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Master's Thesis of Philosophy

Workplace Domination and Relational Egalitarianism

**- An Internal Critique of Elizabeth Anderson's
Employment Conditionality Interpretation -**

작업장 지배와 관계적 평등주의:
엘리자베스 앤더슨의 고용조건부 해석의
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**Graduate School of Philosophy
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Abstract

The moralized notion of work represented by the precept “The one who is unwilling to work shall not eat” continues to hold significant influence in liberal theories of distributive justice. On a common understanding of that notion in relational egalitarian theories, it is the state’s role to make sure that decent living standards for those who require state support are normally conditioned on employment. Call this *employment conditionality*.

The purpose of this dissertation is to give an internal critique of employment conditionality as it appears in the context of Elizabeth Anderson’s widely influential theory of democratic equality. My main thesis is that the ideals of non-domination and equal standing cannot be made consistent with employment conditionality.

In the first two main chapters, I address background issues that serve as the basis of my internal critique. In Chapter 2, I explain the theoretical motivations of Elizabeth Anderson’s endorsement of sufficiency, most chiefly her endorsement of pareto superior of market inequalities. In Chapter 3, I argue that workplace domination is an endemic feature of economic institutions characterized by significant differences in bargaining power between ordinary workers, on the one hand, and firms, on the other.

In Chapter 4, I advance my internal critique. My arguments are two-fold. First, I argue that employment conditionality imposes workplace domination under conditions of large economic inequalities, and so objectionable on Anderson’s own terms. Second, I argue that that employment conditionality institutionally ranks wealthy individuals as superior to those without wealth and so objectionable on Anderson’s own terms.

Keywords : Relational Egalitarianism, Sufficiency, Workplace Domination, Reciprocity, Non-Ideal Theory, Distributive Justice

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Chapter 1. Introduction

Paul the apostle famously said that “[t]he one who is unwilling to work shall not eat.”^① Those who refuse to be productive exploit others by free-riding. If all are of equal standing, then free-riders ought not to be rewarded, since that would be unfair. These two premises seem undeniable. Put together, they seem to lead to some version of Paul’s pronouncement. Understandably, this precept which treats productive contribution as an obligation remains an attractive one.

Given its attractiveness, a particular interpretation of that precept remains influential in the theory and practice of liberal distributive justice. In a story made famous by Philippe Van Parijs, Hawaii senator Wadsworth Yee defends a one-year residency requirement for Hawaiian welfare entitlements with the words: “There must be no parasites in paradise.”^② In line with such intuitions in liberal political practice, much theoretical discussion surrounding liberal egalitarian distributive justice also takes it to be the state’s role to make sure that those who are able-bodied are not eating without a willingness to work, so to speak. That is, many liberal egalitarians support the conditioning of entitlement to state support for decent living standards on employment. Call this *employment conditionality*.

John Rawls, the chief architect of modern liberal egalitarianism, endorses employment conditionality when he says that those who choose full-time leisure will be judged equivalent to having chosen a ‘virtual’ (rather than actual) full-time minimum wage such that “those who surf all day off Malibu must find a way to support themselves [without state support].”^③ Echoing Rawls’s sentiments, Elizabeth Anderson says “citizens do not owe one another the real freedom to function as beach bums.”^④ Roughly, on that conventional liberal construal, employment conditionality operates against a background of occupational structures which attach vastly unequal rewards depending on the marketability of individuals’ talents, as well as large inequalities in asset holdings. Against this background, employment conditionality requires that *state* support for decent living standards be conditioned on able-bodied individuals taking up employment.

^① Thessalonians 3:10

^② Philippe Van Parijs “Why Surfers Should be Fed: The Liberal Case for an Unconditional Basic Income” (1991), p. 101 The idea is that the residency requirement would guarantee that all welfare recipients would be those who took on employment for at least a year.

^③ John Rawls “The Priority of Right and Ideas of the Good,” (1988) p. 257

^④ Elizabeth Anderson, “What is the Point of Equality?” (1999) p. 321

Against such views, I think that employment conditionality is - at least, on that conventional construal - objectionably inequalitarian. My complaints are two-fold. First, employment conditionality is objectionable because it creates tainted workplace relationships: employment, when workers lack significant bargaining power against employers, seems to entail domination and other objectionably inequalitarian relationships in the workplace. Because employment conditionality *imposes* low bargaining power on specifically those workers who most require state support, it makes domination a reality for them. For this reason, it seems to me that employment conditionality is often correctly redescribed as “the one who is unwilling to be *dominated* shall not eat.” Call this the problem of *workplace domination*. Second, employment conditionality is objectionable because, contrary to its formally universal applicability, employment conditionality applies *only* to those who do not have large asset holdings. The central guarantee of property rights is the ability for those who have property entitlements to do as they please with their money. So, in societies where market institutions operate against a background of large differences in property holdings, those who have large wealth *never* fall under a legal requirement to work, because self-sufficient viz. not in need of state support. Conversely, and for the same reason, those without wealth have their economic entitlements to basic goods conditioned on employment. Call this the problem of *asymmetrical liability*.

Aiming at a general vindication of these two complaints against employment conditionality is too ambitious a target. Instead, this dissertation, more modestly, considers whether Elizabeth Anderson’ s widely influential relational egalitarian theory of justice can accept employment conditionality when faced with these two complaints. I argue that it cannot. More specifically, my main thesis is that the theoretical resources of Anderson’ s influential theory of democratic equality give rise to my complaints of workplace domination and asymmetrical liability, against employment conditionality. If correct, Elizabeth Anderson cannot accept employment conditionality for her sufficientarian theory of distributive justice.

Because this dissertation is a discussion internal to Anderson’ s theory, it is of course beyond its scope to show that employment conditionality cannot be vindicated more generally in alternative guises, with the theoretical resources of other theories of justice. However, because Anderson’ s theory seems to closely fit a certain widely accepted construal of employment conditionality, in its simultaneous endorsement of market inequalities and conditionality, I believe that it provides fertile ground for clarifying, at least in a rough and tentative manner, my two complaints against the conventional construal of employment conditionality more generally.

1.1. Background of the Study: Employment Conditionality in Elizabeth Anderson's Theory

Relational egalitarianism is a view of social justice which sees a just society as one in which its members relate as equals. In just societies, according to relational egalitarians, people live under social institutions and conditions which substantively extend equal respect and equal concern to each citizen. Elizabeth Anderson, a chief proponent of that view, puts it thus: negatively, relational egalitarians “seek to abolish oppression – that is, forms of social relationships by which some people dominate, exploit, marginalize, demean, and inflict violence upon others,” excepting punishments against criminal acts.^⑤ Positively, relational egalitarians “seek a social order in which persons stand in relations of equality, [] a democratic community, as opposed to a hierarchical one.”^⑥ In such a community, citizens relate to other citizens on equal terms, namely with equal standing, esteem, and authority. People do not have to grovel to have their voices and interests aired and people believe it to be their obligation communicate with and treat others respectfully. Institutions facilitate and enforce such relationships across society.

These views of Anderson's were formulated as a counter to a dominant form of *distributive* egalitarianism which gained theoretical currency starting in the 1980s, following Ronald Dworkin's discussion of equality as a distributive ideal. On that then-dominant view of distributive equality, pejoratively termed “luck egalitarianism” by Elizabeth Anderson, egalitarian justice demands that unchosen misfortune not affect people's relative access to such things as resources, opportunities, or welfare.^⑦ Central to Anderson's criticism against distributive egalitarianism is the idea that distributive egalitarians are literally fetishistic in their desire to equalize how much “stuff” people have. In holding this fetishism, Anderson contends, distributive egalitarians doubly fail to appreciate the real importance of equality.

First, according to Anderson, distributive egalitarians fail to appreciate that expressing equal respect and equal concern for all conflicts with equalizing unchosen luck in distributions. On the one hand, even if individuals *genuinely fail to choose* (are not forced to not choose because of their circumstances) some available option and, as a consequence, face dire straits, they ought not to be left to

^⑤ Elizabeth Anderson, “What is the Point of Equality?” (1999) p. 313

^⑥ Ibid.

^⑦ The ‘luck egalitarian’ label was enthusiastically embraced – and the idea underlying it trenchantly defended – by prominent distributive egalitarians like G.A. Cohen. Partially as a result, that label has since lost its pejorative connotation.

suffer such consequences on the “spurious ground that it is their fault” in virtue of our recognition of their equal moral status.^⑧ For instance, even if an individual fails to get readily available car insurance and gets into a life-threatening accident, emergency services ought to help them, for failing to do so would express a crass inability to appreciate their equal moral status, *regardless* of the choices that they had made. On the other hand, even if some individual’s bad circumstances are unchosen, it would be inappropriate, because insulting, to compensate them for that bad luck, for doing so would reify problematic status norms. For instance, the government writing a cheque to compensate individuals who do not fit conventional beauty standards - and so are worse off through no fault of their own - would be unjust because it expresses unjustified contempt towards that individual by ascribing defectiveness *not* to the unjust norms of beauty but to the victim in question.

Second, Anderson charges distributive egalitarianism with a failure to appreciate the fact that equal respect for citizens’ interests, far from being served by equalizing distributions, would be assailed by them. On Anderson’s Hayekian defense of markets, allowing for the efficient operation of markets allows individuals to take advantage of undeserved good luck – in the form of efficient market prices – to creatively meet the needs and wants of other citizens.^⑨ Thus, by permitting market inequalities that go far beyond what is required for an equalized distribution, we better realize various citizens’ needs and demands by incentivizing individuals to creatively and strategically respond to market prices.^⑩ Thus, according to Anderson, an insistence on equalizing luck would fail to respond adequately to such weighty justice-relevant interests that all citizens share.

Against this backdrop of her rejection of distributive egalitarianism, Anderson understandably proposes a much more muted distributive requirement of justice, that of sufficiency. On her view, relational egalitarian distributive justice requires that citizens have enough: enough to escape oppressive relationships, and enough to stand as equals. She says “[n]egatively, people are entitled to whatever capabilities are necessary to enable them to avoid or escape entanglement in oppressive relationships. Positively, they are entitled to [adequate] capabilities necessary for functioning as an equal citizen in a democratic state.”^⑪ In concrete terms, Andersonian sufficiency requires that all adults have access to property ownership, to prevent their “liv[ing] at the mercy of others’ provision” and to

^⑧ Ibid. 289

^⑨ Anderson, “How Should Egalitarians Cope with Market Risks?”, p.247

^⑩ Ibid., p.248

^⑪ Anderson, “What’s the Point of Equality?” p. 316

allow all individuals to “defend their rights or advance their claims on others in ways that command respectful attention.” In addition, Andersonian sufficiency requires that people have access to “a level of income sufficient to secure dignity in appearance” which tracks the general level of consumption in society.¹² When sufficiency is guaranteed for all, Anderson believes, citizens can relate as equals.¹³

Anderson interprets the sufficiency standard as having to be achieved normally through participation in employment: “most able-bodied citizens... will get access to the divisible resources they need to function as [human beings, workers in a system of cooperation, and participant in democratic politics] by earning a wage or some equivalent compensation due to them on account of their filling some role in the division of labor.”¹⁴ She endorses this interpretation on account of there being an obligation on able-bodied citizens to contribute to the production of goods.¹⁵ Call this Anderson’s employment conditionality interpretation of sufficiency.¹⁶

¹² Anderson, “How Should Egalitarians Cope with Market Risks?”, pp. 265-266 As illustration of what may be required for the securing of this ‘dignity of appearance’, Anderson quotes Adam Smith in footnote 56: “By necessities I understand not only the commodities which are indispensably necessary for the support of life but whatever the customs of the country renders it indecent for creditable people, even of the lowest order, to be without. A linen shirt, for example, is, strictly speaking, not a necessary of life... But in present times, through the greater part of Europe, a creditable day-laborer would be ashamed to appear in public without a linen shirt...” from Adam Smith, *The Wealth of Nations* V2.148 (1776) As I shall explain below, this standard of sufficiency would generally allow all to avoid agency poverty - understood as having too little to participate as a normally functioning member of civil society - but does not guard against objectionable hierarchies.

¹³ It is a different question whether they do, *in fact*, relate as equals. We can imagine cases where all have sufficient resources but fail to relate as equals. In those cases, Anderson would say that the problem is no longer one of distributive justice but a problem of pernicious social norms, for instance, which encourage groveling towards members of dominant groups.

¹⁴ Ibid. p. 321.

¹⁵ Ibid. “In stressing the concept of obligation, democratic equality heads off the thought that in an egalitarian society everyone somehow could have a right to receive goods without anyone having an obligation to produce them.”

¹⁶ She says that those who are dependent caretakers will be accounted for separately as participants in social cooperation since they engage in productive labor which is not market-based. But she imposes employment conditionality for virtually all adults in that *if* one is not a full-time dependent caretaker and *can* take on employment consistent with their other obligations, one is guaranteed sufficiency on condition of fulfilling that obligation.

To give a clearer idea on what her employment conditionality interpretation entails, let me illustrate the outlines of her overall theory of distributive justice, the place of employment conditionality in it and then contrast employment conditionality with a potential rival interpretation. To start, Anderson believes that the correct metric of distributive justice is capabilities – at least as it pertains to adults - where capabilities are opportunities to access or occupy states of affairs (functionings) that are valuable. Thus, the metric she accepts in her account is not the distribution of resources (which are imperfect proxies at best for capabilities), but the substantive opportunity sets of individuals for functionings that are constituted by resources and individual characteristics such as talents and health as well as surrounding environmental factors, such as the availability of disability accommodation.

With this commitment to capabilities as the proper metric of distributive justice, she endorses a system of distributive justice embedding within it a framework of an efficiently functioning market system, alongside special provisions for children and for advancement of adults beyond sufficiency. First, Anderson believes that more demanding distributive standards are ruled out for relational equality because inequality-conducive market arrangements are pareto superior to alternative economic arrangements. That is, Anderson believes that we ought to choose a system of distributions in which market inequalities are left to stand, so long as society keeps the minimal floor of sufficiency and citizens live by norms of relational equality, since citizens' exercise of efforts and talents in markets redound to the benefit of all.¹⁷

¹⁷ To prevent confusion, this is not to say that Anderson accepts of all inequalities generated by laissez-faire principles in unregulated markets. What she proposes is a market system corrected by what she characterizes as property entitlements to such things as education, healthcare, and social insurance. For textual evidence, see footnote 4 of her "Market Risks," in which she disputes the characterization of such social programs by classical liberals as "interferences" on the basis of the view that property rights are artificial all the way down. Her claim that market inequalities which redound to the benefit of all are at least implied in the same paper, in her suggestion that inequality-conducive operation of markets are pareto superior to alternative economic arrangements. See pp.247-250 for that argument.

In the case of her claim about talents, she argues outright that un-equalizing investments in children's education by the rich ought not be impugned by egalitarians because "we all have an interest in the development of everyone's talents, because such development enhances overall productivity, increasing the size of the pie..." See p.105 of her "Rethinking Equality of Opportunity".

Under Anderson's preferred version of sufficiency, distributive justice for special case of children is to be understood as based on the metric of *functioning*, since the actual levels of functioning as children have a profound impact on children's capabilities as adults.¹⁸ Mal-nourished children may experience permanent deficits over their lifetimes in capabilities, given similar levels of resource inputs. Finally, the opportunity structure of Anderson's just distributive system will allow for 'upskilling' of adults, allowing them to acquire greater capabilities beyond that of sufficiency based on pre-defined procedures and rules, since not providing such institutional pathways of advancement makes society aristocratic by generating persistent social stratification.¹⁹

Anderson's preferred vision of sufficientarian distributive justice, then, is roughly as follows. First, within a market economy that is governed by procedural rules which allow people to respond to efficient prices, children grow up with legal entitlements to a sufficient level of education, healthcare, and other in-kind goods which *guarantee* specified levels of sufficient functioning.²⁰ Second, once such children reach the age of majority, legal entitlements to sufficient functioning become ones which guarantee *effective access* to specified levels of functionings, namely capabilities. Finally, adults are given institutional pathways to advance their capabilities beyond mere sufficiency by earning such things as educational entitlements.²¹ In this context, Andersonian employment conditionality is a condition which citizens must fulfil in order to access the latter two adult guarantees. For access to adequate levels of capabilities as human beings, citizens, and workers, and for educational entitlements, citizens are normally required to take up employment to gain access to the resources which serve as the basis of their capabilities to achieve valued functionings.

For additional clarity, let us imagine one contrasting interpretation of sufficiency, which Anderson seems to reject: unconditionality. Under

¹⁸ p. 84, Anderson, "Justifying the capabilities approach to justice," in (eds.) Harry Brighouse & Ingrid Robeyns, *Measuring Justice: Primary Goods and Capabilities* (2010)

¹⁹ Ibid., p.84 I leave aside the thorny issue of distributions for those who are severely disabled, as Anderson does. For an excellent treatment of incorporation of disabled individuals into contractualist theories of justice such as Anderson's or Rawls's, see Cynthia A. Stark, "How to Include the Severely Disabled in a Contractarian Theory of Justice" (2007)

²⁰ Ibid. p.84

²¹ p. 253, Anderson, "Welfare, Work Requirements, and Dependant-Care" (2004) For access to upskilling opportunities as well, she suggests that welfare systems should be designed such that citizens' track record in employment and in education should generate earned educational entitlements.

unconditionality, all citizens are guaranteed resources to function at adequate levels to maintain equal standing regardless of their willingness to participate in production. This may come in the form of a scheme of distributive justice similar to Philippe Van Parijs' proposal for a universal basic income, modified by the targeting of resource allocation towards specific functionings that are important for equal standing within democratic equality, rather than towards the maximization of real freedoms. Under a scheme of unconditionality, all are legally entitled, as they were when they were children, to a fully adequate set of functionings.

1.2. The Intuitive Case Against Employment Conditionality

In what sense might the employment conditionality interpretation be objectionable from Anderson's relational egalitarian perspective? Two normative diagnoses of presently existing economic injustices focus attention to my qualms.

1. On a noncomparative level, a society which upholds power structures under which anyone *is made to be* servile to more powerful others – not in general – but under implicit threats of a loss of self-esteem and self-respect which attend losing one's source of income, is relationally unequalitarian since, by allowing such arrangement, that society permits domination.
2. On a comparative level, a society which guarantees lavish resources for even the most trivial of pursuits for some from birth to death, but at the same time conditions access to basic social needs on employment for others is relationally unequalitarian because that society is one which is hierarchically ranks some citizens as superior to others.

