WHAT MAKES NEPOTISM WRONG?

PASCAL L. MOWLA

ORIEL COLLEGE

UNIVERSITY OF OXFORD

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Abstract

Why is it wrong to distribute advantageous positions nepotistically, and is it always wrong to do so? Ordinary morality typically frowns upon nepotism, yet such practices are rarely the target of coercive regulation, and widespread disdain for nepotistic hierarchies is seldom mirrored by a rejection of special relationships or the exchange of personal favours on which we all depend. This thesis reconciles these conflicting intuitions by developing an account of what makes nepotism wrong when it is wrong. It argues that no single familiar objection adequately captures the moral terrain. Instead, what makes nepotism wrong is best understood in light of three distinct kinds of concern.

First, in institutions whose ends individuals should have legal claim-rights to, nepotism is impermissible insofar as it involves a failure to discharge the first and second-order duties associated with the relevant claim-rights. Second, nepotism may undermine an egalitarian interest in efficiency by sustaining inefficient practices that persons, considered as equal socioeconomic participants, have reason to reject. Third, it may undermine an egalitarian interest in opportunity by restricting access to advantageous positions in ways that impose temporal, socioeconomic, developmental, and expressive costs on those excluded. Whether the latter interests generate duties depends upon how they are balanced against competing liberty interests in association and occupational choice. To capture this, the thesis develops a reciprocity-based framework culminating in a principle of reasonable reorganisation, according to which institutional actors must revise practices where reasonably available alternatives better promote these interests without undermining the normative core of the relevant liberties. Where coercive regulation is inappropriate, the account instead appeals to an egalitarian ethos to guide conduct. The resulting account is the first systematic philosophical treatment of the ethics of nepotism and considers how such practices ought to be addressed across diverse institutional settings.

Acknowledgements

My preliminary thoughts and writing on the object of this thesis were originally part of a much larger, but more diffuse, set of research questions on practicing and achieving fairness within non-ideal societies. The ethics of nepotism had intrigued me for both personal and impersonal reasons long before the start of my doctoral studies, but the answer to the question of what makes nepotism wrong initially seemed obvious. As I hope the following body of writing will attest, those initial presumptions were mistaken.

I wish to begin by thanking all of those who have supported and encouraged my non-traditional entry and transition into academic philosophy. I thank my parents and family for their unwavering support, and for instilling within me a disposition to ask questions and seek answers. In addition, I thank many of my close friends who work in other fields for their camaraderie and openness to discussing philosophical ideas over drinks, music, and art. I am also forever indebted to the Department of Philosophy at Birkbeck College, which is sadly now defunct as a distinct entity within the university. Birkbeck's conversion Master's degree in Philosophy made possible my ambition of pursuing formal study in the subject at a pivotal moment in my early twenties, and I am glad that such a programme still exists at the time of writing, in keeping with the university's social mission. I would also like to thank everyone who made my time spent at the London School of Economics both incredibly formative and memorable, especially Jonathan Parry, whose continued support and mentorship I am incredibly grateful for.

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1. Introduction

Why is it wrong to distribute goods nepotistically, and is it always wrong to do so? Ordinary morality typically frowns upon nepotism, yet nepotistic activity is rarely the target of coercive policy and state intervention, and widespread disdain for nepotistic hierarchies is seldom mirrored by a disapproval of special relationships or the exchange of personal favours to which we are all indebted. We dismiss those who profit from personal ties as the beneficiaries of corruption or good fortune, yet recognition of the significance of these relationships is nearly universal. In the UK, Conservative governments have faced criticism for awarding lucrative contracts to individuals and companies with links to party officials.[1] Online, public discourse targets so-called "nepo babies": the children of well-connected parents who happen to find success within the entertainment industry.[2] Despite this, few entertain the impermissibility of nepotism tout court and many individuals appear to value opportunities for collaboration with their nearest and dearest. How then, should we reconcile these conflicting intuitions?

Much of the existing literature on partiality directs its focus towards the ethical dimensions of special relationships and the duties or prerogatives they generate.[3] Less well treated, however, is the distinctly institutional phenomenon of nepotism. Despite the pervasive influence of nepotism and the challenges that such activity presents for conceptions of social or distributive justice, one may struggle to unearth a sustained normative interrogation of the concept itself.[4] Even so, egalitarians of different stripes have long recognised the challenges that nepotism poses for various conceptions of justice. Whilst some assume that favouring friends or relatives for jobs is permissible or even obligatory within smaller businesses, others deem it objectionable to favour friends

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[1] Conn, David et al, "Chumocracy: How Covid Revealed the New Shape of the Tory Establishment"; Jenkins, Simon, "Of Course Michelle Mone Should be Thrown out of the Lords, but Others Enabled Her: Turf Them Out Too."

[2] Gorman, Alyx, "Nepo Babies: What Are They and Why is Get Z Only Just Discovering Them?"; Jones, Nate, "How a Nepo Baby is Born."

[3] See, Oldenquist, "Loyalties"; Cottingham, "Ethics and Impartiality"; Baron, "Impartiality and Friendship"; Friedman, "The Practice of Partiality"; Keller, "Four Theories of Filial Duty" and *Partiality*; Feltham and Cottingham, *Partiality and Impartiality*; Kolodny, "Which Relationships Justify Partiality? The Case of Parents and Children."

[4] A PhilPapers search in January 2025 for "nepotism" generated eighty-six results. Of these results, only one constitutes a philosophical attempt to engage with the question which titles this essay and is discussed below. The vast majority of results discuss the practice of nepotism in relation to evolutionary biology and kinship altruism, or within a historical context. Elsewhere, nepotism is frequently mentioned in passing but is rarely examined with any detail.

or relatives for advantageous positions even if they are suitably qualified.[5] The primary aim of this thesis is to quell the confusion which these vagaries produce by considering what makes nepotism wrong *when* it is wrong.

Rather than providing a distinct account of nepotism's permissibility, familiar objections are typically concerned with the development of some conception of distributive or social justice and only address nepotism incidentally, insofar as it contravenes the relevant imperatives these conceptions generate. Though existing objections found within the relevant literature identify genuine concerns, I suggest that they fail to provide a satisfactory explanandum of what makes nepotism wrong across a diverse range of cases. As a corollary, they do not draw a plausible distinction between permissible and impermissible activity in a way which might guide action. Given that many share the intuition that nepotism is at least sometimes impermissible, we might wonder how this intuition is best explained and just how far this explanation extends to proscribe nepotism as a matter of justice. In service of this end, a comprehensive account of the wrong of nepotism should (1.) faithfully capture and make sense of our intuitions regarding nepotism's wrong-making features; and (2.) give rise to a convincing distinction between permissible and impermissible nepotism. As we shall see below, existing accounts of the wrong of nepotism not only fall short of the first desideratum by limiting their focus to advancing a particular conception of justice, but also struggle to convincingly delineate permissible from impermissible nepotism by the standards internal to these conceptions.

In what follows, I evaluate a series of distinct objections to nepotism, assessing both their ability to account for the wrong-making features that different cases appear to present and the morally significant interests that underlie them. I argue that these relatively familiar accounts not only paint an incomplete picture of nepotism's wrong-making features, but also struggle to convincingly delineate nepotism's permissibility. In some ways, this finding is not entirely surprising, since nepotism is rarely subject to any thoroughgoing philosophical investigation. Notwithstanding, these shortcomings ought to concern political philosophers for a number of reasons.

Firstly, the prevalence of nepotism within the world we inhabit is not easily overstated. It is well established within the relevant philosophical and sociological literature that the social position and network one finds oneself within often affords one

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[5] With little argumentation, Michael Walzer claims that the coercive implementation of meritocratic norms should be limited to positions of public office and that within the 'petty-bourgeois economy', nepotism 'appears to be morally required'. See, *Spheres of Justice,* 161. Cf. *Why Does Inequality Matter?,* 50 for T.M Scanlon's claim that it would be objectionable if 'among many equally qualified candidates for a position, all of those who are selected are friends of people in power.'

access to various goods and competitive advantages.[6] It is thought, for instance, that roughly half of all jobs within the US are acquired through one's network of family, friends, and other acquaintances.[7] If, however, we are unable to confidently identify instances of injustice when it comes to nepotism, a large range of activity within the labour market and society writ large will be consigned to normative grey area given the economic significance of one's social network. As a consequence, we are not only often blind to the injustice which nepotism might perpetuate, but unable to determine when or how we should respond.

Secondly, an investigation of this sort is not only beneficial from the perspective of understanding nepotism as a normative phenomenon and its interaction with what justice asks of us, but also because it illuminates the internal limitations of the accounts discussed. Since existing accounts of the wrong of nepotism tend to elucidate a more specific imperative or conception of justice which nepotism risks contravening, the forthcoming discussion also serves to highlight the challenges which these conceptions face vis-à-vis their treatment (or lack thereof) of nepotism. In this respect, focussing on nepotism helps to deepen our understanding of what justice requires and provides further theoretical insight into different conceptions of justice through a critical lens. Advocates of the different approaches discussed here may therefore find this thesis of interest with respect to developing their accounts further in response to the challenges identified.

In service of these aims, this thesis is divided into two distinct parts. In Part I, I canvass different accounts of the wrong of nepotism and assess their success in satisfying the desiderata mentioned above. In Chapter 2, my investigation begins with an assessment of two competing teleological and dialogical accounts of corruption. Finding that such theories yield considerable ambiguity and provide inadequate coverage when it comes to nepotistic corruption, I develop the integrity account of corruption as a way of accommodating their most compelling insights whilst avoiding the limitations discussed. Given that the integrity account's scope is delimited to the assessment of corrupt conduct within institutions whose purposes ought to be oriented towards securing political, civil, or socioeconomic legal claim-rights, this response leaves much potentially problematic nepotism unaccounted for.

With this in mind, Chapter 3 then proceeds to raise a moralised concern with inefficient nepotism whilst Chapter 4 examines how an account of the wrong of

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[6] See, Bourdieu, "The Forms of Capital"; Goodin, *Perpetuating Advantage*, 54–68; Lin and Dumin, "Access to Occupations Through Social Ties"; Gilani, "Creating Connections."

[7] See, Loury, "Some Contacts Are More Equal than Others: Informal Networks, Job Tenure, and Wages," 306.

nepotism should capture complaints of unfairness. In the former chapter, this leads me to consider Rawls's Difference Principle, as well as T.M. Scanlon's Beneficial Effects Principle and Joseph Barrett's Utilitarian Efficiency Principle, as ways of objecting to the inefficiencies that nepotistic practices risk inducing. Finding that all of the principles evaluated face difficulties when used to account for part of nepotism's wrong-making features, I instead propose the egalitarian interest in efficiency as a way of underwriting intuitive complaints to inefficient selection practices. This interest captures the standing moral reason individuals have, as equal participants in a scheme of cooperation, to favour institutional arrangements that reliably promote competent and productive role allocation, insofar as these provide a more secure and justifiable basis for access to the goods and services on which they depend.

Chapter 4 then reflects the structure of Chapter 3 insofar as it considers three distinct ways of making sense of complaints of nepotism's unfairness including those that appeal to desert, Rawlsian equality of opportunity, and Joseph Fishkin's opportunity pluralism. Finding desert-based conceptions of merit to be implausible for a number of reasons, I consider how the problem of merit and the puzzle of reaction qualifications raises difficulties for both Rawlsian and pluralist accounts of equal opportunity. In keeping with the method undertaken in Chapter 3, I then argue that these problems motivate a turn to what I refer to as the egalitarian interest in opportunity as a way of grounding complaints of unfairness. This interest captures the standing moral reason individuals have, as equal participants in a scheme of cooperation, to resist the selective narrowing of access to advantageous positions in light of the temporal, socioeconomic, developmental, and expressive costs such closures impose.

Part II then begins with a methodological clarification concerning the relationship between rights and interests in grounding objections to nepotistic practices. The earlier chapters establish that different objections to nepotism arise from distinct moral concerns with corruption, inefficiency, and exclusion. However, identifying these concerns alone does not yet determine how they should be weighed when they come into tension with other morally significant considerations, such as associative and occupational authorship. Chapter 5 thus examines how the egalitarian interests identified in Part I interact with countervailing liberty interests that are constitutive of many of the institutional practices within which nepotism arises. On the view developed here, nepotism covered by the integrity account of corruption is impermissible tout court given the determinate content of the role-based duties which nepotistic corruption infringes and a lack of countervailing considerations. However, within the class of cases which lie beyond the integrity account, I argue that moral assessment instead turns on whether the practice frustrates egalitarian interests in efficiency or opportunity in ways

that cannot be justified in light of reasonable alternatives. This leads to the formulation of the imperative of reasonable reorganisation, according to which institutional actors bear duties to revise organisational practices where doing so would promote efficiency or enhance opportunity without intruding upon liberty interests whose protection can be justified to others on reciprocal terms.

Chapter 6 then takes up the final substantive task of the thesis and considers how we ought to respond to impermissible nepotism once it has been identified. Here I argue that the appropriate mode of response varies depending on the source of the wrong. In cases falling under the integrity account, where nepotistic conduct corrupts institutions that ought to secure legal claim-rights, the appropriate response is institutional and legal regulation. By contrast, I suggest that many instances of impermissible nepotism covered by the imperative of reasonable reorganisation occur within domains where coercive intervention would be either infeasible or normatively undesirable. In such cases, I argue that justice instead calls for the cultivation of an ethos that guides how individuals deliberate about organisational practices and justify exclusionary dispositions to others. The appeal to ethos in this context does not weaken the demands of justice, but reflects the limits of coercive enforcement and the role that social norms and moral criticism might play in regulating discretionary practices.

In what remains of this introductory chapter, I begin my investigation by making my use of the term nepotism clear and briefly attend to, but ultimately reject, two familiar ways of understanding the wrong of nepotism before proceeding to consider more hopeful candidates in Part I. In Section 1.1, I offer a definition of nepotism that is congruent with our use of the term in ordinary language but neutral with respect to its wrong-making features and impermissibility tout court. Section 1.2 then makes some preliminary comments on the methodological choices undertaken in this thesis and further motivates the normative significance of the question being addressed by gesturing towards the prevalence of nepotistic practices. Section 1.3 concludes the chapter by considering whether impermissible nepotism should be understood as a kind of wrongful discrimination and briefly commenting on the limits of impartiality.

1.1 A Definition of Nepotism

In order to orient the following discussion, it will be necessary to provide a definition of nepotism. Since allegations of nepotism typically conjure pejorative thoughts of corrupt or unethical activity, it is important that our definition faithfully captures ordinary judgements about what nepotism consists in whilst remaining neutral between different explananda of its impermissibility. Given nepotism's pejorative

perception, one might be puzzled by both the title of this thesis and the aforementioned need for a definition of nepotism which is neutral with respect to its wrong-making features. This confusion is likely to be a product of the thought that nepotism is wrong *by definition* and so providing an adequate definition of nepotism is analogous to explaining what makes it wrong. On this view, there is no meaningful sense in which we can delineate between impermissible and permissible nepotism, since if it were permissible, it would not be "nepotism" but something else entirely. Although this thought might be held by some, it should be patent that endorsing it without qualification would unavoidably beg the question in favour of nepotism's impermissibility tout court or a particular account of its wrong-making features.

I further elucidate my rationale for proposing a neutral definition below, but for those who are otherwise immediately suspicious, consider the following problems associated with adopting a moralised definition. Given that nepotism conjures pejorative thoughts of unethical activity, suppose instead that we understand nepotism as conduct that is definitively wrong, say, because it is unfair, and so define nepotism as a particular expression of unfair favouritism. Once we do so, however, we encounter three problems. Firstly, by narrowing and moralising the definition of nepotism in a particular way, the task of engaging with philosophers who define nepotism differently is strained, as the risk of talking past one another increases. Secondly, though nepotism is frequently perceived as having pejorative connotations, the reasons for this negative perception might be relatively diverse. As such, we risk being ignorant of an array of objections to nepotism whenever we define the relevant practice in such a way as to exclude them. Finally, though some might consider nepotism to be objectionable *simpliciter* for one reason or another, others may take a more nuanced approach or see no problem with nepotism whatsoever. Once again, starting with the assumption that nepotism is definitively wrong, or definitively wrong for a particular reason, risks biasing our assessment of different approaches in various ways.

In anticipation of these problems, I offer a definition of nepotism which is neutral with regards to competing accounts of its impermissibility and which leaves room for the possibility of permissible nepotistic activity. This is not to suggest, however, that the term "nepotism" is devoid of any normative content in common parlance. Instead, it is to recognise the need for an adequate description of nepotism which suspends further evaluative considerations about its normative status within various contexts if we are to come to a considered view regarding its permissibility.

To draw an illustrative analogy, one can provide a description of "favouritism" which denotes the expression of preferential treatment for a person or group at the expense of others without committing to claims about its permissibility in different

scenarios. Like nepotism, "favouritism" may prompt pejorative thoughts of *unfair* preferential treatment, but this does not preclude us from using the term in a neutral way in order to evaluate the permissibility of particular expressions of favouritism. Compare, for example, the favouritism that a mother may express towards her own children with an expression of favouritism *amongst* her own children. Ordinary moral judgements may deem the former act to be an instance of permissible or even obligatory partiality, whilst the latter is usually thought to be objectionable.[8] Despite this, there is a clear and uncontroversial sense in which both acts can be described as an expression of favouritism, and this can be done without obfuscating what the term is perceived to refer to in ordinary language.

It is with this in mind that I provide a definition of nepotism which successfully identifies a class of acts that captures what we typically perceive nepotism to consist in and is suitably broad so as to avoid a bias towards a particular account of its impermissibility.

> ***Nepotism***: An agent engages in nepotistic activity whenever they utilise their influence within an institution to favour distributing goods to a member of their social network, and where such membership positively influences the decision to distribute the goods in question.

With this in view, we can now posit several salient features of the definition which establish both its neutrality and fidelity to ordinary use.

Firstly, the definition identifies two dimensions which differentiate nepotism from other kinds of favouritism. The first dimension specifies the relational aspect inherent to nepotism and delimits this relational scope to members of an agent's social network. Whilst an agent may express partiality in any number of ways (e.g., towards someone who shares their ethnicity or gender), an ordinary ascription of nepotistic activity typically refers to the practice of favouring one's friends and relatives for some good. In place of "friends and relatives", I use the more inclusive term "social network" which I believe to be congruent with the thought that nepotism can involve favouring friends as well as friends-of-relatives, relatives-of-friends, friends-of-colleagues and so on.

The second dimension specifies the site or location of nepotistic activity and constrains the site of nepotism to institutions. Here, I adopt Rom Harré's definition of an institution as 'an interlocking double-structure of persons-as-role-holders or office-bearers […] and of social practices involving both expressive and practical aims and

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[8] See, Baron, "Impartiality and Friendship," 837-838.

outcomes'.[9] Construed as such, the kind of institutions under consideration admit of a wide variety, including schools, businesses, police forces, hospitals and political institutions, as well as many others.[10] Delimiting the scope of nepotism in this respect is important, since a definition which specified the aforementioned relational aspect without constraining the site of nepotism would be inadequately broad. We may, for instance, have good reasons to scrutinise the partiality that parents express towards their own children whenever they lavish them with financial resources and exacerbate inequality as a result.[11] But, in spite of some structurally analogous features, such activity could not faithfully be described as nepotism.

