

## Relational Egalitarianism, Institutionalism, and Workplace Hierarchy\*

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### 1. Introduction

Relational egalitarian accounts of justice have become widely accepted in recent years, and proponents have played a central role in a broader critical reaction to accounts of justice that focus primarily on distributive matters.<sup>1</sup> According to relational egalitarians, the fundamental value that grounds requirements of justice is egalitarian social relationships. Justice, for relational egalitarians, then, is at bottom about the terms on which individuals relate to each other. Most uncontroversially, on relational egalitarian views, justice requires that individuals do

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<sup>1</sup> The seminal contribution to the development of relational egalitarianism is Elizabeth Anderson, “What is the Point of Equality?,” *Ethics* 109 (1999): 287-337; see also her “Expanding the Egalitarian Toolbox: Equality and Bureaucracy,” *Proceedings of the Aristotelian Society, Supplementary Volume* 82 (2008): 139-60; “The Fundamental Disagreement between Luck Egalitarians and Relational Egalitarians,” *Canadian Journal of Philosophy* (supplementary volume) 36 (2010): 1-23; “Equality,” in *The Oxford Handbook of Political Philosophy*, ed. David Estlund (Oxford: Oxford University Press, 2012). Other important contributions include Samuel Scheffler, “What is Egalitarianism,” *Philosophy & Public Affairs* 31 (2003): 5-39; “Choice, Circumstance, and the Value of Equality,” *Politics, Philosophy, & Economics* 4 (2005): 5-28; “The Practice of Equality,” in *Social Equality: On What it Means to be Equals*, ed. Carina Fourie, Fabian Schuppert, and Ivo Wallimann-Helmer (Oxford: Oxford University Press, 2015); Kasper Lippert-Rasmussen, *Relational Egalitarianism: Living as Equals* (Cambridge: Cambridge University Press, 2018); Christian Schemmel, “Why Relational Egalitarians Should Care about Distribution,” *Social Theory and Practice* 37 (2011): 365-90; “Distributive and Relational Equality,” *Politics, Philosophy, & Economics* 11 (2012): 123-48. Valuable overviews of the literature can be found in Rekha Nath, “Relational Egalitarianism,” *Philosophy Compass* 15 (2020): 1-12; Kristin Voigt, “Relational Egalitarianism,” *Oxford Research Encyclopedias* (2020): <https://oxfordre.com/politics/view/10.1093/acrefore/9780190228637.001.0001/acrefore-9780190228637-e-1387>.

not stand in relationships to others that are characterized by domination, oppression, exploitation, marginalization, or other structurally similar features.<sup>2</sup> In addition, on some accounts of what egalitarian social relations require, individuals must possess certain egalitarian attitudes, and must engage with each other in ways that reflect those attitudes.<sup>3</sup>

Hierarchical authority relations would appear, at least generally speaking, to be a threat to relational equality. When some people are in a position to exercise asymmetrical power over others, for example by ordering them to perform certain tasks, and sanctioning them if they do not do so, or do not do so to the satisfaction of those with authority over them, there is at least an especially strong reason to suspect that the relevant relations might violate the requirements of Relational Egalitarianism.

Authority relations of this kind, however, are pervasive in our working lives.<sup>4</sup> Most people are subject to the authority of others in their jobs – they are expected to follow orders given to them by superiors, and are subject to sanctions being imposed by those superiors for failing to satisfy expectations. In many cases, superiors have the power to sanction those whom they supervise regardless of whether those employees have actually failed to perform their tasks well. The authority of supervisors, that is, is often largely unaccountable – when they choose to exercise it to impose sanctions, employees often have no recourse to challenge the sanctions on the grounds that they are unwarranted given the actual quality of their performance of job tasks.

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<sup>2</sup> Anderson, “What is the Point of Equality,” 313; Schemmel, “Why Relational Egalitarians Should Care about Distribution,” 366.

<sup>3</sup> See, for example, Scheffler’s “deliberative constraint,” according to which each member of a society of equals must accept that “every other member’s equally important interests should play an equally significant role in influencing decisions made on behalf of the society as a whole,” and must have “a normally effective disposition to treat the interests of others accordingly.” It seems clear that the satisfaction of this requirement involves more than merely avoiding dominating or oppressive relations.

<sup>4</sup> Anderson, *Private Government: How Employers Rule Our Lives (and Why We Don’t Talk about It)* (Princeton: Princeton University Press, 2017).

Contemporary workplaces, then, would seem to be potential sites of substantial injustice for relational egalitarians. And in recent years there has been increasing discussion of the ways in which the relations among those within firms, and in workplaces more broadly, might be objectionably inegalitarian, and therefore unjust, and about what ought, as a matter of justice, to be done in response.<sup>5</sup> On some views, hierarchical structures within firms ought, in effect, to be substantially limited, if not eliminated entirely, via the adoption of legally mandated workplace democracy measures, so that to the extent that some act as superiors within firms, for example by occupying a managerial role that involves delegating tasks to individuals and overseeing their performance of those tasks, they are nonetheless ultimately accountable to those over whom they exercise the authority that they have. If workers can, in principle, vote to remove a manager from a position of authority over them, then they are not, on these views, subject to domination, oppression, or exploitation, even as they follow orders given (just as citizens in a democratic society are not dominated or oppressed when they follow laws adopted by a duly elected legislature).