These are familiar relational egalitarian diagnoses of economic injustices in societies like ours. Problematically, it seems to me that Anderson's employment conditionality, against the background of her endorsement of market inequalities, commits her to an acceptance of both of these material and social features of the status quo. To explain, take each diagnosis in turn.

The first diagnosis applies to our society in the following sense. Many ordinary workers effectively live under the thumb of managers, in fear of unemployment and loss of income. This subjection has undoubtedly become much more salient as the sweeping market reforms of the 1990s created an army of the underemployed and job insecure, with practices such as honorary 'retirement' schemes (명예퇴직) masquerading mass layoffs.²² Now, more than 50% of the

²² Kim and Park "Changing Trends of Work in South Korea: The Rapid Growth of Under-Employment and Job Insecurity" (2006); shockingly, they argue that "As a result, the

currently employed labor force are underemployed or face job insecurity.²³ Such precarious labor market conditions also push people into precarious self-employment positions. Around 25% of the Korean labor force are self-employed. A large proportion of those in self-employment have very few alternatives but to go into already oversaturated industries like food and beverage services, leading to a competitive landscape in which only a quarter of new small businesses in Korea surviving over a five year period.²⁴ It isn't a stretch from here to infer that we live under social conditions which dominate a large part of the workforce. Many fear for their sense of self-esteem, harshly disciplined by precarious employment and desperate for income. And with our institutions' conditioning of welfare benefits on seeking employment, those who end up in precarious situations face a choice: submit to humiliating and moralistic judgments of public authorities or submit to crummy employment options. How could a society like this say that it affirms equally the good of all citizens, one in which all stand as equals?

Of course, Anderson's preferred regime of sufficiency, in which robust social insurance and dependent care support are available as a matter of legal entitlement, is vastly more just than the bleak pictures painted about present arrangements in that sufficient access to resources for equal status is *effectively open option to all*. Even so, the decent living standards that are conditioned in Anderson's employment conditionality does nothing to take away the significant bargaining power differences which allow this kind of treatment of ordinary workers, by

starting "retirement" age of Korean workers is found to be about 10 years younger than the average of the member countries of the Organization for Economic Cooperation and Development (OECD) as a whole. [One study] shows that the age at which more workers lose their wage laborer status than gain it is 35; the average age at which this occurs among the workers of OECD countries as a whole is 45.9. He also shows that Korean workers in their early thirties have only about a 60% chance of still being employed by the time they turn 50 years old. What all of this means, of course, is that retirement and layoffs begin much sooner for Korean workers than for their counterparts in other OECD member countries."

²³ *Ibid.*

²⁴ For evidence, see Kim and Cho, "Entry Dynamics of Self-Employment in South Korea", *Entrepreneurship and Regional Development* (2009). Their evidence seems supportive of Kim and Park's (2006) observations about employment insecurity: entry into self-employment correlated with age, having a spouse, being a man, having lower levels of education. These all indicate that the entry into self-employment is heavily affected by people's employment insecurity in their search for livelihoods. For an overview of the small business landscape in Korea, see 김일광, "우리나라 자영업 업체 현황과 재무특성에 관한 연구 - 산업별 비중 및 창·폐업, 생존기간을 중심으로", *지역산업연구* 제41권 제3호 (2018)

conditioning decent living standards on employment.

The second diagnosis applies to our society in the following sense. In Korea, a large gulf exists in the fortunes of its citizens, increasingly sorted into haves and have-nots. About 15.3% of people live in relative poverty, the second highest rate in the OECD, an international club of mostly rich countries.²⁵ Among those who are older than 65, that rate goes up to around 50%, by far the highest in the OECD. At the same time, income concentration in the top 10% and especially the top 1% has increased dramatically after liberalizing reforms to labor markets and financial institutions in the mid-1990s.²⁶ As a result of these reforms, the Korean economy has seen a steady bifurcation, with profits and wages exploding on one end for large corporations and their employees and stagnating on the other end, in small businesses.²⁷ In combination with the precious little support that the Korean government provides by way of social spending, these numbers paint a picture of a society rife with widening inequalities in fortune, where some can lead lavish lives others don't dare dream from birth to death, guaranteed by private wealth, while others live in shame, or fear for a life of shame, for themselves and their families.

And yet, most able-bodied people arguably have effective access to 'enough,' in Anderson's sense; Korea has one of the highest literacy rates and absolute material standards, and one of the lowest unemployment rates in the world – which mean that most able-bodied adults being able to function and participate, to a reasonable extent, in the workforce and in democratic politics. Indeed, the tiny social spending budget does give access – perhaps not to a dignified existence *tout court* -- but to the bare minimum of necessities to function in our society. But even so, how could one call Korea a society of equals? Anderson's dual endorsement of unequalizing market outcomes alongside employment conditionality implies that there is nothing wrong with this state of affairs, other than that not *everyone* has access to enough.

But it seems to me that there's more to say from a relational egalitarian perspective about this latter state of affairs. It seems relationally inegalitarian that one class of citizens are dependent for their equal status on the vicissitudes of employment while another class of citizens are not, on account of their prodigious

²⁵ OECD "Social Protection and Well-Being" (2019); data from "<http://stats.oecd.org>" 'Income Distribution and Poverty'

²⁶ Kim and Kim, "Top Incomes in Korea 1933-2010: Evidence from Income Tax Statistics," (2014)

²⁷ According to the Korea Small Business Institute's 2021 report on the firm wages in Korea, wages in small firms with 5 to 499 employees were a meager 59.4% of those in large firms with over 500 employees. Comparable figures were 71.7% in 1999.

wealth. For note, what is often troubling about market inequalities is that, when sufficiently large, these inequalities themselves become objectionable hierarchies in rank and status – not in general, but under the usual economic arrangements of liberal capitalist societies like ours which condition access to goods on employment. As Lucas Stanczyk has recently argued, in every liberal democratic society, there is a profound divide along class lines, which make one class of citizens asymmetrically liable to be subordinated to managerial authority.²⁸ First, because most working-class adults do not have effective alternatives to wage labor to sustain themselves, working under bosses whose rules they do not have a say over for one's livelihood an inescapable option for one class of citizens. On the other hand, some of those who enjoy control of such firms – the wealthy business class, and especially their children – are *never* liable to be subordinated by such authority and as such never have to take any personal orders themselves for the prodigious income and wealth they enjoy as a default. As Stanczyk argues, “These two facts combined make the typical worker in every society an unambiguous subordinate of people who, in the crucial respect of having to obey other people's orders, belong to another class or social rank entirely.”²⁹

What is troubling here is *not* the familiar luck-based complaint about unfairness of some having more *things* than others. Nor is it merely that not all have access to enough, though this *is* indeed an urgent issue. Rather, it is that under social conditions which make (a) access to a decent life contingent on having money and so (b) contingent on having a *source* of income, concentration of wealth – when sufficiently large – makes it such that *only* those with sufficiently large wealth are not liable to work for access to goods. And this, combined with the fact that the only source of income for many is work, and that work requires subordination to managerial authority in economies like ours, makes wealth inequality beyond a certain bound *itself* an institutionally recognized distinction in social rank between the working class and the business class. Just as institutionalized orders of nobility, racism, and sexism are problematic as they effectively rank different persons as inferior and superior, so are large inequalities in wealth and income under employment conditionality.

To note a fact which is too often overlooked in discussions of economic justice, it is institutions which *both* protect the rights to the wealth of the wealthy for their opulent lifestyles *and* make access to a decent life conditional upon employment for the working class. For money is not merely a means like intelligence or

²⁸ Lucas Stanczyk, “Marginal Liberalism,” in *Wither Work* (eds.) Keith Breen and Jean-Phillippe Deranty (2022)

²⁹ Ibid. 124

strength; rather, as G.A. Cohen has argued, it is like a ‘freedom ticket’ to not be liable to interfered with (i.e. be free) in doing or consuming whatever that ticket can buy. In other words, having a lot of money is simply an *institutionally granted entitlement* against liability to interference in getting or doing whatever is lawfully on sale on the market.³⁰ Thus, the distribution of money in a society is a distribution of institutional entitlements against interference in buying whatever money can buy. When some people’s liability to be interfered with in getting the basic goods is determined by their willingness to be subordinated to managerial authority but others’ are not, then we have a society whose institutions effectively rank individuals.

To illustrate this point more clearly, consider the following example.

The odd racist society (ORS):³¹ In a forgotten Greek polis, the population was divided into two groups, whites and Blacks. Both whites and Blacks were firm egalitarian believers in the relational ideal of justice, where the scope of their ideal extended not just to the whites of the polis, but also to Blacks. Blacks and whites generally respected each other, had equal voting rights in the political affairs of the polis, and lived under social conditions which allows for all to attain self-respect within their abilities. But oddly enough, this society had a set of laws which effectively affirmed the inferiority of Blacks: due to these laws, Blacks had to work the fields under white managers to buy the things which secured their equal status to everyone else, while whites were legally exempt from ever having to work and were provided lavish resources to pursue most projects to their heart’s content. Strangely, in that polis, few eyebrows were raised about this legal quirk and everyone publicly affirmed that all were equal. All the same, their peaceful acceptance of the legal quirk meant that when Blacks did not work, they were labeled as lazy or unreasonable; when whites did not work, it was generally considered fine, because their exemption was a legal entitlement.

It seems to me that an efficient capitalist system which accepts large inequalities would be like the odd racist society, if it imposes employment

³⁰ G.A. Cohen (2011) “Freedom and Money”, in his *On the Currency of Egalitarian Justice, and Other Essay*

³¹ This example is a variation of Samuel Scheffler’s *the odd slave society* which seeks to show that luck egalitarianism is a defective ideal of equality. See Samuel Scheffler (2003) “What Is Egalitarianism?” *Philosophy and Public Affairs* 31 (1), p.37

conditionality for sufficiency. This is because the obligation to take up employment within the division of labor is, while universal on paper, *selectively enforced* only on those who do not access to capital ownership. In virtue of the fact that property entitlements *also* entitle the wealthy to opt out of labor burdens, employment conditionality is effectively employment conditionality for the non-wealthy. This would be objectionable on relational egalitarian grounds, for in selectively enforcing productive burdens in this way, institutions enforce a distinction of rank between different classes of people just as in the odd racist society.

So, while Anderson may be correct in rejecting luck-extinguishing distributive equality, then, these thoughts lead me to think that her employment conditionality interpretation of sufficiency just isn't enough for a society of equals.

1.3. Summary of the Arguments

My thesis is that employment conditionality goes against Anderson's relationally egalitarian rejection of domination and institutionally imposed hierarchy. The purpose of this dissertation is not to spell out the precise shape of the positive distributive commitment implied by Anderson's relational egalitarianism. But in the process of showing that her ideal of a society of equals rules out her employment conditionality interpretation of sufficiency, I believe that it will become clear that sufficiency demands more than Anderson's official interpretation of that ideal.

Two clarifications before going onto summarize my arguments. First, my arguments against employment conditionality are to be understood as exercises in non-ideal theory, understood as political theory which assumes that significant numbers of agents will behave unjustly.³² This because workplace domination does not figure as a problem at all, I would think, in a theory which idealizes from reality by assuming that all relevantly situated agents (including institutions, firms, and citizens) abide by all principles of justice. My argument is, then, not that a society which has fully realized Andersonian distributive justice ought not to include employment conditionality. Rather, it is that Anderson cannot accept employment conditionality under conditions sufficiently close to ours which continue to disfavor workers' rights and where wealth and income inequalities are vast.

This is justified by Anderson's own methodological commitments: as a pragmatist, Anderson believes that political philosophy's aspirations should *not*, as is common, be to "discover fundamental principles of morality that are systematic

³² See Valentini (2012) "Ideal vs. Non-ideal Theory: A Conceptual Map" for a conceptual typology of ideal and non-ideal theories.

– that ground and unify our [] deliberations across all or at least large domains of conduct”.³³ On her account, the ambitions of normative inquiry – and, *a fortiori*, political philosophy – should be more modest. It should be to “use [value judgments] to guide our conduct and the valuations of things[,]...to *solve practical problems*: to figure out what we should do when we are uncertain about how to proceed but need to act; to change the ways we value certain things when our current valuations have gotten us into trouble, or to figure out how to value a novel object.”³⁴ In line with Anderson’s own treatment of normative political philosophy, then, the ambitions of this dissertation are not to set an *external*, ideal set of standard by which to judge current injustices, but to provide a diagnosis of the injustice of employment conditionality in worlds similar to ours.

Second, a word on my understanding of Anderson’s theory of distributive justice. It may be countered that it is not entirely clear that Anderson herself proposes employment conditionality. Indeed, there is one piece of writing which suggests that she may be open to universalistic modes of welfare provisions depending on empirical circumstances.³⁵ Because universalistic welfare provisions “express mutual trust, respect, and solidarity with fellow citizens,” absent reasons to the contrary, she believes them to be preferable to work-requirement-based welfare systems. However, she sees work requirements *per se* as unproblematic from the point of view of relational equality.³⁶ Further, the expressive value of universalistic welfare provisions don’t seem to be given significant weight, in comparison with her more strongly worded endorsements elsewhere of work requirements for the purposes of sustaining the productive system and targeted welfare payments for the truly needy.³⁷ Thus, on balance, it seems to me that she gives at least a cautious endorsement of work requirements and so employment conditionality.

³³ Elizabeth Anderson (2021) “How to be a Pragmatist,” in *the Oxford Handbook of Practical Reason* ed. Ruth Chang and Kurt Sylvan

³⁴ Ibid., p.85

³⁵ Anderson (2004) “Welfare, Work Requirements, and Dependant-Care”, p. 245

³⁶ Ibid. p.245

³⁷ For instance, in her criticism of Van Parijs’s proposed basic income, she says “The chief difficulty with his proposal is that his basic income would be awarded to all unconditionally, regardless of whether they were able or performing socially useful work. Lazy, able-bodied surfers would be just as entitled to that income as dependent caretakers or the disabled” and that for this reason we should prefer to tie such a basic income “to a requirement that able-bodied people engage in socially useful work.” See p.299 of her “What is the Point of Equality?”

I must note, though, that nothing in my argument turns on this potential Andersonian endorsement of unconditionality. Say she is indeed sympathetic to universalistic welfare provisions. In that case, this dissertation can be read as an internal argument for two hitherto unexplored egalitarian reasons for relational egalitarians like Anderson to oppose work requirements and so employment conditionality. This is so, especially because, *even under* the conditions that Anderson identifies as those under which liberal egalitarians would endorse work requirements, the moral taint of workplace domination and asymmetrical liability remain.³⁸

In the first chapter, I introduce Anderson's relational equality as an ideal of justice and reconstruct her arguments for the sufficiency standard of distributive justice. I explain that her support for sufficiency requires her to make two claims: first, an uncontroversial positive thesis that sufficiency is of intrinsic importance to justice; and second, a controversial negative thesis that distributive standards other than sufficiency don't intrinsically matter to justice. Crucially, then, her insistence on sufficiency hinges on her wholesale rejection of other more stringent requirements of distributive justice through the negative thesis. I find two theoretical rationales for the negative thesis in her writings. First, she argues that envy should not have a role in generating justice-relevant claims for distribution of socially produced goods – and so, beyond sufficiency, relative claims to income have no intrinsic importance to distributive justice. Second, and more importantly, she endorses a pareto argument, which commits her to the claim that market outcomes are presumptively just *because* they serve weighty interests in relation to justice – primarily that of efficiency in production. This second claim is what leads her to argue that distributive standards beyond sufficiency *cannot matter intrinsically* to distributive justice. I argue that this latter argument is basic in two senses. First, it fixes the presumptive baseline from which all departures must be justified on relational egalitarian grounds, as *market outcomes*. This rules out supra-sufficiency standards of distributions as a default. Second, it serves as the theoretical basis for the charge of envy in her envy argument. I will conclude by documenting Anderson's acceptance of the employment conditionality interpretation of sufficiency

In the second chapter, I will introduce the problem of workplace domination

³⁸ “Dependant-Care” p. 246 “First, if work requirements are imposed, then liberal contractualists would insist that the state eliminate any hardships entailed by fulfilling them. For example, the state may have to provide jobs of last resort for anyone unable to find private employment, and pay for others to care for the minor, ailing, and elderly dependants of those required to work. Second, liberal contractualists would insist not just on relieving hardships imposed by market distributions, but on pursuing equality beyond that point.”

and argue that it is an endemic feature of capitalist institutions which grant significant managerial discretion. First, I will introduce the problem as identified by Anderson – of the relationship between market organization of economic life, firm-based production, and workplace domination. Second, I will argue that the law's inability to distinguish between justifiability and justifiedness renders workplace domination an endemic feature of capitalist economies, incapable of being resolved by merely greater regulation. Third, I will raise and respond to an objection which says that markets resolve this problem by 'squeezing out' dominating firms through competitive pressures. Fourth, I will explain that workplace constitutions, Anderson's proposed solution to the problem of workplace domination, is insufficient to prevent domination because fails to address the more fundamental problem of bargaining power differentials.

In the third chapter, I will mount my substantive challenge to Elizabeth Anderson's employment conditionality interpretation. First, I will explain a salient source of asymmetrical bargaining power within economies with significant inequalities. Referring to Jiwei Ci's distinction between agency poverty and status poverty, I will argue that even an effective guarantee of agency as worker, citizen, and human being continues to permit significant differences in bargaining power because the threshold of consumption which exhausts esteem-based consumption needs of normal adult citizens increase as un-equalizing economies grow. On the basis of this analysis, I will raise two internal objections against Anderson's employment conditionality interpretation. First, I will argue that a regime of employment-conditioned sufficiency is non-comparatively objectionable because it causes those who require state support for equal status to be dominated. Second, I will argue that *given* Anderson's pareto argument for sufficiency, employment conditionality is objectionable on a *comparative* basis, in that such a regime *constitutes* an institutionally imposed hierarchy in rank and status between wealthy individuals and the working class. I will conclude by summarizing the implications of these two arguments.

Chapter 2. Anderson's Arguments for Sufficiency

Anderson's relational egalitarianism is a view about social justice; it specifies the rights and duties of members of society, which normally take priority over other social ends. What justice demands, on Anderson's view, is that institutions be arranged, and citizens behave, in ways which enable all to avoid oppressive relationships such as domination, marginalization and exploitation and to prevent the emergence of objectionable hierarchies of esteem, standing, and authority. Exploitation happens when people's labors are used to produce profits without fair compensation. Marginalization happens when a group of people are confined to lower status and esteem in society. Domination happens when some have arbitrary power over others, the exercise of which do not appropriately take into account the legitimate interests of those who are affected by it. These relationships are objectionable because those who are so treated in such ways are treated as having less than equal standing. So, the force behind her position is that the obvious thought that egalitarianism seeks to extinguish *unjustly* unequal relationships. Equivalently, when society is arranged in ways that do extinguish such unjust relationships, all stand as equals.