Crucially, the definition does not equate nepotistic practices with acts which are inherently unfair or objectionable. Characterising nepotism in this way avoids the preliminary concerns noted above and also creates space for the possibility of permissible nepotistic activity. It leaves open the possibility that nepotism can involve favouring a member of one's social network for a particular good from a position that is *internal* to the institution where the good will be realised, as well as using one's power or influence from a position that is *external* to the target institution. In either case, one utilises their social position and network to influence a distribution within the relational scope specified. I may, for example, have no special ties to a particular institution in which my child hopes to work, but upon reflection, recall that a relative does and request that they do my bidding. If my membership of this extended social network then influences the decision to award my child a high-paying job, I will have used my social network to influence decision-making in a way which constitutes nepotism.[12]

It also does not attempt to fix, as a constant, the set of reasons which may serve to explain why an agent favours a member of their social network for some good, or why

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[9] Harré, *Social Being*, 98. This definition is also congruent with other definitions of institutions in contemporary sociology. See, Giddens, *The Constitution of Society*, 31; Turner, *The Institutional Order*, 6.

[10] Given the definition provided, one may question why the family is not listed as a relevant institution. Though the family can be understood as a kind of social institution, no one considers families to be subject to open competition for the roles within them, and they also lack the formal, interlocking double-structure alluded to. Aside from the fact that it would be odd to describe gift giving within families as nepotism, it is also reductive to think of families as having particular and well-defined productive or expressive aims.

[11] For a defence of this claim, see, Brighouse and Swift, "Legitimate Parental Partiality."

[12] Although the involvement of multiple agents throughout a social network raises questions of who is acting nepotistically or ultimately liable, I remain silent on questions of culpability for now and suggest that multiple agents can act nepotistically together in ways set out by the definition even if only one of them has the authority to make a nepotistic decision.

one utilises their influence or power to obtain advantages in the ways discussed.[13] Instead, the latter clause of the definition acknowledges that one's membership of the relevant network must positively influence the distribution of some good without ascribing particular agential reasons—that is, reasons upon which agents actually act—as part of an explanatory narrative.[14] Membership of the relevant network must contribute (directly or indirectly) to generating a decisive reason in favour of the decision, but the definition is non-committal as to *why* membership of a particular social network generates reasons for action. Whilst it may be quite natural to think that nepotism entails agents acting upon agent-relative reasons to favour a particular person, group, or relationship, I encourage the reader to set this assumption aside. For those unconvinced by this approach, contemplate the following rebuttal.

First, consider how institutions are largely defined by their raison d'être. This encompasses the purpose (productive or otherwise) which an institution exists to fulfil and defines an institution's role in society.[15] A particular raison d'être (or institutional purpose) therefore determines the particular processes or roles that are necessary to achieve the relevant ends.[16] If an institution is to operate in a way which effectively realises its pursuit of a particular end, then people with abilities, traits, or qualifications of the relevant kind are required to fulfil particular roles, and weighting of the relevant considerations is determined with reference to the institution's purpose. In this respect, the considerations which support hiring one sous chef over another within a Michelin-starred kitchen are likely to differ significantly from the selective criteria deployed within an international fast-food outlet.

As we shall see, however, an institution's purpose is sometimes constituted by a productive, associative, or occupational aim which falls within the relational scope specified. In cases where an institution is created with the purpose of furthering the interests of a particular association, or where the presence and visibility of a particular social network is crucial to realising an institution's productive purpose, considerations

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[13] It is for this reason that I refer to "nepotistic activity" rather than "nepotistic partiality" so as to leave open the possibility that nepotism may be motivated or explained by something other than a reason of partiality. For more on motivating, explanatory, and normative reasons, see, Alvarez, "How Many Kinds of Reasons?"; Hieronymi. "Reasons for Action."

[14] Following Constantine Sandis, agential reasons are understood here as considerations '*upon which* one actually acts or refrains from doing so' and may be faulty or motivated by dispositions which the agent is unaware of. See, Sandis, "Verbal Reports and 'Real' Reasons: Confabulation and Conflation," 267.

[15] Or, in the words of Emanuela Ceva and Maria Paola Ferretti, 'the raison d'être of an institution comprises the normative ideals that motivate its establishment and, consequently, its internal structure and functioning'. See, Ceva and Ferretti, *Political Corruption*, 23.

[16] Hereafter and throughout the thesis, I use the terms "institutional purpose" and "raison d'être" interchangeably.

like "X is a family member" might prove relevant, though defeasible, to selection. In cases of the latter kind, agent-relative reasons may or may not be present or coextensive with agent-neutral considerations of a meritocratic nature. Though this complicates things, I believe that we can reasonably regard such practices as nepotistic because these institutions, in one way or another, exemplify the practice of "keeping it in the family". In other words, they are organisations that are closely intertwined with the special relationships that populate them, with a modus operandi which excludes or disadvantages outsiders. Nepotism can therefore be "baked" into the organisational structure of an institution such that nepotistic practices promote the institution's stated purpose and no longer appear arbitrary.[17]

Suppose, for example, that our definition constrained the sphere of nepotistic activity to cases in which a distributor's agential reason for favouring a relative for some good (e.g., the decision to hire them) is an agent-relative consideration (e.g., love for a daughter) such that they distribute nepotistically whenever they act upon reasons of partiality. Though this definition captures what we might call a "classic" case, it risks excluding others which ordinary judgements would deem nepotistic due to a difference between the underlying cognitive states which explain the decision and the agent's purported reasons for action. People can be mistaken about what reasons they *actually* have to perform various actions, as is the case when an agent's love for their daughter obfuscates an impartial assessment of their ability to adequately perform a particular role. In such cases, the employer's agential reason may be the agent-neutral consideration that their daughter merits the position but unbeknownst to them, their special relationship has clouded their judgement.[18] Again, I believe that we can reasonably regard such cases as examples of nepotism even though there seems to be some confusion concerning the agent's underlying cognitive states and purported reasons for

[17] This is not to suggest, however, that such decisions are permissible, for they might be morally arbitrary in the sense they cannot be justified all things considered.

[18] Here, one could argue that explanatory agent-relative reasons to favour a social network member provide the relevant standard instead of agential reasons. There are, however, problems with this approach. Firstly, a definition which appeals to particular explanans must contend with the insurmountable task of capturing every possible factive explanation of why a given agent acted nepotistically. Secondly, a comprehensive explanation of an agent's reasons for a nepotistic distribution might reveal both agent-relative and agent-neutral reasons. Finally, it seems plausible to say that we have higher-order, de dicto agent-neutral reasons to act partially whenever this would promote whatever is impartially best. What I hope to make clear is that encumbering our definition with a specific explanatory narrative is liable to create more problems than it solves and risks instantiating an under inclusive definition of nepotism.

action.[19] What such scenarios highlight are the limitations of definitions which tie nepotism to the agent's motivating reasons, since in cases of this kind those reasons may be opaque or misidentified.

Finally, the term "goods" is used to refer an expansive group of comparative advantages which include but are not limited to: jobs or educational places; material or immaterial rewards and benefits; the devotion of time or effort; and awards which denote some sense of merit or achievement. Given its central significance to much of the discourse about nepotism, I limit my focus here to the paradigmatic practice of nepotistic hiring and selection for advantageous positions. This includes paid or unpaid employment, as well as educational or training places and other positions which are typically thought to be subject to open competition.[20] Such positions are thought to be advantageous insofar as they confer material benefits, prestige or social status, a sense of fulfilment, or the means to secure other positions which may bring with them any of the above.[21] For these reasons, political philosophers have typically treated the distribution of advantageous positions and the goods associated with them as falling within the scope of justice.

1.2 Preliminary Comments

Before proceeding any further, I pause here in order to anticipate some potential confusion regarding the central aims of this thesis and motivate the normative significance of the task at hand. Firstly, by considering what makes nepotism wrong, I intend to draw attention to a distinction between permissible and impermissible nepotistic activity, designating the impermissible as activity which could be the appropriate target of coercive policies or non-coercive norms. As I shall argue, it is a requirement of justice that we do not engage in impermissible nepotistic activity. This is

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[19] One might object that the definition should instead be constrained to include all underlying mental states which motivate agent-relative reasons irrespective of an agent's cognisance of them or the reasons they purport to act upon. Though such a definition offers a theoretical improvement on the constrained definition given above, it is still problematic in cases where agent-relative reasons may not be present or coextensive with agent-neutral considerations and may be less apt for use within the real world due to the inaccessibility of mental states which play a motivational role.

[20] Though I hope that much of the forthcoming discussion will also help to contribute to a better understanding of what justice might require in these other contexts as well.

[21] Given the ubiquity of the term "advantageous positions" within the literature on equality of opportunity, I do not provide any further analysis here. For similar usage and further discussion of the term in relation to equal opportunity and open competition, see, Flew, *The Politics of Procrustes*, 46-47; Miller, *Principles of Social Justice*, 177-202; Mason, *Levelling the Playing Field*, 16, 24; Lippert-Rasmussen, *Making Sense of Affirmative Action*, 72-102; Fishkin, *Bottlenecks*, 1-23; Scanlon, *Why Does Inequality Matter?*, 40-52.

not to suggest, however, that acts of permissible nepotistic activity may occur without any concern whatsoever or that they are necessarily morally admirable.[22] On the contrary, we might think that the world would be a better place if fewer people engaged in permissible nepotistic activity even if a move to proscribe such activity would struggle to find adequate justificatory support. The idea, then, is to evaluate existing objections to nepotism and consider the extent to which we should accommodate the relevant practices.

Secondly, many approaches to the ethics of partiality consider the kind of value that special relationships have for us and investigate the extent to which partiality is congruent with interpersonal morality, or generates prerogatives or duties within a moral universe that is dominated by impartial norms.[23] These approaches are often concerned with higher-order claims which determine the structure of particular ethical or meta-ethical theories, rather than rules which the state should enforce or norms which institutions and individuals should abide by. By contrast, I assume here that such relationships have significant value for us, that reasons of partiality may partly be explained by one or more of the existing theories, and that these reasons must be commensurate with whatever our best theory of interpersonal morality happens to be. As such, I start somewhat *in medias res* and focus on accounts of the wrong of nepotism which are predicated on some value or conception of justice external to the relationship in question. Given the challenges that nepotistic activity presents for theories of social and distributive justice, this approach should be preferable in virtue of its political focus.

Even so, one might wonder whether my framing of the task at hand too readily overlooks a dispute about the scope of justice. I suggested above that a satisfactory answer to the explanatory question which orients Part I of this thesis will involve considering how competing theories accommodate intuitive objections to nepotism across a diverse range of realistic cases. But that, in Part II, it will be necessary to review countervailing interests in liberty in order to answer the second desideratum which aims at delineating the permissible from the impermissible. Notably, this approach differs in method from much contemporary egalitarian theory and I elucidate this methodological divergence further in Chapter 5. For present purposes, however, it is necessary to say something more about the virtues of such an approach by contrasting it with a distinct way of understanding the relevant puzzle.

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[22] Nor is it to suggest that a requirement of justice necessarily entails state action for it might be incumbent on institutions and the individuals within them to adopt just practices in cases where state intervention is undesirable or infeasible.

[23] Many approaches tend to locate the source of value that special relationships have for us in order to solve the puzzle of partiality as a matter of primacy. For more on the puzzle of partiality, see, Keller, *Partiality*, 5-7.

In his discussion of Jerry Cohen's critique of Rawlsian incentive inequality, David Estlund echoes John Rawls's claim that justice is uncompromising at the level of institutions, but 'not all controlling' at the level of individual deliberation and conduct.[24] By way of response to Cohen's critique, Estlund argues that any reasonable egalitarian, including Cohen, must not only accept a prerogative of self-interest that limits the scope of justice, but that any egalitarian theory which subordinates affection or other personal considerations would be implausible for similar reasons.[25] Given the diversity of moral considerations which might temper justice's scope, Estlund contemplates whether our ability to produce more concrete answers awaits progress in moral philosophy, stating that 'the task of theoretically sorting out what is morally permitted (or at least non-tainting) in all or most real situations is daunting.'[26]

Though the object of Estlund's thought here is somewhat distinct from the primary task of this thesis, it does reveal an alternative way of addressing the problem from the one which I outlined above. On this view, the question of how far egalitarian requirements extend in the face of claims grounded in self-interest, affection, or personal projects should not be settled by further political argumentation, but bounded by whatever interpersonal morality might reasonably permit. If this is correct, then the task of the egalitarian theorist is to propose principles of justice whose scope is subsequently bounded by a more complete moral theory of individual prerogatives.

The methodological approach adopted in this thesis proceeds in a different direction. Instead of awaiting a complete moral theory of the prerogatives agents may permissibly exercise, I consider which coercive, or non-coercive, principles governing the regulation of nepotism can be justified on impartial grounds which treat each citizen's interests as equally significant.[27] Crucially, many of the considerations that figure in Estlund's discussion also figure in our evaluation of nepotistic practices. These considerations, however, can be described in political terms as interests that institutions have reason to recognise given their role in distributing advantageous positions and making possible different kinds of associative or occupational life. Once characterised in

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[24] Estlund, "Debate: Liberalism, Equality, and Fraternity in Cohen's Critique of Rawls." See, Rawls, *A Theory of Justice*, 495.

[25] ibid., 109.

[26] ibid., 108.

[27] I refer here to the non-metaethical thesis of normative constructivism familiar to both John Rawls and T.M. Scanlon, by whose lights the political and/or moral principles we ought to adopt are those which would result from what we would agree to in a idealised choice situation which respects everyone's interests equally. This kind of constructivism is sometimes referred to as being 'local' or 'restricted' in the relevant literature, as it only aspires to provide an account of facts *about* morality or justice rather than ethical facts simpliciter. For more on this distinction, see, Street, "Constructivism about Reasons" in *Oxford Studies in Metaethics*, 208-209.

this way, these interests can be weighed against countervailing considerations without presupposing a complete theory of interpersonal morality. Importantly, the approach undertaken here does not deny the existence of moral prerogatives of self or other-interest, but understands appeals to partiality as ones that are plausibly captured by morally significant liberty interests to which political principles governing practices such as nepotism must be sensitive. When these prerogatives are cashed out in terms of the liberties they protect, the question no longer concerns where justice ends and morality begins, but what justice requires given that offending the core of these interests would itself be unjust.

In addition to these preliminary comments on the approach pursued within this thesis, it is also worth emphasising just how prevalent nepotism really is within the societies we inhabit. For one might think that if nepotism turns out to be relatively rare and so of marginal impact to both theory and practice, then analysing the problems nepotism presents in such detail might seem to be making a mountain out of a mole hill. In response to this preliminary scepticism, it is therefore worth referring to the empirical literature which suggests that social networks play a considerable role in shaping access to advantageous positions.

As I noted above, one widely cited estimate suggests that roughly half of the jobs acquired in the United States are found through one's friends and relatives. Empirical research by Datcher Loury also finds that substantially higher wages are obtained by individuals who secure employment through a 'prior generation male' relative 'who knew the boss or served as a reference', hinting at a further link between nepotistic activity, job placement, and economic advantage.[28] Likewise, Francisco Pérez-González's study of 300 chief executive officer successions found that in over a third of cases, the incoming executive possessed familial ties to the person being replaced, with the study concluding that 'nepotism hurts performance by limiting the scope of labour market competition'.[29] As Adam Bellew observes of George W. Bush's administration,

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[28] Loury, "Some Contacts Are More Equal than Others: Informal Networks, Job Tenure, and Wages," 310.

[29] Pérez-González, "Inherited Control and Firm Performance," 1559. Of this study, Miles Corak notes that 'the decline of firm performance upon the succession of a family member would seem to suggest that family members do not on average have a distinctly more valuable set of skills or managerial talent.' See, Corak, "Income Inequality, Equality of Opportunity, and Intergenerational Mobility," 94.

the situation in politics is often no different, for 'no sooner had Bush taken office […] than he began handing out appointments to members of other Republican families.[30]

These findings resonate with a broader sociological observation concerning the role of what Pierre Bourdieu famously termed *social capital*, defined as the resources linked to membership in social networks which may be exchanged for economic or cultural capital. As Bourdieu writes,

> 'Social capital is the aggregate of the actual or potential resources that are linked to possession of a durable network of more or less institutionalised relationships of mutual acquaintance and recognition—or in other words, to membership in a group—which provides each of its members with the backing of the collectively-owned capital, a "credential" that entitles them to credit in various senses of the word.'[31]

Although the holdings of social capital are often opaque and difficult to measure, its socioeconomic influence is widely acknowledged. It is perhaps unsurprising, then, that career guidance literature frequently stresses the importance of networking. For example, the University of Oxford's careers service cites the widely circulated estimate that 'around 60% of jobs are never advertised', and instead exist within what they describe as the 'hidden job market'.[32] Opportunities frequently arise through networks of familiarity and recognition, sometimes through explicit acts of favouritism, and sometimes through more benign patterns of opportunity transmission. Inequalities of social capital are frequently observed across the globe and the social networks within which we find ourselves are thought to influence socioeconomic outcomes in a number of ways, including: macroeconomic performance, democratic activity, gender or ethnic inequality,

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[30] Bellew, *In Praise of Nepotism*, 3. In addition to his illuminating overview of the prevalence of nepotistic hierarchies, Bellew provides evidence here of the Bush administration's nepotistic tendencies by producing the following list. 'Michael Powell, son of Secretary of State Colin Powell, became chairman of the Federal Communications Commission. Elaine Chao, wife of Sen. Mitch McConnell, became secretary of labor. Chao's chief labor attorney, Eugene Scalia, was the son of Supreme Court Justice Antonin Scalia. Elizabeth Cheney, the vice president's daughter, became a deputy assistant secretary of state; her husband became chief counsel for the Office of Management and Budget. And in a crowning act of nepotistic chutzpah, Bush acceded to Sen. Strom Thurmond's request that he appoint twenty-eight-year-old Strom Thurmond Jr. U.S. attorney for South Carolina. Nor was that all by any means.' For the continuation of such practices within U.S. politics, one only needs to look to the Trump administration's handling of such appointments across both terms.

[31] Bourdieu, "The Forms of Capital" in *The Sociology of Economic Life*, 102-103.

[32] University of Oxford Careers Service, *Networking*. For more empirical research on the significance of social networks in securing employment, see, Granovetter, "The Strength of Weak Ties" and *Getting a Job*; Lin and Dumin, "Access to Occupations Through Social Ties"; Lin, "Social Networks and Status Attainment"; Fernandez et al, "Social Capital at Work: Networks and Employment at a Phone Center"; Kong et al, "Parents' Social Network, Job Location, and Graduate Wages."

integration, educational attainment, as well as crime, civic engagement, health, and life satisfaction.[33]

Against this background, nepotism functions as one of the most direct mechanisms through which advantages embedded within social networks can be converted into access to advantageous positions and the goods associated with them. Given the scale at which such dynamics appear to operate, the case for a systematic normative investigation of nepotism's permissibility is far from trivial. The purpose of the present thesis is not to offer a sociological explanation of these dynamics, but to clarify the normative status of the practices through which such advantages are often realised.

1.3 Wrongful Discrimination and The Limits of Theories of Impartiality

I now conclude this introductory chapter by briefly considering and setting aside two ways of understanding the wrong of nepotism found within the literature on wrongful discrimination and impartiality. Unlike the approaches I explore in Part I which direct our focus to theories of corruption, efficiency, and equal opportunity, the ascription of nepotism as a kind of wrongful discrimination draws our attention to the ways in which certain decisions may fail to respect individuals as autonomous agents, and impartiality to the ways in which nepotism is incongruent with equal concern. Though I remain generally sympathetic to the independent concerns they raise, I suggest that the former ultimately mischaracterises the object of wrongful discrimination and that the latter is explanatorily hollow.