Even if employees within democratically governed firms would be assured of avoiding inegalitarian relations (I will offer a reason to doubt that this is necessarily the case), however,

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<sup>5</sup> Important contributions include Anderson, *Private Government*; Nien-hê Hsieh, “Justice in Production,” *Journal of Political Philosophy* 16 (2008): 72-100; Sabine Tsuruda, “Working as Equal Moral Agents,” *Legal Theory* 26 (2020): 305-37. Much of the debate has focused on issues of workplace structure, and in particular workplace democracy; see, for example, Hsieh, “Rawlsian Justice and Workplace Republicanism,” *Social Theory and Practice* 31 (2005): 115-42; Alex Gourevitch, “Labor Republicanism and the Transformation of Work,” *Political Theory* 41 (2013): 591-617; Iñigo González-Ricoy, “Firms, States, and Democracy: A Qualified Defense of the Parallel Case Argument,” *Law, Ethics, and Philosophy* 2 (2014): 32-57; “The Republican Case for Workplace Democracy,” *Social Theory and Practice* 40 (2014): 232-54; “Firm Authority and Workplace Democracy: A Reply to Jacob and Neuhäuser,” *Ethical Theory and Moral Practice* 22: 679-84; Keith Breen, “Freedom, Republicanism, and Workplace Democracy,” *Critical Review of International Social and Political Philosophy* 18 (2015): 470-85; Isabelle Ferreras and Héléne Landemore, “In Defense of Workplace Democracy: Towards a Justification of the Firm-State Analogy,” *Political Theory* 44 (2016): 53-81; Daniel Jacob and Christian Neuhäuser, “Workplace Democracy, Market Competition, and Republican Self-Respect,” *Ethical Theory and Moral Practice* 21: 927-44; Nicholas Vrousalis, “Workplace Democracy Implies Economic Democracy,” *Journal of Social Philosophy* 50 (2019): 259-79. For a helpful overview, see Roberto Frega, Lisa Herzog, and Christian Neuhäuser, “Workplace Democracy – The Recent Debate,” *Philosophy Compass* 14 (2019): 1-11.

there are potential costs involved in accepting that all firms should be legally required to adopt robustly democratic internal governance structures. Perhaps most importantly, it is at least fairly widely accepted that there are substantial efficiency-based reasons that count in favor of at least some degree of hierarchical organization within firms.<sup>6</sup> Many relational egalitarians hope to accommodate these reasons, and therefore hold that at least certain kinds of hierarchical authority structures, including at least to some extent those widely found within firms, are not necessarily incompatible with relational equality.<sup>7</sup> Nonetheless, it seems undeniable that the conditions that must be met in order for individuals at different levels in a hierarchical authority structure to relate as equals must be fairly demanding. Indeed, the more hierarchical the relevant authority relations are, the more demanding it would seem these conditions are likely to be.

All of this presents us with a challenge – one that, I will argue, cannot be overcome within the constraints of the widely accepted “Institutionalist” view about the limited range of application of principles of justice. The challenge is, roughly, that the view that justice requires that individuals relate to each other as equals appears difficult to reconcile with the view that it is permissible, as a matter of justice, for firms to be organized with substantially hierarchical authority structures, and yet both claims seem independently plausible. In my view, the challenge has the apparent force that it does at least in part because many will implicitly assume that any approach to overcoming the apparent incompatibility must involve regulation by the state. This

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<sup>6</sup> Anderson, *Private Government*, 67; Tyler Cowen, “Work Isn’t So Bad after All,” in *Private Government*, 115. It is important, however, not to exaggerate either the strength of these reasons or the types and degrees of hierarchical arrangements that they might support. For example, some ways of ensuring that workers have greater influence on firm policy, such as reserving a certain number of seats on the board of directors for representatives of labor, plausibly would not tend to reduce the efficiency with which firms operate. In addition, even when reasons of efficiency do favor certain forms of hierarchy, these reasons will sometimes be outweighed by competing reasons, for example reasons of relational equality; see Anderson, “Expanding the Egalitarian Toolbox,” 146-47; *Private Government*, 52, 142-43.

<sup>7</sup> For the claim that hierarchical structures are sometimes compatible with relational equality, see Nath, “Relational Egalitarianism,” 2; David Miller, “Equality and Justice,” *Ratio* 10 (1997): 222-37, 232; Scheffler, “Choice, Circumstance, and the Value of Equality,” 17-18; Fabian Schuppert, “Analyzing the Nature of Social Egalitarian Relationships,” in *Social Equality*, ed. Fourie, Schuppert, and Wallimann-Helmer (2015), 108.

reflects the influence of the Rawlsian view that principles of justice apply to the institutions of the basic structure of society,<sup>8</sup> but do not apply directly to the conduct of agents within those institutions.<sup>9</sup> The solution that I will propose involves rejecting this view. I will claim, then, that at least some hierarchical authority relations within firms can be consistent with relational equality, so long as the individuals within those firms behave in certain ways that are not, and in at least some cases ought not to be, required by the rules of the basic structure, and so long as they adopt certain attitudes regarding their own status within the hierarchy, and that of others. The behavior and attitudes of those higher up in firm hierarchies are, unsurprisingly, especially important if egalitarian relations are to be achieved within hierarchical organizations.

## 2. The Trilemma

The problem, as I see it, has the structure of a trilemma – that is, there are three propositions, all of which are at least fairly widely accepted, but which cannot all be correct. The three propositions are:

- (1) Relational Egalitarianism: Justice requires that individuals relate to each other as equals, including in their interactions at work.