2.1. Anderson's Positive Argument for Sufficiency

Democratic equality, Anderson's preferred interpretation of relational egalitarianism, seeks to guarantee this equal standing of citizens under liberal democracy, a form of government which takes as its "fundamental aim [the] secur[ing] the liberty of its members". As such, she argues, rather than guaranteeing that each and every citizen actually function so as to occupy valuable states and conditions secured by freedom, democratic equality aims to "secure the *social conditions* of everyone's [equal] freedom."³⁹ In contrast to merely formalistic interpretations of 'equal freedom', such as libertarianism, Anderson argues that a demand for the social conditions for effective freedom implies constraints on the choices available to citizens in some ways: we must restrict choices which marginalize, dominate, exploit and so impede on other citizens' freedom – even in private life. This follows from the observation that "most of what people wish to do requires participation in social activities, and hence communication and interaction with others" and so that people cannot engage in such things without social conditions which effectively secure their ability to do so without unjust impediments.⁴⁰ In short, Anderson endorses an egalitarian community which secures conditions in which all are free from such objectionable

³⁹ Anderson "What is the point of equality?" p.314, italics mine.

⁴⁰ Ibid. 324

relationships, to enjoy the goods of society as equal persons and to participate in democratic self-government as equal citizens.

Because of her focus on the social conditions *necessary* for the equal exercise of freedom, Anderson argues that rather than social conditions which *guarantee* equal exercise of freedom, egalitarians should seek equality for all in the space of capabilities whose guarantee are necessary for citizens' achievement of valued functionings. What does this imply? Anderson says that "[n]egatively, people are entitled to whatever capabilities are necessary to enable them to avoid or escape entanglement in oppressive social relationships. Positively, they are entitled to the capabilities necessary for functioning as an equal citizen in a democratic state." On the one hand, the social requirements of equal exercise of freedom means that people are able to escape private relationships which are oppressive. Rather than a mere formal recognition of the equality among citizens, Anderson believes that democratic equality aims also to abolish private relations of domination with such guarantees – only then are citizens *truly* equal, since they know that they live under social conditions which respect their right not to be oppressed. On the other hand, she believes that all should be able to participate in the public sphere – in politics and in civil society - on an *effective* equal footing if they so chose, as people whose views and interests have equal weight.

She notes three different kinds of valued functionings which must be left effectively open to all, for social conditions to genuinely guarantee citizens' claim to equality. These are functionings (a) as a human being, (b) as a worker in a system of cooperative production, and (c) as a citizen of a democratic state. With respect to (a), citizens are to be afforded effective access to the bare necessities of biological functioning - food, shelter, clothing, medical care – and to the basic conditions of human agency, that is, those psychological conditions like basic knowledge of one's surroundings crucial for instrumentally rational decision-making as well as freedom of thought and movement. With respect to (b), citizens are to be afforded such things as effective access to productive assets, an education to develop one's talents, recognition for their productive contribution and the right to receive fair value for one's exercise of labor. With respect to (c), citizens are to be afforded rights to politically participate and effective access to public spaces and the basic necessities of communication.⁴¹

It is these ideas which drive Anderson to commit to the claim that, positively, a relationally egalitarian standard of justice demands sufficiency – that is sufficient capabilities - as an intrinsic demand of justice. But she goes further than claiming that these are intrinsic demands of a society of equals. She suggests that so long as all are afforded this sufficient effective access to levels of functioning to stand as

⁴¹ Anderson "What Is the Point of Equality?" p.317-318

equals as human beings, workers, and citizens outlined above, there are no intrinsic complaints on grounds of social justice.⁴²

2.2. Anderson's Argument for the Negative Thesis

Let's unpack Anderson's commitment to sufficiency as the *only* intrinsically important standard of distributive justice. That commitment encompasses two claims:

1. Positive thesis: what is intrinsically important from the point of view of justice is that everyone should have enough to relate as equals.
2. Negative thesis: what people have beyond the level required to relate as equals is *not* intrinsically important from the point of view of justice

In her exposition of relational equality, Anderson does a thorough job of explicitly clarifying the positive thesis: for there to be social conditions which safeguard equal standing for all, it is important that all have enough. Although Anderson is unclear about this, the positive thesis alone does not purchase sufficiency as the only intrinsically important standard for distributive justice, since, as Paula Casal has points out, sufficiency and other distributive principles such as priority or equality are not mutually exclusive.⁴³ One may believe, in fact, that sufficiency is the most *urgent* kind of distributive requirement of justice while *also* accepting that other principles also intrinsically matter to justice. For instance, some theories may endorse lexical priority to those under the sufficiency baseline and *also* commit to a separate principle of distributive justice which gives then weighted priority to the worse off, for those above the sufficiency baseline. For Anderson's insistence on sufficientarian distributive standards to stand, then, a negative thesis is needed, that from the point of view of justice, individuals do not have an intrinsic complaint about not getting more when they are given enough. The two theses, put together, entail the following. Sufficiency is the *only* standard of distribution intrinsically important from the point of view of justice.

Why does Elizabeth Anderson endorse the negative thesis and so sufficiency? In her writings, we find two distinct but connected arguments which drive her to accept the negative thesis. The first argument is a negative one: that envy, the unjustified desire that others not have more than oneself, should play no role in the justification of principles of justice. She asks: "what is the attitude that the less fortunate express toward the more fortunate when they make claims in accordance

⁴² Ibid. 326 "Once all citizens enjoy a decent set of freedoms, sufficient for functioning as an equal in society, income inequalities beyond that point do not seem so troubling in themselves."

⁴³ See Paula Casal, "Why Sufficiency is not Enough," *Ethics* 117 (2007), esp. pp. 297-298

with [distributive egalitarianism]?”⁴⁴ Her answer is that that attitude is envy. But then, she asks, how can envy, the thought that “I want what you have” be a plausible basis on which distributive claims are judged? Her answer is straightforward and plausible: “envy is malicious, for the envious stake their sense of well-being on another’s deprivation” and such malice has no place in justifying principles which govern a society of equals.⁴⁵ Correspondingly, she argues, distributive egalitarians have to make *pity* for the envious (i.e. the less fortunate) the ruling emotion which drives the *envied*, (i.e. the more fortunate) to accept distributive equality. These two emotions of envy and pity are, on Anderson’s views, *strictly incompatible with* individuals seeing each other and so standing as equals. On Anderson’s view, a respect for the proper interests of people which is central to the project of justice would not accede to demands of envy as grounds for redistribution.⁴⁶

The second and positive reason for her endorsement of the negative thesis is one which says, on pareto grounds, that there is no intrinsic complaint to inequality beyond sufficiency because inequalities redound to the absolute benefit of all. Her basic claim hinges on the benefits that all enjoy when we allow for the free exercise of individual choices within market institutions. In one version of this argument, she critiques Swift’s endorsement of equal opportunity in education. Against Swift’s claim that it is unfair that poorer parents cannot afford an equally good education for their children as their richer peers, Anderson argues that “we all have an interest in the development of everyone’s talents, because such development enhances overall productivity, increasing the size of the pie... no one is entitled to demand a smaller pie, just so that they can get a larger proportional slice – that is, just so that they can improve their *relative* standing in what is conceived of as a zero-sum game.”⁴⁷ In such a characterization of concerns for the equalizing distribution of properly scarce resources such as education, she embraces two claims. First, a normative claim that a pareto principle governs distributive justice beyond sufficiency and second, an empirical claim that the free exercise of market choices in the distribution of scarce resource is pareto-improving. Her pareto principle says: if unequal attainment of scarce resources redound to the *absolute* benefit of all, then such inequalities are generally justified in an all-things-considered way. Her empirical claim says: beyond an *adequate*

⁴⁴ Anderson, “Equality,” p.307

⁴⁵ Anderson, “The Fundamental Disagreement Between Luck and Relational Egalitarians”

⁴⁶ In other writings as well, she argues that demands of equality in educational opportunities for all wrongly give weight to envy as a claim in the distribution of resources. See, for instance, her critique of Swift’s equality of opportunity doctrine in her “Rethinking Equality of Opportunity: Comment on Adam Swift’s How Not to be a Hypocrite” (2004)

⁴⁷ Anderson, “Rethinking Equality of Opportunity” p. 105

attainment of scarce resources, distributive inequalities in scarce resources redound to the benefit of all. Thus, she argues, comparative complaints about citizens' access to scarce resource cannot count as legitimate claims of distributive justice.

These two arguments in favor of the negative thesis, combined with her argument for the positive thesis, make her endorsement of sufficiency seem plausible indeed. First, her positive argument fixes intuitions about what people ought to be, all-things-considered, guaranteed: everyone is to be guaranteed what is sufficient for their effective access to valued functionings as equal persons, citizens, and workers. With this intuition fixed, her envy argument for the negative thesis says any demand for more is unreasonable: one might complain about not being guaranteed *enough* but, once one has enough to function as an equal citizen, person, and worker, what grounds could one possibly have for complaining – at the bar of justice - that one doesn't have *more*?⁴⁸ That seems to be envy, a malicious emotion which cannot justify claims of distributive justice. Finally, her pareto argument for the negative thesis gives the sufficiency standard its dialectical thrust, confirming our suspicions that it really is envy which is driving the demand for greater distributive equality. If the exercise of freedom of individuals beyond sufficiency redounds to the benefit of all in absolute terms, any demand that distributive inequalities be reduced at the bar of justice seems just plain unreasonable; after all, even the worst off would benefit from those inequalities. What complaint could there possibly be other than envy?

2.3. The Pareto Argument

Anderson's pareto argument is worth exploring in depth. First, it seems to me that the pareto argument is what fixes intuitions about envy. For Anderson, it is *because* inequalities beyond sufficiency redound to the absolute position of all that it would be envious to desire less inequality. Second, and more importantly, it seems to me that the pareto argument is the main theoretical motivation which rules out supra-sufficiency distributive standards. To explain this latter point, I take a step back to the basic debate between distributive egalitarians and Anderson, their fundamental disagreement about how to conceptualize questions of distributive justice, and the implications this has for her acceptance of the baseline of distributive justice. I explain the former point afterwards.

In debates between theorists who argue for distributive equality and those who reject distributive equality, one of the main disagreement is what each takes to be the presumptive *baseline* – or the *presumptively just distribution* – from which any

⁴⁸ As noted in the introduction (at page 6), she does add an 'upskilling' proviso to sufficiency: since persistent social stratification of certain groups in menial jobs creates an aristocracy. This seems to me to a sufficiency thesis about adult educational opportunities – and so I assume it to be part of what Andersonian sufficiency effectively guarantees here.

departure must be independently justified. In simple terms, there is a baseline *pattern* that is presumptively just, and then various principles of differing strength which justify departures from that baseline pattern. Those who believe in distributive equality believe that the baseline pattern is equality: everyone has a *presumptive* claim to equal shares, deviations from which must be justified. Those who reject distributive equality don't believe that baseline pattern can be so easily specified as equality. Unsurprisingly, in the dispute between distributive egalitarians and Anderson about distributive justice, one main intuition under dispute is similarly what the specification of such a baseline pattern of the distribution of resources is.

Let me explain. In typical formulations of luck egalitarianism, it is taken as basic that creating choice-sensitive but circumstance-insensitive distributions of things recommends certain *egalitarian* patterns. At the most basic level, this is because distributive egalitarians typically think that no one has any prior claim to any of the world's resources: when we are born, we happen to be placed in a particular space and time, with resources that have been created without our contribution.⁴⁹ And crucially, *because* nobody has any prior claim to anything, on that view, the default moral commitment is *a presumption of equal shares* on account of the equal moral status of all.⁵⁰ The question of distributive justice

⁴⁹ What claims people have to resources that were *created by* individuals is, of course, a thorny question – and another hurdle that distributive egalitarian views may have to reckon with independently. On one view, since most value in resources have been created by humans, there *are* prior claims – namely the claims of those who have improved the value of worldly resources. Natural rights libertarians with Nozickian sympathies may, in fact, argue that *almost all* of the value of existing resources have been created by individuals who improved the negligible value of unimproved worldly resources and so *they* have legitimate claims. I don't intend to wade into this debate. But here's one direction in which luck egalitarians *could* attempt to vindicate the no-prior-claims view for even these man-made values of worldly resources: they could deny that there is legitimacy in initial acquisition claims to *permanent* and bequeathable property in natural resources in the way Nozickian libertarians suppose. If luck egalitarians deny that such property claims are permanent or bequeathable, then they can deny that some person's added value presents a challenge to the no-prior-claim view, since at any given point in time, most of the added value which exists at that moment can be traced back to decisions to which nobody alive has contributed or is related.

⁵⁰ It may be asked: but if nobody has a prior entitlement to worldly resources, why not distribute resources according to a *nonegalitarian pattern*? That is, after deciding on whatever it is to be distributed, such as resources, welfare, or opportunities, why insist that an egalitarian pattern is any less morally arbitrary than a non-egalitarian pattern? Thus, Susan Hurley asks why luck egalitarians aren't committed to the following inequalitarian view called *inequality-default*:

“This view takes an unequal distribution as the default position: aristocrats should have more than peasants, whether this is a matter of luck or not. Departures from this inequality, including equality, need to be justified by responsibility,”

proper, for luck egalitarians, then, is equivalent to how to fairly distribute manna from heaven for which nobody is responsible. And to this question, they answer: since some people exercise choice more responsibly or more deservingly compared to others, those who do so ought to get more of the manna against the presumptive baseline of equality. The dispute between responsibility-catering luck egalitarians such as Rakowski and desert-catering luck egalitarians such as (the early) Arneson could be understood as a dispute over what kinds of exercise of choice justify deviations from this presumption. The presumption of equal shares in worldly resources, then, is what distributive egalitarians take to be a the presumptively just baseline. And based on this pre-theoretical baseline of equal shares, distributive egalitarians engage in institution-independent reasoning about justice.

Anderson's theoretical qualm with such a view is that, *pace* distributive egalitarians, resources are not like manna from heaven. On the contrary, resources are the result of institutional achievements in complexly organizing cooperation and so the very amount of resources available for distribution depends *fundamentally* on how artificially constructed institutions are set up so as to facilitate social cooperation in production. On her view, there can be no *pre-institutional* baseline pattern, such as equality, on which to judge the justice or injustice of the distribution of things in society. And since, on this view, even our attempt to say what baseline pattern is presumptively just requires us to engage in reasoning about institutional rules, the question of distributive justice proper becomes those which justify this set of institutions or that set of institutions. Anderson thus believes that we must employ 'regulative reasoning,' *all the way down* when considering questions of distributive justice.⁵¹ Since this is so, whichever general institutional features best respect the interests of free and equal citizens is to be understood as the baseline of distributive justice, against which deviations must be justified.

On more precise terms, the disagreement is this. Distributive egalitarians follow ordinary notions of pre-institutional desert or individualistic moral entitlements in conceiving of distributive justice. Crucially, these ordinary, pre-theoretical notions of what economic rewards people are entitled to are based on certain morally salient characteristics of *individuals* who receive such rewards. It doesn't strain common sense to say that, for instance, that children of rich parents ought not to be able to live off fabulously large trust funds without liability to work

Distributive egalitarians have a ready answer, which is that if people are only to keep what they are due in accordance with their exercise of choice, then it appears that all resources over which nobody has a prior claim ought to be distributed in a choice-sensitive and circumstance-insensitive way. See G.A. Cohen's "Luck and Equality A reply to Susan Hurley" for a detailed response along these lines.

⁵¹ Anderson, "The Fundamental Disagreement," p.36; She says that "what justice requires [] cannot be specified independently of the principles that properly regulate such claims."

– or without putting in effort in any serious endeavor – merely because their parents are rich.⁵² Why? Well, one obvious answer is that they *don't deserve it*, since there is no fact about them which merits economic reward in that way. On the other hand, we might think that a conscientious person who works very hard at his job at a factory *deserves* to be rewarded accordingly with his wages. That kind of person has certain characteristics – perhaps hard work, conscientiousness, productivity - about them which merits reward.

Setting aside the difficult question of stating precisely what this notion of desert or moral entitlement is, we do seem to make such intuitive judgments about the justice of people receiving economic rewards. And such judgements are, at base, *individualistic, institution-independent standards*. Notions of economic desert pick out some fact about the *individual* (and nothing else) to say that they merit or do not merit economic reward. On this picture, distributive justice is giving each person their due, in the sense of giving everyone what they deserve or are morally entitled to, economically. Distributive egalitarians' views attempt to combine such ordinary intuitions of deservingness with the further intuition that when we are born, we haven't contributed to the creation of any of the world's resources and so have no prior claim to them.

On the contrary, relational egalitarians like Anderson are skeptical of even *the possibility* of being able to make such individualistic judgments of distributive entitlements, given the conditions and nature of economic cooperation. The central thrust behind this skepticism is the fact that, as Scheffler puts it, “in the circumstances of moderate scarcity of resources that are typical of human societies, citizens' material prospects are profoundly interconnected through their shared and effectively unavoidable participation in a set of fundamental practices and institutions - the economy, the legal system, the political framework – that establish and enforce the ground rules of social cooperation.”⁵³ On Scheffler's account, there are three ways in which citizens' material prospects are interconnected:⁵⁴

1. People's productive contributions are mutually dependent in the sense that people's capacity to contribute is dependent on the contributions of others
2. The economic value of people's productive capacities is socially determined viz. by tastes, needs and choices of others
3. People's expectations of material gains are intertwined because any decision about the assignment of economic benefits and burdens will have

⁵² We may find it particularly unfair when they actually *do* live lavishly off of a trust fund in this way, but the very fact that they are *able to* is, in itself, may be seen as unfair.

⁵³ Samuel Scheffler “Justice and Desert in Liberal Theory” (2001) p. 985; Anderson accepts an equivalent view in “What Is the Point of Equality?” pp.321-322

⁵⁴ Ibid. p.985

implications for other people

The complex of such considerations about production processes push relational egalitarians to accept a *holism* about distributive justice. Since all economic decisions are complexly – and at a deep level – interrelated, it makes no sense to speak of the desert in determining just distributive shares in a complex economy. Fine-tuned, case-to-case judgments such as whether those trust-fund kids’ moral worthiness is misplaced, on this view. Rather, we have to make judgments holistically – about the moral worthiness of such arrangements, including their effects on the absolute position of the worst off. If there are some institutional arrangements which better meet the demands of justice than current ones which guarantee trust-fund children’s sloth, then we ought to reform current institutions. If there is nothing that can be feasibly done, there is no more to be said of such cases, at least at the bar of distributive justice. The point here is that on this view, decisions about distributive justice both in production and allocation of resources must be made in an all-things-considered way.