One notable approach of the first kind, developed by Benjamin Eidelson, identifies a failure to treat people as individuals as a central component of wrongful discrimination.[34] Although Eidelson's account does not target nepotism specifically, it motivates an objection to nepotism whenever decision-making involves a failure to: a) acknowledge the ways in which people have exercised agency when forming judgements about them; or b) respect an individual's capacity for agency when making predictions about their choices.[35] Given the relevance of this idea to the distribution of

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[33] See, Fukuyama, "Social Capital and the Global Economy"; Helliwell, "Do Borders Matter for Social Capital? Economic Growth and Civic Culture in the U.S. States and Canadian Provinces" in *The Economic Implications of Social Cohesion* and *Economic Growth and Social Capital in Asia*; Putnam et al, *Making Democracy Work*; Putnam, *Bowling Alone*; Lin, *Social Capital,* 113; White and Kaufman, "Language Usage, Social Capital, and School Completion among Immigrants and Native-Born Ethnic Groups"; Portes, "The Informal Economy" in *Economic Sociology*.

[34] Eidelson, "Treating People as Individuals."

[35] ibid., 205.

advantageous positions, I focus here on the first of these claims. In cases of nepotistic selection, favouring those with special ties to the decision-maker is liable to overlook the ways in which other candidates have exercised agency to attain relevant qualifications. In doing so, decision-makers may fail to give 'reasonable weight to evidence' of how these individuals have shaped their lives through their choices, even where such evidence is 'reasonably available and relevant to the determination at hand'.[36] As Eidelson makes clear, treating people as individuals 'is not a matter of fairness', but of responding to each person in a way 'that befits someone with that feature—whatever it is'.[37] Nepotistic selection may therefore ride roughshod over this requirement whenever decision-makers fail to acknowledge individuals' exercise of agency in forming judgements about who to select.

A related, but distinct, objection is developed by Sophia Moreau, who, unlike Eidelson, explicitly designates nepotism as a 'form of discrimination' that may infringe an individual's right to deliberative freedom.[38] Moreau understands deliberative freedom as the freedom to have 'the space to become the people whom [we] want to be'.[39] This freedom is especially salient in the context of selection for advantageous positions, since differential treatment in this domain may impose opportunity costs or deliberative constraints that curtail meaningful opportunities 'to shape our lives in our own way, through our own deliberations and decisions'.[40] On this view, nepotistic practices may be objectionable insofar as an individual's social ties (or lack thereof) impose deliberative burdens that meaningfully affect the 'opportunity to *do* the thing that [they] may decide to do.'[41]

Importantly, Moreau's objection does not imply that all differential treatment in selection is problematic, since decisions such as where to apply, or what qualifications to pursue, ordinarily impose deliberative burdens, but these are burdens 'that each of us can legitimately be asked to bear ourselves, since *everyone* must bear them'.[42] Burdens imposed by nepotistic practices are therefore considered to be objectionable insofar as they are ones that encumber only individuals who lack social capital, just as racist practices

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[36] ibid., 216.

[37] ibid., 209, 210. Here, Eidelson alludes to Stephen Darwall's notion of recognition respect in Darwall, "Two Kinds of Respect."

[38] Moreau, *Faces of Inequality*, 115.

[39] ibid., 87.

[40] ibid., 87-88.

[41] ibid., 88.

[42] ibid., 91.

burden only particular ethnic groups.[43] If it is an open secret that one is only able to attain certain positions when situated within favourable networks, then this will unequally distribute deliberative burdens in ways that align with membership of disadvantageous networks. Those who lack social capital will come to see their social networks as imposing costs or constraints that hamper their deliberative freedom and hence their agency. Use of the adage "it is not what you know, but *who* you know" to deter one's pursuit of a particular career or dampen ambition illustrates the extent to which nepotism induces deliberative burdens of the kind discussed. The more prevalent nepotistic practices are in any given society, the more one's family status and lack of social capital is put 'before one's eyes' as a trait that imposes costs and deliberative burdens.[44]

Despite their differences, both Eidelson's and Moreau's accounts share the common thread that nepotism may constitute a failure to respect individuals as autonomous agents. On these views, nepotistic practices risk overlooking the ways in which individuals exercise agency in shaping who they are and what they can do, or curtailing the freedom to pursue particular occupational paths without treating one's social position as a burden. Given the centrality of occupational choice to ideals of autonomy and self-authorship, together these objections suggest that nepotism may be incongruent with equal respect for individuals' autonomy. It is not clear, however, why counting relational considerations within selection decisions would necessarily be incompatible with respect for individual autonomy,[45] or how such an approach might developed so as to adjudicate competing appeals to this value.[46] The special relationships individuals cultivate are themselves an important product of agency and often constitute morally significant aspects of our personal identities. Determining when attention to such relationships constitutes a failure to treat others as individuals thus proves difficult.

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[43] It is perhaps worth noting here that where social segregation exists between different ethnic groups and where some of these groups are already disadvantaged in other ways, nepotism is likely to amplify intersectional disadvantages. Nepotistic practices can therefore compound various forms of disadvantage, further marginalising those who already face other kinds of injustice. In such a world, it may therefore be the case that nepotistic practices exacerbate inequality between different ethnic groups. This is an important point, and one which I return to discuss in Chapter 4 when considering the impact of homophilic social tendencies on equality of opportunity.

[44] Moreau, *Faces of Inequality*, 84.

[45] Eidelson recognises this, stating that his account 'does not suffice to work out the concrete demands of respect for individual autonomy in particular cases, much less […] when a given act of discrimination is or is not wrong all things considered. See, "Treating People as Individuals," 227.

[46] It is worth noting that Moreau is also cognisant of this difficulty but offers no solution, rightly stating that 'we live our lives, not just as beings capable of autonomy, but as beings capable of autonomy *who live among other such beings*.' See, Moreau, *Faces of Inequality*, 92.

Supposing that these issues could be settled decisively, it strikes me that characterising nepotism as a form of discrimination more straightforwardly risks rendering the protectorate of discrimination implausibly large.[47] This is not to suggest that nepotism plays no role in exacerbating structural injustice. As noted above and as I shall discuss further in Chapter 4, the prevalence of homophilic social tendencies often means that nepotism contributes to inequalities between socially salient groups in practice. Nevertheless, unlike paradigmatic forms of discrimination, nepotism does not consist in the disadvantageous differential treatment of individuals qua members of such groups, and there are reasons to resist enlarging the scope of discrimination in this way.

Extending the category of discrimination to cover nepotistic practices risks mischaracterising the purpose of anti-discrimination law by collapsing an important distinction between disadvantageous differential treatment stemming from idiosyncratic preferences, and those which stem from prejudice such as racism or sexism.[48] Moreau attempts to avoid this implication by treating nepotism as a kind of discrimination 'coupled with a set of other, unrelated wrongs', such as abuses of authority or the failure to select meritocratically.[49] Failures I shall consider in Part I. But it is unclear why an appeal to these other wrongs would provide any meaningful source of differentiation, given the frequency with which they intersect with disadvantageous differential treatment stemming from either prejudice or idiosyncratic preferences. Nevertheless, the appeal to autonomy that underlies these objections will resurface in a different guise in Chapter 5, where I consider how interests in associational and occupational authorship might be balanced against egalitarian interests in order to produce more concrete guidance.

Setting aside the move to characterise nepotism as a kind of wrongful discrimination, it is also worth briefly commenting on whether the wrong of nepotism might be captured more simply by an appeal to equal concern and impartiality. This thought is a natural one. Since nepotism typically involves favouring members of one's social network, it may seem to amount to nothing more than an objectionable expression of unequal concern. But the requirement of equal concern can itself be understood in distinct ways. It might be interpreted as a duty of impartial benevolence, requiring decision-makers to weigh the same size benefits or harms to different individuals equally. Or it might be understood procedurally, either as a duty of impartial application requiring rules to be applied consistently and without fear or favour, or as a higher-order

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[47] Cécile Laborde would be sympathetic to a critique of this sort on the grounds that the protectorate of discrimination should be delimited with reference to socially salient groups who are victims of structural injustice. See, Laborde, "Structural Inequality and the Protectorate of Discrimination Law."

[48] Kasper Lippert-Rasmussen presses the same claim against Moreau's appeal to deliberative freedom in *Born Free and Equal*, 189.

[49] Moreau, *Faces of Inequality*, 115.

duty of impartial assessment requiring that the rules governing selection be justifiable in a way that gives appropriate weight to each person's comparable interests.[50]

Although each of these interpretations captures an important moral idea, none yields a satisfactory account of what makes nepotism wrong when it is wrong. A duty of impartial benevolence is too demanding to serve as a general guide to practical reasoning and, even in more restricted domains, is liable either to generate implausibly rigid constraints or to justify counterintuitive results once welfare is treated as the primary currency of assessment. A duty of impartial application is more persuasive, but relatively hollow, since it remains silent on which rules ought to govern selection in the first place and is perfectly compatible with the impartial enforcement of rules that distribute advantages nepotistically. And whilst a duty of impartial assessment is compelling as a higher-order commitment, it still leaves open the substantive question of which interests and values should shape the first-order principles by which nepotistic practices are to be judged. For this reason, the remainder of the thesis proceeds by examining several more determinate moral concerns that nepotism raises—namely corruption, inefficiency, and exclusion from socioeconomically and developmentally significant opportunities.

[50] For an extended discussion of these interpretations, see, Hooker, "When is Impartiality Morally Appropriate?" In *Partiality and Impartiality*.

PART I

2. Nepotism and Corruption

People frequently object to nepotism within particular institutions on the grounds that it constitutes a form of corruption. Nepotism in these domains is widely considered to be especially insidious and presumptively wrong. Existing theories of corruption can be demarcated into teleological and dialogical camps. Broadly speaking, teleological accounts specify some normative end which underlies a particular set of socioeconomic, civic, and political institutions that certain conduct risks corrupting. On these views, corruption is thought to involve acting in ways that deviate from the procedures, practices, or roles which would effectively realise the teleological goal that constitutes the institution's raison d'être. Dialogical accounts, by contrast, eschew this teleological understanding and instead explain the wrong of corruption by appealing to duties to uphold dialogical norms within the relevant institutions.

In this chapter, I examine two such objections to nepotism qua corruption. Finding that existing teleological and deontological theories of corruption struggle to satisfy as explananda of what makes nepotistic corruption wrong, I develop and defend a novel account of corruption which sits between the accounts discussed. In Section 2.1, my investigation begins with an analysis of Seumas Miller's teleological account of corruption. Although there is prima facie plausibility to Miller's approach, I argue that it falls short as a satisfactory explanandum because its scope risks both under and over-inclusiveness, and since it is unable to recognise objectionable instances of corruption which fall short of sufficiently harmful consequences.

Finding that Miller's teleological account fails to convince, in Section 2.2 I proceed to review Emanuela Ceva and Maria Paola Ferretti's public duty-centred account of corruption and the distinct objection to nepotism it generates. Whilst Ceva and Ferretti's approach provides a nuanced dialogical alternative to predominant teleological theories, it also unduly narrows the scope of impermissible activity in its own way and is ultimately too formal in its scope to contribute to any meaningful explanation of what makes nepotism or corruption wrong. Concluding that both accounts struggle for these reasons, I suggest that this motivates consideration of a distinct proposal which can accommodate the insights of the approaches discussed whilst side-stepping their limitations.

With this task in view, Section 2.3 proposes an integrity account of corruption by way of response to the problems raised. On this account, nepotism and other

paradigmatic forms of corruption are deemed objectionable insofar as they contravene first or second-order duties that role-occupants bear to maintain the procedural and relational integrity of a particular institutional framework. These duties are grounded in the framework's role in securing morally significant interests to which citizens should have legal claim-rights. By framing the wrong of nepotistic corruption in this way, we are able to retain the normative guidance possessed by teleological accounts, which helps to explain what nepotistic corruption offends without rendering such evaluations hostage to consequential outcomes or thin dialogical norms. Section 2.4 concludes the chapter by anticipating and responding to a series of objections.

Before proceeding to these tasks, I pause here to briefly comment on my decision to delimit the forthcoming discussion to Miller's account given the ubiquity of teleological institutional accounts of corruption within the relevant literature.[51] As Ceva and Ferretti observe, these accounts can be divided into exogenous and endogenous varieties.[52] Exogenous views understand institutional corruption as a failure to promote some end (e.g., welfare or efficiency) which may be only indirectly related to the institution's raison d'être, whereas endogenous views, like Miller's, identify institutional corruption as a failure to effectively promote some internal goal (e.g., due process or fair elections) that is is constitutive of the institution's purpose.

Ceva and Ferretti convincingly argue that exogenous teleological accounts should be set aside. Since such views assess corruption with reference to goals that are not internal to the institution itself, they risk misconstruing the distinctive wrong of corruption as a more general failure of policy efficacy or outcome optimisation.[53] Once such approaches are excluded from the debate, the most plausible teleological accounts remaining on the table are endogenous ones, which ground corruption in the failure of an institution to effectively realise its raison d'être. However, as Ceva and Ferretti note, many endogenous teleological accounts remain problematic insofar as they reject what they term the *continuity thesis*: the idea that corruption must be explicable in a way that preserves continuity between institutional corruption and the wrongdoing of individual role-occupants who act within the relevant institutions.[54]

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[51] For other teleological approaches, see, Thompson, *Ethics in Congress*; Lessig, "Institutional Corruption Defined", "What an Originalist Would Understand 'Corruption' to Mean" and *America, Compromised*. For a non-normative teleological approach that characterises corruption more broadly as *any* kind of institutional dysfunction, see, Schulz, "Institutional Corruption: The Teleological and Nonnormative Account."

[52] Ceva and Ferretti, *Political Corruption*, 45-49.

[53] ibid., 49-55.

[54] ibid., 56-63, 82-94. Cf. Lessig, *America, Compromised*.

Endogenous accounts which understand institutional corruption as being *discontinuous* with corrupt individual conduct face several challenges regarding their excessively structural and overly indeterminate nature. Such views risk severing the phenomenon of institutional corruption from the agency and responsibilities of institutional actors, and are unable to assess problematic individual conduct independently of large-scale institutional failure.[55] For these reasons that are well documented by Ceva and Ferretti across their discussion of such theories, the number of viable teleological accounts shrinks substantially. It is against this backdrop that Miller's account merits attention as a plausible endogenous teleological approach that contains a clear articulation of the continuity thesis.

2.1 Institutional Corruption and Collective Goods

Miller's account of institutional corruption builds upon his teleological account of institutions.[56] For Miller, the relevant institutions are understood as organisations comprised of individuals who act within their institutionally-defined roles to contribute to the provision of 'collective goods' that constitute the telos of the institution's raison d'être.[57] On this view, institutions are tethered to the achievement of some normative end, and have as their telos the satisfaction of various rights and duties that are associated with the production and consumption of collective goods.[58] Collective goods refer here to the ultimate ends which institutions (and/or sectors) ought to promote and are distinct from other goods insofar as they are (1.) produced by individuals engaging in joint activity; (2.) goods which ought to be accessible to the whole community; and (3.) objectively desirable goods to which individuals have a right.[59] Nepotism is therefore

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[55] Ceva and Ferretti, *Political Corruption*, 58-63, 88-94.

[56] See, Miller, *The Moral Foundations of Institutions*.

[57] Miller, *Institutional Corruption*, 16, 23, 106.

[58] ibid., 34.

[59] ibid., 34-35. Here, Miller clarifies that collective goods are desirable 'in the sense that they ought to be desired (objectively speaking)' and states that they may be intrinsically or instrumentally valuable. Such goods are to be differentiated from more generic public goods which society might benefit from the existence of in some way insofar as they are thought to generate concrete claim-rights and correlative duties. It might be thought, for example, that there is some broader societal interest in the production and accessibility of public art, but this would not constitute a collective good in Miller's sense unless one was willing to affirm that individuals have claim-rights to such art that generates corresponding duties to provide it.

considered to be impermissible insofar as it has the potential to curtail a distribution of the goods necessary to fulfil the corresponding rights.[60]

For Miller, institutions are responsible for the satisfaction of aggregate needs-based rights, as well as various pre-institutional and institutional moral rights. Consider, for example, the aggregate societal need for subsistence and shelter. By Miller's lights, this generates a needs-based right which corresponds with a 'collective moral responsibility to establish and maintain' the institutions that are required to produce the goods which fulfil this need once an aggregate of actual or potential rights violations arises.[61] When the goods in question are necessary for individuals to meet their basic needs, they do not only have a formal right of access to the goods in question, but possesses an entitlement in the event that they are unable to afford them.

In addition to the fulfilment of aggregate needs, Miller notes that some institutions are important vehicles for realising 'aggregated non-needs-based human rights'.[62] A pre-institutional right to life, for example, not only constrains institutional action, but might be thought to ground an institutional moral right to healthcare provision which is constitutive of a hospital's raison d'être. A right to healthcare is instituted in various countries, and on Miller's view, this orients the relevant institution-dependent standard of merit. If hospitals are to provide the collective good of healthcare, then various roles within them must be filled by individuals with the kinds of abilities which promote the relevant ends. Frontline medical staff must have the relevant training and temperament, and contracts awarded to third parties should contribute to the sufficient provision of healthcare. When government officials and internal stakeholders exploit a lack of scrutiny to award lucrative contracts to friends or relatives who are not suitably qualified, the resultant inefficiencies threaten to undermine the institution's capacity to satisfy the rights that are constitutive of the institution's raison d'être.

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[60] It is worth noting that Miller appears to endorse a sufficientarian view of distributive justice given his appeal to basic needs in various places. See, ibid., 34-36, 38, 43, 44.

[61] ibid., 35

[62] ibid. It is not entirely clear whether Miller intends these needs-based rights to be understood as human rights in the orthodox sense. When coupled with his claim that rights such as the right to life are pre-institutional (ibid., 36), his reference to "aggregated non-needs-based human rights" raises a further question as to how, and by whom, the correlative duties are to be discharged in cases that fall below some aggregate threshold. This is particularly pressing given the apparent combination of pre-institutional moral rights with a designation of moral responsibility that is sensitive to aggregate violations. For present purposes, I take Miller to be suggesting that institutional basic needs and non-needs-based rights are grounded in pre-institutional moral rights, but that the specification and discharge of correlative duties is mediated by institutional roles and arises in a way that is sensitive to aggregate conditions.

Miller therefore shares the widely recognised view that some needs or non-needs-based human rights, such as the right to life or right to food or water, are 'logically prior to social institutions' whereas some needs-based rights, like the need of an 'alleged offender for a lawyer' are logically subsequent to the formation of social institutions.[63] Miller refers to rights of the latter kind as 'institutional moral rights' because they are constitutive of specific institutional roles (e.g., the rights and duties of a lawyer).[64] Somewhat distinct from the aforementioned institutions are many businesses operating within competitive markets whose ends individuals do not have a right to. Miller states that these kinds of institutions 'do not have the protection of human rights or the fulfilment of needs-based rights as a *primary* purpose; nor should they'.[65] Finally, it is worth stressing that Miller adds that individuals possess rights to paid work or welfare (if no paid work is available) so that one can meet their basic needs. These claims generate further complexity to which we shall return. For now, I set aside some of the peculiarities that this framework raises and outline Miller's objection to nepotistic corruption.

