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## The Expressive Functions of Pay

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A COMMENTARY ON Jeffrey Moriarty (2016), “Is ‘Equal Pay For Equal Work’ Merely a Principle of Nondiscrimination?”, *Econ & Phil* 32(3): 435–461, <https://doi.org/10.1017/S0266267115000383>

### ABSTRACT

Jeffrey Moriarty argues that unequal pay for employees who do the same work is not necessarily wrong, but can be wrong if it is discriminatory or deceptive. Moriarty does this in part by stressing that pay should be considered primarily as a price for labor and therefore that our views on price discrimination and unequal pay should mirror each other. In this critique, I argue that Moriarty fails to adequately account for the expressive functions of pay. A pluralist view of pay reveals otherwise overlooked normative concerns regarding pay and cautions against adopting too strong of an analytical connection between price discrimination and unequal pay.

IN AN INTRIGUING article, Jeffrey Moriarty (2016) assesses the common demand for ‘equal pay for equal work’. While this mantra has historically been invoked in opposition to discrimination based on membership in traditionally protected categories, Moriarty asks a different question: is paying different wages to individuals who do the same work morally problematic even if it is not wrongfully discriminatory? On Moriarty’s (2016: 436)<sup>2</sup> view “nondiscriminatory unequal pay for equal work” (hereinafter NUPEW) is not intrinsically wrong.

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<sup>2</sup> Hereinafter, parenthetical references not otherwise attributed to are to Moriarty (2016).

For example, a person might particularly enjoy living in Chicago, and so would accept lower pay and could be paid less than others are for a job in that area.

Moriarty proposes that we use ethical norms in pricing to inform our thinking in compensation ethics, since, in an economy such as ours, wage is essentially a ‘price for labor.’ He submits that “the idea that wages are a kind of price suggests that we normatively evaluate them as we would prices,” thus contending that, all else equal, “our conclusions about nondiscriminatory unequal pay for equal work should mirror our conclusions about price discrimination” (hereinafter the *Connection Thesis*) (448–449). If companies can, all else equal, sell the same goods to different consumers at different prices, Moriarty argues that they also, all else equal, must be able to buy the same labor from different laborers at different wages. The *Connection Thesis* entails that if NUPEW were intrinsically problematic, we would also need to think, for instance, that giving seniors discounts at movie theatres is problematic (454–455). Moriarty also uses the *Connection Thesis* to specify when NUPEW can be wrong—for example, just as some cases of price discrimination are wrong because they are deceptive, so are some cases of NUPEW (455).

In this critique, I argue that Moriarty unduly discounts the expressive functions of pay in maintaining that pay should be seen as prices and little else. I argue that adopting a pluralist view of pay’s function would more accurately identify firms’ duties in setting pay and would caution us against adopting a strong form of the *Connection Thesis*.

### **Pay as Price, Reward or Both?**

Moriarty supposes that the most popular theory of compensation ethics that would, in his words, “condemn” NUPEW is the “contribution view,” whose adherents hold that a just wage is one which directly reflects an employee’s contribution to the firm (441–442). Moriarty rejects this view, unconvinced by the arguments that have been offered in its favor and concerned with the likely ramifications of accepting the view (444–445). He suspects the issue is that these theorists are thinking of pay as a *reward* which, unlike thinking of pay as a price, would prompt us to view pay as performing a chiefly expressive function, perhaps in showing gratitude (446, citing Feinberg 1999

[1963]: 76). But, this is not correct, Moriarty contends. He argues that “the expressive function of wages seems secondary to its function as a price.” This is because expression is not the ‘point’ of pay:

The price of a thing is the amount of money that a person must transfer to its owner in order to use or gain possession of it. This is what wages are. They are amounts of money that employers transfer to employees in order to use their labour . . . and the main ‘point’ of paying workers is the same as the main ‘point’ of paying suppliers, viz., to get them to enter into an exchange” (446–447).

Moriarty argues that accepting his view renders contribution (and thus it seems the ‘pay as reward’ view) less important for pay, for surely “we do not think that the prices for goods should reflect the contribution that they make to the buyer” (447).

While Moriarty succeeds in convincing us that wages are prices and perhaps even that pay’s “primary” function is as a price, it is not clear how this line of argument allays otherwise plausible normative concerns concerning its non-primary expressive functions. We might be tempted to say that the primary function of a coal power plant is to produce power, for example, but some of our most pressing normative worries deal with what might be considered its secondary function as a polluter.

The supposed conflict between the ‘pay as price’ view and ‘pay as reward’ view persists only if we take on a specific and somewhat implausible version of the reward-based contribution view. That is, the contribution view only conceptually conflicts with NUPEW if we think it says an employee must receive pay in some proportion to their contribution *and no more than* that proportion. We might think, however, that individuals deserve or have a right<sup>3</sup> to some reward as gratitude and at the same time think there is nothing inherently wrong with certain individuals getting over and above that reward. Inequalities in rewards are not problematic so long as everyone gets at least what they are entitled to. Looking at compensation as a reward from a contribution standpoint generates a *sufficiency* concern, not an egalitarian one. Thus, conceiving of pay as a reward entails no ineluctable conclusions about the permissibility of NUPEW.