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<sup>8</sup> On Rawls's view, the institutions of the basic structure include "[t]he political constitution...the legally recognized forms of property and the structure of the economy...as well as the family in some form" (*Justice as Fairness: A Restatement* (Cambridge: Harvard University Press, 2001), 10; see also *A Theory of Justice, Revised Edition* (Cambridge: Harvard University Press, 1999), 6; *Political Liberalism* (New York: Columbia University Press, 1993), 258. For critical discussion of Rawls's characterization of the basic structure, see G.A. Cohen, *Rescuing Justice and Equality* (Cambridge: Harvard University Press, 2008), ch. 3.

<sup>9</sup> See Rawls, *A Theory of Justice*, 6-7, 47; *Political Liberalism*, 257-88; *Justice as Fairness*, 10-12.

Forthcoming in *Working as Equals: Relational Egalitarianism and the Workplace* (OUP)

- (2) Institutionalism about Justice (or simply Institutionalism):<sup>10</sup> Principles of justice apply to the institutions of the basic structure, but not directly to the conduct of agents within that structure.
- (3) Workplace Hierarchy: At least some degree of hierarchical structure within firms ought to be legally permitted.

To see why these three propositions are mutually incompatible, note first that it seems clear that hierarchical authority relations are a paradigmatic threat to relational equality. This is because individuals relating as equals requires that at least one of the following two conditions are met:

- (1) The institutional structures within which individuals interact ensure that there are no asymmetrical power relations that make it possible for some to dominate, oppress, exploit, or marginalize others, or to otherwise employ their power in ways that constitute or bring about inequalitarian relations between themselves and others.
- (2) The individuals themselves accept the equal status of all, and are committed to interacting with others in ways that clearly reflect and embody that commitment, even

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<sup>10</sup> I argue against Institutionalism in a number of places; see Brian Berkey, “Double Counting, Moral Rigorism, and Cohen’s Critique of Rawls: A Response to Alan Thomas,” *Mind* 124 (2015): 849-74; “Against Rawlsian Institutionalism about Justice,” *Social Theory and Practice* 42 (2016): 706-32; “Obligations of Productive Justice: Individual or Institutional,” *Critical Review of International Social and Political Philosophy* 21 (2018): 726-53; “Rawlsian Institutionalism and Business Ethics: Does it Matter Whether Corporations are Part of the Basic Structure of Society?,” *Business Ethics Quarterly* 31 (2021): 179-209.

when they are in a position, within existing institutional structures, to exercise asymmetrical power over others.

It seems clear that the legal permissibility of hierarchical workplace structures (Workplace Hierarchy) is inconsistent with condition (1). The asymmetrical power relations that are present in hierarchically structured workplaces unavoidably provide those who are in a position to exercise power over subordinates with opportunities to do so in ways that violate the requirements of Relational Egalitarianism.<sup>11</sup> On the other hand, Institutionalism implies that individuals are not required, as a matter of justice, to be committed to ensuring that condition (2) is satisfied. This is because Institutionalism implies that while the institutions of the basic structure ought to be designed in the ways that will best embody and promote justice-relevant values (that is, the values underlying and embodied in the principles of justice, such as relational equality), individuals acting within the basic structure are not obligated to directly promote those values.

Consider a typical workplace in which, under present conditions, it is clear that particular individuals higher up in the hierarchy do not relate as equals to particular individuals lower in the hierarchy. Imagine that A is B's boss, and is able to exercise a great deal of control over B, at least during B's working hours. A interacts with B in ways that make it clear that A takes her interests to be more important than B's interests, and that indicate that B has an inferior status at least within the firm, if not more generally. If we think, as seems clear, that A and B do not relate

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<sup>11</sup> Of course, the authority of superiors over subordinates can be, and generally is, constrained in a number of ways, and the constraints that are in place generally limit the ways in which, and the extent to which, a range of important values, including relational equality, can be undermined by the exercise of that authority. Proponents of Workplace Hierarchy can, and often do, endorse a wide range of such constraints. My claim is that even the full range of well-motivated constraints on the exercise of authority by superiors over subordinates cannot eliminate all opportunities for exercises of power that would undermine relational equality.

as equals in this case, then there is, on relational egalitarian views, an injustice that must be remedied. And if there is an injustice that must be remedied, then there must be obligations of justice to remedy it. If one accepts Institutionalism, then the relevant remedy must be institutional, and the obligations must be obligations to bring about institutional change.<sup>12</sup> If, however, one is committed to Workplace Hierarchy, then there will be limits to the institutional measures that one will be willing to endorse in order to address the injustice. If entirely eliminating hierarchical structures within firms by, for example, requiring that all firms be run in radically democratic ways is not among the institutional changes one is willing to endorse, then, it seems to me, there is no guarantee that whatever institutional changes one might endorse as the appropriate remedy for the injustice will be sufficient to completely eliminate the inequalitarian dimensions of the relation between A and B.

Institutionalism, however, requires that there is a set of institutional measures that would be sufficient to eliminate any injustice – and so Institutionalists who accept that the relation between A and B is unjust must claim that whatever institutional measures they endorse as the appropriate response to the injustice would be sufficient to eliminate it. Institutional relational egalitarians, then, face pressure, I think, to accept very restrictive limitations on the legally permissible internal structures for firms. In particular, they face pressure to deny that it ought to be legally permissible for firms to be structured hierarchically, in virtually any way and to virtually any degree.