In addition to bribery and fraud, Miller characterises impermissible nepotism as a form of corruption which is capable of inflicting significant institutional damage. More specifically, nepotistic corruption is understood as an activity which *tends* to undermine institutions' processes and/or ends via the corruption of agents qua institutional role-occupants. One notable way in which this occurs is when role-occupants fail to adhere to the standards which govern certain procedures and this undermines the institution's ability to satisfy its raison d'être. When, for example, a teacher only supports high-school students whom she has favourable personal relationships with, she not only fails to abide by the appropriate procedures and corresponding institutional duties, but acts in a way which risks undermining the institution's ability to provide education to all of its students. Although conduct of this kind often undermines an institution's raison d'être, there are cases where institutional processes or roles are compromised, but the ends which constitute an institution's raison d'être remain unaffected. For this reason, Miller attaches two necessary conditions to his definition of institutional corruption that are important for us to keep in mind.

Firstly, institutional corruption must involve the personal corruption of individuals qua role-occupants in ways that tend to undermine institutional processes

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[63] ibid., 36-37. For discussion of the formative aims of human rights, see, Tasioulas, "Saving Human Rights from Human Rights Law."

[64] Miller, *Institutional Corruption*, 36-37.

[65] ibid., 35-36 [my emphasis]. But, as we shall see below, even where such institutions do not have the fulfilment of rights as their primary purpose, they may nevertheless be liable to contribute to their fulfilment on Miller's view whenever the level of actual or potential rights violations is sufficiently high.

and/or ends.[66] Secondly, Miller recognises a causal continuity between individual and institutional corruption such that for an act to be corrupt, it 'must involve a corruptor who performs the action or a person who is corrupted by it'.[67] Here, Miller talks of actions as having a 'corrupting effect', both upon a person's moral character and an institutional process, role, or end.[68] The causal character and continuity between individual and institutional corruption thus constitutes another one of its defining features. These conditions are crucial to avoiding the aforementioned problems associated with discontinuity, since institutional degradation which is the product of underinvestment or mere incompetence is better understood as corrosion, and because unsuccessful attempts to subvert an institution's raison d'être are rightfully liable to prompt allegations of corruption.[69] Role-occupants must therefore wittingly engage in such activities for them to be correctly classified as corruption.

Regarding nepotism specifically, Miller considers it to be a form of favouritism based on kinship (or kinship once removed) which has the tendency to undermine institutional processes, roles, or ends.[70] Nepotism is problematic insofar as it corrupts and threatens to undermine the provision of collective goods which individuals have a right to, with Miller adding that nepotism should be 'regarded as a corruption since it flies in the face of principles of merit. The best applicant ought to get the job, both because she or he deserves it, and because the institution will be best served if hiring is based on merit'.[71] For now, I set aside Miller's appeal to desert as an alternative basis for meritocratic selection since I evaluate this idea in Chapter 4, and instead hone in on the connection between nepotism, collective goods, and corruption.[72]

Though there is much to be said for Miller's teleological account of institutions, it strikes me that the strength of his objection to nepotism will largely hinge upon how it responds to the following concerns. Firstly, we might wonder whether nepotism will be permissible on Miller's view if it does not undermine the provision of collective goods,

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[66] ibid., 66-67.

[67] ibid., 67.

[68] ibid., 68.

[69] ibid., 67. Miller provides an illustrative example here in which an intelligence officer has been compromised by a foreign spy agency, but who has not yet, or who may never be ordered to act in ways which will subvert the institution's raison d'être.

[70] Miller, *Institutional Corruption*, 106, 110, 115.

[71] ibid., 111.

[72] Others have also expressed scepticism of desert-based justifications of distributive justice. See, Wolff, "The Dilemma of Desert"; Mason, *Levelling the Playing Field,* 39-52; Matravers, "Mad, Bad, or Faulty? Desert in Distributive and Retributive Justice"; Behrle, "Desert and Economic Interdependence." Cf. Miller, *Principles of Social* Justice, 131-203.

either because it is an isolated incident, or too insignificant to disrupt institutional processes, roles, or ends. If we deem nepotism objectionable even when it does not curtail the provision of collective goods, then differentiating between permissible and impermissible nepotism on these grounds loses force by unduly narrowing the scope of corruption. Secondly, although Miller suggests that nepotism is typically acceptable within the context of small family businesses,[73] his appeal to the indirect fulfilments of needs-based rights (e.g., welfare or paid work), may equally leave his account open to a charge of over-inclusiveness. Together, these concerns raise broader worries about the scope and diagnostic adequacy of Miller's framework, and whether his appeal to collective goods reliably distinguishes what corruption consists in.

To illustrate the first concern, consider the following case.

> ***Hospital***: A hospital operates within a national health service and is tasked with providing timely, effective, and equitable healthcare to the population it serves. The hospital's senior administrative staff play an important role. They oversee staffing logistics, procurement, compliance with regulatory standards, as well as the internal organisation of services. Whilst these roles are not directly clinical, they are nevertheless integral to the hospital's ability to function smoothly and to support the delivery of care. Suppose that a senior managerial post becomes vacant following a routine reorganisation. The role-occupant charged with making hiring decisions interviews a number of candidates but ultimately offers the job to an old friend from private school. The appointee possesses no relevant managerial experience but is not manifestly incompetent and, whilst he is comparatively the weakest candidate available, his appointment does not result in any clear failure to meet the provision of collective goods that are constitutive of the institution's raison d'être.

Unless one thinks that patients possess a right to optimal administrative efficiency of a particular kind which the nepotism in Hospital undermines, this case presents us with an example in which the provision of a collective good is not curtailed by nepotistic activity. The delivery of clinical services is uninterrupted, patients receive the care to which they have claim-rights, and the institution's defining purpose is realised. As a corollary, it is unclear whether the conduct in Hospital constitutes an instance of nepotistic corruption, and if the decision-maker may therefore enjoy a prerogative to hire nepotistically. If, like me, one nevertheless suspects that the nepotism in Hospital is impermissible as an instance of corrupt conduct, then Miller's account may fail to

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[73] Miller, *Institutional Corruption*, 36, 110.

explain this judgement and risks delineating the permissibility of both nepotism and corruption in an unconvincing way.

This conclusion, however, may move too quickly. Recalling Miller's appeal to tendency, we might first consider whether potential instances of corruption are subject to a probabilistic assessment of their tendency to undermine the provision of collective goods. That is, an assessment of how likely it is that a given nepotistic appointment will, in fact, compromise institutional efficacy. There are, however, several difficulties with this interpretation. Such probabilistic assessments face epistemic obstacles and render the identification of corruption hostage to highly contingent counterfactual analyses of luck and causal impact.

We might, therefore, seek to understand Miller's appeal to tendency in a different way. On this alternative reading, nepotistic practices constitute objectionable instances of corruption if their reiteration across an institution would undermine the provision of collective goods at a certain frequency. The thought here is that Miller's appeal to tendency constitutes a kind of universalisability claim. On this interpretation, nepotism is impermissible if it would have impermissible effects when universalised as a practice within a particular institution. If the hiring practice in Hospital was institutionalised, nepotism would indeed threaten to undermine the effective provision of healthcare. Nepotistic activity which is insufficient to produce these effects would therefore be impermissible, and this interpretation of Miller's appeal to tendency appears to explain why.

Although this interpretation supports the judgement that the nepotism in Hospital is impermissible, it lacks explanatory force insofar as it fails to identify any wrong-making feature of the act itself, instead appealing only to its hypothetical consequences under universalisation, rather than to reasons grounded in the complaints or interests of affected individuals. If the nepotism in Hospital is suspect even when considered in isolation, then we might hope for an account that not only accommodates this intuition but explains it. In any case, Miller's remarks on the permissibility of nepotism in certain circumstances cast doubt on this interpretation of his appeal to tendency, since they explicitly leave open the possibility that nepotism may be permissible even if it would have impermissible effects when universalised.[74] Ultimately, Miller tells us why it might be a good idea to design regulatory frameworks which prohibit nepotism as a rule of thumb, but fails to inform us as to why a particular

[74] Miller does not spell out precisely what he means when he appeals to an act's tendency to corrupt. At one point, Miller (ibid., 68) states that corruptive acts are ones that 'tend to undermine institutional processes, purposes, or persons […] or, at least, tend to do so, if they are performed frequently, by many institutional role occupants or by those in the upper echelons of institutions'. Though this seems to give credence to the interpretation above, it is in tension with the view he endorses elsewhere that favouring friends or relatives for positions may be permissible in specific circumstances. See, ibid., 110, 112, 115.

instance of nepotistic activity is wrong in isolation from reiterated patterns of the requisite frequency.[75] If we judge the nepotism in Hospital to be an impermissible act of corruption but do not want to bite Miller's bullet on tendency, then this gives us reason to reconsider the account as an explanandum of what makes nepotistic corruption wrong.

More generally, any account that grounds corruption exclusively in the failure to realise collective goods risks either unduly narrowing the scope of impermissible nepotism or committing itself to an implausibly demanding schedule of rights. It is reasonable to follow Miller in holding that public healthcare institutions exist to secure goods to which individuals have enforceable claims.[76] Less convincing, however, is the suggestion that the nepotistic conduct in cases like Hospital is only recognisably corrupt, and hence objectionable, when it is sufficient to disrupt the provision of a collective good. Where nepotistic appointments do not compromise patients' access to care or the satisfaction of their legal entitlements, Miller's appeal to collective goods struggles to explain why such conduct should count as corrupt rather than merely suboptimal.

Returning to the second concern raised above, there is also reason to be suspicious of Miller's distinction between businesses operating within competitive markets and institutions which ought to have the fulfilment of collective goods as their raison d'être. Here, a potential complication arises from the fact that most economies are mixed in the sense that they heavily depend upon the integration of both public and private enterprise. In such economies, businesses compete to fulfil a variety of needs in the aggregate and this blurs the distinction Miller draws, since many businesses are indirectly involved in the provision of collective goods. Additionally, one might wonder whether businesses interacting with third-parties which have the fulfilment of collective goods as their telos should be subject to similar constraints given their contribution to the production of these goods. For this reason, I limit my discussion here to the large number of remaining businesses which are not *directly* involved in the provision of collective goods and consider what verdicts Miller's account of institutional corruption is likely to deliver. My concern here is not that Miller's account extends beyond public institutions, but that it lacks a principled way of distinguishing cases in which nepotism should be condemned as corruption from cases in which it may be wrongful on quite different grounds.

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[75] Miller (ibid., 69, 70) proceeds to state that 'in some cases of independently performed corrupt actions, the action type in question might not even constitute corruption if only person performed one token of it since in that case its institutional effect would be negligible […] an infringement of a specific law or institutional rule does not in and of itself constitute an act of institutional corruption. In order to do so, any such infringement needs to have an institutional *effect*, e.g., to defeat the institutional purpose of the rule'.

[76] See, ibid., 23-24; Miller, *The Moral Foundations of Social Institutions*, 179.

To elucidate how this economic interdependence risks introducing further ambiguity given Miller's statements on the subject, consider the following case.

> ***Gallery***: A prestigious private art gallery is located within a city which currently faces high youth unemployment, inequality, and socioeconomic decline. The gallery curates exhibitions and sells fine art to wealthy customers, and is currently hiring a new curatorial assistant. As a matter of practice, the position is not widely publicised and recruitment occurs through a relatively informal network of friends who have longstanding relationships with the gallery's board members. During the selection process, a board member vouches for her close friend's daughter who has no relevant experience. Despite there being more qualified candidates available, the friend's daughter is selected for the role due to these personal ties. Those who are hired nepotistically go on to build successful careers within the industry even though this hiring practice produces no tangible benefits for the institution.

In cases like Gallery, there are no plausible institutional or pre-institutional rights to the ends which constitute the business's raison d'être. As a consequence, there is no prima facie responsibility to ensure that the institution operates effectively on Miller's view, unless we are to assume an implausibly large schedule of collective goods. This, it might be thought, is the correct result. For even if we deem the nepotism in Gallery to be objectionable for one reason or another, characterising it as an instance of corruption would surely stretch any plausible conceptualisation of the term. Once again, however, Miller's account is not only liable to generate uncertainty, but to generate verdicts that appear conceptually misplaced. Whereas Hospital illustrated how Miller's teleological account may fail to recognise intuitively corrupt conduct whenever it is insufficient to undermine the provision of collective goods, Gallery illustrates how the same framework risks overextending allegations of corruption in cases where its attribution no longer seems apt.

This problem is brought into sharp relief by reconsidering Miller's comments on rights to the collective goods of paid employment or welfare, as well as economic interdependence and the role that businesses operating within competitive markets should play in securing these goods. With these comments in view and the distributive background presented in the case, the concern noted arises once we begin to question whether the incoming assistant in Gallery has sufficient personal wealth to meet their basic needs or opportunities to secure paid work elsewhere. If she does, then the rights of more needy residents to a job (or more productively advantageous arrangements)

could produce the counterintuitive verdict that the nepotism in Gallery constitutes a kind of corruption. One reason why we might suppose this to be the case for Miller is due to the way in which he understands needs-based and non-needs-based rights to operate.

As Miller puts it,

> 'In many instances the collective moral responsibility to produce the collective good is based on an aggregate of individual moral rights, including basic needs-based rights. However, it is only when a certain threshold of aggregate of actual or potential aggregated rights violations (or otherwise unrealised rights) exists [… that] the collective moral responsibility arise to engage in joint activity in order to realise the rights in question.'[77]

So, even though many businesses are not *directly* involved in the production of goods which Miller deems individuals to have a right to, they may be on the hook to contribute to the fulfilment of pre-institutional needs-based rights whenever a particular threshold of rights violations are met in the aggregate. In other words, it appears as though we ought to ensure that businesses provide the means to fulfil people's basic needs through either paid work or redistributive taxation. This illustrates, in part, what Miller refers to as the 'de facto web of economic interdependence' and illuminates how businesses, which do not have the provision of collective goods as their primary purpose, may contribute to their provision indirectly.[78]

The idea underpinning this web of economic interdependence should be one that is familiar and uncontroversial. Miller's thought here is relatively straightforward, in that we not only rely on various sectors and the institutions within them to produce the goods necessary to fulfil different entitlements, but to provide the means to fulfilment through paid work, taxable revenue, and economic exchange.[79] In this respect, an institutional inefficiency not only lessens an institution's capacity to fulfil its raison d'être, but may curtail the means to fulfilment through paid work or goods derived from taxable revenue as a negative externality. Legislators, therefore, 'have as one of their collective ends the collective good of the maintenance of various morally and institutionally required webs of interdependence'.[80]

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[77] ibid., 38.

[78] ibid., 44.

[79] ibid.

[80] ibid.

With Miller's broader theoretical apparatus in focus, we now face several responses to Gallery which depend upon the wider socioeconomic circumstance in which the nepotistic activity occurs. As suggested above, if those who are hired nepotistically are able to satisfy their basic needs through other means, then the nepotism in question may be objectionable as a kind of corruption, provided that the threshold for aggregated rights violations is met.[81] Alternatively, if those who were hired nepotistically would otherwise be unable to meet their basic needs, the permissibility of the practice would instead hinge upon a trade-off between whatever shortfall in goods derived from taxable revenue results from nepotistic practices and the number of corresponding rights violations. If the threshold for aggregated rights violations is met and more efficient practices would better contribute to the renewal of collective goods through taxation, then Miller might deem it prudent to coercively enforce such practices if it means that the state will better satisfy the entitlements of those who are unemployed. Depending on the wider socioeconomic context, these caveats may ultimately constrain the prerogatives that businesses enjoy and make available the counterintuitive verdict that the nepotism in Gallery constitutes corruption, thereby threatening to render the category of corruption overly expansive such that it ceases to mark a distinctive kind of institutional wrongdoing.

Despite this, one upshot of Miller's approach is that it imbues both social and market-based institutions with a normative telos which provides a universal standard of assessment. Indeed, it is quite plausible to state that we depend on various institutions for the provision of goods to which we have a right and that economic interactions between institutions have downstream effects on the production of these goods. On this front, I retain some sympathy for Miller's teleological account and it certainly seems as though some structuring of rights and duties will be pertinent to determining what makes nepotistic corruption wrong. It remains difficult, however, to utilise such an account to explain what makes the nepotism wrong in either Hospital or Gallery without committing oneself to an untenable view of an act's tendency to corrupt, under or over-inclusiveness, and a great deal of ambiguity. Though we can make statistical inferences from patterns of action which we know to be corruptive in order to arrive at an evaluation of another action's tendency to corrupt, such inferences are not infallible. The ends which institutions aim at and the arrangements made to realise these ends may be highly idiosyncratic. A particular instance of nepotism may undermine the provision of

[81] This may imply that businesses are also required to hire less qualified candidates in order to satisfy this right provided that other candidates have credible opportunities for positions elsewhere. Though Miller's appeal to desert as noted above may complicate this construal, it is unclear how he understands these different justificatory grounds for selection as operating together given the way in which they will often diverge.

collective goods in one setting but positively contribute to, or have no effect upon, an institution's productive purpose in another.[82] Consequently, the appeal to collective goods, though illuminating in some scenarios, may struggle to fill the explanatory gap posed by the cases presented in this section.

2.2 Political Corruption and Public Duties

In *Political Corruption*, Ceva and Ferretti defend a novel theory of corruption that aims to avoid the uncertainty highlighted in the preceding section and in doing so, provide an alternative explanation of what makes nepotistic corruption wrong.[83] In contrast to Miller, Ceva and Ferretti characterise corruption as an 'unaccountable use of entrusted power'.[84] For corruption to occur on this view, 'there must be a public official who (1.) acts in her institutional capacity as an officeholder (*office condition*) (2.) for the pursuit of an agenda whose rationale may not be vindicated as coherent with the terms of the mandate of her power of office (*mandate condition*).'[85] Ceva and Ferretti's account of political corruption is therefore best understood as one which centres on the duties associated with one's occupancy of a position of public office.

To better understand the implications of their account for nepotistic corruption, one must first understand the relevant notion of office accountability and the normative role it plays in replacing the teleological appeal to institutional ends. As Ceva and Ferretti make clear, when people voluntarily undertake roles within institutions, they acquire powers to act in ways which they would not otherwise have as 'bare agents', and so enter into institutional relationships which generate corresponding duties that are binding to them qua officeholders.[86] In Ceva and Ferretti's words, occupying these positions endows officeholders 'with a set of rights and duties that they can only exercise over each other by virtue of their status of officeholders'.[87] Although these rights and duties will, of

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[82] These concerns are expressed in general terms by Ceva and Ferretti who state that teleological accounts, 'like any other form of consequentialism', are 'burdened by some significant uncertainties whenever political corruption does not result in clear and sizeable distributive injustices'. See, *Political Corruption*, 106.

[83] ibid., 105.

[84] ibid., 19. Notably, Ceva and Ferretti (ibid., 106-109) accept that one may also object to corruption from some conception of distributive or social justice, but ultimately understand such objections as being distinct. A point on which we both agree.

[85] ibid.

[86] ibid., 24.

