in the causal sense (on this point, see also Beeghly 2021). So we would need an argument for why we should understand it in this sense. And it is not clear that such an argument can be given in a way that does not assume the truth of a particular account of the wrongness of discrimination, in which case it would not cut much dialectical ice in the present context. And, in any case, even if Jimmy's discriminatory blaming in Stereotypical Reader II fails to be discrimination, but simply amounts to *attempted discrimination*, this might not make much difference in our context. After all, it might be that an account of the wrongness of discrimination should also capture cases of attempted discrimination as wrongful, even if we assume that attempted discrimination is not as wrongful as discrimination (cf. our discussion of moral luck and footnote 30).[38]

4 – Wrapping Up

We have seen that it is either difficult (cf. the discussion of P3) or comes with significant costs (cf. the discussion of P2) to deny that Stereotypical Reader II should be captured by an account of the wrongness

[38] An anonymous reviewer rightly notes that we may distinguish three distinct claims: an act may be (i) wrong and discrimination, (ii) wrong as discrimination, or (iii) wrong but not discrimination. Our point about attempted discrimination in the main text speaks to the third claim, so we will not address it further. As for the former two, Hellman (2008) illustrates the difference as follows: "Suppose an employer or a school admissions official were to decide to refuse to hire or admit any candidate whose last name begins with the latter A … while it may be wrong to deny someone a place for this reason, it is not a wrong that offends against the norm of equality and thus is not wrongful discrimination" (14, 15-16). In A's case, there is discrimination (in the sense of differential treatment), and it is wrong (because the school official has acted outside of their delegated authority), but it is not wrong as discrimination because it does not violate the norm of equality. Similarly, it may be suggested, Stereotypical Reader II may be wrong and discrimination, but it is not wrong as discrimination, and thus it should not be captured by an account of wrongful discrimination. This objection does not cut much dialectical ice in this context, for the following reason. As Hellman insightfully argues in a later piece (2016), we may distinguish between two competing accounts of discrimination, one grounded in principles of comparative justice (the comparative conception), the other grounded in principles of noncomparative justice (the noncomparative conception). On the comparative conception, "it is because *X* received *A when Y* received *B*, that discrimination has occurred (p. 900). On the noncomparative conception, "we can assess whether *X* has been discriminated against by looking at the treatment she has received and comparing it with some standard of what she ought to receive" (p. 909). Importantly, Hellman suggests that the comparative conception is grounded in equality, whereas the noncomparative conception is grounded in liberty or autonomy (pp. 901, 913-914). She points to her own account as comparative, and Moreau's (2010) account as noncomparative. Now we are in position to see why the objection discussed in this footnote does not cut much ice in the present context. Assuming that only acts that are "wrong as discrimination" should be captured by an account of wrongful discrimination, and not acts that are "wrong and discrimination," is to advantage the comparative account having to do with equality (and to disadvantage the noncomparative account which has to do with liberty or autonomy), since Hellman assumes that wrong as discrimination is a matter of violating the principle of equality. In effect, this is simply to say that Stereotypical Reader II should not be captured by assuming a particular account of what makes discrimination wrongful. As we have already emphasized a few times, this is question-begging in the present context. It is an open question whether both acts that are "wrong and discrimination" and acts that are "wrong as discrimination" should be captured by an account of wrongful discrimination.

of discrimination. We would therefore like to end this paper by shortly reflecting on the wider implications of accepting that Stereotypical Reader II amounts to wrongful discrimination. Reasons of space will not allow us to dive too deep here, so we limit ourselves to pointing to two implications.