The main implication of this holism is that the distributive justice question changes from ‘how do we give each person what they deserve?’ to ‘how do we design institutions that free and equal citizens could accept as fair?’, where ‘fairness’ as a concept *cannot* be grounded in desert because of the considerations above. Thus, distributive justice, from Anderson’s perspective, starts from a baseline of distributive outcomes of a system of *institutional rules* which best deliver on the common interests implied by relational equality. Any deviation from such a system of institutional rules is what needs to be justified. This is what sets the stage of her pareto argument: what arrangement does she *presumptively* believe to be in the interest of citizens conceived of as free and equal? To this she answers, roughly, that we ought to start from a presumptively just baseline of efficient market outcomes constrained by sufficiency for all, against which deviations such as range-constraints which limit inequalities must be independently justified on a relational egalitarian basis.

Her endorsement of the market-outcomes baseline comes out most clearly on claims relating to the virtues of markets in productive efficiency. Anderson refers to Hayek in her rejection of the equalizing baseline as she notes that a system of market rules *cannot* survive desert-based corrections because “the efficient allocation of resources requires the use of vast information that is *essentially* dispersed among millions of individuals.” Because “[e]ach of us knows mainly our own preferences and opportunities” and such opportunities and preferences constantly change in response to new information, there is no way in which institutions can aggregate and use information *but* through free markets, where individuals make use of price signals which act as incentives which prompt

individuals to respond to market demand – and so the interest of others.⁵⁵

She makes claims in several places which indicate that she sees the inequalities which emerge from such interactions (insofar as they are constrained by sufficiency) are *prima facie* just. In her arguing for range constraints on incomes at the top, she argues that this is *instrumentally* justified because “income and wealth do not only buy frivolities. They buy political power and influence, access to positions of command, and superior social standing.”⁵⁶ But immediately after this sentence, she says “[I]n an ideal world, a comprehensive system of blocked exchanges (including, for example, limits on campaign contributions) and alternative paths to command, standing, and political power (for instance, in public funding of political candidates) would prevent the conversion of income and wealth into hierarchy” (italics mine) indicating that she not only believes that there is no intrinsic complaint about inequalities beyond sufficiency, but that market inequalities are presumptively *just*.⁵⁷

In other texts, she equates complaints against inequality to be *equivalent* to “demanding a gratuitous waste of a good that cannot be redistributed to another’s advantage, for the sole purpose of ensuring that no one has more than others” and that, as a result, relational equality “endorses the justice of inequality-generating pareto improvements, even when they leave some worse off than others, so long as they make others as well off as they could be.”⁵⁸ Thus, on Anderson’s view, since all have an interest in the utilization of marketable talents in inequality-generating (but pareto improving) productive arrangements, and since no alternative arrangement can meet that demand, market outcomes are *prima facie* intrinsically just.

It’s not difficult to see, then, why Anderson is pushed to deny the intrinsic importance of any standard of distributive justice which goes beyond sufficiency and further why she believes complaints about the intrinsic injustice of inequalities to be about envy. The positive argument for sufficiency stops a sufficiency because it is a non-arbitrary cut-off point for relational equality: all need to be *social equals*, after all, and for that all need to have *enough* to be social equals. But beyond sufficiency, since rising tides in markets ‘lift all boats’ including those who are worst off, market outcomes set the presumptively just baseline of just distributions

⁵⁵ See Anderson, “How Should Egalitarians Cope with Market Risks?”, pp.247-250

⁵⁶ Ibid. p.266

⁵⁷ Ibid. p.266; Anderson seems to think that beyond sufficiency, the *only* kinds of complaints against inequality are *instrumentalist* complaints. For instance, her justification for social insurance (constraints in the middle, such that people who are in the middle class maintain their position) is that such policies *causally prevent* bimodal distributions, which aids in having citizens continue to feel solidarity for each other.

⁵⁸ Anderson, “The Fundamental Disagreement Between Luck and Relational Egalitarians,” p.38

– and there is no intrinsic basis for complaint about unequal market outcomes: people ought to accept such outcomes as serving the interests of all insofar as market outcomes do not cause oppression or are the result of oppression. This is especially so since alternatives to pareto-improving market organization of production destroys efficiency.

And this *last intuition* is what drives Anderson to conclude that complaints about the intrinsic injustice of distributions beyond sufficiency are envious: there is no institutional mechanisms which *could* aim at equalizing distributions without levelling down.⁵⁹ Such complaints are like Salieri's complaint against the cosmic injustice of Mozart's superior talents: for Salieri to have his claim met, Mozart would have to be handicapped, squandering his talents and leaving him (and others) without enjoyment of his talents. This would be a completely unreasonable and so unjust claim.⁶⁰ Similarly, according to Anderson, for the claims of those who lament the intrinsic injustice of market inequalities to be met, others will have to fare worse than they would have otherwise when benefitting from those inequalities would have harmed nobody, an unreasonable and so unjust claim.

Conclusion

Beyond the arguments for the positive thesis, then, Anderson has in mind two arguments which are central to her embrace of the sufficiency of justice. The first, envy argument says that objections to inequalities beyond sufficiency are motivated by envy and therefore are not legitimate demands for justice. The second, pareto argument says (a) that distributive justice endorses unequalizing pareto improvements and (b) that the free exercise of choice in markets delivers on pareto improvements. To this she adds that the markets are the *most* pareto-improving distributive mechanism. But as we have seen, the pareto argument is fundamental to her acceptance of the negative thesis and so sufficiency, in the following sense. First, by setting the presumptively just baseline pattern as market outcomes, the pareto argument places the burden on those arguing for distributive principles beyond sufficiency. Second, the envy argument essentially *rides* on the conclusions of Anderson's pareto argument. It is *because* a market system delivers on pareto improvements for all that attempts to achieve this are unreasonable and shrill-

⁵⁹ This seems to follow from her Hayekian argument for markets – alongside *multiple* cases where she essentially says that intrinsic objections against inequality are equivalent to complaints motivated by envy. See “The Fundamental Disagreement,” p.38 she claims that ‘envy.. has no weight [in vindicating claims of justice]’ immediately before her claiming that relational egalitarians endorse pareto improvements; similarly in “Rethinking Equality of Opportunity” p.105, the pareto argument for educational opportunities is immediately preceded by an envy interpretation of Swift's claim that it is unjust that richer parents give educational advantages to their children

⁶⁰ As she argues luck egalitarians' complaints are, in her “The Fundamental Disagreement”

sounding demands to level down.

In concluding, I explain into some detail to explain her employment conditionality interpretation, and then go onto argue that this interpretation should be rejected in the next chapter. In her discussions of the structure of the sufficiency standard, Anderson notes two ideas – guarantee of effective access, and productive obligations - which together make up what I call her employment conditionality interpretation. First, she argues that relational equality “guarantees not actual levels of functioning, but *effective access* to those levels,” where “effective access to a level of functioning means people can achieve that level of functioning by deploying means already at their disposal, not that the functioning is unconditionally guaranteed without any effort on their part.” In this way, effective access to sufficient capabilities is normally conditioned on agents making an effort within their means to the access options open to them. And so, since sufficiency is a principle of guaranteed effective access, individuals are “free to choose to function at a lower level than they are guaranteed.”⁶¹ Second, with regards the sufficient functionings to which effective access is guaranteed, because citizens society are obligated to produce resources to secure them, “those capable of working and with access to jobs, the actual achievement of these functionings is, in the normal case, conditional on participating in the productive system.” These two yield what I call Anderson’s employment conditionality interpretation of sufficiency: “most able-bodied citizens will get access to divisible resources they need to function by earning a wage or some equivalent compensation.”⁶²

Admittedly, she allows that there would be *additional* layers of protections beneath this level: “[t]he conception of society as a system of cooperation provides a safety net through which even the imprudent are never forced to fall.”⁶³ But the employment conditionality that she attaches to access to sufficient functioning is, it appears, quite robust in the sense that this layer of unconditional protection would be narrowly defined. On the one hand, she explicitly rejects a prominent proposal for universal basic income on the grounds that “nobody is owed the real freedom to function as beach bums.”⁶⁴ On the other hand, her proposed mechanism for achieving a decent minimum are a minimum wage, taxed credits for earned income (a negative income tax), a qualified entitlement to work, and socially provided pension schemes and disability insurance, all of which attach to employment status.⁶⁵ In sum, Anderson’s employment conditionality interpretation of sufficiency states that able-bodied adults who have effective access to employment

⁶¹ “What is the Point of Equality” p. 318

⁶² Ibid. p.321

⁶³ Ibid. p.325

⁶⁴ Ibid. p.321

⁶⁵ Ibid. p.325

– and with no competing obligations such as dependent care - will have to take on employment to enjoy sufficient functioning to stand as equals.

Chapter 3. Workplace Domination's Endemicity and Its Cause

I explained in the last chapter that Anderson endorses sufficiency as the distributive standard of relational egalitarianism and that her support for sufficiency hinges crucially on her pareto argument. In this chapter, I motivate my substantive discussion in the third chapter by arguing that workplace domination is an endemic issue within unequal market economies, and that the proximate cause of workplace domination is a lack of bargaining power. My discussion in this chapter proceeds in four parts. First, I introduce the problem of workplace domination under firm-based production processes. Second, I argue that the problem of workplace domination is endemic under capitalist institutions such as ours. Third, I raise and respond an objection which says that workplace domination is extinguished through competitive pressures in the market. Fourth, I argue that amendments to the workplace constitution, Anderson's proposed solution to the problem of workplace domination, is insufficient to prevent domination because it inherits the problem of asymmetric bargaining power prevalent under current market institutions.

3.1. Markets, Firm-Based Production, and Domination

Complex, modern economies must be organized by markets. But why are markets important, and how ought market mechanisms organize production? I start with a more detailed overview of the case, due to Hayek, and accepted by Anderson, for the necessity of markets for efficient complex system of rules which organized production and then go onto explain how this relates to worker domination.

In "The Use of Knowledge in Society," Friedrich Hayek points to markets as an essential institutional mechanism for the use of widely dispersed information, in service of the efficient allocation of resources. The idea is this: in markets, prices signal the relative desirability of various factors (labor, capital, goods and services, etc.), *given* the various uses of such factors by others in the economy. For instance, the price of a carton of milk, say at \$1, will reflect the relative scarcity of the labor inputs, capital inputs, supply chain costs, and so on which went into producing and supplying that carton of milk. The majesty of such a system is that the price signals contain information regarding *all* relevant trade-offs in the economy in the production and sale of a particular good or service, *without* any one person having to know what the relative desirability of the innumerable trade-offs are throughout the economy. Rather, individuals and organizations, who know very little about preferences and opportunities beyond the ones which they are faced with, simply

use such price signals, combined with their particular localized knowledge to consume, invest, and supply – and these decisions, in turn, impact prices on factors so deployed. For instance, a person who had knowledge of specific production technologies to produce milk at 20 cents a carton, given prevailing wages and capital costs, would be able to undercut rival producers by selling at, say, 80 cents, rather than \$1. This will (assuming, implausibly, no product differentiation) tend to depress the price of milk. This may, in turn, motivate others to buy milk instead of orange juice, creating incentives for orange juice producers to sell at lower prices, etc. The resultant nexus of such emergent interactions in response to prices for various goods and services is what allows the economy to produce efficiently by allocating resources to those to whom it is most valuable.

Indeed, Hayek argues that this role of prices in efficiently allocating factors is such that *decentralized* use of information (through markets) is not only possible but *required* for prices to have their desirable allocative effect. To wit, centralized aggregation of localized information for such trade-offs between factors is an impossible task because most localized information deployed in response to, and is determinative of, price signals are often transitory and interact with others' use of information in complex ways. To illustrate the transitory nature of information: say that the price of iron significantly increases because of some shortage in iron ores. The fact of shortages will often start by being known only to a small number of individuals – say, commodity traders and some industry specialists. And this shortage may well be transitory: if the shortage is expected to last for only a month, the window in which commodity traders may capture surplus value from the temporary rise in price of iron ores is relatively short. Countless such transitory pieces of localized information will exist throughout the economy, and without markets to allow for the extraction of such surpluses using transitory, localized information, those opportunities are squandered.

More importantly, as Hayek argues, the reverberations to the rest of the economy of single instances of price changes are so complex that only a market production system can accurately adjust various trade-offs between factors that result. Returning to the example of the iron ore shortage: say that such a shortage is a medium-term shock resulting from a civil war around a key iron mine. In such a case, there may be an attendant global supply shock to steel production because of the lack of iron ores. Producers (say, of mobile phones) that previously used steel but can easily switch to substitutes, say, aluminium, are able to do - and so, aluminium prices rise. This has run-on effects on other producers that use aluminium in their production processes, still impacting other factors' prices that are complements or substitutes of aluminium. Other producers (say, ship manufacturers) which cannot switch to substitutes may have to cut labor costs in order to continue using steel, at that higher price, leading to a decrease in wages in

such industries relative to other factors. And so on. And this is a story that can be told for not just individual inputs like iron and steel but essentially *all* factors within the economy. Hayek's insight is that meeting the informational requirements of centrally coordinating such relative trade-offs between factors in the economy is an impossible task. The upshot is that a serious attempt at centrally determining relative trade-offs between the relative desirability of factors within an economy will generally fail to accurately reflect the *actual* relative desirability of each factor, and as such will produce goods and services in quantities that are not reflective of actual demand capacity or supply capacity.⁶⁶ This is what makes the use of markets and market prices essential for complex production processes which characterize modern economies.

So, markets are essential for the organization of production. But how do markets organize production? In the complex economies that we live in, paradoxically, central coordination of production of goods and services in cooperation for production is essential. Owing to increased efficiencies in scale in production processes, there are higher upfront capital expenditures for the most profitable areas of the economy, which means that sole proprietorships or other similarly small-scale ownership structures are difficult to maintain for the ever-greater parts of the economy. And this generates pressures for centralization of production, namely, through the corporation.⁶⁷ More importantly, even excluding

⁶⁶ This dynamic is what explains the failure of Soviet-style central planning.

⁶⁷ To see the theoretical hypothesis for this claim, see Harold Demsetz "Industry Structure, Market Rivalry and Public Policy" (1973) in which he argues that firms such as GM and IBM that scale particularly well may have certain advantages to efficiencies that other firms do not – which makes monopolies not necessarily rent-seeking.

For empirical evidence for this claim, see Clarke, Davies and Waterson (1984) "The Profitability-concentration relation: market power or efficiency?" They conclude that the empirical data does not decisively show that the efficiency hypothesis or market power hypothesis to be decisively true. They cautiously conclude that both effects may work in tandem.

More recent works also divide around the issues of what causes concentration. Autor et al., in "The Fall of the Labor Share and the Rise of Superstar Firms" (2020) argue that there is support for the claim that globalization and technological change has pushed sales towards the most productive firms in each industry, leading to product market concentration among 'superstar firms' which have high markup and low labor share of value added, due to high elasticity of substitution between labor and capital (i.e. the ability to replace labor with capital inputs). Haskel and Westlake, in *Capitalism Without Capital: The Rise of the Intangible Economy* (2017) argue that the importance of intangible capital in modern firms, such as brand power, leads to increased economies of scale in product market competition, because consumers are more likely to buy products from such firms. On the other hand, there are others who argue that concentration among firms is due to rising barriers to competition. For instance, Furman, in his "Business Investment in the United States: Facts, Explanations, Puzzles, and Policies" (2015) argues that increased and persistent returns on

these advantages of the massive economies of scale which accrue to corporations, hierarchical organization of production more generally allows for a significant reduction in the kinds of transaction costs involved in horizontally coordinated economic activity. Thus, hierarchical and centralized organizations, namely firms, are the normal unit of production in modern economic life.⁶⁸ Here, Anderson's discussion of why hierarchical coordination of labor in firms has come about is worth quoting in full:⁶⁹

“Economies of scale do not explain why production is not managed by independent contractors acting without external supervision, who rent their capital. One could imagine a manufacturing enterprise renting its floor space and machinery and supplying materials to a set of self-employed independent contractors. Each contractor would produce a part or stage of the product for sale to contractors at the next stage of production. The final contractor would sell the finished product to wholesalers, or perhaps back to the capital supplier. Some New England factories operated on a system like this from the Civil War to World War I. They were superseded by hierarchically organized firms. According to the theory of the firm, this is due to the excessive costs of contracting between suppliers of factors of production. In the failed New England system, independent contractors faced each other in a series of bilateral monopolies, which led to opportunistic negotiations. The demand to

capital among the biggest firms suggests the rise in barriers to entry in a wide variety of industries and increased rent-seeking behavior.

Note that these two explanations – efficiency effects and anti-competitive behavior - are not mutually exclusive, as it may well be the case that the biggest firms have concentrated market power and exhibit anti-competitive behavior whilst *also* being able to produce more efficiently due to significant economies of scale.

My point that increased economies of scale leads to greater concentration in production stands, however, even if the concentration of market power is explained in whole by the anti-competition hypothesis. This is because the efficiency hypothesis hypothesizes that centralization of production has *accelerated* as a result of certain structural features in industry. The point that I make is rather that vast swathes of the economy must be centralized to take advantage of economies of scale (even if, after a certain threshold, further concentration of market power is explained by anti-competitive behavior) – a relatively uncontested thesis in the economic literature and quite observably true when we consider the scale of upfront capital expenditures needed for the production of the everyday consumer products. Of course, if the efficiency hypothesis to the rise of superstar firms turns out to be true, then my empirical point is strengthened, since that would indicate that increasingly complex production requires increasingly larger hierarchies that are characteristic of corporations.

⁶⁸ Coase “The Nature of the Firm” *Economica* 4, no. 16 (1937): 386-405

⁶⁹ Elizabeth Anderson, *Private Government: How Employers Rule Our Lives and Why We Don't Talk About It* (2017) pp. 51-52

periodically renegotiate rates led contractors to hoard information and delay innovation for strategic reasons. Independent contractors wore out the machinery too quickly, failed to tightly coordinate their production with workers at other stages of production (leading to excess inventory of intermediate products), and lacked incentives to innovate, both with respect to saving materials and with respect to new products.