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<sup>12</sup> Institutionalists generally follow Rawls in accepting that individuals are obligated to contribute to promoting the development of just institutions when such institutions are not already in place; see *A Theory of Justice*, 99-100. For criticism of the view that individuals have this obligation, but do not have an obligation to directly promote justice-relevant values, see Liam B. Murphy, “Institutions and the Demands of Justice,” *Philosophy & Public Affairs* 27 (1999): 251-91, 270-71, 279-84; Berkey, “Against Rawlsian Institutionalism about Justice,” 726-32.



This is, at least in part, because Institutionalists are precluded from claiming that A is obligated, as a matter of justice, to exercise her authority over B within the firm differently. Because principles of justice do not apply directly to the conduct of agents within the basic structure, the obligations to eliminate the injustice cannot be obligations of individuals to be directly guided by considerations of justice in their behavior within the basic structure, including in their capacities as superiors within firms.

If, therefore, inegalitarian relations between superiors and subordinates within firms remain possible whenever hierarchical firm structures are legally permitted, then those who accept both Institutionalism and Workplace Hierarchy have no available explanation of how the inegalitarian relations could constitute an injustice. This is because they have no available account of what must, as a matter of justice, be done in order to eliminate the inegalitarian relations. Workplace Hierarchy precludes the most limiting institutional measures, which may be the only means by which egalitarian relations can be assured by institutional means. And Institutionalism precludes the view that non-institutional means of ensuring egalitarian relations can be required as a matter of justice.

One issue that should be noted before moving on to discuss the possible approaches to resolving the trilemma is that on some accounts of what is required for individuals to relate as equals, there is a clear and direct conflict with Institutionalism that arises independent of the conflict between the conjunction of those two views and Workplace Hierarchy.<sup>13</sup> On these accounts, individuals do not relate as equals, in the relevant sense, whenever any party to an interaction fails to possess appropriately egalitarian attitudes and commitments, and therefore fails to recognize those with whom they interact as equals and/or to act in ways that are

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<sup>13</sup> I am grateful to Julian Jonker and Grant Rozeboom for encouraging me to discuss this issue.

consistent with these attitudes and commitments.<sup>14</sup> Because these accounts entail that there are direct requirements, deriving from relational egalitarian principles, on the attitudes, commitments, and behavior of individuals, they are straightforwardly incompatible with Institutionalism.<sup>15</sup>

On other accounts of what is required for individuals to relate as equals, however, institutional arrangements can ensure that relational equality obtains regardless of the private attitudes and commitments that individuals might possess.<sup>16</sup> Those who are sympathetic to both Relational Egalitarianism and Institutionalism tend, unsurprisingly, to accept that just institutional arrangements would be sufficient to ensure that individuals acting within the institutional structures relate as equals in the sense that is required as a matter of justice.

My argument is, of course, directed against those who accept this second type of account of the requirements of Relational Egalitarianism, and hope to be able to combine that account with the Institutional view about the application of principles of justice. There are, then, two central burdens of the argument that I offer. The first is to provide grounds for thinking that there is no set of all-things-considered justified institutional arrangements that could ensure, independent of the attitudes, commitments, and behaviors of individuals within the institutional constraints, that superiors and subordinates within hierarchically structured firms relate to each

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<sup>14</sup> A somewhat narrower view that could be adopted is that individuals do not relate as equals whenever an individual in a superior position does not recognize those in inferior positions with respect to her as equals, but that relational inequality is not necessarily undermined when inferiors lack appropriately egalitarian attitudes and commitments with regard to superiors. For the purposes of my argument this distinction is not important.

<sup>15</sup> Voigt suggests that despite the fact that Anderson and Scheffler are clearly influenced by Rawls, their views on the requirements of Relational Egalitarianism seem to require departing from Rawls's Institutionalism ("Relational Egalitarianism"). Neither, however, discuss this issue directly. Furthermore, in her discussion of what ought to be done in response to exercises of workplace authority that are incompatible with relational equality, Anderson focuses almost exclusively on institutional measures (*Private Government*, ch. 2). In addition, Scheffler has defended Institutionalism against the objections raised by Murphy and Cohen; see "The Division of Moral Labor: Egalitarian Liberalism as Moral Pluralism," *Proceedings of the Aristotelian Society, Supplementary Volume 79* (2005): 229-53; "Is the Basic Structure Basic," in *The Egalitarian Conscience: Essays in Honour of G.A. Cohen*, ed. Christine Sypnowich (Oxford: Oxford University Press, 2006).

<sup>16</sup> See, for example, Schemmel, "Distributive and Relational Equality," 142.

other as equals. And the second is to offer reasons to think that, in light of this, the most plausible response is to reject Institutionalism. I have thus far offered some initial reasons in support of the first claim, which will be expanded upon as I consider the possible responses to the trilemma in the remaining sections. My central focus, however, will be to show that rejecting Institutionalism is the best option.