[87] ibid., 22.

course, differ with respect to each office given its mandate, a general duty of office accountability emerges on this view which characterises the inherent wrong involved in nepotistic and other forms of corruption. When acting within their institutional roles, officeholders are therefore liable to give 'each other an account of the rationale of the agenda that underpins the uses they make of their power of office and show its coherence with the terms of that power mandate'.[88]

This duty of office accountability is central to Ceva and Ferretti's account of corruption and failures to abide by this duty are described as constituting a kind of interactive injustice. For Ceva and Ferretti, an interactive injustice occurs 'when someone is not given the kind of treatment owed to her in virtue of her normative status' and duties of office accountability, which hold as a matter of course within public institutions, are described as duties of interactive justice because 'this qualifies the deontic relations between officeholders'.[89] Since Ceva and Ferretti state that interactive injustice is 'neither the expected nor the actual consequence of establishing such interactions', corruption is therefore considered to be 'inherently wrong, as it constitutes a kind of relation (of clientelism, or nepotism and familism […]) that fails the normative order of the interactions between officeholders within a public institution'.[90] Whenever an individual qua role-occupant is unable to explain their actions in terms of the letter or spirit of their mandate, 'their conduct becomes corrupt and interactively unjust'.[91] This is not to suggest that the negative consequences associated with corruption are therefore to be overlooked entirely, but brings to the fore a unique account of corruption 'as an injustice on its own terms'.[92]

Nepotism, qua corruption, is therefore wrong whenever an individual's conduct within a role cannot be explained in terms of the mandate associated with that position. When an individual's conduct within the capacity of her role cannot be accounted for in this way, then she has violated the duty of office accountability and this constitutes an interactively unjust practice. By Ceva and Ferretti's lights, this duty is thus directed *towards other institutional members*, and so it is they who are wronged vis-à-vis corruption whenever nepotism cannot be rationalised in terms of the relevant mandate. One upshot of this

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[88] ibid., 25.

[89] ibid., 99-100.

[90] ibid., 100, 101. Though Ceva and Ferretti stop short of detailing the nature of this failing here, I suppose that these sorts of relations constitute an interactive injustice because of the failure to properly account for one's actions to other officeholders in terms that are rationally related to the mandate. Despite this, it is unclear whether such dialogical failings are best understood as violating a fundamental requirement of justice rather than an institutionally derived duty.

[91] ibid., 105.

[92] ibid., 101.

approach is that it appears to avoid some of the aforementioned worries associated with Miller's teleological account, since one only needs to point towards a failure of office accountability in order to identify nepotistic corruption. Another, is that such an approach also appears to draw a more principled distinction between nepotism which is wrongful qua corruption, and nepotism which is wrongful due to other considerations.

Recall, for example, the nepotistic corruption involved in Hospital. In cases like this, Ceva and Ferretti's account may be able to generate the intuitive verdict that this activity is wrong, whilst avoiding any uncertainty as to whether or not the relevant activity would be sufficient to undermine the institution's purpose. The relevant hiring practice is more straightforwardly wrong in the event that the relevant role-occupants are unable to explain their conduct in a manner that is consistent with the mandate condition. Moreover, given that this account is delimited to positions of public office, it correctly remains silent on cases like Gallery which are not plausibly recognisable as an instance of corruption.

In spite of this, Ceva and Ferretti's account raises worries of its own once we consider the complex interdependency of public and private institutions that Miller alludes to. In the mixed economies within which almost all of us find ourselves, private businesses routinely contribute to the fulfilment of public contracts and may be exclusively responsible for meeting the provision of goods or services to which members of the public have a morally significant interest. The private operation of utility companies in many countries elucidates this contestable boundary between public and private, as do universities and hospitals. Even where these institutions operate as businesses with varying degrees of formal autonomy and separation from the state, the institution's role in serving morally significant interests generates moral expectations of certain kinds of conduct and accountability which when contravened, plausibly constitute a kind of corruption. For this reason, it might be thought that a fuller theory of corruption requires the theoretical apparatus to deal with such cases, even if we accept that Ceva and Ferretti's distinction is reasonable to make in the context of a more narrow class of political corruption.

More critically, though the notion of office accountability identifies something normatively significant within the context of corruption, it may be too formal and descriptive in its scope to provide concrete guidance within the class of cases that are paradigmatic of corruption, including nepotism. Whilst such duties of accountability plausibly bind to public office-holders, they struggle to explain or delineate the impermissibility of nepotism, or corruption more generally, whenever office-holders dispute the extent to which particular conduct cannot be rationalised in terms consistent with the position's mandate. In cases like Hospital, we may feel fairly comfortable in

asserting that the relevant nepotistic practice is difficult to square with the relevant mandate provided that we hold certain convictions about the authority it entrusts. The duty of office accountability therefore provides some formal guidance for individuals operating within the institutions to which we think it should apply. However, it is unclear from where, exactly, the relevant office-holders should derive the right kind of normative justifications and dialogical norms.

This is not, contra Ceva and Ferretti, a matter which is so easily settled by a process in which role-occupants actively reflect upon and examine their mandates as they act. Although Ceva and Ferretti recognise the challenge that this obstacle presents in identifying corruption, they argue that it is a difficulty all accounts face, and one to which they are able to offer an attractive solution.[93] In fact, they suggest that disagreements concerning the normative relationship between a position's mandate and an institution's purpose 'may make the advantage of looking at political corruption as a matter of public ethics grounded in a duty of office accountability even more significant'.[94] It is unfortunate, then, that Ceva and Ferretti stop short of spelling out what it is about their account that produces this advantage in any detail. That said, it is likely that they consider their account to be privileged in this respect because of the duty of office accountability and dialogical engagement it calls for between role-occupants within institutions.[95]

It is less clear, however, why merely 'stressing the need for an internal perspective on political corruption and its assessment by drawing on an institution's capacity for self-scrutiny and self-correction' is liable to produce any greater procedural or substantive certainty.[96] Undoubtedly, such self-scrutiny is important, but this response is too formal in its scope to provide a meaningful explanation of what makes nepotistic corruption wrong, or other varieties thereof. It is also too dependent on the non-ideal reasoning internal to institutions to render concrete judgements on the permissibility of corruption within these cases. Whilst Ceva and Ferretti rightly highlight the existence of such uncertainty and disagreement, simply deferring to the duty of office accountability once

[93] ibid., 89-90.

[94] ibid., 104-105.

[95] See, ibid., 105-106.

[96] ibid., 106.

more only seems to pass the buck to those working within institutions, without providing any normative guidance as to the kind of reasoning which should take place.[97]

To further illustrate these problems, recall that for Ceva and Ferretti, one can satisfy a duty of office accountability whenever one is able to explain their conduct in terms of the mandate associated with the position and that this only requires other office-holders to accept the justification given. Indeed, it is a feature of this account that the relevant role-occupants do not have to answer to some external normative standard which constrains reasoning in this domain, or to those members of public who depend upon the institution's proper functioning. These are significant oversights in my view, as the former shortcoming not only leaves open the possibility for reasoning to take place which is not publicly accessible or undertaken in good faith,[98] but which fails to pay special attention to the goods which we think that the relevant institutions ought to provide. Ceva and Ferretti would likely double down here by arguing that such dialogical engagement should be constrained by the normative rationale underlying an institution's raison d'être. It strikes me, however, that such a position only succeeds in avoiding ambiguity by shifting the normative uncertainty associated with teleological accounts to office-holders themselves.

The latter shortcoming is also troubling insofar as it disregards the role that the public should play in shaping the relevant institutional purposes through democratic or judicial means, and confuses whom officeholders within public institutions ought to be ultimately answerable to. Here, one might scrutinise whether the directedness of a duty of office accountability successfully reflects who is wronged by corruption and if it is plausible, more generally, to claim that accountability is owed to other officeholders within the first instance as a fundamental requirement of justice. It seems sensible to suggest, in some scenarios, that officeholders wrong their colleagues whenever they discharge their roles in ways which are detrimental to the interests of the institution. But

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[97] A potential solution here could involve providing some account of moderately idealised reasoning which ought to take place if role-occupants are to satisfy the dialogical requirements of a duty of office accountability. Having said that, it is unclear whether Ceva and Ferretti would endorse a solution of this kind, and any proposed set of constraints on the reasoning which can legitimately take place will yield incredibly different results. A simpler response, offered elsewhere (see, Cottingham, "Partiality, Favouritism and Morality," 258), instead suggests that the content of these duties is specified by the fact that office-holders are 'required to do all in [their] power to promote the interests of the company.' If, however, such duties only arise as a result of one's contractual obligations, then the relevant wrong would amount to no more than a failure to discharge a promissory duty, in the absence of which, corruption will be permissible. Understood more literally, it is also dubious, for quite obvious reasons, that role-occupants incur fiduciary duties to do *all* in their power to promote a company's interests and that corruption merely involves a failure to discharge all such duties. For an extended discussion of the problems associated with these approaches to occupational duties, see, Herzog and Schmode, "'But It's Your Job!' The Moral Status of Jobs and the Dilemma of Occupational Duties."

[98] For a probing discussion of how Ceva and Ferretti's account might fare in deeply unjust regimes, see, Fabre, "Political Corruption in Unjust Regimes."

it is less clear to me that this wrong, if it occurs, is *the* primary concern when we talk about the wrong of nepotism or corruption writ large. It is also perplexing as to why such dialogical failures constitute a distinct injustice, rather than a more generic failure of justificatory uptake among officeholders that does not track the underlying moral reasons that ground complaints of corruption and guide our judgements in such cases.

Finally, though there is something to the notion of interactive injustice that Ceva and Ferretti appeal to in order to explain the wrong of corruption, I am sceptical whether this claim adequately captures what is wrong with nepotistic corruption even if we were to revise this account in order to meet some of the challenges raised. On the one hand, the appeal to interactive injustice is attractive insofar as it identifies something inherently wrong with the relevant practices. When those in positions of power use their influence to distribute advantageous positions nepotistically, it is compelling to think that this conduct is objectionable independently of any negative externalities it generates. On the other, characterising the distinctive wrong of corruption as a kind of interactive injustice misidentifies its primary victims, and only seems to secure a veil of normative determinacy by shifting indeterminate judgements about an institution's raison d'être to office-holders themselves. Ceva and Ferretti's aim of avoiding the ambiguity associated with teleological accounts by positing an inherent wrong moves us in the right direction. But their means of doing so risks overlooking the underlying interests that ultimately explain why the relevant practices are impermissible and hence unjustifiable in light of the relevant mandate.

2.3 The Integrity Account of Corruption

The preceding sections examined two distinct accounts of corruption and considered their success in explaining what makes nepotism wrong as a kind of corruption within certain institutions. Starting with Miller's teleological account, I noted that his approach avoids the problems associated with discontinuity whilst providing an external normative standard by which nepotistic corruption might be assessed. Despite this, I argued that Miller's appeal to tendency and collective goods produces significant ambiguity, and risks under or over-inclusiveness depending on how the notion of tendency is interpreted and what duties background socioeconomic conditions generate. Moving to Ceva and Ferretti's dialogical account, I then considered whether the wrong of corruption is better understood as the failure of public officials to conduct themselves in ways which are congruent with the letter or spirit of their mandate. Although this approach promised a means of ducking the indeterminacy which Miller's account presents, I suggested that this move only secures the appearance of greater

procedural or substantive certainty and misconstrues who is wronged by corruption and why.

That said, both approaches remain convincing in certain respects. From a number of ethical perspectives, the negative externalities associated with nepotistic corruption will be objectionable whenever they undermine the equal satisfaction of certain rights as Miller's view suggests. But it is also reasonable to think, as Ceva and Ferretti do, that there may be compelling reasons to object to nepotistic corruption even when the consequences which result from it are insufficient to violate such rights. In light of this, we need a way of elucidating the wrong involved that retains the explanatory force of telic approaches, without collapsing into consequential uncertainty or retreating into an explanatorily hollow formalism.

I dedicate the remainder of this chapter to taking up this task and in doing so, develop an account of corruption that sits between the approaches discussed. As I noted above, this task is complicated by the fact that nepotism arises across a diverse range of institutional settings, not all of which plausibly constitute instances of corruption. In cases like Gallery, there are no plausible claim-rights to the ends produced by the institution or role in question, even if the relevant selection practices are objectionable for independent reasons.[99] However, in cases like Hospital, the institution's raison d'être is clearly oriented towards securing a morally significant claim-right of the kind that ought to be legally enforced, yet objectionable instances of nepotistic corruption may fall short of producing any direct rights violation. I believe that this distinction may not only help us delineate between cases of nepotistic corruption and scenarios where nepotism is objectionable for other reasons, but may also help contribute to a more satisfactory explanandum of what makes corruption, nepotistic or otherwise, wrong.

Given that the nature of the wrong in cases like Hospital is not adequately captured by reference to outcomes alone, nor by justificatory failures among officeholders, I instead consider whether an alternative explanation might be found by thinking about the morally significant interests that the relevant institutions and roles ought to protect. The idea here is that respecting particular interests requires not only fulfilling the legal claim-rights they ground, but the maintenance of institutional structures and practices that recognise such interests as authoritative constraints on institutional deliberation and conduct. With this in mind, I propose the integrity account of corruption which can be formalised as follows.

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[99] I consider such objections to cases of this kind in the following chapters on efficiency and equality of opportunity.

P1. If X has a socioeconomic, civil, or political claim-right R to some institutional end, then there exists a corresponding role-based duty D for Y to φ.

P2. Promoting and respecting the morally significant interest underlying R depends upon the continued functioning of a broader institutional framework F, which ensures both the procedural integrity of the institution and its relational integrity with its stakeholders.

P3. To promote and respect the significance of the interest underlying R, Z has a second-order duty D_2 to uphold F.

P4. If Y fails to fulfil D, this violates R, and if Z fails to fulfil D_2, this jeopardises F.

C1. Therefore, if Y fails to fulfil D, then this is wrong in virtue of the fact that Y violates R.

C2. If Z fails to fulfil D_2, then this is wrong in virtue of the fact that Z jeopardises F, even if R is not violated on this occasion.

As formulated, this argument posits that corruption is objectionable whenever it involves a failure to fulfil the role-based duties that are associated with the legal claim-rights that particular institutions and roles should secure. However, unlike Miller's teleological account, this argument generates an objection to nepotism even when the claim-rights attached to particular institutional ends are fulfilled. It does so by appealing to the second-order duties to maintain the procedural and relational integrity of an institution that is involved in satisfying the relevant entitlements.[100] Furthermore, this objection is sympathetic to Ceva and Ferretti's central contention that both nepotism and corruption can be inherently wrong, whilst providing a normative standard by which institutional efficiency and integrity ought to be assessed.[101] As such, it is able to

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[100] To this extent, my argument here is congruent with Alan Goldman's ("Business Ethics: Profits, Utilities, and Moral Rights," 260) thought that special role-based norms obtain 'if the institution or profession that defines the role at issue serves a vital moral function in society, and if the interposition of the special professional norm is necessary to that function.' See also, McMahon, "Morality and the Invisible Hand," 267-271; Nagel, "Ruthlessness in Public Life" in *Mortal Questions*.

[101] Since the wrong of corruption, on Ceva and Ferretti's view, hinges upon the justificatory relationship between officeholders, the extent to which their account will produce convergence with the objection developed here is unclear. Their assessment of the permissibility of nepotism within public institutions depends on whether it violates the duty of office accountability. As a result, their account does not provide an independent normative basis for condemning nepotism beyond the justificatory practices internal to a given institution and so it is difficult to say, more precisely, when nepotism will be objectionable on their view. That said, the account developed here can subsume their central claim that officeholders ought to be accountable, as accountability will contribute to maintaining procedural and relational integrity. On my view, however, these duties of office accountability are ultimately owed to right-holders as opposed to other role-occupants, and the relevant mandates are constrained by the interests underlying the relevant claims.

accommodate the most compelling insights of both accounts. It can make sense of the wrong associated with rights-violating institutional inefficiencies without reducing duty fulfilment to the contingent occurrence of sufficiently harmful consequences and generates a set of role-based duties which respect and robustly secure the interest in question.

Before proceeding to unpack and defend this argument further, it is worth briefly clarifying its scope. On the integrity account, institutional *wrongdoing* arises whenever failures occur in the discharge the relevant first or second-order duties. Where this failure consists in the breach of reasonably dischargeable role-based duties by identifiable agents, and where individuals qua role-occupants are culpable for such breaches, the resulting wrongdoing is properly characterised as *corruption*, consistent with the continuity thesis. And where such culpable failure falls within the definition of nepotism provided, it should be characterised as nepotistic corruption. By contrast, where the relevant integrity conditions fail due to structural constraints, underfunding, or background injustice such that no agent is in a position to discharge the corresponding role-based duties, the wrongdoing is better understood as institutional *corrosion* for which no role-occupant is morally culpable.[102] In cases of the latter kind, the wrong is therefore better understood as a kind of structural injustice. Since my primary focus here is corruption and not corrosion, the following discussion is delimited to cases in which the relevant integrity conditions give rise to reasonably dischargeable role-based duties.

Returning to unpack the argument above, P1 draws upon the Hohfeldian analysis of rights in which claim-rights are understood to generate correlative directed duties D in at least one duty-bearer to perform or refrain from performing some act.[103] More specifically, P1 frames this analysis of claim-rights within the context of particular institutions and role-occupants, elucidating the duties that exist for some role-occupant to act (or refrain from acting) in the ways that are deemed necessary to fulfil the rights that individuals have to the ends that a particular institution or role ought to secure. A potential challenge arises, however, when considering how these duties are to be specified or distributed in practice. Even if one accepts the correlativity thesis in the case of claim-rights, it is not always clear who the relevant duty-bearers are, or what their duties entail

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[102] This feature of my view should be understood as a strength rather than a limitation, since it is able to recognise objectionable forms of institutional corruption and corrosion, using the continuity of unethical individual conduct with objectionable institutional action as a principled basis for distinguishing the former and the latter.

[103] This understanding of claim-rights is shared by various theorists, including those who adopt interest, will, and kind-desire theories of rights. See, Hohfeld, "Some Fundamental Legal Conceptions as Applied in Judicial Reasoning"; Kramer, "Rights without Trimmings" in *A Debate Over Rights*; Wenar, "The Nature of Claim-Rights"; Graham, "The Will Theory of Rights: A Defence." Cf. Valentini, "Rethinking Moral Claim Rights."

more precisely. In some cases, we may be confident that X has a claim-right and that someone must therefore bear a corresponding duty, yet identifying the specific allocation and content of these duties can be ambiguous in practice.[104]

I think that this worry can be defused in the following way. First, consider that institutions are often in the business of explicitly specifying and allocating duties in particular ways so as to fulfil their institutional ends. This is no more apparent than in the case of those institutions which are designed to promote morally significant interests, as their purpose is to discharge the duties associated with these interests. The concern noted is therefore ameliorated when one considers the institutional context in which the integrity account applies, since these institutions typically clarify the content and distribution of the relevant duties, even though the content of these duties is ultimately derived from the interests they serve. Moreover, even when a particular institution fails to specify or allocate these duties for one reason or another, the interests underlying claim-rights help serve as a normative guide. Whilst we are not always able to provide an exhaustive list of the relevant duties absent consideration of the specific empirical reality which renders their enforcement possible, we may still be able to identify the kinds of duties that ought to exist under different conditions if institutions are to fulfil the rights that the relevant interests ground.[105] To this extent, the process of precisely allocating and specifying role-based duties is an ongoing one, requiring reflection on both the interests underlying the relevant claims and the feasibility of particular institutional practices.