The modern firm solves these problems by replacing contractual relations among workers, and between workers and owners of other factors of production, with centralized authority. A manager, or hierarchy of managers, issues orders to workers in pursuit of centralized objectives. This enables close coordination of different workers and internalizes the benefits of all types of innovation within the firm as a whole. Managers can monitor workers to ensure that they work hard, cooperate with fellow workers, and do not waste capital. Because they exercise open-ended authority over workers, they can redeploy workers' efforts as needed to implement innovations, replace absentees, and deal with unforeseen difficulties. Authority relations eliminate the costs associated with constant negotiation and contracting among the participants in the firm's production. To put the point another way, the key to the superior efficiency of hierarchy is the open-ended authority of managers. It is impossible to specify in advance all of the contingencies that may require an alteration in an initial understanding of what a worker must do. Efficient employment contracts are therefore necessarily incomplete: they do not specify precisely everything a worker might be asked to do."

So, the crucial reason for the success of firms over alternative organizational forms is precisely that hierarchical coordination makes use of open-ended powers and prerogatives that allow managers to flexibly pursue goals compared to less hierarchical systems which allow for constant renegotiation and bargaining, which have high transaction costs. Anderson notes that these distinct features of open-ended authority which enable this preeminence of capitalist firms reveals the situation of ordinary workers, then, is *not* one merely of *bargaining position*. Crucially, this is because capitalist firms depend for their efficiency on relevant laws of property, incorporation, and labor which *institutionally grant* the kinds of open-ended managerial authority necessary for efficient organization of production. And because of this fact, the signing of labor contracts – for ordinary workers - is not “an exchange of commodities on the market, but [a] way workers get incorporated under the governance of productive enterprises.”⁷⁰ They sign

⁷⁰ Anderson, “Freedom and Equality in the Workplace,” p. (2015)

standard employment contracts which are contoured by *exactly* those laws of property, corporation, and employment which allow firms to operate efficiently i.e. exercise open-ended managerial authority – and so, the baseline employment terms for a typical worker is submit to exactly what the employer wishes them to do, *except for* those things that are illegal.

But workers' subjection to open-ended authority, which is efficient from a productive standpoint, Anderson notes, make high levels of domination an attendant feature in societies like ours. Indeed, she goes as far as to say that in the United States, most workers live under what is effectively a 'dictatorship,' where managerial authority extends *far beyond* what is necessary for the efficient functioning of markets and intrudes on workers' rights to political speech, use of alcohol, smoking and exercise.

At the most general level, domination happens when one set of agents have arbitrary powers over other agents, *even when these powers are not exercised*. Arbitrary powers are powers to intervene without sufficient regard for "the interests and ideas of the person suffering the interference."⁷¹ So, for instance, even if a slave does not have his rights violated because his master is benevolent, he is dominated because, being a slave, his master has arbitrary power over him. The very fact that non-interference depends on the benevolence on the part of a more powerful other makes the domination claim true.

Workplace domination, in particular, happens because background legal structures enable hierarchical structure of firms alongside open-ended labor contracts. As noted above, the very foundation of efficiency in a firm-driven economy is open-ended managerial authority: efficient labor contracts are incomplete *precisely* because they allow managers to efficiently deploy labor. For this reason, standard employment relationships in firms cede all residual decision-making rights to employers.⁷² An agent possesses residual decision-making rights over a set of outcomes or actions *only* when that agent has the final say over outcomes or actions when there is no decision that was specified in advance.⁷³ However, this complete ceding of residual decision-making rights to employers, combined with the various internal structures of firms makes the domination of employees a reality.

At the most basic level, managers have the power over roles, responsibilities, and working hours as well as working conditions – and this is so generally without

⁷¹ Pettit *Republicanism: A Theory of Freedom and Government* (1997)

⁷² I borrow this term from Hsieh's discussion "Survey Article: Justice in Production" (2008) See p. 81

⁷³ As clarification, these residual decision-making rights, of course, do not imply that certain of rights that employees do not have such as a right to a minimum wage, basic safety and the right to exit or the right to negotiate.

constraints which force sufficient consideration of the interests of workers. As such, opportunities for training, promotions, etc. at the firm level will generally not reflect serious consultations with workers that do not individually have significant bargaining power. This mix of managerial discretion, combined with significant exit costs for employees generates significant levels of domination in the workplace, especially for those who are low-skilled.

3.2. The Endemicity of Workplace Domination

It might be observed that these are problems that are resolvable, through labor regulations in favor of employees' rights. For instance, already, employers can fire or sanction employees only for a legitimate business purpose and they are forbidden from sexually harassing individuals. Further regulations can be introduced to counter employee domination. On the contrary, no matter how strictly such legal mechanisms are introduced, no regulation can by itself eliminate domination in market orderings of production because the core of open-ended managerial discretion – the very source of domination – is necessary to deploy labor efficiently consistent with market competition. Essentially, regulations, at pains of destroying efficiency, must leave intact the central range of managerial discretion. While laws can regulate the residual decision-making rights of managers at the margins by outlawing or strictly delimiting certain actions, such as by banning sexual harassment, such proscribing must leave still an indefinite range of decisions – of unspecified scope - within the hands of the manager. And because this is so, the discretion managers wield remains a source of domination in the workplace.

To see this, consider the following. *The central range of exercises* of managerial discretion are *justifiable* from the point of view of legitimate business purposes and cannot be contained for fear of destroying the economy. For instance, for any employer to run an organization effectively, she must have the power to fire people if not doing so would threaten the pursuit of core business objectives. Companies often are faced with the following sort of problem: a worker is *terribly* inefficient and so a serious drag on profits. Even after all reasonable efforts at retraining and convincing, the employee will not cooperate to improve their performance. And because of such eventualities, institutions which promote efficient market ordering of production make provisions such that employers *can* fire or otherwise sanction such employees. If it were otherwise, many companies would be saddled with significant inefficiencies – and may even go out of business, with knock-on effects to the rest of the economy. For instance, the capital that the company deploys may go through a period of disuse (before sale to another firm) and other employees would suffer from needless job loss. Thus, for the efficient functioning of markets, the law allows room for managers and businesses to

exercise such *central range* of powers of wide and unspecified scope such as those with respect to training and sanctioning of employees. In other words, the wielding of the core of all residual-decision making rights, which are crucial to the efficient deployment of labor, will always be seen as *justifiable* in the eyes of the law.

But for any class of actions X which are *justifiable* on reasons R, particular token instances of X may not actually be *justified* by reason R. This is for the simple reason that any token instance of X that is *justifiable* by reason R may not actually be carried out in response to reason R. And in these instances, the token action X is not *justified*. Only when X is justifiable by reason R *and* carried out in response to reason R will it be *justified* on reason R. For instance, say that a boss fires an employee simply because he dislikes an employee, because the boss finds her personality disagreeable, even though the employee shows greater than average productivity. Under a certain wide range of conditions, the firing of this employee may be *justifiable* by appeal to some legitimate business interest. Indeed, the stated rationale for firing may well be that the employee was a drag on profits. However, since the actual reason that motivates him to fire the employee are *not* because of legitimate business interests but rather because he simply doesn't like the employee, this is not *justified* on the rationale of promoting a legitimate business interest.

These observations generalize to all of the core managerial prerogatives, including dismissal, that managers have over employees. It does not constitute unlawful harassment in many states in the US, for instance, for employers to yell at employees all day long in the US to work harder.⁷⁴ Why? Well, largely because proscribing such behavior would be difficult or inefficient. But say that we make the determination that such behavior is unacceptable, all-things-considered and so proscribe managerial authority, through rules and regulations. But, when we proscribe authority in such limited instances, that there is still an ever-expanding array of possible forms of worker domination, not all of which can be limited, because of the limits of how far the law can go without destroying all the beneficial economic effects which flow from managerial discretion. On what principled basis would, for example, the law prohibit a boss from refusing to train an employee, or giving terrible work evaluation scores because he dislikes them? I think that there are none.

Take worker evaluations for illustration. Without significant managerial discretion in worker evaluations, firms would lose the ability to aggregate firm-wide information on the productivity of employees, something that is an absolute necessity if firms are to monitoring employees and efficiently deploy labor. Note that efficiency gains from efficient deployment of labor are possible *only when*

⁷⁴ I take this reference from Lucas Stanczyk's panel presentation in "Social Inequality & Economic Justice," *Harvard University Edmond J. Safra Center for Ethics*, (at <https://www.youtube.com/watch?v=2XpyrqyCP9I&t=4290s>)

there is open-ended managerial authority guaranteed by the law, because production processes vary from company to company, depending on local conditions. Amazon might want to see how many boxes the average employee is able to move around per hour in order to make decisions about how many people to hire – and so choose a standard of evaluation which maximizes productivity in moving boxes through trial and error. Google might have varied internal standards depending on the nature of its many business areas: its online advertisement business might evaluate employees based on increases to quarterly revenue since that business segment is already mature while its AI business might have to rely on factors that are intangible, because there isn't yet a revenue source. As such, the central range of managerial discretion over such decisions must be left untouched by the law. *As a consequence of this fact that efficiency requires open-ended discretion*, when that discretion is abused, the law generally has to side with the manager. When Amazon imposes 'time-theft' rules into its worker evaluation forms for employees taking a ten-minute break, for instance, the law sides with Amazon because the central range of discretion over worker evaluations is within the prerogatives of the managers and the firm.⁷⁵

Further, even when the law *does* proscribe managerial discretion and declares certain classes of behavior unlawful, it is often unable to make determinations between whether such actions do cross the line in most borderline cases. Once again, this is because such fine-grained determinations would intervene in almost all major managerial discretionary decision, which are supposed to be the very *hallmark* of an efficient market ordering of production. Thus, the law as a blunt tool must allow for many if not most employment decisions such as those just stated that are *justifiable* but not actually *justified*.⁷⁶

So far, I have argued, from the structure of laws as blunt tools, that it is impossible to tailor regulations to prevent domination. Even with these limitations to legal regulation, could it not be that firms *themselves* refuse to dominate workers? I argue that, in the normal case, firms indeed dominate workers. For this,

⁷⁵ Simon Head, "Worse Than Wal-Mart: Amazon's Sick and Secret History of Ruthlessly Intimidating Workers," *Salon*, February 23, 2014, http://www.salon.com/2014/02/23/worse_than_wal_mart_amazons_sick_brutality_and_secret_history_of_ruthlessly_intimidating_workers/. From Anderson, *Private Government*, Chapter 7, n.11

⁷⁶ These considerations respond to a potential objection to the domination argument just made: that wielding managerial power for 'legitimate business interests' does not entail domination, since it is not an *arbitrary* use of power. Any efficient market ordering of the sort that Anderson wants will entail domination because of the law's inability to determine between cases that are justifiable and justified. This analysis, indeed, is essentially a rejoinder to Anderson's optimism that a workplace constitution may remove the exercise of unjustified power. Such a constitution may significantly contain uses of unjustified power, but elimination just isn't a possibility, consistent with efficient market orderings.

let us discuss what it takes for exercises of power to *not* be arbitrary and then about what it takes for *discretionary* authority to not be dominating. I apply these republican insights to the workplace case to argue that managerial discretion *does* entail domination.

Neo-republicans such as Philip Pettit argue that there are two so-called *empire-of-law* conditions which must be met, so far as possible, in order for the exercise of power to be non-arbitrary. First, laws (or rules) should abide by rule-of-law constraints: “they should be general and apply to everyone, including the legislators themselves; they should be promulgated and made known in advance to those to whom they apply; they should be intelligible, consistent, and not subject to constant change; and so on.”⁷⁷ This forces those who make the rules to exercise power in ways that are consistent with public justification and so sufficiently receptive to the interests and ideas of persons suffering interference. Second, if exercises of power can be carried out either on a particularistic basis or through a principled, legislative basis, the latter should always be preferred. This similarly makes exercises of power on an arbitrary basis difficult, because generally beholden to procedures and rules.

But rigidifying *all* exercise of power may make it impossible for pursuit of certain outcomes impossible. So, when a powerful agent *has* no choice but to exercise discretionary authority, it may do so, but only under condition that such decisions are contestable, so that affected parties are able to challenge interferences. The idea here is that the *possibility* of contestation of decisions makes it such that exercises of discretionary authority are much more likely to track the interests of whom they affect – and so be non-arbitrary.

But managerial discretion, as it is exercised in modern capitalist firms, normally meet none of these conditions. First, managers are not symmetrically liable to exercises of power. And this isn’t surprising. As instrumentalist institutions committed to efficiently delivering, among other things, goods and services in response to market pressures and price signals for profits, all firms require a division of labor. This means that rules that govern one group of people within that division of labor typically will not apply to another. Those who are ‘good at managing’ are doing the managing while those who are ‘good at factory work’ are doing the factory work. Thus, managerial authority violates the first empire-of-law condition.

Second, managers do not exercise discretion, as far as possible, in a rule-guided manner. This follows from the fact that efficient labor contracts are open-ended. As explained above, the hallmark reason for success of the capitalist firm is its superior ability to cut down on transaction and monitoring costs, efficiently

⁷⁷ P.175 Pettit, *Republicanism*

make decisions about the deployment and redeployment of labor, and the internalization of the benefits of the firm-level innovation compared to alternative, less hierarchical systems. All such successes are what makes it *necessary* that labor contracts leave open the range of decisions that managers can make *with respect to coordination of labor within the firm in response to price signals*. As Hayek rightly notes, this aspect of responding to price signals is a fluid and ever-changing process: and so decisions generally *cannot* be rule-guided or procedure-constrained. This feature makes managerial discretion violate the second empire-of-law condition.

What of contestation rights? Excepting individuals with scarce skills or knowledge who get to bargain for significant protections beyond the standard labor contract, those who fall under managerial discretion will generally not be able to contest *any* of the internal standards of the company which employs them. Even in cases where such contestation rights are procedurally guaranteed, there is very little incentive on the part of firms to abide by them, or for workers to enforce such rights. Ordinary workers must follow managers' orders at pains of being disadvantaged internally within the firm, fired, or demoted. Further, while empire-of-law conditions and contestability condition are not met, the state will have to say that *all* such violations are justified, on grounds of the efficiency of such arrangements under an institutional scheme such as ours.

So far, I have considered full-compliance cases, where all relevant laws and regulations are complied with by firms and managers. But domination can come in guises that are illegal, because there are significant barriers to contesting even those *illegal* exercises of managerial discretion. Here are three examples of such barriers. First, challenging a legally prohibited decisions carry significant financial and emotional costs. Legal processes are often costly and emotionally draining to those who engage in them. This is especially so when workers are socioeconomically deprived – and the financial costs involved are large. Second, challenging unjustified decisions requires legal knowledge, which employees often lack. In these instances, challenging decisions may not even occur to them. Third, challenging unjustified decisions are often against the employment interests of employees themselves. Often, employees may decide that they have no alternatives *but* to continue working for the employer. In such cases, challenging the unjustified decision, even if they know the relevant legal rules and the upfront costs are sufficiently low, carry unacceptable opportunity costs, on account of the relationship that they need to maintain with the manager and the company at large. These three barriers often make it impracticable for many employees to be able to stand up to employers to prevent such arbitrary uses of managerial discretion even

illegally.⁷⁸ An example that hits close to home: at Seoul National University, cleaners of some of the dormitories were subjected to humiliating treatment and were directed to work in conditions so stress-inducing that one of the cleaners passed away due to work-related stress. What explains the silence over these issues before such a calamity struck? It seems to be because of some combination of the three reasons just outlined. Because managers wielded their prodigious residual decision-making rights, combined with the implicit threat that speaking up would have entailed being fired, demoted, or some other unfavorable treatment.

Let's take stock. I've argued that the law must allow for the invocation of a significantly wide, open-ended range of (justifiable) reasons which make firing or other uses of managerial discretion against employees, for efficient allocation of labor in market schemes of production. But the circumscribing of managerial discretion by the law cannot, in general, prevent *justifiable* but, ultimately, *unjustified* exercises of discretion on a case-to-case basis. Since the law cannot prevent – and, in fact, must *guarantee room for* – such unjustified decisions, employees must be dominated in efficient market orderings. Efficiency within standard capitalist institutions which do not force firms to track employee interests and non-domination are incompatible.

3.3. The Market Solution Thesis

Here, I respond to one market-friendly objection against the argument. Call it the *market solution thesis*. According to the market solution thesis, pressures in the labor markets will tend to squeeze out firms and employers that dominate employees. The thought is this. When employers abuse their managerial discretion, even when such abuses are shielded from legal scrutiny, employees notice. Such employers tend to be unattractive to employees and therefore eventually either shrink to obscurity or go out of business, for lack of competitiveness. Thus, the story goes, markets act to naturally equilibrate the level of domination present in manager-employee relations to zero or to an insignificant level. To friends of the market solution thesis, this is entirely natural: “just about all workable systems rely on embedded incentives to make them tolerable.”⁷⁹

⁷⁸ For empirical investigation into why “bottom-up” workplace law enforcement is often difficult for low-wage workers in the US, see Alexander and Prasad “Bottom-Up Workplace Law Enforcement: An Empirical Analysis” (2014) My argument is that these conditions – that of lack of incentives to enforce labor standards, lack of knowledge about legal rules, and the costs – generalize as a problem.

⁷⁹ Tyler Cowen, “Work Isn’t So Bad After All” (2017), p. 152. A trenchant pro-marketeer, Cowen responds to Anderson’s advocacy for anti-domination constitutions in modern workplaces in *Private Government* by arguing that embedded incentives are *precisely* what prevents such domination, just as the rule of law protects liberties *only because* of embedded incentives on prosecutors not to pursue felony charges that are insignificant and

Yet, this objection fails to observe the obvious truth that firms that have histories of well-recorded domination often do not go out of business – or even fail to attract employees. Amazon and Walmart, two of the biggest and most successful retailers in the world, are good cases in point. Both companies have a track record of abusing managerial discretion while being able, consistently, to attract large numbers of employees and without serious competitive penalty. To see why this is so, we need merely to observe the level of bargaining power and alternatives available to the average Amazon warehouse employee or Walmart store clerk. If the only reasonable chance of many to feeding themselves and their families, given the skill levels that they have in the moment, is to work at an Amazon warehouse, is it any wonder that they will continue to do so, even under dominating labor practices? Indeed, such domination often *directly contribute to* the bottom line of employers, especially when tasks are repetitive and measurable in impact. For instance, for tasks such as stacking warehoused materials, the more boxes that each employee can move per hour, the greater the labor-savings, and the greater the marginal return on investment on labor. This lack of bargaining power, which promises a steady supply of workers combined with the enforcement gaps in labor laws, consumers' unwillingness to punish Amazon for its dominating labor practices, has the net result of making Amazon one of the most successful businesses in human history.