### **3. Option 1: Rejecting Relational Egalitarianism**

If I am right that Relational Egalitarianism, Institutionalism, and Workplace Hierarchy are mutually incompatible, then we must reject at least one of these views. I suspect that for at least most, rejecting Relational Egalitarianism will be the least attractive option. One important reason to think this is that, in the context of this trilemma, Relational Egalitarianism need not be understood as the view that egalitarian relations are the only thing that matters, fundamentally, as a matter of justice. That view is controversial, and there are plausible grounds on which it might be rejected.<sup>17</sup> None of those grounds, however, would be of particular help in overcoming the trilemma, since the plausible alternatives to the view that relational equality is all that matters as a matter of justice (so that all requirements of justice are ultimately explained by reference to the value of relational equality) will nonetheless imply that A's inegalitarian relation with B is unjust. Such inegalitarian relations will, it seems to me, count as unjust on virtually any plausible view of what justice requires, and therefore the relational egalitarian component of the trilemma should not be understood as contributing to its generation only if relational equality is taken to be the (only) fundamental justice-relevant value, in terms of which all requirements and obligations

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<sup>17</sup> I argue, for example, that taking relational equality to be the value that grounds all requirements of justice requires accepting implausible explanations of why individuals possess some of the entitlements of justice that they do; see Berkey, "Relational Egalitarianism and the Grounds of Entitlements to Health Care," *Ethics Forum* 13 (2018): 85-104.

of justice must be explained. It is enough, instead, if individuals relating to each other as equals is one among the requirements of justice, however the full set of requirements is ultimately grounded and explained. And I do not think that it is plausible to deny that relational equality figures into the full set of values and requirements of justice in this way.

In order to argue that rejecting Relational Egalitarianism is the most plausible way to resolve the trilemma, it would have to be claimed that despite the appeal of the claim that justice requires that individuals relate to each other as equals, the reasons in favor of accepting both Institutionalism and Workplace Hierarchy are stronger. Since the primary reasons that can be offered in favor of permitting hierarchical firm structure are grounded in considerations of economic efficiency, and perhaps more fundamentally in terms of the welfare improvements that greater economic efficiency can generate, it would have to be argued both that significant welfare improvements (perhaps in particular for those on the lower end of the socio-economic ladder) are likely to be generated by permitting hierarchical firm structure, in comparison with prohibiting it, and that these welfare improvements are more important, from the perspective of justice, than ensuring egalitarian relations among superiors and subordinates within firms. Now, in principle, it does seem to me possible that the prospect of large enough welfare improvements, in particular for the worst off, could provide sufficient reason to allow certain types and degrees of inegalitarian relations to persist. But given that workplace hierarchies, and the inegalitarian relations that they can generate, themselves often have significant negative effects on the welfare of those subjected to domination, oppression, and exploitation, the burden faced by those who would press this line of argument is, I think, very difficult to meet.

It is, it seems to me, even more implausible that the reasons that are typically offered in favor of Institutionalism could be thought to outweigh, or take priority over, the reasons in favor

of accepting relational equality as a requirement of justice. There are a number of grounds on which Institutionalism has been defended. Rawls offers three distinct grounds. First, he says that the basic structure is the primary subject of justice because its effects on individuals' life prospects are especially profound.<sup>18</sup> Second, he claims that the basic structure plays a central role in shaping individuals' characters, values, projects, and ambitions, and therefore must be the central site of application for principles of justice.<sup>19</sup> Lastly, he claims that a just basic structure is necessary to ensure "background justice."<sup>20</sup> Alongside this third justification, Rawls claims that if a just basic structure can be established, this would ensure that individuals and private associations can in good conscience take themselves to be permitted, as a matter of justice, to devote their attention and resources to the advancement of their particular goals, life plans, and conceptions of the good, since they could count on the basic structure to maintain justice regardless of the choices that private agents make within that structure.<sup>21</sup>

It does not seem like either the first or second ground for endorsing Institutionalism can, even in principle, provide reasons that compete with those that count in favor of endorsing relational equality as a requirement of justice. This is because these arguments are both intended to suggest that a just basic structure is the most important (and, if Institutionalism is correct, a sufficient) determinant of whether justice will be realized in a society – they do not provide grounds for favoring any particular conception of what justice requires, and do not provide grounds for rejecting a conception that cannot be guaranteed to be satisfied by a just basic structure alone.

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<sup>18</sup> *A Theory of Justice*, 7.

<sup>19</sup> *Political Liberalism*, 269; *A Theory of Justice*, 231.

<sup>20</sup> *Political Liberalism*, 265-69; *Justice as Fairness*, 53.

<sup>21</sup> *Political Liberalism*, 268-69.

The third line of argument can be interpreted as offering a reason in favor of Institutionalism that could, in principle, compete with the reasons in favor of accepting relational equality as a requirement of justice. In the broadest sense, this reason can be understood as at least similar to those that are appealed to in demandingness objections.<sup>22</sup> The thought is that an account of justice and the obligations that it generates for individuals (and private associations) is at least preferable, all else equal, to the extent that it avoids requiring agents acting within the basic structure to be guided directly by the broadly impartialist values that are at the core of any plausible account of justice.<sup>23</sup> While this thought is widely regarded as appealing, it does not seem especially plausible that it could be powerful enough to justify rejecting relational equality as a requirement of justice, once we recognize the trilemma that I have described. Perhaps more importantly, I doubt that many defenders of Institutionalism would endorse giving up relational equality as a requirement of justice. Rawls himself characterizes a just society as one in which everyone is committed to recognizing the free and equal status of all citizens – and while it might be argued that this requirement falls a bit short of one that requires that individuals all relate to each other as equals (perhaps, for example, all that is required to recognize everyone’s free and equal status is supporting and contributing to realizing the institutional policies required by justice), it seems clear that Rawls and other recent defenders of Institutionalism are committed to

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<sup>22</sup> See Brad Hooker, “The Demandingness Objection,” in *The Problem of Moral Demandingness: New Philosophical Essays*, ed. Timothy Chappell (London: Palgrave Macmillan, 2009); Fiona Woollard, “Dimensions of Demandingness,” *Proceedings of the Aristotelian Society* 116 (2016): 89-106; Brian Berkey, “The Demandingness of Morality: Toward a Reflective Equilibrium,” *Philosophical Studies* 173 (2016): 3015-35; Brian McElwee, “Demandingness Objections in Ethics,” *Philosophical Quarterly* 67 (2017): 84-105; David Sobel, “Understanding the Demandingness Objection,” in *The Oxford Handbook of Consequentialism*, ed. Douglas W. Portmore (Oxford: Oxford University Press, 2020).