It is natural to think that the discriminatee should be central when it comes to the wrongness of discrimination: that even if others may be wronged as well, that, and how, the discriminatee is wronged should be an important part, the primary part, of the story. Indeed, Moreau uses this idea as an argument in favor of her equality account: "an explicit invocation of the value of equality has the advantage of bringing the discriminatee into the center of our gaze, reminding us that what matters is primarily what happens to her, and what happens to her relationship with the discriminator and with others" (2020: 10; see also Cavanagh, 2002: 157). One implication of our argument is that discrimination may be wrong even if it does not wrong the discriminatee *in any sense*. It is impossible to wrong a fictive person, since you do not owe a fictive person anything (Todd, 2019: 366). So if Stereotypical Reader II amounts to wrongful discrimination, this is not because the fictive Black shoplifter, the discriminatee, is wronged. It may instead be wrong because Jimmy wrongs third parties and/or because he commits a normative flaw unrelated to his blame's effects on others. In any case, it is interesting that discrimination may be wrong even if it does not *at all* wrong the discriminatee.[39] This is significant in part because many theorists think discrimination is a directed wrong.

[39] One might respond that this is because we have assumed that the discriminatee in cases of direct discrimination is the one directly targeted (e.g., the fictive Black shoplifter in Stereotypical Reader II). But perhaps we should say in that case that the true targets of discrimination are third parties that are indirectly affected (e.g., actual Black people). If so, it seems that there are discriminatees who are wronged in Stereotypical Reader II. So, it might, after all, not be true that discrimination can occur without an actual discriminatee. We agree that one could make this move, but we note that it would be quite revisionary. It is standardly assumed that the discriminatee in direct discrimination is the one directly targeted (e.g., the Black applicant who is denied a job because of their race). Thus, if it is a result of our investigation that we should consider widening our understanding of what it means to be a discriminatee, we see that as an important contribution. Indeed, this might also suggest that we should reconsider the relationship between direct and indirect discrimination (e.g., what role do effects play in direct and indirect discrimination, then?). The comment also ties into questions about the broader adequacy conditions for a theory of discrimination, such as: must discrimination always be directed at a person or group? Can it target groups as such, or only via individual members? Although these are large questions in themselves that we cannot adequately address in this paper, a few remarks. Consider Singh and Wodak's (2023) interesting case of misperception discrimination, where there is differential treatment due to a misperceived trait, e.g., a Sikh who is discriminated against because the discriminator believes the Sikh is a Muslim. In that case, it seems, one is targeting a group (Muslims) without directly targeting any of the group's members. Moreover, it seems that discrimination can occur even if ones does not target an actual group or an actual person

A second implication is the following. If discrimination may be wrong even if it does not wrong the discriminatee, perhaps "positive discrimination", such as affirmative action, may sometimes be right for reasons that have nothing to do with those discriminated in favor of. In the affirmative action literature, this is sometimes suggested in response to the *stigma objection*, i.e., the view that affirmative action is objectionable because it stigmatizes its recipients (Beauchamp, 2002: 216; Cohen and Sterba, 2003: 121). Even if affirmative action stigmatizes the affirmative action recipients—say, those admitted on a quota—it may benefit the other members of the specific group in question, e.g., because it will lead to less stigmatization of group members in total or because the other members will gain valuable role models (Lippert-Rasmussen, 2020: 182-183; Moreau, 2020: 170-171). In this case, it may be that affirmative action is right for the latter reasons and thus right for reasons that have nothing to do with those discriminated in favor of. It might also be that affirmative action does not make a difference to the recipient of affirmative action—say, because they would have gotten the job even without affirmative action. But it may still be the right thing to do because of how it affects third parties, such as other members of the recipient's group (e.g., they might get a role model). If this is true, negative and positive discrimination are similarly situated in this respect: just as negative discrimination may be wrong for reasons that have nothing to do with those discriminated against, positive discrimination may be right for reasons that have nothing to do with those discriminated in favor of.

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from this group. Recall our Martian example where I believe my colleague is married to a Martian and I treat them badly because I hate Martians. In this case, it might be suggested, I discriminate against Martians even though there is no actual group or actual members of the group to target. Obviously, much more could be said here, and we hope to do so in future work, but it suggests, alongside our arguments regarding Stereotypical Reader II, that (wrongful) discrimination is a much wider phenomenon than usually acknowledged in the literature. For useful discussion on the role of individuals and groups in antidiscrimination law, see Laborde (2024) and Shin (2016). We thank an anonymous reviewer for pushing us to consider these issues.