What this teaches us about the market solution thesis is that it rests on three dubious assumptions. First, the market solution thesis assumes that labor market conditions are not characterized by large differentials in bargaining power between employers and employees. Without such bargaining power differentials in the labor market, employees have alternative employers that they can turn to when their current employer abuses managerial discretion. But, in vast swathes of the economy, and for a large number of low-skilled occupations, there tends to be a limit to the number of low-skilled jobs that will pay a decent wage. This effect is pronounced, further, in areas with high rates of unemployment. Second, the market solution thesis assumes that the abuse of managerial discretion harms the company's bottom line due to reputational harm from employees and customers and the loss of productive employees. But these assumptions are plainly false in many cases. Often, the repression of autonomy of workers translates into improvements in the earnings, because reputational harm deters neither consumer preference for the firm nor the influx of eager employees desperate for income.

Finally, the market solution thesis makes the rather unbelievable empirical assumption that not only do companies have *an* incentive not to dominate, but that companies must generally have *such a big incentive not to dominate that the*

too costly. His point is that it is enough that there are significant incentives not to dominate on the part of employers.

equilibrium level of domination is zero or something very close to zero. Notice that for the market solution thesis to be true, it is not sufficient that companies that abuse managerial discretion get outcompeted. Rather, the market solution thesis must hold that dominating companies come to be *so thoroughly outcompeted* that their presence in the economy becomes negligible. This is implausible.

Let's grant that *to be most productive*, companies need to extinguish domination or make domination a negligibly small aspect of their managerial practices. That says nothing about how much domination various companies can in fact tolerate *while keeping a significant market share* and hence continuing to employ many people. If the economy were structured such that most averagely productive companies continue to dominate, whereas some high performers don't, there is an equilibrium level of domination that is not negligible and in fact may be intolerable from a normative point of view. This seems to me to be how, for instance, the economy in the American South during Jim Crow era operated, where Black employees' interests were systematically discounted in managerial decision-making in most companies. Nothing in the market solution thesis suggests such eventualities are unlikely.

On the contrary, if we lift the implausible empirical assumption of the market solution thesis that *all firms* benefit from reducing domination, then the equilibrium level of domination may be significant precisely because productivity gains *encourage* domination. Here's a real-life example for illustration. The Amazon-style business model of providing good customer experiences alongside crummy labor conditions, high labor intensity, and routine sanctions for small mistakes has proven to be an incredible profit-engine in the United States and Europe. In Korea, a company called Coupang has replicated that business model to resounding success. Since the Korean e-commerce market is less monopolized than those in the United States and Europe, Naver and Shinseggye, Coupang's main competitors, replicate such domination-conducive business practices to defend their market share. Rather than *remove* domination, then, markets often push the equilibrium level of domination in the economy higher by incentivizing the switch to business models which are domination-conducive but productivity-boosting. This observation, once again, generalizes. There is good reason to believe that for many sectors of the economy, worker domination improves the bottom line in such ways. If this last hypothesis is true, the market equilibrium level of domination will be significant.

These points together give us a clearer idea of *why* managerial discretion is so intimately connected to worker domination – and problematic for a relational egalitarian. To wit, managers enjoy authority of vast and undefined scope, which can be deployed in service of whatever profit-boosting ends of the company, proscribed only at the margins by relevant rules and regulations. And what is

missing in the manager's decisions and deliberative processes is the interests of workers. *Only when* the workers' interests happen to coincide substantially with those of the firm will managers take their interests into account. And even in such cases, this respect for their interests is merely contingent on their interests substantially coinciding with the firm's over time; that is, firms are not 'forced to' track the interests of workers. That is paradigmatic of domination.

3.4. Anderson's Solution: Workplace Constitutions

So how is it that individuals can be accorded equal status in conditions of persistent and entrenched domination in the production process? Anderson's answer seeks a workplace analogue for the protection of basic liberties in the political realm: since we are resigned to the fate of hierarchies in the workplace, we ought to create mechanisms – workplace constitutions – which reconciles efficiency with people's ability to voice complaints and constrain arbitrary exercises of power in the workplace through a bill of rights.⁸⁰ The idea is that if we can sharply delimit the exercise of managerial authority to only those exercises of power which are justified, then we may eliminate domination in the workplace.

But the characteristics of firms as instrumentalist – rather than open-ended – systems of cooperation render such a solution insufficient at best. Let me explain. In the political sphere, the role of rules and institutions is to create a general background framework which allow people to interact with each other and to pursue their own determinate ends through such interactions. Because there is no competing interest but the interests of the members of the political community, it makes sense to affirm various basic liberties and especially the fair value of political liberties, which conduces to the creation of a fair framework for such interactions. This is the sense in which many political philosophers say that the

⁸⁰ By workplace 'analogue' I don't mean to imply that she thinks the workplace case is completely analogous to the political case so as to warrant full-scale workplace democracy. She indeed rejects workplace democracy because of the following disanalogies: (a) that close levels of coordination in production – as opposed to open-endedness in politics – requires hierarchy, (b) that, given significant capital assets of firms, it would be unpragmatic to have all workers buy a share of the firms using their savings – whereas voting rights can be guaranteed without such costs – and (c) horizontal authority structures may make the negotiation costs of workplace democracy insurmountable for firm-wide decision-making. My point is that Anderson *also* notes some deep analogies between the workplace case and the political case – in that both firms and the state are forms of government. And so accordingly, her strategies against domination include the standard list of powers needed to fight arbitrary rule: namely those of exit, voice, rule of law, and substantive rights. Some combination of these – which reconcile efficiency with worker protection, she argues, ought to be implemented to prevent domination. See *Private Government*, pp. 66-70 for her discussion of the four strategies for establishing limited government in the economic arena; see *Ibid.* pp.130-131 for her rejection of workplace democracy

state does not have a ‘life of its own to lead’ and therefore has as its primary duty the realization of justice.

On the other hand, within market orderings of production, firms are *instruments* to effectively pursue a determinate end: the production and sale of goods and services, subject to competitive pressures and in response to price signals. And in societies like ours, as an empirical fact, these ends are pursued to generate of economic return for owners. Because firms are instruments for the production in whatever goods and services the firm sells on the market, in service of economic returns for owners, they do not symmetrically take into consideration the interests of all members as in the political case, *even when* there is a constitution which protects basic liberties. The firm has a ‘life of its own’, in the sense that it accords special importance to the business owners, and with respect to the purpose of producing whatever goods and services it produces. Anderson, of course, understands this – and says that worker participation in and constraints on firm governance is something that needs balancing against considerations of efficiency. But what balancing can we expect where the firm’s interests and the employees’ interest are in collision? The firm’s interests takes precedence for the sake of efficiency; if workers do not have ‘anti-power,’ workers are dominated. A workplace constitution of the kind she proposes can at best circumscribe workplace domination at the margins – and indeed only for *some*.

Indeed, consider the incentive dealignment of workers *against* enforcement that I argued was common in production systems such as ours. Threat of loss of one’s job and one’s source of income may well make such a constitution ineffectual. As I argued above, there are significant emotional and financial costs, as well as epistemic barriers to challenging even *illegal infractions* of labor standards. The very fact that one is threatened by the loss of employment acts as a barrier to enforce legal rights that workers have. And here, workplace constitutions are *least likely* to be effective for those who have the least bargaining power since they have most to lose.

To illustrate, beyond normatively despicable but completely legal abuses of managerial powers which Anderson points out as problematic, the United States has a serious problem of *illegal* violations of the already existing, paltry labor standards for low-wage workers. Here are some figures from what’s probably one of the best recent studies of a representative sample of low-wage workers in New York, Chicago, and Los Angeles.⁸¹ 67.5 percent of respondents experienced at least some form of wage theft within the work week preceding the survey. Of the 12 percent of respondents who made a complaint to their employer or attempted to

⁸¹ See Annette Bernhardt, Michael Spiller & Diana Polson, “All Work and No Pay: Violations of Employment of Labor Laws in Chicago, Los Angeles and New York City,” *Social Forces* Vol. 91, No. 3 (2013) pp. 725-746

form a union, 43.7 percent experienced illegal retaliation from employers. These figures go on. How might instituting a workplace constitution make it such that *those* violations are prevented? Admittedly, Anderson herself notes these problems when she says “there are limits.. to how far a bill of rights can go in protecting workers from abuse” and so there is “no adequate substitute for recognizing workers’ voice in their government.” But how is a formal legal guarantee of voice supposed to be a solution to the plights of those who engage in service-related low-skilled work, where firms maximize profits by lowering labor costs - and so see labor standard violations as a competitive advantage?⁸²

It may be objected here that laws *generally* are blunt tools and therefore may fail to prevent such eventualities as workplace domination from obtaining. The problem is not, on this view, in Anderson’s proposal but in the general limitation in laws. If so, the thought goes, my complaint about Anderson’s workplace constitutions fails as a complaint; we should look elsewhere for a resolution of such residual problems of domination.⁸³

Anderson also seems to endorse such a position elsewhere. In her comments on Lisa Schwartzman’s *Challenging Liberalism*, for instance, she says that the disagreement between liberals and feminists (and, it seems to me, as an extension, theorists happier about greater state intervention) arises from “different expectations about what the state can and should do to promote justice, and what conceptions of the good are likely to remain in a world in which the state has done all it can be reasonably expected to do.”⁸⁴ Namely, even when the state has done all it can reasonably be expected to do, there will be what she calls “the fact of *unreasonable* pluralism,” namely, the survival of a plurality of conceptions of the good which are problematic from the point of view of a liberal conception of justice. (such as those including patriarchal norms of housework-shirking or norms which countenance workplace domination) When a big enough number of citizens hold such unreasonable conceptions of the good, actions informed by unreasonable informal norms will constrain individuals in ways that are difficult or impossible to remedy through state action. A CEO who lives in a society with large numbers of people who see it as fair game to engage in wage theft against service workers will continue to dominate workers even with the existence of workplace constitutions. *Those* injustices ought to be remedied in a different way, the thought goes, through social activism, not against unjust laws, but against problematic informal social norms and conceptions of the good in civil society and in private life.

⁸² Ibid.

⁸³ I thank Professors Sungil Han and Hyunseop Kim for pressing me on this issue.

⁸⁴ Anderson, “Towards a Non-Ideal, Relational Methodology for Political Philosophy: Comments on Schwartzman’s “Challenging Liberalism,” *Hypatia* Vol. 24, No. 4 (2009), p. 131

My response is that this objection fails to have dialectical bite. I'm not assuming here that Anderson's proposal of workplace constitutions *itself* needs to single-handedly prevent all issues of workplace domination. Nor am I challenging Anderson's idea that there are limits to what the laws can do in remedying injustices arising from actions informed by unjust informal social norms. Rather, I'm making a much more modest claim: that there seems to be more that ought to be done through laws in resolving issues of workplace domination. The truth that there are limits to what laws can do isn't a knock on the idea that, *for the specific instance of workplace domination*, there is more that could be reasonably asked of the state beyond a workplace constitution. Indeed, if there were legal means to directly promote bargaining rights of workers, then there seems to be plenty that the law can do beyond workplace constitutional reform.

To be clear, I'm not skeptical about the possibility *in general* that firms' interests *can* be rendered consistent with workers' interests – and that a workplace constitution could genuinely be a *supplementary* institutional tool which prevents workplace domination. If we achieve institutional arrangements Rawls believes could be fully just, namely, property-owning democracy or liberal market socialism, it may be possible to extinguish domination because such institutional arrangements would have the benefits and control over productive property be spread in ways that track the interests of workers and which make managers and the business class symmetrically liable to the authority of workers. In the case of property-owning democracy, wide enough dispersal of capital assets may give effective and significant voice and decision-making powers to workers in the management of firms in virtue of ownership. Further, widespread ownership would give workers significant bargaining power against employers; in such a system, the market solution thesis would be true because people would simply leave if firms dominated. In the case of liberal market socialism, major productive assets would be under *direct* democratic control such that workers interests are represented through democratic procedures. In such cases, the basic structure expresses respect for citizens' equal status as producers, *consistent* with managerial authority.

What I *am* skeptical about is the possibility of achieving the symmetrical incorporation of workers interests under the set of institutions that we have, with highly concentrated ownership of capital assets, and consequently, the dealignment of the interests of owners and managers on one hand, and ordinary workers – and especially low-skilled, low-wage workers - on the other. Under such conditions, we may succeed, at best, at regulating some of the worst excesses but the core of domination would continue. Thus, workplace constitutions, while they may be important in *formally* recognizing workers' voices and rights, ultimately fail to be a guard against domination itself.

Conclusion

In this chapter, I argued that workplace domination is an endemic issue within firm-based productive institutions which generate significant differences in bargaining power between employees and employers. I considered and rejected as insufficient or deficient three potential solutions to workplace domination - legal regulation, market competition, and a workplace constitution – in, respectively, sections 2, 3 and 4 of this chapter. Legal delimitation of managerial authority is insufficient because comprehensive proscribing of managers' powers is destructive of market efficiency; market competition is deficient because its assumptions about competitive dynamics fail; workplace constitutions are insufficient because they fail to resolve incentive dealignment. These solutions, it seems to me, have one commonality: they prioritize 'demand-side' constraints on exercises of power, namely the reduction of power of employers and managers. By and large, my response to these solutions show that 'supply-side' constraints, namely, improvements in the power of workers, are crucial in extinguishing workplace domination. Although my responses are not comprehensive, they provide tentative grounds for skepticism against solutions which fail to *directly* tackle the substantive causes of bargaining power differences.

Chapter 4. Why Employment Conditionality is Relationally Inegalitarian

In this chapter, I mount an internal critique against Anderson's employment conditionality interpretation of sufficiency by building on the previous chapter. First, I explore the connection between status norms and bargaining power. I argue that under institutions which fail to check increasing inequalities, the threshold of consumption to avoid not being able to achieve a normal level of functioning does not exhaust the esteem-based consumption needs of normal adult citizens. Second, I build on the first section by arguing that a regime of employment conditioned sufficiency is objectionable because it imposes domination on working class adults who require state support for sufficiency. Third, I argue that *given* Anderson's pareto argument for sufficiency, employment conditionality is objectionable on a *comparative* basis as well. In a productive system which lets wealth inequalities stand on grounds of efficiency, a regime of employment conditionality would institutionally enforce hierarchies in rank between wealthy individuals and the working class, since subjection to managerial authority for equal status would only apply to working class individuals.

4.1. Agency, Status and Bargaining Power Differences

In Chapter 2, I argued that a range of solutions to workplace domination, which propose limitations to managerial discretion, are either insufficient or deficient. If my argument is correct, then it is not merely a lack of limits on managerial discretion, but asymmetries in bargaining power that lie at the heart of the problem of workplace domination. But what is the source of such asymmetries? I argue that it is, in large part, asymmetries in powers generated by workers' liability to lose access to status goods.

A key motivation for almost all employment, among much else, is the ability to generate income, to use this income in activities that one finds value in and to pursue projects that are dear to one's heart. In short, a key motivation for employment is the pursuit of one's own conception of the good. In a non-trivial way, then, retaining one's income is an important part of individuals' social basis of self-respect, as it pertains to their identity as a participant in productive systems of cooperation. This is especially so when, as John Tomasi argues, the range of goods that money can buy *increase* in importance in people's lives, as living standards improve and the range of activities and projects that can be pursued with private economic means increases in richness and scope.⁸⁵ Under such conditions, beyond

⁸⁵ It might be objected that this is a misinterpretation of Tomasi's position: Tomasi

these non-comparative uses of income, people's conception of the good normally come to include the consumption of a variety of goods *significantly beyond the level of* what is strictly required to function as a citizen or human being, which come to underwrite one's self-worth as a member of society.

Here, I don't mean to say that individuals are irredeemably in the grips of individualist consumerism. What I mean to say is that as material standards generally improve, and as members of a society gain greater access to a richer range of goods, the range of goods that are judged to be appropriate objects of status norms – rightly *or* wrongly - increases in tandem. To illustrate this point: Robert Walker et al. (2013) report on interview responses from the experience of *relative* poverty in seven different countries: Uganda, Pakistan, India, urban China, South Korea, the United Kingdom, and Norway.⁸⁶ Because prevailing material standards of these societies are vastly different, the absolute level of possessions of the individuals interviewed were wildly divergent. Yet conclusions about the effects of deprivation are remarkably similar across this range of countries: not being able to comfortably afford goods expected of people within a normal range of status in such societies lead to a loss of self-esteem, either directly, because they're consumption levels lead those in poverty to see themselves as less than creditable, or indirectly, because those in poverty are led to give up on other important aspirations in *order* to meet such thresholds of consumption. What this study shows (albeit tentatively) is that as societies grow increasingly wealthy, there arise certain explicit and implicit norms relating to consumption patterns *within* societies, which everyone feels the need to fulfil at all cost – even at the cost of sacrificing their aspirations – if they are to feel that they are a normally functioning

endorses constitutionally entrenched thick economic liberty *rights* to do what one wishes to with one's private resources. Quite right. But here, I'm referring not to the thick economic liberty rights he defends but referring to his observations about of growing importance in people's lives of consumption of an ever-greater variety. See his comments in Populism, Probability, and Political Philosophy, Ch. 3, *Free Market Fairness*.

⁸⁶ Robert Walker et al. "Poverty in Global Perspective: Is Shame a Common Denominator?" (2013) Here, I quote a short paragraph about the effects of poverty as it pertains to our discussion, in full:

"The effect of poverty, where poverty is taken to be the absence of resources necessary to match needs, is to restrict the ability of people to achieve the things expected of them and which they expect of themselves. Respondents in all seven countries talked of their frustrations about being unable to achieve their material aspirations, and the challenges of making hard decisions between competing demands. Equally, many had aspirations other than those of a material nature, often quite modest in scope, to do with esteem and a sense of worth. However, *failure to achieve these latter aspirations was often part of the personal and social costs associated with being unable to fulfil material ones*. Sometimes people were also forced explicitly to sacrifice their sense of inner worth in order to attain material goods." (p.222; italics mine)

member of society and especially within peer groups of comparison.⁸⁷

For instance, in the Korean context, not being able to afford coffee to spend time with friends may be a *serious* issue with respect to self-respect because not being able to afford coffees may translate into one's inability to attain associational goods of friendship. So, while absolute living standards are significantly higher in Korea than they generally are in Uganda, even for those who cannot buy coffees, the inability to buy such things typically lead to a loss of self-esteem. Alternatively, individuals may suffer a loss of self-esteem from the fact that they must give up on deeply important personal and social aspirations (such as starting a family) to secure associational goods connected to spending on such things as coffees.

We can sharpen our intuition about the important role that consumption levels relative to others play in citizens' self-respect with the theoretical resources from Jiwei Ci's paper "Agency and Other Stakes of Poverty".⁸⁸ According to Ci, there are three kinds of poverty: subsistence poverty, agency poverty and status poverty.