<sup>23</sup> For discussion of the relation between Institutionalism and demandingness, see Scheffler, “Egalitarian Liberalism as Moral Pluralism”; Murphy, “Institutions and the Demands of Justice,” 288-91; Alan Thomas, “Cohen’s Critique of Rawls: A Double Counting Objection,” *Mind* 120 (2011): 1099-1141; Berkey, “Double Counting, Moral Rigorism, and Cohen’s Critique of Rawls”; “Against Rawlsian Institutionalism about Justice,” 726-32.

accepting the more robust requirement. Resolving the trilemma by rejecting Relational Egalitarianism, then, is not a plausible option.<sup>24</sup>

#### **4. Option 2: Rejecting Workplace Hierarchy**

The second option for resolving the trilemma is to reject Workplace Hierarchy, and hold that hierarchical firm structures should not be legally permitted. This is, I think, a more plausible option than rejecting relational equality as a requirement of justice. It is clear, it seems to me, that states ought to regulate firms much more strictly than many currently do in order to limit the power that employers are able to exercise over employees. There are difficult questions about the limits of both permissible and advisable restrictions, but on the whole there are excellent grounds for thinking that those who have argued that workplaces in countries like the United States are seriously underregulated in ways that contribute to seriously unjust relations between superiors and subordinates within firms are correct.<sup>25</sup>

There are, however, two reasons to doubt that endorsing a legal requirement against hierarchically structured firms is either the best way, or even a sufficient way, of resolving the trilemma. The first, which challenges whether it is the best way, is that it is unclear whether we should, all things considered, endorse the type and degree of restrictions that would be necessary to either eliminate hierarchy within firms entirely, or limit it enough that it would not be a threat to relational equality, regardless of how individuals act within the rules. It seems plausible that, in order to ensure that relational inequality does not arise within firms, these restrictions would

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<sup>24</sup> There is much more that would need to be said here in order to make a case that ought to be compelling to those who do not already find a relational egalitarian requirement of justice at least fairly compelling. And perhaps some Institutionalists would be more open than I suggest to giving up Relational Egalitarianism in light of the trilemma that I have described. My central aim in this paper can be understood, however, to be to persuade those who are committed to Relational Egalitarianism that they must give up Institutionalism.

<sup>25</sup> Anderson's discussion in *Private Government*, ch. 2 makes this case quite powerfully.

have to be rather severe, and this may involve trade-offs with respect to, for example, economic efficiency and enforcement costs that states would incur, that we have reasons of justice to avoid if possible. That is, even if very strict state restrictions on firm structure were both necessary and sufficient to ensure relational equality within firms, it is not clear that we ought to endorse all such restrictions, since there are, plausibly, other justice-relevant considerations in addition to relational equality that can take priority if they would be sufficiently negatively affected by the adoption of certain restrictions.

The second reason is, in my view, more significant, and raises a deeper challenge. This is that it is not clear that endorsing even the strictest minimally plausible set of legal requirements against hierarchically structured firms would actually allow us to maintain both Relational Egalitarianism and Institutionalism. In order to be consistent with Institutionalism, the legal requirements would have to be sufficient to ensure that relational inequality cannot obtain within firms, regardless of how individuals within them behave toward one another within the rules.

The reason to doubt that this is the case is not, of course, merely that people will inevitably be able to harbor inegalitarian attitudes and commitments, and to treat others badly, within any minimally reasonable set of institutional rules adopted by the state with respect to the structure of firms. As I have noted, on some plausible accounts of what is required for individuals to relate to each other as equals, some people's holding inegalitarian attitudes or commitments, and even treatment of one person by another that reflects these attitudes or commitments, does not necessarily amount to relational inequality within well-structured institutions. For example, within a just state, an individual with an unjustified sense of superiority and entitlement might treat some of his fellow citizens quite badly – but if he is not able to exercise any asymmetric power over those others, then it is plausible that the mere fact of



his acting toward others as if he has a higher status does not, by itself, make it the case that he actually stands in inegalitarian relations to them. In fact, in my view Institutional relational egalitarians are correct that institutional policies can *sometimes* ensure conditions in which, in the relevant sense, individuals will confront each other as equals, regardless of how badly one person might treat another, or the attitudes and commitments that might motivate such treatment.

When it comes to relations within firms, however, it is not clear what requirements the state could plausibly impose that would ensure that inegalitarian relations do not obtain. Consider, for example, that even under a fairly radical set of workplace democracy requirements, those elected into positions of authority within a firm would inevitably possess at least some degree of asymmetric power over others as long as they are in the position – this is just what occupying such a position involves.