Returning to the case of Hospital, for example, we can say that the raison d'être of the institution is to provide healthcare and that the claim-right to healthcare generates corresponding duties for those who occupy roles within the institution. In a practical sense, we can say that the relevant role-occupants, whether they are doctors, nurses, or administrative staff, owe duties to provide care and maintain the conditions necessary to fulfil this claim-right. This is, of course, in part, because they have agreed to do so but not merely so, for the interest underlying the claim-right generates moral reasons that strike me as normatively significant even in the absence of the relevant contractual stipulations. These reasons often underpin our criticism of the workings of such

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[104] Onora O'Neill presses a claim of this sort in cases where the relevant institutions are weak or absent entirely. See, O'Neill, *Bounds of Justice*, 105; *Towards Justice and Virtue*, 131-134.

[105] As John Tasioulas puts it, the interest theory of rights 'can allow for knowledge of the existence of rights (hence of the justification of duties corresponding to those rights) without the duties being precisely specified or allocated to particular agents. Instead, the allocation and specification is a further question, not one that needs to be answered in order to establish the existence of a right'. See, Tasioulas, "The Moral Reality of Human Rights" in *Freedom from Poverty as a Human Right*, 92. See, also Raz, "On the Nature of Rights," 184.

institutions whenever their organising practices are detrimental to the interest in question.

P2 suggests that promoting and respecting the interests underlying these claim-rights depends not only on the actions of individual role-occupants who are directly involved in satisfying them, but also on the continued functioning of a broader institutional framework. This framework helps orient the relationship between specific roles, duties, and rules within the institution. Upholding this framework ensures the procedural and relational integrity of the institution, helping it to fulfil its institutional purpose and establish trust amongst its stakeholders (understood here as all Xs). In Hospital, the institution's ability to provide healthcare is dependent on a well-functioning system, one that includes adequate management, ethical care, resource allocation, managerial oversight, and so on.[106] Maintaining the procedural integrity of this framework is not only important insofar as it consequently ensures that role-occupants are able to fulfil the first-order duties that satisfy the relevant rights, but also because upholding it treats the morally significant interests underlying the entitlement with the consideration they are due. Moreover, when stakeholders learn of an institution's failure to maintain F, this risks undermining trust and confidence in the institution and so its relationship with the people who depend on it.[107]

As a corollary, P3 states that some role-occupants Z have a second-order duty D_2 to maintain the aforementioned framework F.[108] This duty goes beyond ensuring that role-occupants meet the provision of the relevant entitlements, for it also involves upholding the practical framework within which those duties are carried out. By maintaining the integrity of this framework, role-occupants ensure that the institution remains capable of robustly fulfilling its primary purpose overtime and, crucially, that the morally significant interests underlying the relevant rights are taken seriously and given due consideration. The second-order duties borne of R to uphold F are thus not only of practical import to role-occupants within the relevant institutions, as fulfilling them also

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[106] This is not to deny that broader background conditions may affect institutional performance but where such conditions render duties non-assignable, the resulting failure is better understood as institutional corrosion.

[107] This contrasts with Ceva and Ferretti's conceptualisation of relational integrity in which officeholders seek mutual accountability amongst themselves as a matter of primacy. See, *Political Corruption*, 25-27.

[108] I refer to the duty-bearers Z as a set distinct from Y even though there is likely to be significant overlap between those who are involved in the fulfilment of first and second-order duties.

expresses respect and care for the corresponding interests.[109] Failures to uphold F are therefore doubly concerning, in the first instance because these failures are liable to undermine the conditions deemed favourable to satisfy first-order duties and in the second, because these failures are incongruent with giving the interests underlying the relevant claim-right the consideration that they are due.

P4 clarifies the distinction between D and D_2, as well as their relationship to the relevant rights and framework. First-order duties are those duties which role-occupants must fulfil if the relevant rights are to be satisfied, whereas second-order duties aim at establishing the conditions for the robust fulfilment of first-order duties and maintain the procedural and relational integrity of the institution. When Y fails to fulfil D, this violates R, because Y has failed to perform the specific role-based action that this right requires of them. Failures to fulfil D_2, however, are objectionable because they jeopardise the framework that supports and communicates the importance of R.

Cases like Hospital exemplify D_2 failures, since we are presented with a scenario where the nepotistic appointment of an unqualified administrator does not result in any D failures and so R happens to be satisfied. That said, I contend that this appointment is intuitively objectionable absent considerations of harmful consequences and that second-order, role-based duties to maintain F help explain this intuition. Whilst failures to uphold F pose a practical risk for the day-to-day functioning of the institution, they also signal a lack of respect and care for the morally significant interests underlying R. They do so because D_2 failures jeopardise the practical framework responsible for ensuring procedural and relational integrity. However, even if there is no explicit institutional rule which proscribes nepotism as part of F, the practice of nepotistic hiring will still compromise the procedural and relational integrity of the institution because it undermines the broader institutional conditions necessary to robustly fulfil and respect the relevant claims. Failures to carry out second-order duties are therefore independently morally concerning. Even though failures to fulfil D_2 will typically result in failures to fulfil D over time, it is not necessary to rely on any probabilistic assessment of the connection between the two duties in order to elucidate the wrong involved in cases like Hospital.

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[109] Amartya Sen expresses a similar sentiment when he states that the duties correlative to human rights are duties to give 'reasonable consideration to what one can sensibly do' to promote and respect the rights of others. See, Sen, "Elements of a Theory of Human Rights," 339. I am uncertain if the notion of second-order duties proposed here has been proposed in the same terms elsewhere, but Onora O'Neill and Simon Caney both highlight the significance of what they refer to as 'second-order obligations' and 'second-order responsibilities' respectively. In O'Neill's case, second-order obligations are 'discharged by imposing first-order obligations on others and enforcing them'. For Caney, second-order responsibilities 'refer to responsibilities that some have to ensure that agents comply with their first-order responsibilities'. See, O'Neill, "The Dark Side of Human Rights," 436; Caney, "Two Kinds of Climate Justice: Avoiding Harm and Sharing Burdens," 134-135.

C1 reproduces the familiar claim that failing to fulfil first-order duties is wrong because these failures violate the rights that individuals have to institutional ends. When Y fails to fulfil their first-order duties, say, because they are a nepotistic hire who is simply incapable of fulfilling these duties, this straightforwardly results in a violation of R and nepotism will be wrong for this reason. C2 extends the scope of the argument's conclusions further by stating that failures to fulfil second-order duties are also objectionable even when the immediate provision of the relevant entitlement (e.g., a right to healthcare) is not disrupted.

In addition to the rights-violating wrong that C1 elucidates, C2 posits that D_2 failures are wrong because these failures jeopardise the practical framework responsible for ensuring procedural and relational integrity. When Z fails to fulfil their second-order duties, say, because they fail to implement or adhere to hiring practices which promote or respect the corresponding interest, then this failure will *always* constitute a procedural wrong, and a further relational wrong if it has the consequent effect of undermining relational integrity. The structure of the integrity account therefore paints a fuller picture of nepotism's wrong-making features as a species of corruption. Whilst all D_2 failures are inherently wrong because they compromise procedural integrity, D_2 failures which lead to a breakdown of relational integrity introduce an additional layer of normative concern and aggravate the wrong in question. Even though failures to uphold relational integrity are dependent on contingent effects such as the loss of trust, such failures are inherently wrong in the first instance because they violate an assurance of trust, and may be consequentially objectionable whenever they weaken the institution's capacity to serve right-holders effectively.[110] Since the set of wrongs associated with D_2 failures are relatively complex, I now discuss them in further detail.

To elucidate the inherent wrong associated with D_2 failures, recall that second-order duties can partly be construed as duties to implement and adhere to procedures that sustain the conditions which render the fulfilment of first-order duties more likely. Internal to hospitals (and many other socioeconomic, civil, or politics institutions) are relatively complex organisational structures, and the development of an adequate framework which orients rights, duties, and rules to roles helps ensure that these institutions fulfil their ends. However, when role-occupants fail to fulfil second-order

[110] It is not necessary, therefore, for nepotism to undermine relational integrity in the sense described in order for it to be objectionable within the relevant institutions considered here. In order for some role-based action to be objectionable, it is necessary and sufficient for it to constitute either a D failure, or a procedural D_2 failure. D failures capture the familiar intuition that nepotism is wrong whenever it violates a claim-right, whilst D_2 failures capture two distinct wrong-making features of nepotism within institutions which ought to have the fulfilment of such rights as their legally enforceable ends. Whilst all D_2 failures are objectionable because they undermine procedural integrity, some D_2 failures undermine relational integrity and are therefore objectionable for this additional reason.

duties, this is not wrong merely because these procedural failures make substantive failures more likely, as this would amount to no more than a consequential wrong that supervenes on a probabilistic assessment of an act's tendency to harm the underlying interest. Instead, the failures discussed here are inherently wrong because they fail to respect the morally significant interests that justify the institutionalisation of the relevant rights and duties.

The relevant notion of respect here is best understood as an application of Stephen Darwall's conceptualisation of recognition respect, which consists in appropriately weighing some feature or fact in one's deliberations and acting accordingly.[111] More specifically, Darwall notes that recognition respect can be directed at a range of different objects, including an agent's feelings, the law, a judge (in a legal proceeding), and nature.[112] Crucially, and for present purposes, recognition respect functions as a moral constraint on both reasoning and action, and Darwall states that having recognition respect for some fact or feature about a person, such as their health, 'is to regard that fact as itself placing restrictions on what it is permissible for one to do'.[113] However, in stating that D_2 failures demonstrate a lack of recognition respect for the corresponding interests, one might wonder whether it is sufficient for role-occupants to abide by the relevant rules simply because they are the rules, or if second-order duties necessarily require role-occupants to adopt the moral dispositions which recognition respect requires of them in deliberation. In order to clarify any potential confusion, I should stress that I do not mean to suggest that *all* role-occupants must internalise these moral dispositions with regards to the performance of their duties.

On the contrary, for many role-occupants, merely fulfilling the duties which the corresponding interests generate is sufficient to produce compliance with this requirement, even if internalisation of the relevant dispositions might be preferable all things considered. This is sufficient because these duties are ones which result from reasoning that appropriately weighs the relevant interests and so complying with them gives them the consideration that they are due, treating them as appropriate constraints on role-based conduct. In this sense, the institutional framework alluded to operationalises the deliberative products of recognition respect by constraining practices to those which give the underlying interests due consideration. This ensures that respect for the relevant interests is embedded in the very design of institutional roles, rules, and duties, and so role-occupants may comply with the requirements of recognition respect

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[111] Darwall, "Two Kinds of Respect," 39-40.

[112] ibid.

[113] ibid., 40.

by treating the relevant practical framework as a constraint on permissible role-based conduct.

As I alluded to above, however, not all role-occupants stand in the same relation to the performance of these duties and attitudinal requirements of recognition respect. Whilst for many, simply upholding a practical framework that gives these interests due consideration is sufficient to satisfy the requirement of recognition respect, role-occupants who are involved in the design and maintenance of these frameworks must internalise the relevant moral dispositions in order to appropriately weigh the underlying interests in their deliberations. Since the integrity of the framework depends on its being structured in a way that systematically respects the interests which ground the corresponding rights, adopting the relevant dispositions is required at the level of institutional design and oversight. Thus, whilst performance of the relevant duties suffices for most, those tasked with shaping and monitoring institutional practices must engage in the deliberative process which Darwall alludes to.

For those unconvinced by the thought that this kind of rule-adherence constitutes a form of recognition respect, consider a non-institutional scenario in which I visit a friend's home during the fasting hours of Ramadan and suppose that my friend requests that I refrain from eating or drinking whilst in their home. By voluntarily entering after agreeing to this request, I incur a conditional duty not to eat or drink during my visit. Now, suppose further that I am able to sneak bites of my sandwich whenever my friend leaves the room and that doing so causes no harm to my friend or his observance of the fast. Other things being equal, I imagine that many would deem my conduct to be objectionable in this case. When I break the rules that my friend has set in place, I not only violate the agreement which rendered my entry permissible, but express a disregard for my friend's interest in determining the conditions under which visitors conduct themselves within his home. Indeed, even if my friend had not explicitly made such a request, but it was clear that eating in his presence would undermine the terms on which he is willing to host others given his observance of the fast, the same objection would arise. This suggests that what is at issue is not merely a failure to keep one's word, but a failure to regulate one's conduct in light of another's legitimate interest in determining how their home is used.

This interest, in turn, grounds their right to impose and enforce agreements concerning otherwise permissible acts, and gives rise to constraints on deliberation and conduct where acting otherwise would foreseeably undermine that interest.[114] In order to adequately respect this interest and the duties it gives rise to, I do not need to share my

[114] As such, one need not appeal to a more comprehensive religious belief that orients the significance of the interest in question.

friend's religious commitments or his views on fasting etiquette, nor any particular moral disposition regarding the significance of the interest which people have in enforcing such agreements and determining the range of permissible conduct within their homes. Rather, compliance with the duties that this interest generates, and recognising the relevant rules or expectations as constraints on permissible conduct is sufficient to demonstrate respect for the interest which grounds their imposition.

Returning to an institutional setting, the same thought can be applied to role-occupants who fail to uphold the framework that structures institutional duties, rules, and roles. Just as disregarding my friend's request in his home signals a failure to respect his legitimate interest in determining conditions for conduct on his property, disregarding second-order duties in an institutional setting constitutes a failure to respect the interests that structure the relevant practical framework. This, of course, assumes that the relevant institutional rules are ones which give sufficient weight to the underlying interests and so, even if the object of one's respect is a particular rule rather than the interest itself, treating this rule as a constraint on permissible conduct amounts to giving the interest the consideration it is due in practice.[115]

To elucidate the aggravated, contingent wrong associated with D_2 failures, consider how the failure to fulfil second-order duties also risks undermining the integrity of the relationship between the institution and its stakeholders. If, for example, it is brought to light that a hospital has been hiring nepotistically or engaging in other corrupt practices, then this not only threatens to erode confidence in that particular institution, but may also undermine trust within the broader healthcare sector. When individuals take on particular roles within institutions that are designed to fulfil particular socioeconomic, civil, or political claim-rights, they do not merely take on a contractual obligation to fulfil the responsibilities that they have explicitly agreed to, but a fiduciary responsibility to act in ways that serve the right-holder's interest.[116]

Looking beyond this institutional context, one may view the act of promising and the corresponding duties that promising generates as being analogous to the extent that both practices can be understood as an exchange of trust and expectation.[117] As Thomas Magnell puts it within the context of interpersonal promissory duties, 'the

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[115] I suspect that this assumption will give rise to concerns regarding the permissibility of nepotism and the violation of imperfect institutional rules in non-ideal scenarios. I address these concerns in Section 2.4.

[116] A claim that Susan Goold also recognises in "Trust and the Ethics of Health Care Institutions," 28.

[117] Which is not to say that role-based duties are simply equivalent to promissory duties, as role-based duties correspond with claim-rights to the relevant institutional ends, as opposed to rights that promisees have in enforcing promisor agreements. For an influential discussion of the latter, see, Scanlon, *What We Owe to Each Other*, 295-327.

promisor gives the promisee, an expectation and in exchange the promisee extends his trust to the promisor'.[118] Something similar occurs within the institutional settings considered here. Role-occupants agree to meet the expectations associated with fulfilling the relevant claim-rights, and right-holders place their trust in these individuals and the relevant institutions to engage in practices that respect and promote the interests that ground the relevant entitlements. When one engages in nepotism within institutions of the sort discussed here, this is liable to undermine the integrity of these relationships insofar as it signals a failure to act in good faith. It is my contention that this erosion of trust is objectionable in itself and objectionable due to the consequential harm it can cause. It is objectionable in itself because it violates the trust that right-holders, often in vulnerable or risky conditions, place in those entrusted with their care to use their discretionary powers to act in their interest. And consequentially objectionable because the weakening of these relationships can diminish the institution's ability to function and serve the community effectively, harming its efficacy overall and capacity to fulfil its obligations to stakeholders.

Before strengthening the integrity account further in response to some potential worries, I now elucidate some of the benefits associated with adopting such an approach. Firstly, it is worth clarifying that, in addition to the distinct objections I develop later, the integrity account presupposes a commitment to the interest theory of right-holding. Joseph Raz, Matthew Kramer, Judith Thomson, and T.M. Scanlon have all defended versions of the interest theory, according to which rights have as their grounds morally significant interests.[119] Given its relative predominance as a theory of rights, I do not intend to defend a particular version of the interest theory here in response to alternative theories of right-holding like the will or kind-desire theory. But, for our purposes, it is important to note that I consider claim-rights to have first-order duties as correlates,[120] and that these claim-rights are grounded by the 'fact that the duty correlative to the claim-right deontically and inherently protects some aspect of X's situation that on balance is typically beneficial for a being like X'.[121] Additionally, I should stress that I consider the role-based duties elucidated above to be grounded in the interests that generate moral claim-rights which ought to be recognised and enforced by the legal

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[118] Magnell, "The Correlativity of Rights and Duties," 2

[119] Raz, "The Nature of Rights" in *The Morality of Freedom*; Kramer, "In Praise of the Interest-Theory of Right-Holding" in *Rights and Right-Holding*; Thomson, *The Realm of Rights*, 41; Scanlon, "Rights and Interests" in *Arguments for a Better World.*

[120] For a nuanced discussion of the correlativity of rights and duties, see, Magnell, "The Correlativity of Rights and Duties". Cf. Lyons, "The Correlativity of Rights and Duties."

[121] Kramer, *Rights and Right-Holding*, 179.

system.[122] Once again, I do not intend to provide an exhaustive list of such rights here or defend a particular schedule of them. Instead, I leave this more substantive question open and merely insist that wherever there ought to be a legal claim-right to some institutional end, this generates correlative first-order duties and corresponding second-order duties to uphold the relevant practical framework.[123]

Secondly, since the integrity account presupposes a commitment to the interest theory of right-holding, it avoids two worries associated with Ceva and Ferretti's account whilst being able to accommodate their central insight that nepotism is inherently wrong within a particular class of cases. As we saw above, Ceva and Ferretti's account appeals to the dialogical requirements of interactive justice in its explanation of the inherent wrong associated with nepotistic corruption. However, as I argued earlier, this approach is too formal in its scope and also risks misidentifying the colleagues of those engaging in corruption as its primary victims. Contrastingly, the integrity account does not face the first worry even if it leaves the schedule of legal claim-rights which individuals have to institutional ends open for debate. Nor does it face the second worry, since it correctly identifies the primary victims of the wrong of nepotism in these cases as right-holders who have a morally significant interest in the performance of particular first, and second-order, role-based duties. By appealing to the interests which ground the relevant claim-rights, the integrity account provides a more concrete normative standard by which institutional conduct ought to be assessed and avoids the counterintuitive conclusion that officeholders wrong one another even when they wittingly engage in corruption together.

Moreover, unlike Miller's theory of corruption, the integrity account is not subject to worries regarding the probabilistic assessment of an act's tendency to produce sufficiently harmful effects and does not presuppose an implausibly large schedule of rights which all institutions or sectors may be obligated to fulfil. Despite this, the integrity account is able to make sense of some of the consequential wrongs associated with nepotism without collapsing duty-fulfilment into uncertain empirical assessments. It is able to do so, once again, by appealing to the significant interests which ground the relevant duties. Although failures to uphold these duties are inherently wrong because they fail to respect the corresponding interests, the integrity account can accommodate the thought that duty violations which result in harmful consequences constitute a kind of aggravated wrong whenever they cause further damage to the underlying interest.

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[122] I shall return to discuss this point in greater detail below and within Part II.