1. Subsistence poverty happens when a person cannot afford the basic necessities to sustain biological functioning.
2. Agency poverty happens when a person isn't able to afford goods and services required for 'normal functioning' in society. The 'agency' that is blocked in agency poverty is, then, an agent's ability to see oneself as a "meaningful causality in which causal efficacy (or power, for short) is appropriated from, and in the interest of [oneself]," namely, a meaningful ability to act within a normal range of functionings.⁸⁹ For instance, having a job is a functioning generally understood to be an important part of a normal adult person's social identity in Korea. Since employment in Korea generally requires one to have a phone number, if one is too poor to afford phone bills, one experiences agency poverty in the sense that one is prevented from attaining a level of normal functioning due to resource deficits.
3. Status poverty happens when a person is unable to afford lifestyles, goods, and services that are *widely thought to be* important indicators of eligibility for various roles and associational goods. For instance, if one lives in a society which sees being able to dress in a certain way as an eligibility requirement for friendship, then not being able to afford that kind of dress

⁸⁷ For an excellent work exploring the impact of status inequality (which, they measure indirectly through income inequality) on social outcomes such as health disparities, levels of violence, etc. see Richard Wilkinson & Kate Pickett, *The Spirit Level: Why More Equal Societies Almost Always Do Better* (2009)

⁸⁸ Jiwei Ci, "Agency, and Other Stakes of Poverty" (2013)

⁸⁹ P. 132, Jiwei Ci

deprives one of associational goods that one may otherwise access.

The constraints that determine whether a person is in agency poverty do not necessarily depend on prevailing attitudes in society. The constraints of status poverty, on the other hand, are *necessarily* imposed by others' attitudes, whether explicit or implicit, about the standing of various individuals in relation to the goods that they have access to. Status poverty is connected to agency poverty, then, in this sense: often, cases of status poverty are cases of agency poverty to the extent that others' attitudes make it such that one is unable to function within that society's normal range of functionings. For instance, if a child fails to be given associational goods of friendship with other children because her parents' lack of education is seen as undesirable, then the child experiences status poverty *as* agency poverty.

The 'normal range' of functioning is a notion that is hard to specify precisely, but there are standards that are generated *internally* in society about the kinds of functions that a fully cooperating member of society is expected to carry out from common consumption and cultural practices in a society. If the norms in a society are such that members who are not employed are seen as not fully cooperating, then not being able to work would fall below the normal range of functioning; if one's ability to pay for friends' dinner once in a while is considered a nicety that any normal adult should thought to be able to do, as it arguably is in Korea, then being unable to do that would fall below the normal range of functioning.⁹⁰ And although this is a vague notion, it does conceptually focus our attention on a very important part of the experience of relative incomes: namely, that a significant departure from prevailing standards that society considers normal leads to agency poverty.

One final clarification. In the case of status poverty, the status-related attitudes which act as constraints on valued functionings are often evaluative *errors*. A person not being well-dressed is not by itself a good indication of whether that person would make a good friend. However, what is undeniable is that in free societies which do not enforce the correction of evaluative errors, such evaluative attitudes (or errors) arise non-culpably among individuals over the course of a normal life of consuming goods and services with the resources at their disposal, given the prevailing material standards. Thus, in the normal course of things, with enough economic inequalities, evaluative errors generate significant levels of status poverty under liberal institutions.⁹¹

⁹⁰ Within the context of Anderson's democratic equality, this normal range of functioning will be those of functionings as equal citizens, human beings, and producers within a division of labor.

⁹¹ Perhaps evaluative errors could be overcome by barriers which prevent the conversion

These ideas relate to our discussion of workplace domination in the following way. It appears to me that under the operation of free markets within liberal democracies, the level of consumption required for the fulfilment status-norm expectations will continuously be set higher than the level needed for mere access to a normal range of agency. This is for the *very same reason* that Anderson takes market efficiencies to be pareto improving: greater incomes translate into more varied options on the market, and as living standards improve, increased incomes are needed to match the consumption habits which impose new status norm expectations. And so, the bargaining power deficits which are characteristic of ordinary working-class adults' experiences are, among other things, caused by the basic issue of *having to keep one's job* to maintain an ever-higher set of consumption standards tied to one's status as an equal in society. *Even when* one is guaranteed effective access to normal levels of functioning as a human being and citizen, not falling below the level of status poverty is such an important interest that managers and firms continue to hold significant power against workers. Thus, we have the unhappy result of domination.

4.2. The Workplace Domination Objection

Anderson's employment-conditioned sufficiency is objectionable on her own terms, *given* this understanding of the cause of bargaining power differences. In particular, employment conditionality is *non-comparatively* objectionable, because it causes workers to be dominated on account of their attempting to access status goods which are prerequisites for functioning as an equal to others.

Employment conditionality makes it such that people's access to sufficient capabilities are dependent on their participation in paid labor. Because this is so, the avoidance of agency poverty – whether it be based on status norms or not – are conditioned on the subjection of individuals to paid labor. Of course, a regime of employment conditional sufficiency *does* unconditionally prevent subsistence poverty and the bare minimum breaches of status norms relevant to not being humiliated in public. But, for access to egalitarian capability sets, employment conditionality makes employment a requirement.

of wealth and income into status. But problematic status norms arise in complex ways and so the erection of *permissible* psychosocial barriers between inequalities of income and wealth on the one hand, and problematic status norms on the other, seem to me to be extremely difficult or maybe even impossible. Indeed, in the age of social media, where status norms are often created through an ever-increasing array of pathways such as influencer-led business models, where Instagrammers and Youtubers that hold the attention of millions of people set a dizzying number of trends, it is difficult to imagine *how* large-scale evaluative error correction could happen within liberal politics through purely psychosocial means. I thank professor Hyunseop Kim for pressing me on this point. See Schemmel (2011) "Why Relational Egalitarians Should Care about Distributions" pp. 380-385 for an excellent discussion of such issues.

The troubling implication of this stance is that if the only employment option available which will allow one to attain that level is a crummy job at Amazon, then one must take it. If one chooses not to be subjected to Amazon's time-theft rules, then, on Anderson's terms, one has decided to 'function at a lower level' than that which is guaranteed by social conditions apt for equal freedom. Since the fear of loss of status, if I am correct, is often what pushes workers to be dominated, regardless of what the absolute level of material living standards are of a particular society, the fact of workplace domination would be true *even under* Anderson's proposed workplace constitutions. Even if the employer makes illegal decisions, in breach of workplace constitutional rules, if I have no alternatives to securing status goods, the thought might be: I need this job to afford having friends so I can't speak up. The employment conditionality requirement, then, imposes domination on workers. And so, employment-conditioned sufficiency conflicts with a central rationale for the positive thesis: that all ought to be provided effective access to means to stand in equal relations to others, not merely as a participant in politics, but in civil society more generally. By conditioning the means of equal standing on work, a regime of employment conditionality drives those with few options to subjection to unequal standing in relation to managers and firms.

Here, it may be objected that Anderson disavows such a domination-conducive distributive system, if charitably interpreted as providing more generous benefits. Given the analysis in 3.1, it is true there is an indefinite range of issues which may be relevant in defining that sufficiency standard such that the capabilities sets which sufficiency guarantees could be made *very* generous indeed. Here are two such factors which may figure in the theoretical choice over the sufficiency threshold for illustration.

First, when individuals live in a society rife with error-laden status norms, these status norms may become sources of error-laden self-judgment as well. Thus, a capability set which *in fact* renders an agent sufficiently capable to relate as equals may come to be subjectively *perceived* as not being enough, in virtue of the agent thinking that they could not be equals to others. For instance, if many citizens in a particular society judge those without brand-named clothes as ineligible for friendship, a person with capabilities to function as equals may come – falsely – to believe that they, in fact, cannot. Crucially, in many cases, this belief may, over time, cause such a person to *actually* lack the capabilities for adequate functioning as equals due to a loss of self-esteem. Call this the problem of *Self-Image*. Sufficiency may guard against Self-Image or it may not.

Second, a set of capabilities which would otherwise be sufficient for an agent to function as equals may be rendered insufficient due to status norms which arise naturally. For instance, if a society's status norms gradually make it such that the acquisition of English skills is considered an eligibility requirement for friendship

and normal opportunities for social advancement, then the capability set of a person without such language skills would be rendered insufficient for equality, over time. Call this the problem referring to the gradual shifting of a capability set from sufficient to insufficient, *Shifts*. Sufficiency may guard against Shifts or it may not.

For both Self-Image and Shifts, the capabilities guarantees of employment-conditioned sufficiency can lie on a continuum from ‘Stingy’ to ‘Generous’ as in the following, where X refers to problems like Self-Image and Shifts:

Stingy: the state provides a schedule of guaranteed capabilities for citizens to function as equals, without guarding against X.

Generous: the state provides a schedule of guaranteed capabilities for citizens to function as equals, guarding against X.

But regardless of where the *content* of the sufficiency guarantee lies on the Stingy-Generous continuum, insofar as Anderson conditions them on employment, it is difficult to see how more generous benefits would avert an imposition of workplace domination. In fact, *ceteris paribus*, the closer to Generous a given set of guarantees are, the more likely it is that employment conditionality becomes domination-conducive, because the greater the stakes of employment, the greater the differences in bargaining power between workers and employers.

Thus, I conclude that the employment conditionality is objectionable because it peacefully accepts widening power differences which inevitably attend unequalizing, market forces. In the normal course of things, efficient market outcomes tend to generate ever higher consumption standards for equal-status-conferring functionings. But the need generated for consumption of an ever-greater variety of status goods *combined with* an insistence on employment-conditioned access to adequate levels of status goods means that the differentials in powers between managers and ordinary workers are potentially unlimited. The greater the inequality beyond sufficiency, the greater the level of status norms and the range of goods required for status. Attendant to this, the lower the skill set of workers, the greater power differentials will become between workers without bargaining power and managers, even if there is effective access to jobs for all. At the limits, workers without alternatives will be thoroughly dominated to maintain an adequate level of access to status goods.

4.3. The Institutional Ranking Objection

A less obvious objection is this. Employment conditionality is internally objectionable for Anderson because its existence transforms vast wealth inequalities into institutional conferrals of inferior and superior rank. This is for the

following reason: Anderson accepts the pareto argument, which means that some citizens will, in the normal course of things, become very wealthy. Owing to their prodigious wealth, these citizens will never be liable to subjection to managerial authority and will effectively be *guaranteed* their opulence. If other citizens were granted access to unconditional sufficiency, this wouldn't matter from the point of view of relational equality, because they would not be *asymmetrically* liable to subordination to managerial authority. But employment conditionality makes subjection to managerial authority a requirement for the working class, and the working class only. Thus, I argue, wealth inequality between the wealthy and the poor *constitutes* institutional ranking of one class of citizens as superior and another class of citizens as inferior, under employment conditionality. If I am correct, then asymmetrical liability – and so employment conditionality – cannot be accepted by Anderson, because objectionably inegalitarian.

To set the stage for my argument, let me make a rough distinction between the two institution-dependent ways in which groups of people may become sorted into different ranks: ranking causation and ranking constitution. Ranking causation happens when institutional policies are causally implicated in the creation of other norms which rank different groups as having differences in rank. Take the following example.

The educational aristocracy: Society A has a prevailing set of institutional policies which invests the vast majority of educational resources to university H. As a result, graduates of H have a significant socioeconomic advantage over other citizens and have come to dominate the political and economic life of A. The members of A generally believe that graduates of H are entitled to superior status, resources, opportunities, etc. in comparison to everyone else.

In the educational aristocracy, institutional policies of focusing resources to H seem merely to *cause* other informal social norms to exist which themselves create a distinction in rank between graduates of H and everyone else. In such cases, the policy of resource-focusing is not necessarily objectionable from an egalitarian point of view. The shape of egalitarian institutional reform may, for instance, take the form of attempts at changing informal social norms which confer on H graduates significant social power, or towards severing the link between opportunities and resources connected to graduating from H.

On the other hand, ranking constitution happens when institutional policies themselves are norms which confer inegalitarian rank distinctions between different groups of people. Consider the following example.

The de jure aristocracy: Society B has a set of policies which grant feudal privileges to those who form an order of hereditary nobility. As a result of these legally guaranteed advantages, the aristocrats control the political and economic life of B. The members of B generally believe that the aristocrats are entitled to greater status, resources, opportunities, etc. in comparison to everyone else.

In the *de jure* aristocracy, institutional policies of granting feudal privileges to nobles *constitutes* a distinction in rank between aristocrats and non-aristocrats. In such cases, the policy of granting feudal privileges *itself* is objectionable from an egalitarian point of view, because the state ranks – in virtue of the legal granting of feudal privileges – nobles as superior to others. In such cases, at the very least, egalitarian institutional reform must come in the form of abolishing distinctions of nobility.⁹²

Anderson herself indicates an acceptance of this distinction. When some social condition or practice *constitutes* a relationally inequalitarian relationship, Anderson sees abolishing those conditions as the recommended course of action. For instance, Anderson believes that because institutionally sexist social conditions *constitute* relationally inequalitarian relationships which oppress women in politics and in civil society, we ought to abolish them directly.⁹³ Another example: because esteem hierarchies based on circumstances of birth, such as orders of nobility, *constitute* social policies which denigrate the equal esteem to be enjoyed by all citizens, they should be opposed.⁹⁴

But Anderson's list of social conditions constitutive of relationally inequalitarian relationships never seem to include market inequalities. In her many discussions of market inequalities, she argues that such inequalities can be unjust only if they *cause* objectionably inequalitarian relationships. For instance, she says:⁹⁵

⁹² Notice that institutional ranking constitution and causation are not mutually exclusive. Ranking constitution often entails ranking causation, because institutional rules which entrench distinctions in rank often also create informal norms which sustain such distinctions in rank. For instance, if entrenched feudal privileges become 'naturalized' as they did in Ancient Greece, then people may come to believe that not only are these privileges legal entitlements but *moral* ones.

⁹³ Anderson, "What is the point of equality" p.317

⁹⁴ "Market Risks," p.264

⁹⁵ Anderson, "What is the Point of Equality" p.326; on p. 30 "The Fundamental Disagreement" she says "socially determined relative deprivation [is no injustice] provided that the inequality was not caused by agents acting unjustly (for example, by violating duties of impartiality) and does not result in an independent injustice (as when the more advantaged use their superior wealth to capture the political process)," once again indicating that economic inequalities *themselves* cannot be objectionable relational

“The degree of acceptable income inequality would depend in part on how easy it was to convert income into status inequality—differences in the social bases of self-respect, influence over elections, and the like. The stronger the barriers against commodifying social status, political influence, and the like, the more acceptable are significant income inequalities. The moral status of free market allocations is strengthened the more carefully defined is the domain in which these allocations have free rein.”

The fact that she believes there can be *barriers* between income and wealth inequalities, on the one hand, and relational injustices, on the other, indicates her belief that economic inequalities and relational injustices are contingently, causally connected but that economic inequalities don’t themselves *constitute* objectionable relational inequalities. This also explains why she thinks that “an ideal world” prevents the emergence of relational injustices, such as the buying of political influence, and allows market inequalities stand.⁹⁶ On Anderson’s account, then, economic inequalities are assumed never to be *themselves* instances of objectionable relational inequalities. So, the thought goes, we should prefer policies which prevent wealth and income being *converted* to political influence. Similarly, because economic inequalities can never *themselves* be instances of unjust status norms, we should prefer psychosocial policies which convince people of the unworthiness of unjust status norms and unjust esteem hierarchies.⁹⁷ However, it seems to me that this assumption is a mistake. And I think that faulty assumption leads to her to endorse economic arrangements which condition sufficiency on employment as relationally egalitarian, even when they are not.

Against Anderson’s assumption, I now make an analogy-based argument whose conclusion is that large economic inequalities under employment conditionality is an objectionable case of ranking constitution. First, recall the example that I gave in the introduction:

The odd racist society (ORS): In a forgotten Greek polis, the population was divided into two groups, whites and Blacks. Both whites and Blacks were firm egalitarian believers in the relational ideal of justice, where the scope of their ideal extended not just to the whites of the polis, but also to Blacks. Blacks and whites generally respected each other, had equal voting rights in the political affairs of the polis, and lived under social conditions which allowed for all to attain self-respect within their abilities. But oddly enough, this society had a set of laws which effectively affirmed the inferiority of Blacks:

inequalities

⁹⁶ “Market Risks,” p. 266

⁹⁷ Ibid. p.266

due to these laws, Blacks had to work the fields under white managers to buy the things which secured their equal status to everyone else, while whites were legally exempt from ever having to work and were provided lavish resources to pursue most projects to their heart's content. Strangely, in that polis, few eyebrows were raised about this legal quirk and everyone publicly affirmed that all were equal. All the same, their peaceful acceptance of the legal quirk meant that when Blacks did not work, they were labeled as lazy or unreasonable; when whites did not work, it was generally considered fine, because their exemption was a legal entitlement.

ORS seems to be a case of ranking constitution, an institutionally constituted distinction which ranks certain citizens (Blacks) as inferior to others (whites). Existing laws just *are* the norms which make it such that Blacks are inferior to whites in ORS. Of course, ORS also institutionally *causes* a distinction in rank between Blacks and whites. The unconditionally guaranteed economic entitlements to whites and the conditioning of such entitlements of Blacks to labor come to be seen not merely as legal but also as moral in character, in the sense that Blacks are criticized as lazy or unreasonable when they choose not to work and whites are not criticized.

A society which achieves employment conditionality, it seems to me, is relevantly analogous to ORS in its asymmetrical institutional guarantee of sufficiency. To see my point, substitute 'Blacks' and 'whites' in ORS with 'the wealthy' and 'the working class':

Employment Conditioned Sufficiency (ECS): In a forgotten Greek polis, the population was divided into two groups, the wealthy and the working class. Both the wealthy and the working class were firm egalitarian believers in the relational ideal of justice, where the scope of their ideal extended not just to the wealthy of the polis, but also to the working class. The working class and the wealthy generally respected each other, had equal voting rights in the political affairs of the polis, and lived under social conditions which allowed for all to attain self-respect within their abilities. But oddly enough, this society had a set of laws which effectively affirmed the inferiority of the working class: due to these laws, the working class had to work the fields under wealthy managers to buy the things which secured their equal status to the wealthy, while the wealthy were legally exempt from ever having to work and were provided lavish resources to pursue most projects to their heart's content. Strangely, in that polis, few eyebrows were raised about this legal quirk and everyone publicly affirmed that all were equal. All the same, their peaceful acceptance of the legal quirk meant that when members of the

working class did not work, they were labeled as lazy or unreasonable; when members of the wealthy class did not work, it was generally considered fine, because their exemption was a legal entitlement.