Proponents of radical workplace democracy as a solution to the trilemma could claim that so long as those in positions of authority are subject to being voted out of their positions by those over whom they exercise authority, there are no inegalitarian relations of the kind that Relational Egalitarianism ought to find troubling. Importantly, however, in democracies, including workplace democracies, some people will always be outvoted by others. In many cases, there are persistent minorities, and the ability of members of such groups to relate to others as equals is not obviously fully protected by democratic procedures. In the workplace, those who are consistently outvoted may, for example, not have their interests and concerns taken as seriously by those in positions of authority as they ought to be, and they may not, by themselves, be in a position to do anything about that (because their efforts will not get the support of enough others). They may have no compelling procedural complaints about the decision-making processes and structures, and yet have substantive complaints about the ways that those elected

into power regard their interests. When this is the case, it seems to me that in at least some cases relational equality may not be satisfied.<sup>26</sup>

This problem cannot plausibly be avoided by suggesting that the state ought to ban even democratically supported authority relations within firms. Any organization of even modest size must have some sort of authority structure in order to function reasonably well. In many organizations, including perhaps especially for-profit firms, these structures tend to be much more hierarchical and authoritarian than they need and ought to be, but few would find it reasonable to suggest that firms could operate without any authority structure that, in effect, gives some people asymmetrical power over others (even if those with that authority are subject to recall by those over whom it is exercised). If these structures are, at least to some extent, legally permitted, then there is at least significant reason to suspect that state policy alone cannot ensure that inegalitarian relations within firms will be entirely avoided.

In my view, whether they are avoided will inevitably depend, at least to some extent, on the behavior of individuals within firms, and in particular of those in positions of authority, as well as on the informal norms and expectations that exist within any particular organization.

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<sup>26</sup> I suspect that these concerns about persistent minorities within institutional structures that are as democratic as possible have more force, with respect to the ideal of relational equality, in workplaces than in states, so that even if the exercise of state authority by elected officials does not render their relations to citizens who are members of persistent minorities, and therefore oppose many of the policies implemented, unjustly inegalitarian, the exercise of managerial authority over subordinates who are members of persistent minorities is at least much more likely to render the relevant relations inegalitarian on any plausible account of what relational equality requires. This is, roughly, because of the nature and extent of the interactions that are typically involved in the exercise of managerial authority. Specifically, managers know their subordinates personally, generally interact with them on a daily basis, directly give orders and monitor the conduct of subordinates in response to those orders, and impose sanctions on subordinates directly. These factors, it seems to me, increase the risk that the relations between superiors and subordinates who are members of persistent minorities will be inegalitarian, and make it the case that what is required, either institutionally or individually (or both) in order to avoid this result will be more demanding than will typically be the case for elected officials.

### 5. Option 3: Rejecting Institutionalism

My view, then, is that the way that we ought to resolve the trilemma is to reject Institutionalism. Egalitarian relations cannot, at least within firms, be guaranteed by institutional policy alone, and therefore agents acting within the basic structure are required, as a matter of justice, to act in ways that contribute to (and in some cases partially constitute) the achievement of relational equality.

This is, of course, not to say that limiting the formal authority of superiors in workplaces is not also important. This should, in my view, be done to a much greater extent than it currently is. But it most likely ought not be done to the maximum possible extent, both for reasons of economic efficiency and, perhaps more importantly, because of the intrusiveness on behalf of the state that would be required to enforce requirements, as well as the costs that would be involved in enforcement.<sup>27</sup>

One important objection to the view that we can and should resolve the trilemma by rejecting Institutionalism is that relational equality cannot in fact be achieved in virtue of those who in fact have some degree of asymmetrical authority over others choosing to employ that authority in even the morally best ways – indeed even if their exercise of their authority reflects a genuine commitment to the equal status of everyone within an organization. The influence of the republican tradition in political philosophy on many who are now concerned about workplace hierarchy has, I think, led many to think that only state regulation can generate the conditions

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<sup>27</sup> It might be suggested that we should, perhaps for expressive reasons, endorse legal requirements that would, as a matter of publicly declared policy, be unenforced. This, however, may result in those individuals and firms that would comply with the relevant legal requirements, despite the lack of sanctions for non-compliance, facing significant competitive disadvantages. And this seems like a result that should be avoided, if possible. For the claim that there are cases in which laws should be adopted but left unenforced, see Robert C. Hughes, “Would Many People Obey Non-Coercive Law?,” *Jurisprudence* 9 (2018): 361-67.

within which people can relate as equals, including within firms.<sup>28</sup> I have two responses to this line of objection, one less concessive and one more so.

The less concessive response is that there is, it seems to me, no set of permissible state policies that could fully ensure that people relate as equals within firms, no matter, for example, how democratically they might be required by law to be structured. Inequalities of perceived social status and value within a firm (perhaps based on differences in skills, role, etc.) cannot be regulated away, and will, when combined with the unavoidable authority relations that will exist in any sufficiently large organization, tend to generate inequalitarian relations. Regulations can certainly contribute significantly to limiting perceived inequalities of status, but their elimination also requires the development of robustly egalitarian social norms and the internalization of egalitarian commitments by individuals. No matter how extensively one thinks the state is permitted to regulate the internal structure of firms in order to limit the relational inequality that often accompanies hierarchical authority structures, then, there will nevertheless be additional obligations that apply directly to individuals to contribute to making relations fully egalitarian.

The more concessive response is that even if, in principle, state policy could fully ensure relational equality, there are reasons to avoid the strictest regulations that would be necessary in order to do this, at least if relational equality can be achieved without them. In addition, it is important to note, as part of this response, that when strict regulations are not in place, and significantly hierarchical authority relations do exist within firms, the ways that authority is exercised can make a difference to the degree to which relational equality is achieved.