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<sup>3</sup> While gratitude is often taken to be deserved, it seems it can be an entitlement as well.

One objection to this argument might be that ‘pay as reward’ does bear on egalitarian norms, if indirectly, because of the difficulties of disaggregating which portions of one’s pay perform what purpose. For example, Bob might receive a premium above average compensation because he has a higher reservation price (perhaps due to lengthier commuting time) and Sally might receive the same premium simply as a reward to signal gratitude to her. Despite being the same amount, Bob’s premium results from pay’s price function while Sally’s results from its expressive function. The intended expressive role of Sally’s premium might be ‘diluted’ by premiums elsewhere like Bob’s that are mostly unrelated to gratitude. In other words, there is a question of whether pay can truly perform an expressive function if it is so difficult to figure out what pay is expressing, if anything, in a given situation.

This objection fails to appreciate, however, first how pay can be used effectively alongside other expressive tools (such as speech), and second the distinction between its ease of use and whether pay *does in fact* perform an expressive function. First, communication is often difficult and employers have a number of tools at their disposal, including setting pay and actually speaking with employees. Employees may be recognized orally, but this, sometimes, is not sufficient; if an employer fails to ‘put her money where her mouth is’ (especially in cases where an employee reasonably expects a lack of sincerity on the part of an employer), orally communicated gratitude can simply be empty, and words that are intended to express gratitude can fall on deaf ears. Pay plausibly, at least in certain cases, is a necessary part of expressing gratitude.

Second, the question of whether pay performs an expressive function is one that calls for a descriptive (not normative) answer. That is: does the objective public meaning<sup>4</sup> of pay implicate expressions of gratitude (or lack of gratitude)? Both from intuition and from a host of empirical research that explores the meaning of pay and its connection to employee identity and organizational inclusiveness (e.g. Thierry 2001), it is no stretch to suppose that pay is connected in such a way to expressions implicating self-worth, respect, and gratitude. Moriarty concedes that “[s]ome workers will see their pay [as a re-

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<sup>4</sup> Elizabeth Anderson and Richard Pildes (2000: 1524–1525) aptly demonstrate how an expressive theory might rely on such objective public meanings.

ward]” (446). One might say they *justifiably* do since pay in fact assumes an expressive role. If this is true, the expressive dimension of pay is a salient normative concern. Employers are accountable for adequately communicating respect and gratitude to their employees.

We can recognize pay’s function as a price while also recognizing an employer’s duty to use the tools at their disposal to communicate an appropriate level of gratitude and respect to their employees. Accepting a pluralist conception that includes ‘pay as reward’ helps us recognize normative concerns even in cases where there is no exploitation, deception, or coercion.

### **What This Means for Moriarty’s View**

The pluralist conception for which I advocate acknowledges that what our actions express, while dependent on contextual factors, has importance. It might be thought that Moriarty’s *Connection Thesis* could be leveraged to support this pluralist conception. The fact that “semiotic objections” to product markets (Brennan and Jaworski 2015) dealing with blood, organs and pornography abound in academic literature should give us pause when Moriarty minimizes the expressive dimensions of conventional labor markets on the grounds that expression is simply ‘not the point’ of pay. But this comparison does not invoke the *Connection Thesis* since it does not trade on the ‘structural similarity’ (454–455) between price discrimination and NUPEW. It is merely an observation that expressive concerns matter in market contexts at large, and so likely matter in more particular (such as labor) markets as well.

The recognition of expressive concerns rather presents problems for aspects of Moriarty’s *Connection Thesis*. While pay functions at least in part as a price, the meaning we ascribe to pay for labor seems to largely differ in character from meaning in the pricing of products. For example, as Moriarty notes, we do not really think in most cases that we should pay more than the lowest price we can get for a product (e.g., a pool) from which we would yield a nonetheless meaningful consumer surplus (447). I have suggested the same cannot be said of employee labor markets—if we accept gratitude and respect as a moral good and acknowledge pay’s extant role in communicating gratitude and respect, that much seems clear.

Moriarty at one point says that our views of price discrimination “should inform” our views of NUPEW (437). There is no question as to the potential fruitfulness of such a line of inquiry. But at other points he makes a markedly stronger claim—that our views on price discrimination and NUPEW should “mirror” each other (449, 454). This critique cautions against taking the *Connection Thesis* too far. I have stressed here that thinking about pay simply as a kind of price and little else, as Moriarty does (446–447), can eschew significant normative concerns that are unique to the labor context.

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