Two observations focus our attention to the parallels. First, the analogy reveals that the reality of ECS with high concentrations of capital ownership is *structurally* analogous to that of the odd racist society. There is one class of citizens – the wealthy in ECS, and whites in ORS – for whom access to more-than-sufficient status goods is unconditionally guaranteed by institutions. Crucially, this asymmetry in status guarantees is grounded in what seems to be a morally unimportant fact (being white in ORS, being wealthy in ECS) about citizens. In the case of ECS, this class of citizens do not, *on account of the large numbers in their bank account and investment portfolios*, have to worry about status insecurity at pains of unemployment or demeaning treatment by managers because their right to wealth and capital income are well-protected. On the other hand, there is another class of citizens – those of the working class – for whom access to basic goods and sufficient status goods are employment conditioned, in virtue of the fact that *they do not have large amounts of money*. With a few exceptions, most working-class adults, then, because they are not rich, will be liable to be subordinate to the will of bosses in exchange for access to necessities and status goods for the rest of their lives, under ECS.

Second, this asymmetric guarantee under employment conditioned sufficiency is an institutional fact, as in the case of ORS. Just like the odd racist society, institutional rules make it such that one class of citizens have their access to basic necessities as well as adequate status conditional on subjection to managerial authority in ECS. Just like the odd racist society, institutional rules are such that another class of citizens have their access to prodigious status and opulence unconditionally guaranteed, without *any* attendant liabilities, in ECS. This seems objectionable in the same way that asymmetrical liability in ORS is objectionable. When the system of institutional rules does this, it confers *guaranteed* prerogatives (i.e. to pursue one's projects, to have equal status to others) to one class of citizens while making the same set of prerogatives as something to earn to another class of citizens. Such institutional rules treat the former class of citizens as superior to the latter in the very same way as those in ORS. As such, the large differences in wealth in ECS *constitute* an inegalitarian ranking of different groups of citizens as superior and inferior.⁹⁸

⁹⁸ It may be asked: then what kind of property system *fails* to count as ranking constitution of the rich as superior and the working class as inferior? We could imagine alternative schemes which *limit* wealth inequalities such that even the wealthiest are liable to subjection to managerial authority, or which don't impose employment conditions on the

Several objections come to mind. First, it may be objected that wealth-based distinctions in access to status goods in ECS carries no similar taint to the laws of ORS, because it fails to *explicitly* rank individuals based on their wealth. It is not as if the institutions in ECS say: “you don’t have money and therefore you are socially inferior to the wealthy.” But institutional ranking as superior or inferior, even in cases of racist laws, don’t depend on the explicit textual content of laws that prevail. As an illustration: *Plessy v. Ferguson*, the 1896 Supreme Court judgment which infamously enshrined the constitutional doctrine of “separate but equal”, did so on purportedly de-racialized grounds. In that opinion, the Supreme Court ruled against a plaintiff who challenged a Louisiana law which mandated separation of the races in trains as violating the Constitution’s equal protections clause.⁹⁹ The reason: that laws which mandate separate treatment between the races did not *per se* label Blacks as inferior to whites. Yet, *in effect*, it ranked colored people as inferior to whites in much of the American South for nearly 70 years.¹⁰⁰ We could imagine our odd racist society to have a version of the

working class. When such conditions are met, wealth inequalities no longer constitute objectionable institutional rankings since institutions do not impose asymmetrical liability. We can generalize this result, to construct a two-by-two matrix, along the dimensions of whether a particular system of distributive rules permits large wealth inequalities and whether a system of distributive rules imposes employment conditionality, which tells us whether ranking constitution happens:

<div> <div>Employment Conditionality</div> <div>Large wealth Inequalities</div> </div>	Yes	No
Yes	Ranking Constitution	No Ranking Constitution
No	No Ranking Constitution	Utopian

⁹⁹ The equal protections clause holds that no state can “deny any person within its jurisdiction the equal protection of the laws.”

¹⁰⁰ *Plessy v. Ferguson*, 163 U.S. 537, (from <https://www.law.cornell.edu/supremecourt/text/163/537>, accessed 2022/5/4) The following is perhaps the decisive argument in the opinion affirming the doctrine of ‘separate but equal’: “We consider the underlying fallacy of the plaintiff’s argument to consist in the assumption that the enforced separation of the two races stamps the colored race with a badge of inferiority. If this be so, it is not by reason of anything found in the act, but solely because the colored race chooses to put that construction upon it. The argument necessarily assumes that if, as has been more than once the case, and is not unlikely to be so again, the colored race should become the dominant power in the state legislature, and should enact a law in precisely similar terms, it would thereby relegate the white race to an inferior position. We imagine that the white race, at least, would not acquiesce in this assumption.” As stated, the opinion flat-out denies that separate treatment of the races constitutes a stamp of inferiority of Blacks. Of course, there are key disanalogies between *Plessy v. Ferguson* and the case of wealth disparities. To start, there is an additional, technical layer of

constitutional doctrine of separate but equal, *alongside* a public political culture which affirmed relational equality. And yet it seems to me that the racist laws of ORS would *still* constitute an institutional ranking of citizens as superior and inferior. Thus, the absence of explicit stamping of certain people as superior or inferior does not seem to make ranking constitution in ECS false.

Second, it may be objected that race and wealth are different in normative significance, in the sense that wealth is a mutable characteristic of individuals within a competitive market system, whereas race is not.¹⁰¹ That is, since even those of the working class can work their way up to become wealthy, ECS is not a case of ranking constitution as ORS is. On the contrary, the fact that there are opportunities for advancement in rank does not imply that there is no ranking constitution. Imagine that the laws in ORS enable a small number of Blacks, through pre-defined institutional pathways, to become honorary whites – and that those who become honorary whites enjoy all of the privileges of whites. It seems to me that ORS still is a case of ranking constitution.

Third, it may be objected that ORS and ECS are disanalogous, because the asymmetry in the prerogatives guaranteed to ordinary workers and the wealthy (i.e. asymmetrical liability) in ECS are justified by pareto improvements to the material standards of all under employment conditionality, whereas they are not in ORS. But this objection misses the mark, because it neglects that the question of what relative differences in the treatment of citizens are permissible for a society of equals, is a normatively prior question to that of instrumental justification based on notions such as general welfare. From a relational egalitarian perspective, there is a lexical ordering of concerns. Certain differences in prerogatives are not permissible in the first place, and these differences are ruled out as impermissible institutional outcomes, *even if* they aid in efficiency. For instance, institutional rules which give university-educated citizens twice the number of votes as non-university-educated citizens are rules which constitute unacceptable institutional recognition of difference in prerogatives and so status and standing. So, these rules are ruled out *regardless of* efficiency considerations – *even if* giving university-educated citizens twice the number of votes led to pareto improvements for all. And Anderson seems to agree with this thought, when she argues that it is impermissible for a society of equals to have state recognition of nobility's right to ancestral estates.¹⁰² Why?

constitutional interpretation in the Plessy v. Ferguson case. Then there is the issue of the divergence of severity of the *effects* of constitutionally enshrined racism versus wealth inequalities. But the point here is to show that there are *structural affinities* between the two cases, namely that of non-explicit institutional ranking of citizens as inferior or superior.

¹⁰¹ I thank Jonghyun Kim for this objection

¹⁰² See “Market Risks,” p. 263-4, where she lays out relational egalitarians’ opposition to hierarchies in respect, power, and standing (e.g. “[relational egalitarians] also oppose state-sponsored esteem hierarchies, such as orders of nobility”)

Because the relative differences in the prerogatives between the nobility and ordinary citizens is *ruled out as a prior, conceptual matter* before the question of efficiency is set in train. So, the pareto argument is no help to the defense of employment conditionality: institutional rules which impose asymmetrical liability are ruled out as suitably relationally egalitarian at a prior, conceptual level, because such rules make it such that wealth inequalities constitute institutional ranking of citizens as superior and inferior.

A final objection says that the ranking constitution claim still fails because wealth inequalities only become distinctions in rank and status when attached to a causal process which creates informal status norms, independent of distributive institutional rules. On this objection, ECS is merely a case of ranking causation because it is the informal status norms of ECS which create a rank distinction between the wealthy and the working class. On the contrary, it seems to me that the claim that ECS is *only* a case of ranking causation proves too much. As we saw above, in ORS, race-based distinctions in superiority and inferiority are practiced based on informal norms as well as institutional norms. On the objection under discussion, this fact would make race-based hierarchy in ORS a case of mere ranking causation, since if everyone in ORS started behaving without any racial prejudice (e.g. stopped calling Blacks lazy for not working), the distinction in rank becomes nonexistent. This is hard to accept. Even if Blacks are not at the receiving end of moral vitriol, Blacks in ORS would *still* be asymmetrically liable and so be ranked as inferior.

What's gone wrong here? It seems to me that many cases of ranking constitution interact with informal social norms to sustain the institutional ranking. For instance, orders of nobility often interact with relevant informal distinctions of superiority and inferiority between nobles and non-nobles for it to act as a genuine ranking device. Yet, this does not imply that institutional rules play no role in *constituting* that ranking. What separates out cases of *mere* ranking causation like the educational aristocracy from ranking constitution cases like the de jure aristocracy is that institutional rules *themselves*, combined with certain background informal norms, confer normatively significant privileges asymmetrically. On that standard, ECS seems to be a clear case of ranking constitution.

Pace Anderson, I've argued here that *combined with* a regime of employment conditionality, large inequalities in wealth and income *themselves* come to constitute forms of objectionable institutional ranking of citizens. If I am correct in claiming that large inequalities in wealth and income constitute objectionable institutional ranking – not in general – but *with an imposition of employment conditionality on sufficiency*, then Anderson must reject the employment conditionality interpretation, since her pareto argument allows for such large wealth inequalities.

Conclusion: Unconditionality or Equality, a Dilemma

Anderson should reject the employment conditionality interpretation of sufficiency. I started this chapter with an analysis of a salient cause of bargaining power differentials between ordinary workers and firms: a steadily increasing range of goods that become necessary to maintain adequate status and so normal levels of functioning. I then argued that insofar as access to such status goods were conditioned on employment, workers without bargaining power would be dominated in accessing such goods. This observation itself was my first internal objection against employment conditionality: in conditioning access to adequate status on employment, employment conditionality is objectionable, because it imposes domination on ordinary workers. Second, I argued that Anderson should reject employment conditionality because, in conditioning access to adequate status on employment for only some citizens and not others, employment conditionality makes it such that wealth inequalities *constitute* institutional ranking of superiority and inferiority between the wealthy and the working class.

If my arguments are correct, then my discussion identifies two significant egalitarian constraints on the content of Anderson's theory of distributive justice. Recall Anderson's pareto argument:

1. Distributive justice endorses pareto improvements
2. People's (un-equalizing) exercises of freedom under market institutions deliver on such pareto improvements
3. Therefore, market-generated inequalities are presumptively just

The presumptive justice conclusion *only* stands so long as a rising tide lifts all boats, not merely in the benefits of absolute material possessions that people gain access to, but *also* if rising material tides safeguard everyone's sufficient access to relational goods to escape oppressive relationships and to stand as equals. Only then are economic inequalities themselves unobjectionable. But my arguments in this chapter, if correct, show two hitherto underexplored reasons why such an assumption could be false. By introducing such constraints on the acceptable range of interpretations of sufficiency, my arguments go further than just ruling out Anderson's specific employment conditionality interpretation. They positively show that Andersonian sufficiency must be interpreted in a quite demandingly egalitarian manner.

First, as we've seen from the non-comparative objection, as the tides rise in material terms unequally, they also lift the level of consumption required to access adequate levels of status goods – and so decrease ordinary workers' bargaining power against subjection to managerial authority and subject them to domination. Since economic inequality, although it increases absolute material standards, often

attend relative deficits of power for ordinary workers, an acceptable interpretation of sufficiency will constrain to an acceptable degree power differences owing to inequalities in access to resources. Second, as we've seen from the comparative objection, asymmetrically rising tides give rise to an entirely *separate* question of institutionally enforced unequal standing of citizens. When wealth inequalities are very large, as they are under efficiently functioning market systems, there is a subset of citizens who depend for their access to more-than-adequate status on only their wealth and capital income, *given* employment conditionality. Since such inequalities come to *constitute* relative differences between citizens in terms of rank when combined with employment conditionality, an acceptable interpretation of sufficiency will either constrain the variation in differences in prerogatives which attach to citizens' wealth or constrain wealth inequality itself.

Together, these two constraints pose a dilemma about theorizing about relational egalitarian distributive justice, for those like Anderson, who seek to combine the virtues of unequalizing market arrangements with the intuition "The one who is unwilling to work shall not eat". To wit, the dilemma is this. Either:

- (a) Accept employment conditionality but reject many unequalizing market outcomes as impermissible on account of their effects on bargaining power or inferior ranking of the working class (i.e. accept supra-sufficiency distributive standards).

OR

- (b) Accept un-equalizing market outcomes but reject special prerogatives that attach to wealth (i.e. reject employment conditionality).¹⁰³

If my arguments are correct, Anderson can choose (a) or (b) but not both.

Let me end this chapter by suggesting one direction in which Anderson's theory of distributive justice could be developed, if this dilemma were accepted as a genuine dilemma:¹⁰⁴ along the second horn of the dilemma. Greater unconditionality has recently been explored in depth by neo-republican theorists such as Pettit and Lovett, who focused our attention to issues of bargaining power

¹⁰³ The other option is to *impose* mandatory labor requirements on the rich, an option that relational egalitarians would be loth to accept, because that would be inconsistent with occupational freedom.

¹⁰⁴ And this would be the most *plausible* direction in which she would take her distributive theory since, as we saw, Anderson accepts un-equalizing market forces as part and parcel of any acceptable economic system for a society of equals

differences in the workplace. Their discussion's quite narrow focus on guarantees of *basic* necessities seems to betray a too-undemanding understanding of the idea of non-domination. However, their key insight – of significant exit options provided for by an unconditional basic income – is worth considering in light of the weightiness of considerations that I have argued for in this dissertation.¹⁰⁵

¹⁰⁵ Both Pettit and Lovett are optimistic that some sort of unconditional social minimum which met basic needs would end domination in the workplace. See Pettit, "A Republican Right to Basic Income?" (2007) and Lovett, "Domination and Distributive Justice" (2009) for their views.

Conclusion: Towards Unconditionality?

I started this dissertation with two general complaints against employment conditionality, as it is conventionally construed in liberal egalitarian political philosophy. Those were, first, that employment conditionality imposes workplace domination and, second, that employment conditionality ranked the working class as inferior to the wealthy. The substantive arguments tried to clarify these complaints by arguing that the theoretical resources of Anderson's influential theory of democratic equality gave rise to those complaints against Anderson's own endorsement of employment conditionality.

I explained that, at base, workplace domination stems from bargaining power differentials between ordinary workers and firms, when ordinary workers' adequate access to an ever-expanding array of status goods is conditioned on employment. I then raised two internal objections against the employment conditionality interpretation based on this diagnosis. First, I argued that a regime of employment conditionality is objectionable on Anderson's own terms because it objectionably imposes domination on workers by countenancing power differentials. Second, I argued that a regime of employment conditionality is objectionable on Anderson's own terms because employment conditionality makes wealth inequalities *constitute* an institutional ranking of citizens as superior and inferior.

In closing, I want to spell out one of many practical implications of my arguments. Since I suggested universal basic income as a potential direction in which future research in relational egalitarian distributive justice can go, I will briefly comment on that idea as a practical proposal. Universal basic income, in practice as it is in theory, seems to be a promising way of instituting relationally egalitarian reform for de-stigmatization and non-domination of the working class. Universal basic income, when high enough and sustainable enough, has the relational egalitarian promise of making the receipt of state aid not subject to moralizing judgments and granting a hitherto unseen degree of bargaining power to ordinary workers. Of course, there are legitimate empirical concerns about the feasibility of a UBI that is high enough to be truly emancipatory.¹⁰⁶ If such a UBI is economically and/or politically unfeasible, however, similar alternatives as minimum-conditionality cash grants such as the one recently proposed by the Justice Party in South Korea or a more universalistic social insurance seem good relationally egalitarian alternatives to reduce conditionality.

Of course, what poses a theoretical dilemma doesn't necessarily pose a practical dilemma. Indeed, I am optimistic that the proposed reforms in favor of

¹⁰⁶ See, for instance, Alex Gourevitch & Lucas Stanczyk (2018) "The Basic Income Illusion"

unconditionality will, in practice, generally accomplish greater economic equality in addition to less domination and less punitive attitudes towards nonwork among the worst off.

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국 문 초 록

“일하지 않는자, 먹지도 말라”는 계율로 대표되는 도덕화된 노동의 관념은 계속해서 자유주의적 분배정의 이론에서 중요한 영향력을 갖는다. 그 관념에 대한 주요한 관계평등주의적 해석에 의하면, 국가의 역할 중 하나는 양질의 삶의 질에 대한 제도적 지원을 고용에 조건화 시키는 것에 있다. 이를 노동조건부 해석이라고 하자.

본고의 목적은 엘리자베스 앤더슨의 관계적 평등주의 이론인 민주적 평등에서 나타나는 노동 조건부 해석에 대한 내부적 비판을 하는 것이다. 따라서 앤더슨의 관계적 평등주의적 이상인 비(非)지배와 평등한 지위는 노동조건부 해석과 충돌한다는 것을 논증할 것이다.

본고의 첫 두 장은 내부적 비판의 기반이 되는 배경문제들을 다룬다. 제2장에서는 엘리자베스 앤더슨의 분배적 (평등주의와 반하는) 충분주의 지지구조의 이론적 동기들을 설명한다. 제3장에서는 일반적 노동자와 회사 사이에 주요한 협상력(bargaining power)을 허용하는 경제제도 내의 고질적인 문제임을 논증한다.

제4장에서는 내부적인 비판을 진행한다. 본고의 논변은 두가지이다. 첫째, 노동조건은 큰 경제적 불평등이 존재하는 상황 하에서 작업장 지배를 일반노동자에게 강요하기 때문에 앤더슨의 비지배 이상과 상충한다고 논증한다. 둘째, 노동조건은 제도적으로 자산가들을 일반 노동자보다 높은 지위의 사람으로 분류하기 때문에 앤더슨의 관계적 평등 이상과 상충한다고 논증한다.

Keywords : 관계적 평등주의, 분배적 충분주의, 작업장 지배, 호혜성, 비이상이론, 분배적 정의

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