[123] Additionally, I do not take a substantive position here on what has been referred to as the claimability problem, which concerns whether the duties correlative to socioeconomic rights are actually owed to each human independently of the specific institutional arrangements which make their realisation possible. For a nuanced discussion of this issue and a potential solution, see, Collins, "The Claims and Duties of Socioeconomic Rights."

Moreover, the integrity account identifies a distinct consequential wrong which concerns the relational integrity of the institution and the negative outcomes associated with the erosion of trust.

Finally, by grounding the wrong of nepotism within the cases discussed here in the failure to fulfil first or second-order duties, the integrity account allows us to simultaneously capture many instances of wrongful nepotism whilst remaining faithful to the differing interests that make sense of our complaints across a diverse range of cases. This is a key explanatory advantage of the approach, as even though it provides a systematic framework for understanding the wrong of nepotism whenever individuals ought to have legal claim-rights to institutional ends, it remains responsive to the specific interests at stake within a variety of cases. Many institutions are designed with the express purpose of securing a range of morally significant interests, from socioeconomic rights (such as access to healthcare or education), to civil and political rights (such as due process and democratic representation). Since the interests that ground these claim-rights are numerous and diverse, appealing to them as part of the integrity account enables us to explain nepotism's wrong-making features in a principled yet context-sensitive manner.

This explanatory benefit is particularly significant because it allows us to identify what may be of ultimate normative concern within different institutions whose raison d'être ought to have legally enforceable claim-rights as their ends. Whether nepotism interferes with hospital administration, the judicial process, or the procurement of public goods, the integrity account allows us to reliably capture multiple facets of the wrong involved in these cases whilst offering an explanatory narrative which aligns with intuitive moral objections to corruption within the relevant institutions. By grounding the wrong of nepotism in the failure to fulfil first or second-order role-based duties that correspond with such claim-rights, the integrity account provides a principled foundation for the critique of institutional practices with reference to the distinct interests which anchor our complaints within particular institutional settings.

2.4 Objections

Firstly, one might wonder whether my analysis of Hospital and structurally similar organisations plausibly extends to all institutions which have the satisfaction of legal claim-rights as their ends, and question if it is necessarily objectionable for relational integrity to be undermined in the ways discussed. In support of this worry, suppose that citizens have claim-rights to security and self-determination, and that the military is tasked with fulfilling these claim-rights but is not called upon for there is no

existing threat to either. Supposing further that many citizens do not trust the military, one might question whether this is of any consequence in cases where there appears to be no *tangible* threat to the underlying interests.[124]

Whilst it is true that some institutions, like hospitals, engage the interests underlying the relevant claims at all times, it might be thought that others, such as the military, are only intermittently required to fulfil their role. However, just because trust may not appear to be immediately necessary at a given moment, this does not mean that it can be eroded without consequence. Once circumstances change and citizens are forced to actively depend on the military, trust and relational integrity become pressing concerns for the reasons discussed. This distinction highlights why trust is of significant institutional concern even when its necessity is not immediately apparent. Although the fortunate absence of a present crisis may obscure its importance to us, the moment an institution is called upon to fulfil the relevant claim-rights, its ability to establish and sustain trust becomes indispensable. In healthcare settings, where institutional practices pose an ongoing risk to the underlying interests, the erosion of trust is always a live concern. But even in scenarios where direct dependence is only intermittent, trust strikes me as being a latent necessity, one that, when tested, becomes just as crucial as it is in more continuously active sectors.[125]

Secondly, given that part of my critique of Ceva and Ferretti's account hinges on my claim that it is too formal in its scope, and because I do not provide an exhaustive list of the rights which I have in mind here, one might wonder if the integrity account also suffers from a degree of normative thinness and question the extent to which it will be able to provide more guidance. Since the scope of argument here is delimited to institutions whose ends we ought to have legally enforceable moral claim-rights to, it could be argued that leaving the schedule of these rights open for debate also passes the buck and recapitulates problems similar to those noted above concerning disagreement about an institution's raison d'être.

Whilst the account developed here leaves open the precise schedule of moral claim-rights which ought to be legally enforced, it is my contention that it still offers substantive normative guidance and so provides a meaningful contribution to any explanation of what makes corruption wrong within the relevant cases. Unlike Ceva and Ferretti's account of nepotistic corruption, which defers to the dialogical requirements of interactive justice, the integrity account establishes a clear connection between an

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[124] I thank Paul Billingham for raising this objection.

[125] By "continuously active", I refer to the fact that some institutions are more evidently involved in the immediate fulfilment of the relevant claim-rights on a day-to-day basis and so failures to fulfil the relevant duties pose a more immediate threat.

institution's raison d'être and a morally significant interest that right-holders have in the performance of particular role-based duties. This not only helps to explain why nepotism is wrong in these cases by forming a normative link between objectionable practices and the interests that they offend, but constrains the set of normative reasons which can be offered in support of institutional practices to those which are rationally related to the promotion of the underlying interests.

On Ceva and Ferretti's view, officeholders can satisfy their duties of office accountability just so long as they are able to explain their conduct in terms that are consistent with the mandate of the position. As we saw in Section 2.2, however, this response to the problem of corruption fails to assign any underlying normative purpose to the relevant positions or institutions and places no additional constraints on the reasoning which must take place if one is to justify their conduct in light of the mandate they enjoy. Consequently, their account risks the possibility of otherwise impermissible corruption being rendered consistent with the duty of office accountability provided that one's colleagues accept the justification given for the practice. The integrity account, by contrast, is a structured normative framework that ties institutional duties to the morally significant interests which ground claim-rights to the relevant institutional ends. Rather than treating role-based mandates as free-standing directives whose determinate content wholly depends on peer-to-peer engagement, this approach ensures that roles, rules, and duties are oriented toward the robust protection of the fundamental interests that socioeconomic, civil, or political institutions should secure.[126]

Moreover, the integrity account is able to accommodate concerns regarding accountability and this is a further benefit of its two-tiered approach to role-based duties. At the first-order level, rights to institutional ends impose correlative duties on role-occupants to act in ways that are necessary to fulfil legally enforceable claims. At the second-order level, the relevant interests ground corresponding duties to maintain a robust framework which ensures that institutional deliberation and conduct is structured in ways that safeguard the conditions under which these rights are respected and realised over time. Since the fulfilment of second-order duties contributes to maintaining the procedural and relational integrity of a given institution, generic duties of office accountability are naturally subsumed within the relevant framework, but are ultimately directed to stakeholders even if a particular role-occupant is accountable to their

[126] One might attempt to supplement Ceva and Ferretti's view by introducing an independent account of the normative purposes served by the relevant institutions. However, this would depart from the central ambition of their framework, which is to avoid grounding duties of office in external evaluative standards. The difficulty, then, is not merely that their view is incomplete, but that its core philosophical commitment precludes the kind of supplementation required to address this concern.

colleagues in the first instance.[127] This feature, coupled with the underlying normative rationale elucidated above, prevents institutional practices from being arbitrarily shaped by opaque internal justifications or bad faith actors. Instead, they are guided by a transparent and substantive normative rationale which enables stakeholders to hold role-occupants accountable through judicial and political procedures.

Thirdly, given my claim that D_2 failures do not necessarily result in any rights violations, it might be questioned whether much of what I have said here is in tension with the correlativity thesis. On a standard reading of the correlativity thesis, rights and duties entail one another such that for some right R, there are duties D necessary to fulfil R, and that where there is some duty D, there must be some correlative R. We can understand the former rights-to-duties claim as the first half of the correlativity thesis and the latter duties-to-rights claim as the second.[128] Although scepticism has been directed towards both halves of the correlativity thesis in a variety of ways,[129] I do not wish to entertain these objections here nor reject the correlativity thesis in the case of claim-rights and first-order duties. I will, however, need to substantiate the claim unique to the integrity account, that the failure of second-order duties need not entail any corresponding rights violation and in order to do so, I must consider a more ardent defence of the correlativity thesis.

One such defence is provided by Matthew Kramer, who would likely rebuff my claim that D_2 failures do not entail any corresponding rights violations. On Kramer's view, even if such a failure does not appear to infringe upon what he calls a general, abstract right, like the right to healthcare, it will still violate a more specific right that is logically or instrumentally derived from that general right.[130] As Kramer puts it,

> 'X's general right to be free from invasions of his privacy by Y will correlate only with Y's general duty to abstain from invading X's privacy; it will not correlate with the specific duties that are imposed on Y as a consequence of the general duty. Accordingly, X's general right is not tied to any specific duty or to any set of

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[127] By this, I only intend to claim that whilst immediate procedural accountability and scrutiny is often an internal affair, ultimate moral accountability is directed towards the stakeholders whose interests the institution serves.

[128] Magnell, "The Correlativity of Rights and Duties," 4.

[129] Many philosophers question the first half of the thesis when considering other Hohfeldian rights (e.g., liberties) and more general suspicion exists with regards to the duties-to-rights claim. See, Ross, *The Right and the Good*, 48-56; Hart, "Are There Any Natural Rights?" 180-182; MacCormick, "Rights in Legislation" in *Law, Morality, and Society*, 189-209; Raz, *The Morality of Freedom*, 170-172; White, *Rights*, 59-73; Feinberg, *Rights, Justice, and the Bounds of Liberty*, 223 and "Duties, Rights, and Claims"; Lyons, "The Correlativity of Rights and Duties"; Wenar, "The Nature of Claim-Rights," 211-213.

[130] Kramer, "Rights without Trimmings" in *A Debate Over Rights*, 43-49.

> specific duties. It can generate as many specific duties as the specific rights to which it leads (each of which will be correlated with a specific duty). Whenever circumstances such as new inventions require the elaboration of further concrete norms to effectuate the abstract right concerning privacy, X will gain new concrete rights and Y will incur new concrete duties. A strict one-to-one correlation obtains throughout, as X's abstract right correlated with Y's abstract duty, and as each concrete right held by X is correlated with a concrete duty borne by Y.'[131]

With this in mind, one might argue that whilst D_2 failures do not necessarily violate the general right to healthcare, they do violate a more specific right that is derived from this general right.[132] Following this reasoning, it might be said that second-order duties have as their correlates some set of rights R_2, and these more specific rights will determine the content of the institutional framework which secures the more abstract, inchoate entitlement R_1. As such, Kramer's model may preserve strict correlativity in the face of my appeal to second-order duties by mapping these duties onto a more specific set of rights. If successful, this move would force me to reconsider my claim that D_2 failures are independently morally concerning of rights violations, since by Kramer's lights, they may simply result in violations of the more specific rights which abstract entitlements generate.

I think, however, that we should resist this move for a number of reasons in spite of its elegance. For one thing, Kramer's attempt at preserving fully-fledged correlativity would seem to require us to adopt an incredibly expansive schedule of rights. If every second-order duty failure must be framed as a violation of some more specific right R_2, then this runs the risk of inflating the number of rights in a troubling way. For example, in Hospital, we may be likely to converge on the judgement that patients have a right to healthcare R_1, but if every misstep in hiring, resource allocation, or institutional oversight is to be framed as a distinct violation of R_2, then we are left with an unwieldy proliferation of highly specific rights, many of which may be subject to greater contention. This risks diluting the conceptual clarity of the rights which individuals have to institutional ends and may blur the line between mere inefficiencies and genuine rights violations. If a hospital administrator fails to implement ideal hiring procedures and this

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[131] ibid., 42.

[132] Although Kramer and Raz disagree on the subject of strict correlativity, Kramer's appeal to generic and specific rights seems to reflect Raz's discussion of 'core' and 'derivative' rights. See, Raz, *The Morality of Freedom*, 168-169.

results in an inefficient but functional system, then has a patient's specific right to a particular institutional practice truly been violated?

This worry regarding the inflation of moral or legal rights extends further, since irrespective of their order, every role-based duty must correlate to some increasingly specific right which stakeholders possess. To substantiate this worry, recall how the interest underlying an inchoate entitlement like the right to healthcare is liable, on my view, to ground the creation of second-order duties which promote and respect this interest. If we adopt Kramer's model, we must say that failures to abide by these duties logically entail the violation of a more specific right within the relevant order. However, just as the fulfilment of R_1 may depend upon the creation and enforcement of R_2, R_2's fulfilment may depend upon the creation of more concrete rights and duties. What if, for example, it turns out that the fulfilment of R_2 is contingently dependent on others fulfilling even more specific, higher-order duties D_3, like maintaining the online application portal through which candidates apply? On Kramer's view, these additional duties will be correlative to a more specific claim-right R_3, such as a right that hospital's maintain functional application systems, and R_3 will be subject to the same kind of inflation with regards to R_4, R_5,… R_N and their correlative duties, D_4, D_5,… D_N. It is my contention that we should resist this move, lest we create an unmanageable rights structure where every enabling condition for fulfilling a right, or protecting its underlying interest, becomes a right in itself.

It would, however, be a mistake to infer from the implausibility of such highly specific rights that the corresponding duties do not exist. The duties in question arise not from the existence of correlative claim-rights, but from the role they play in promoting and respecting the interests that underpin the institution's purpose. As such, the failure of correlativity at this level does not undermine the existence or normative force of second-order duties, but instead shows that their justification cannot be captured solely in terms of rights. Indeed, to deny the existence of such duties on the grounds that no corresponding right can be identified would risk collapsing back into a view on which paradigmatic instances of nepotistic corruption—of the kind discussed above—are rendered unobjectionable.

Kramer might respond to this challenge in two ways. He may argue that whilst specific rights (R_2, R_3, etc.) arise from R_1, this does not mean that every inefficiency or disabling condition constitutes a distinct rights violation. Instead, one might think that the rights that emerge from a general entitlement are limited to those that are *necessary* for ensuring its meaningful fulfilment. In this way, Kramer may be able to accommodate a more specific set of rights and correlative duties without producing a vast hierarchy of claim-rights. If this response is convincing, then my concern about an inflationary rights

structure may be overstated. Alternatively, Kramer could concede that his model results in the proliferation of increasingly specific rights but deny that this is problematic. After all, legal and institutional frameworks frequently operate on the basis of layered rights structures, where broad entitlements generate a network of more specific rights that are practically significant in different contexts. Following this reasoning, my objection would amount to nothing more than resistance to already familiar and widely accepted ideas within jurisprudence.

I think these responses remain unpersuasive. Firstly, the notion that only necessary rights emerge from R_1 is unclear, since what counts as "necessary" will depend upon highly contingent empirical and institutional facts about how a given framework secures its ends in different circumstances.[133] For instance, in the case of Hospital, is it *necessary* that duties to implement particular hiring practices be explicitly rights-correlated in order to fulfil the right to healthcare? Or, could one reasonably disagree about which procedural obligations count as generating increasingly specific rights distinct from the abstract entitlement which undergirds them? If the latter, then Kramer's model risks being indeterminate in practice, since it offers no principled way to distinguish genuine, specific rights from the enabling conditions that support or safeguard them. On my view, by contrast, second-order duties are instantiated with reference to the role they play in maintaining procedural and relational integrity, and their normative weight need not depend upon them being logically correlative to a distinct set of specific rights.

In any case, this response would not rescue the stronger claim that D_2 failures necessarily violate the general right R_1, since Kramer acknowledges that the ties between general and specific rights are not logically entailed within the relevant cases, 'but are instead partly instrumental and partly explicative or interpretative'.[134] Whilst this leaves open the possibility that D_2 failures do violate more specific rights, it casts doubt on whether these specific rights are *necessary* for the fulfilment of R_1. If they are merely instrumental or interpretative elaborations, then failing to discharge D_2 may not logically entail a failure to fulfil R_1. This weakens the force of the objection to my view, since my claim is precisely that D_2 failures need not amount to rights violations in the strict sense of undermining a general right to institutional ends. Thus, even if Kramer's model preserves correlativity between D_2 and R_2, it does not follow that such duties are logically reducible to the requirements of R_1, nor that their failure must be understood as a fundamental rights violation.

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[133] Raz refers to this as the 'dynamic aspect of rights' (*The Morality of Freedom*, 171) and it is this claim which Kramer defends strict correlativity against.

[134] Kramer, "Rights without Trimmings" in *A Debate Over Rights*, 43-44.

A related worry here concerns Kramer's endorsement of the interest theory of rights. Given that the relationship between R_1 and R_2 is not one of logical entailment such that violations of R_2 result in violations of R_1, we might wonder whether the interests grounding each right are the same or whether they will begin to diverge in specific cases. Whilst it certainly seems that one may point towards one's interest in health as the grounds for particular role-based duties, the further we move towards increasingly specific requirements, the less plausible it may be that the *same* interest continues to do the grounding. At a certain level of specificity, the interest in health may no longer be the most salient or compelling rationale for the specific right in question and one may have to appeal to another, less fundamental interest, which may be insufficiently weighty to ground a distinct moral right. Relatively mundane examples here might include a hospital administrator's duty to ensure that application forms for junior hires are colour-coded correctly, or duties to maintain ambient noise levels below a certain decibel threshold in administrative wings which aim at securing a more productive work environment.

These practices, though important in some respects, are only distantly related to the patient's interest in receiving adequate care and may not rise to the threshold typically required to ground a distinct moral claim-right. If this is correct, then some of the more specific rights that Kramer's model generates may become increasingly tenuous from the perspective of the interest theory. And if the interests that ground them diverge too far from those that ground R_1 such that they can no longer be understood as interpretative specifications of R_1, or are insufficiently weighty to ground distinct entitlements (e.g., R'_1), then the moral force of D_2 failures cannot simply be cashed out in terms of rights violations. Instead, they must be evaluated with reference to broader ethical-institutional concerns, and precisely the kind of evaluation that the integrity account is designed to facilitate.

Secondly, even if a layered rights structure is widely accepted in legal contexts, this does not necessarily support the thought that every D_2 failure must correlate to a specific right R_2. A legal framework may pragmatically delineate responsibilities without assuming a strict moral correlativity between every role-based duty and a corresponding right. As such, Kramer's view risks conflating the dynamic aspect of structured, institutional obligations with the rights violations that strict correlativity logically entails. If R_2 exists purely as a pragmatic construct to guide institutional design rather than as a distinct entitlement grounded in a distinct fundamental interest, then the weight of my original claim remains: D_2 failures can be morally objectionable without necessarily constituting rights violations. Thus, even if Kramer resists the expansion problem, his model remains vulnerable to ambiguity in determining which second-order failures are

rights-violating and which are merely procedural inefficiencies or disabling conditions. If the rights in question are merely instrumental to R_1, rather than logically entailed by it, then much of my argument stands.

Before concluding, however, I must address two final worries that concern the applicability of the integrity account in non-ideal institutional contexts. Given that I have not yet said much about how second-order duties function when institutions are poorly designed or fail to promote the relevant interests, it will be necessary to clarify this here in order to avoid a potential ambiguity in the account. In non-ideal scenarios where existing institutions fall short of the normative requirements outlined above, a question remains concerning whether role-occupants are bound by the institutional framework as it is, or by what that framework ought to be. My response is that D_2 duties are best understood as interest-dependent, and so their content is not derived from whatever the status quo set of institutional rules and norms are. Instead, such duties are ultimately determined by what those institutional arrangements ought to be, morally speaking. Namely, the arrangements that would best promote and respect the interest which grounds the corresponding right. This ensures that the integrity account does not defer to the legitimacy of existing institutional rules in a purely formal or positivistic sense and instead evaluates their moral authority in light of their normative foundations. Where the requirements generated by prevailing institutional practices diverge from those grounded in the interests that justify the institution's purpose, the latter determine the all-things-considered duties of role-occupants, even where this may, in some cases, require departing from existing but suboptimal practices.