Alexander, Larry (1992) What Makes Wrongful Discrimination Wrong? Biases, Preferences, Stereotypes, and Proxies. *University of Pennsylvania Law Review* 141 (1): 149-219.

Ali, Rami (2015) A new solution to the gamer's dilemma. *Ethics and Information Technology* 17 (4): 267-274.

Arneson, Richard (2006) What Is Wrongful Discrimination? *San Diego Law Review* 43: 775-807.

Arneson, Richard (2017) Discrimination and Harm. In: Kasper Lippert-Rasmussen (ed.) *The Routledge Handbook of the Ethics of Discrimination*. London: Routledge, 151-163.

Bartel, Christopher (2012) Resolving the gamer's dilemma. *Ethics and Information Technology* 14 (1): 11-16.

Beauchamp, Tom L. (2002) In Favor of Affirmative Action. In: Stephen Cahn (ed.) *The Affirmative Action Debate*. New York: Routledge, 209–223.

Beeghly, Erin (2021) Stereotyping as Discrimination: Why Thoughts Can Be Discriminatory. *Social Epistemology* 35 (6): 547-563.

Bengtson, Andreas and Munch, Lauritz A. (2024) Consensual discrimination. *Philosophical Quarterly* first view: 1-22.

Brandt, Richard (1979) *A Theory of the Good and the Right*. Oxford: Clarendon Press.

Brownlee, Kimberley (2019) Acting Defensively for the Sake of Our Attacker. *Journal of Moral Philosophy* 16 (2): 105-130.

Campbell, Colin and Smith, Dale (2023) Distinguishing Between Direct and Indirect Discrimination. *Modern Law Review* 86 (2): 307-330.

Chambers, Clare (2017) Feminism and Liberalism. In: Ann Garry, Serene J. Khader, and Alison Stone (eds.) *The Routledge Companion to Feminist Philosophy*. New York: Routledge, 652-664.

Cecchinato, Mattia (2024) Double-Standard Moralism: Why We Can Be More Permissive Within Our Imagination. *British Journal of Aesthetics* 64 (1): 67-87.

Cohen, Carl, Sterba, James (2003) *Affirmative Action and Racial Preference: A Debate*. New York: Oxford University Press.

Cohen, G.A. (2008) *Rescuing Justice and Equality*. Cambridge, MA: Harvard University Press.

Darwall, Stephen (1977) Two Kinds of Respect. *Ethics* 88 (1): 36-49.

Director, Samuel (2022) The Sheriff in Our Minds: On the Morality of the Mental. *Journal of Ethics and Social Philosophy* 22 (3): 423-437.

Dworkin, Ronald (2000) *Sovereign Virtue: Equality in Theory and Practice*. Cambridge, MA: Harvard University Press.

Eidelson, Benjamin (2015) *Discrimination and disrespect*. Oxford: Oxford University Press.

Enoch, David (2010) Moral Luck and the Law. *Philosophy Compass* 5 (1): 42-54.

Fogal, Daniel and Worsnip, Alex (2021) Which Reasons? Which Rationality? *Ergo* 8: 306-343.

Hare, Casper (2007) Voices from Another World: Must We Respect the Interests of People Who Do Not, and Will Never, Exist? *Ethics* 117 (3): 498-523.

Hellman, Deborah (2008) *When is discrimination wrong?* Cambridge, MA: Harvard University Press.

Hellman, Deborah (2016) Two Concepts of Discrimination. *Virginia Law Review* 102 (4): 895-952.

Hellman, Deborah (2021) The Epistemic Commitments of Nondiscrimination. In: John Gardner, Leslie Green, and Brian Leiter (eds.) *Oxford Studies in Philosophy of Law Volume 4*. Oxford University Press, 156-181.

Jonker, Julian (2019) Beyond the comparative test for discrimination. *Analysis* 79 (2): 206-214.

Khoury, Andrew C. (2018) The objects of moral responsibility. *Philosophical Studies* 175: 1357-1381.