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<sup>28</sup> The most influential discussion of republicanism in contemporary political philosophy is Philip Pettit, *Republicanism: A Theory of Freedom and Government* (Oxford: Oxford University Press, 1997). For discussion of republicanism and workplace issues, see Hsieh, “Rawlsian Justice and Workplace Republicanism”; Gourevitch, “Labor Republicanism and the Transformation of Work”; González-Ricoy, “The Republican Case for Workplace Democracy”; Breen, “Freedom, Republicanism, and Workplace Democracy”; Jacob and Neuhäuser, “Workplace Democracy, Market Competition, and Republican Self-Respect.”

Again, considerations of economic efficiency and the costs of enforcement provide reasons to permit at least some degree of hierarchical authority structure within firms. Where such structure can be permitted without significant damage in terms of egalitarian relations, it should be permitted (within limits). One reason to accept this is that it is plausible that some people possess what we can call ‘managerial skills’ to a greater degree than others. These people are better than others at, for example, determining how tasks within a firm can be divided so that the firm’s work will be done most efficiently. Their possessing this and perhaps related skills makes these people well-suited to be in charge of delegating some tasks to others, and the work of the relevant firms will be done most efficiently if those to whom tasks are delegated are required by the rules in operation within the firms to perform them.

Importantly, nothing about the fact that one possesses such skills justifies her in taking herself or her interests to be more important than those to whom she delegates tasks, and their interests. If a manager recognizes this, and interacts with those to whom she delegates accordingly, and if the firm as a whole has a culture in which all are expected to act in accordance with norms that acknowledge the equal status of all, then at the very least relational equality will be much better achieved than it is in most actual firms. This would be true, I claim, even if no changes in the legal structure of managerial authority are made. Because of this, it is implausible to deny that managers and others in positions of authority over subordinates in firms can have obligations, grounded in the value of relational equality, to exercise their authority in certain legally permitted and firm-sanctioned ways rather than others.

It might be objected that a requirement that those in positions of authority within firms exercise their authority in ways that ensure, or at the very least promote, relational equality threatens the very same values that I appealed to in order to reject the possibility of a permissible

policy regime that could guarantee that individuals within a firm relate as equals.<sup>29</sup> For example, the deliberative burdens that such a requirement would involve for managers may pose a threat to efficiency, and might be thought to be intrusive in much the same way that state regulations aimed at ensuring relational equality within firms would be. If this is correct, then it may give us reason to reconsider the option of rejecting Relational Egalitarianism, since the very same kinds of considerations would count in favor of accepting both Workplace Hierarchy and Institutionalism.

The first thing that can be said in response is that it is simply a mistake to say that a moral requirement to act in ways that promote relational equality, and to deliberate in ways that reflect a commitment to the equal status of all, is intrusive in the same way that state regulation is intrusive.<sup>30</sup> It is one thing to be obligated to act and/or deliberate in certain ways, without any other agents exercising coercive power against you in order to ensure that you comply (or even being entitled, in principle, to exercise such power). It is quite another to be required, under threat of coercive enforcement and perhaps sanctions, to act in particular ways and promote particular ends. Unlike the state (or any other agent that might exercise coercive force), morality is not an agent that can, in any relevant sense, intrude on individuals' autonomy. The comparison is simply misleading.

Secondly, while it does seem possible that a manager's efforts to ensure that she treats her subordinates in ways that are consistent with a commitment to the equal status of all could come at some cost in terms of efficiency, this potential cost would surely be lower than would be imposed by the regulations that would be required to promote relational equality as much as possible in the absence of egalitarian attitudes among managers. In addition, these costs would

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<sup>29</sup> I am grateful to Julian Jonker and Grant Rozeboom for raising this objection.

<sup>30</sup> See Cohen, *Rescuing Justice and Equality*, 192.

diminish over time as managers more fully internalize egalitarian commitments that they set out to cultivate – and this is reason to think that accepting some trade-off in terms of efficiency temporarily, in order to promote the greater compatibility of egalitarian relations and efficient firm functioning in the long run is required.

Lastly, there is reason to worry that intrusive state regulation would threaten relational equality more broadly, even if it could promote it within particular firms, whereas it is clear that managers adopting more egalitarian attitudes and behaviors toward subordinates would not pose any threat to egalitarian relations more broadly.<sup>31</sup> One reason to worry that intrusive regulation could threaten relational equality more broadly is that it would require giving substantial powers to state officials (e.g. those that would be charged with monitoring the conduct of managers). This runs the risk of generating inequalitarian relations between such officials and those over whom they will exercise authority. In addition, there could be more indirect effects on relations between, for example, superiors and subordinates in their relations outside of work – for example, having their interactions at work monitored by the state in a fairly intrusive way could undermine their ability to relate as free as equal persons more generally.

## **6. Conclusion**

Let me conclude by very briefly describing what I take to be one type of noteworthy implication of my argument.

The internal changes that would have to be made when it comes to firm culture in order for relational equality to be achieved, or at least be much closer to being achieved, are, it seems to me, very extensive. For example, managerial “perks” would have to be eliminated entirely,

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<sup>31</sup> I am grateful to Julian Jonker and Grant Rozeboom for suggesting this point.

perhaps ideally by managers themselves voluntarily giving them up and using any freed up resources to improve things for those lower in the hierarchy. This would require that managers give up, for example, preferred parking spots and restrooms that are not made available to lower-ranked employees, as well as other benefits that are tied to positions in the hierarchy that serve primarily as indicators of status. The demands of relational equality within firms, then, require at least fairly radical changes that would have to be adopted voluntarily by those with decision-making authority, if relational equality is to be consistent with any degree of workplace hierarchy.