Kiesewetter, Benjamin (2017) *The Normativity of Rationality*. Oxford: Oxford University Press.

Kripke, Saul (2013) *Reference and Existence*, Oxford: Oxford University Press.

Kroon, Fred and Voltolini, Alberto (2023) Fictional Entities. *Stanford Encyclopedia of Philosophy*: https://plato.stanford.edu/archives/fall2023/entries/fictional-entities/.

Laborde, Cécile (2024) Structural inequality and the protectorate of discrimination law. *Politics, Philosophy & Economics* first view: 1-24.

Levy, Neil (2002) Virtual child pornography: The eroticization of inequality. *Ethics and Information Technology* 4: 319-323.

Lippert-Rasmussen, Kasper (2014) *Born Free and Equal? A Philosophical Inquiry into the Nature of Discrimination*. Oxford: Oxford University Press.

Lippert-Rasmussen, Kasper (2020) *Making Sense of Affirmative Action*. New York: Oxford University Press.

Lord, Errol (2018) *The Importance of Being Rational*. Oxford: Oxford University Press.

Luck, Morgan (2009) The gamer's dilemma: An analysis of the arguments for the moral distinction between virtual murder and virtual paedophilia. *Ethics and Information Technology* 11 (1): 31-36.

Montefiore, Thomas and Formosa, Paul (2023) Crossing the Fictional Line: Moral Graveness, the Gamer's Dilemma, and the Paradox of Fictionally Going Too Far. *Philosophy & Technology* 36 (3): 1-21.

Moreau, Sophia (2020) *Faces of Inequality: A Theory of Wrongful Discrimination*. New York: Oxford University Press.

Mulgan, Tim (1999) The Place of the Dead in Liberal Political Philosophy. *Journal of Political Philosophy* 7 (1): 52-70.

Nagel, Thomas (1979) *Moral Questions*. New York: Cambridge University Press.

Okin, Susan Moller (1989) *Justice, Gender, and the Family*. New York: Basic Books.

Parfit, Derek (1998) Equality and Priority. In: Andrew Mason (ed.) *Ideals of Equality*. Oxford. Blackwell, 1-20.

Parfit, Derek (2011) *On What Matters: Volume One*. Oxford: Oxford University Press.

Pateman, Carole (1988) *The Sexual Contract*. Cambridge: Polity Press.

Sangiuliano, Anthony (2024) Harmless Discrimination, Wrongs, and Rules. *Law and Philosophy* 43: 61-88.

Schauer, Frederick (2003) *Profiles, Probabilities, and Stereotypes*. Cambridge, MA: Harvard University Press.

Sher, George (2019) A Wild West of the Mind. *Australasian Journal of Philosophy* 97 (3): 483-496.

Sher, George (2021) *A Wild West of the Mind*. New York, USA: Oxford University Press.

Shin, Patrick S. (2016) Treatment as an Individual and the Priority of Persons Over Groups in Antidiscrimination Law. *Duke Journal of Constitutional Law & Public Policy* 12: 107-134.

Singh, Keshav and Wodak, Daniel (2023) Does Race Best Explain Racial Discrimination? *Philosophers' Imprint* 23 (24): 1-22.

Tadros, Victor (2020) Distributing Responsibility. *Philosophy & Public Affairs* 48 (3): 223-261.

Thomsen, Frej Klem (2022) No Disrespect – But That Account Does Not Explain the Badness of Discrimination. *Journal of Ethics and Social Philosophy* 23 (3): 420-447.

Todd, Patrick (2019) A Unified Account of the Moral Standing to Blame. *Noûs* 53 (2): 347-374.

Williams, Bernard (1981) Moral luck. In: Bernard Williams (ed.) *Moral luck: Philosophical Papers 1973-1980*. Cambridge: Cambridge University Press, 20-39.

Young, Garry (2016) *Resolving the gamer's dilemma: examining the moral and psychological differences between virtual murder and virtual paedophilia.* London: Palgrave Macmillan.