This move also allows us to explain what is wrong with nepotistic corruption in scenarios where the institutional framework is itself defective. Plausibly suppose, for example, that the framework in Hospital fails to meet the integrity conditions described, and that the formal rules permit nepotistic hiring and other forms of corruption. On my view, the fact that nepotism violates no explicit rule does not exempt it from moral scrutiny. What makes such conduct objectionable is that it fails to promote and respect the interest that grounds the relevant right. This renders corrupt practices wrong in virtue of the normative structure that I have defended, even if the existing framework has failed to institutionalise that structure effectively. In such cases, the failure does not lie in deviating from a preexisting system of rules, but in failing to uphold the normative requirements that arise from the interest that is constitutive of the institution's purpose.

That said, a further concern may arise at this juncture regarding institutional capacity. One might ask what the integrity account requires in cases where institutions are incapable, due to lack of resources, political dysfunction, or entrenched structural obstacles, of maintaining the procedural and relational conditions necessary to protect

the relevant interests. In such cases, the question is not whether the underlying second-order considerations disappear, but whether they give rise to reasonably dischargeable role-based duties for identifiable agents. On the integrity account, the content of D_2 is constrained by feasibility. Where structural limitations preclude the implementation of appropriate institutional safeguards, role-occupants may lack the capacity to discharge second-order duties in a way that would render them culpable for failure. In such cases, the resulting wrongdoing is best understood as institutional corrosion rather than corruption. Nevertheless, feasibility does not erase the normative pull of the underlying interests. Even in compromised or constrained settings, those interests continue to exert moral pressure, grounding demands for reform and institutional redesign rather than individual blame. In this sense, the moral significance of D_2 failures persist, even where its discharge cannot reasonably be attributed to particular role-occupants.

3. Nepotism, Market Inefficiency, and Equality

In the preceding chapter, our concern with nepotism centred on corrupt conduct within institutions that are involved in the fulfilment of various socioeconomic, political, or civil rights. In this chapter, I turn to consider the occurrence of inefficient nepotism in privately owned businesses that are operating within competitive markets. In some cases, these private institutions interact with public institutions in order to meet the fulfilment of an entitlement that ought to be legally recognised and enforced. In others, private entities may themselves be wholly responsible for the provision of basic goods and services, or offer parallel services to those provided by the state. For example, a nationalised health service may contract a third-party supplier of medical equipment, utilities like water or electricity may be supplied by private companies, and alleged offenders may choose between public defenders and private legal representation.

As Chapter 2 suggests, cases of this kind still fall within the scope of the integrity account because the entity in question plays a role in fulfilling claim-rights which ought to be legally recognised and nepotism compromises the fulfilment of those rights, or the procedural and relational integrity of the institutions tasked with protecting the underlying interests. The fact that these goods or services are sometimes provided by private entities is often contingent on political will and economic organisation, but many also point to the socioeconomic benefits generated by competitive markets as a justification for the inequalities that such arrangements produce. In these cases, and in others where businesses are not directly involved in fulfilling moral rights that ought to be legally enforced, efficiency-curtailing nepotism may therefore be objectionable for reasons distinct from many of the concerns elucidated earlier. The intuitive thought here is that, if nepotism leads to the placement of the incompetent or unqualified in positions of power, then these practices will threaten to undermine an institution's productive capacity over time and so may result in diminishing returns for the set of socioeconomic benefits which justify the creation of the relevant inequalities in these markets.[135]

This chapter considers various ways of fleshing out this intuition more precisely and proceeds as follows. In 3.1, I begin by distinguishing between objections to

[135] To this statement, one might object that I am too quickly overlooking alternative justifications of free markets that appeal to libertarian ideals of self-ownership, rather than to the benefits associated with competitive exchange. On such views, however, no objection to nepotism (or other questionable forms of selection) arises, since individuals are thought to be free to use and distribute whatever goods they legitimately hold as they see fit. Given that my concern is with objections to nepotism that draw on prevailing intuitions about its permissibility across different cases, I will not engage with this line of response or offer a detailed rebuttal to the more thoroughgoing right-libertarianism on which it rests. I consider such an endeavour beyond the scope of this thesis and of limited philosophical interest, given the depth with which these debates have already been treated in contemporary political thought.

efficiency-curtailing nepotism that ultimately rest on non-moral considerations and those that appeal to moral reasons generated by some ideal or conception of justice. I dismiss the former non-moral, normative considerations and argue that our focus should be delimited to a set of moral reasons to promote whatever we think justice consists in. Following this, I then briefly anticipate and rebuff the thought that efficiency-curtailing nepotism need not trouble us because the invisible hand of the market will tend towards a sufficient state of competition in non-ideal conditions.

In Sections 3.2 and 3.3, I evaluate two related objections to efficiency-curtailing nepotism which help give precision to the intuitive thought elucidated above: the first is derived from Rawls's Difference Principle, and the second, from Scanlon's like-minded beneficial effects justification for inequality-generating institutions.[136] Whilst both principles are complicated by the fact that they are situated within fuller theories of justice, I illustrate how they will motivate objections to the inequalities associated with inefficient nepotism under certain conditions. Although both principles direct us to consider the macroeconomic effects of inequality-generating practices, I suggest that this interpretation of the Difference Principle stretches its intended conceptual use and faces a number of epistemic obstacles that cloud its implementation in non-ideal societies. Given its designation as an institutional justification for inequality which exists as part of his account of procedural fairness, Scanlon's Beneficial Effects Principle initially seems more promising. However, as Jacob Barrett argues, it is liable to generate inconsistent verdicts once it is subject to rigorous testing across all logically possible scenarios.

With this puzzle in view, I consider Barrett's proposed alternative, the Utilitarian Efficiency Principle, which treats inequalities as permissible whenever they are necessary to produce sufficiently large gains in total benefit. Although this proposal arguably captures part of Scanlon's original concern whilst avoiding some of the inconsistencies Barrett identifies, I suggest that it ultimately concedes too much egalitarian ground whilst leaving many important questions unanswered. More specifically, I argue that Barrett's resolution straddles an awkward middle ground between utilitarian objections to inefficiency and a deontic concern with unjustifiable inequalities of a certain kind. If we are to read "sufficiently large gains" as a simple, utilitarian aggregation, then Barrett's proposal will break from the distinctly egalitarian rationale underlying the principles

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[136] To my knowledge, no one has explicitly developed an objection to nepotism (or other potentially inefficient hiring practices) using the Difference Principle in quite this way. I develop such an argument here not because I endorse this reading, but because it is important to test whether a framework as influential as Rawls's could support a distinctive and persuasive critique of nepotistic practices. Given the predominance of Rawlsian theory within contemporary debates about justice, equality, and institutional design, it is worth considering whether an efficiency-based objection to nepotism can be anchored in one of Rawls's principles of distributive justice. I consider arguments from fair equality of opportunity in the following chapter.

which both Rawls and Scanlon endorse. On the other hand, if the conditions attached to "sufficiently large gains" are to be filled in by specific egalitarian principles of justice, then it not only ceases to make sense to describe Barrett's proposal as being utilitarian, but it also remains to be seen whether a more specific iteration of the principle will be liable to recapitulate the inconsistencies that Barrett considers to be decisive.

With this in mind, I suggest that we return to the intuitive thought that motivated these objections in the first place: that inefficient inequalities are objectionable because they undermine the productive arrangements through which many of the benefits of institutional life are realised. Rather than seeking a conclusive principle that can adjudicate every case, we should be honest about the fact that any attempt to specify this objection in fine-grained moral terms will run into difficulties whenever we attempt to implement it in practice. In light of this, I consider whether a more modest approach might be desirable and suggest recovering the moral rationale that animates our intuitive concern with inefficient inequalities. Returning to Scanlon's Beneficial Effects Principle, I argue that its core insight can be more fruitfully understood by appealing to a higher-order interest that individuals share in not only living under institutions that produce distributively just outcomes, but that are productively structured in ways that they have reason to endorse. It is here that I draw on Derek Parfit's notion of "better" in the impartial-reason-implying sense and suggest that people have reasons to object to inefficient inequality-generating mechanisms whenever there are impartial reasons to prefer efficiency-conducive selection practices. If such reasons exist, even under non-ideal conditions, then we may be able to mount a compelling egalitarian objection to inefficient nepotism that does not depend on any appeal to fixed distributive metrics or counterfactual analyses of aggregate benefit.

In Section 3.4, I propose what I refer to as the egalitarian interest in efficiency, and illustrate how it captures what is normatively compelling about Scanlon's account, whilst avoiding the problems associated with its implementation in non-ideal theory. On this view, the wrongness of nepotism lies not (or not only) in the inequality it generates, but in its violation of shared moral interest in institutional arrangements that are reasonably expected to promote competent and productively advantageous role allocation. The aim here is not to displace the need for more fine-grained principles of egalitarian justice, but to clarify the kinds of reasons we have to object to inefficient nepotism in societies as they are, and to show how those reasons reflect a deeper moral commitment to implementing inequality-generating procedures that equal participants in shared schemes of social cooperation have reason to accept.

3.1 Normative Reasons, Efficiency, and Competitive Markets

Criticism of nepotism frequently highlights the practice's effect on institutional efficiency. As we saw in Chapter 2, Miller defends one way of moralising this concern with efficiency through the lens of institutional corruption, since on his view, corruption is tantamount to institutional conduct which has the tendency to undermine the provision of goods to which individuals have a right. Though I believe that Miller is correct to highlight the significant entitlements that individuals have to certain institutional ends, his theory's dependence on the contingent effects of institutional conduct is problematic for the reasons discussed, and the distributive implications of his endorsement of an aggregate condition for rights remain unclear. Despite this, I suspect that many readers will still feel the intuitive force of the appeal to efficiency in some cases and the following discussion is dedicated to exploring alternative moral and non-moral explanations of this intuition in greater detail.

When considering objections to labour market inefficiency, one may have in mind any number of considerations which contribute to generating decisive reasons for, or against, an inefficient practice. In this sense, reasons can be understood as considerations that bear on what one ought to do, believe, or feel.[137] Reasons of this kind are deemed to be normative insofar as they constitute facts that count for or against an agent's responding in a particular way to their circumstances. As Maria Alvarez puts it, 'reasons can have normative force [such that] reasons can make something right— not necessarily morally right, but right in some respect… reasons can be invoked to support claims about what it would be right (for someone) to do, believe, want, feel, etc'.[138] Reasons that are invoked in support of such claims are considered to be normative reasons or reasons which 'have normative force': they constitute the set of reasons there

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[137] I follow T.M. Scanlon's well-known formulation of a reason to φ as 'a consideration that counts in favour it' and such considerations are straightforwardly thought to count in favour of φ-ing by 'providing a reason for it'. See, Scanlon, *What We Owe to Each Other*, 17. For a similar formulation, see, Portmore, *Morality and Practical Reasons*, 3. Cf. Julia Markovits holds an internalist position about reasons and states that 'what it *is* for a consideration to count in favour of an action is for it is to show that performing the action stands in the right relation to the agent's desires'. See, Markovits, *Moral Reason*, 2-3. Unfortunately, due to the scope of this thesis, I am not able to debate the merits of reasons externalism here. For more on this debate, see, Bergmann, *Justification without Awareness*; Srinivasan, "Radical Externalism."

[138] Alvarez, "How Many Kinds of Reasons?," 182.

are for us to φ and can make φ-ing pro tanto right or wrong in light of their force.[139] Normative reasons play a guiding role in practical deliberation when considering whether one ought to φ, as is the case when a football manager considers whether she ought to make a particular tactical change, and a related justificatory role in the evaluation of one's φ-ing, as is the case whenever we come to consider whether it was wrong for an employer to hire a particular candidate. In this sense, normative reasons are generally understood as being prescriptive in relation to a particular norm, convention, or value, and concern what one ought to do, or have done, with reference to whatever is prescribed by the relevant norm, convention, or value.[140]

Though any given reason can play any given role (normative, explanatory, motivating) within a particular context,[141] a further distinction can be made within the set of normative reasons between moral and non-moral reasons. Moral reasons are those that speak in favour of or against what we ought to do, morally speaking. That is, they are reasons that bear on our actions in light of values and standards associated with impartial concern, respect for persons, and fair treatment. They typically reflect impersonal values such as liberty, equality, or welfare, which possess normative force independently of personal interest, and contribute to generating distinctively moral oughts. Some non-moral reasons, such as aesthetic considerations, may be normatively

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[139] ibid. Cf. Jonathan Dancy argues that some normative, 'enticing' reasons may favour one's φ-ing but do not make it the case that one ought to φ. In support of this thought, Dancy states that such reasons 'make a choice the best one, but not yet the one which one ought to take'. See, "Enticing Reasons" in *Reason and Value*, 116. In support of this claim, Dancy argues elsewhere that this is because we must be obligated to do whatever we ought to do, but that such reasons do not necessarily contribute to generating an obligation. See, "Nonnaturalism" in *The Oxford Handbook of Ethical Theory*, 135. However, it strikes me, as it does Portmore (in *Morality and Practical Reasons*, n.5), that 'one ought to take the option one has most reason to take and that one isn't always obligated to take the option that one has most reason to take'. Stephen Darwall also drives a conceptual wedge between what one is obligated to do in the 'fully deontic sense' and what one has most 'kind' moral reason to do. However, contra Portmore and others, Darwall holds that moral reasons constitute an even narrower category of normative reasons than what is supposed here. For Darwall, moral reasons constitute the set of normative reasons that are pro tanto obligation-making considerations, that is, considerations which, if not outweighed, would make the agent blameworthy for failing to act on them. See, Darwall, *What Are Moral Reasons?*, 6-14.

In this thesis, I instead adopt the less restrictive view that moral reasons comprise those normative reasons that count in favour of an action in virtue of its bearing on values such as equality, liberty, or respect for persons, whether or not they, in a given case, are sufficiently weighty to generate pro tanto obligations or justify blame. Accordingly, when I say we have moral reasons to object to inefficient nepotism, I mean that such practices bear negatively on values like equality in ways that count morally against them, even if the presence of these moral reasons does not entail that nepotism is necessarily wrongful or that agents are thus blameworthy for engaging in it. This allows us to register the weight of different moral objections to nepotistic practices without building obligation-making force into the definition of moral reasons themselves. As such, I remain agnostic about the second-personal structure of moral obligation and accountability, and I take moral reasons to include any normative considerations that support an action *morally*, even if they do not, in a given case, rise to the level of a pro tanto obligation or render agents immediately accountable in Darwall's sense.

[140] Alvarez, "How Many Kinds of Reasons?" n.2.

[141] ibid., 184-187.

relevant in an all things considered sense, insofar as they guide, constrain, or justify what we ought to do, but they do not speak in favour of what we ought to do *morally speaking*, in an unqualified sense.[142] Other considerations, such as prudential reasons, occupy a more ambiguous space. Whilst it is plausible to think that some self-regarding considerations carry inter or intrapersonal moral weight,[143] particularly when these considerations are tethered to self-respect or one's agency, other prudential reasons may be more accurately described as non-moral but normatively relevant considerations.

To illustrate the latter point, consider how an employer's prudential reasons may speak against practicing inefficient nepotism whenever doing so is liable to damage their professional reputation. Though we may say of this employer that they ought not practice nepotism if they wish to maintain their professional standing, it would be unusual to regard this sort of normative consideration as generating a moral ought or describing what makes inefficient nepotism morally objectionable. In this respect, one may have relatively compelling (or trivial) non-moral but normatively relevant reasons to avoid practicing nepotism, but the presence of these reasons do not make the practice *morally* objectionable in any meaningful sense.

Non-moral objections to inefficient nepotism typically characterise the selection decisions involved as irrational or pragmatically flawed, and for these reasons, as practices that employers ought to avoid participating in for their own benefit.[144] From this perspective, the concern is not that the relevant inefficiencies are in some sense unjust, but that they produce outcomes that are undesirable because they conflict with prudential or institutional interest. Whilst these considerations often play a role in our qualified normative reasoning about nepotism, they do not, by themselves, render nepotism morally objectionable.[145] A firm may have inefficient organisational practices and still commit no moral wrong, just as it may pursue efficiency in ways (e.g., by implementing exploitative employment practices) that conflict with what we think that such businesses ought to do morally speaking. That is, inefficiency is not a moral failing

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[142] Portmore, *Morality and Practical Reasons*, 16-19.

[143] See, Muñoz and Baron-Schmitt, "Wronging Oneself."; Parry, "Defensive Harm, Consent, and Intervention," 370-396; Schofield, "On the Existence of Duties to the Self (and Their Significance for Moral Philosophy)."; Velleman, "Love as a Moral Emotion," 344-360; Baehni and Grandjean, "Moral Duties to Past-Selves."

[144] Which is it not to suggest that there are no moral reasons for employers or decision-makers to act rationally within the class of cases under consideration here, but only that non-moral objections make no attempt to tether rational or pragmatic action with some further moral value or principle.

[145] That is, these considerations do not ground moral objections to nepotism, even if they may shape our broader assessment of what justice requires in particular contexts, especially where considerations of feasibility qualify the content of moral obligations. Where such constraints exist, they are best understood as modifying what morality can demand, not as introducing independent non-moral reasons for or against permissibility.

per se, at least in the sense that justice does not require the pursuit of efficiency independently of the morally significant interests that different institutional arrangements bear on.[146]

Contrastingly, moral objections to inefficient nepotism are concerned not merely with suboptimal outcomes for the institution or individuals involved, but with the negative socioeconomic externalities associated with the relevant inefficiencies. From this perspective, our concern with inefficient nepotism lies in the way it impacts others whenever it hinders the state's ability to satisfy particular egalitarian aims. Although some of the costs associated with inefficient nepotism are borne by the institution engaging in such practices, many of the negative externalities associated with the relevant inefficiencies are borne by society writ large and its most disadvantaged members whenever such practices are widespread or implemented in selection for roles that carry significant organisational or economic influence.[147]

The remainder of this chapter focuses on this second class of considerations and evaluates moral objections to nepotism that derive their force from the distributional effects of the relevant inefficiencies. Whilst non-moral reasons may often explain why some institutions often avoid nepotism in practice, they fail to articulate a distinctively moral rationale which helps make sense of many intuitive complaints about inefficient nepotistic practices. What matters, I argue, is not merely that nepotism risks producing suboptimal outcomes, but that it does so in ways that leave us less able to fulfil whatever we think that distributive justice requires of us. Whilst this does not, by itself, establish that all such practices are impermissible, it does give us reason to treat such practices as prima facie morally suspect and may help illuminate some part of what makes nepotism wrong. The analysis that follows explores this claim by examining how nepotism within competitive markets undermines efficiency in ways that generate morally salient externalities. However, before turning to consider two egalitarian arguments of this kind, I briefly address a possible rejoinder to the forthcoming discussion—namely, the claim

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[146] One might worry that this claim is too strong. In some contexts, firms are plausibly subject to fiduciary or contractual duties—such as duties owed to shareholders—which may require them to avoid inefficient practices. If so, inefficiency might appear to constitute a moral failing insofar as it involves a breach of such duties. However, even in these cases, the relevant moral reasons are grounded in the fiduciary or contractual obligations themselves, rather than in inefficiency as such. The present claim is therefore not that inefficiency is never morally objectionable, but that it is not, in itself, a requirement of justice independently of the interests that ground such duties.

[147] Though I shall return to discuss this in further detail below.

that competitive markets are self-correcting, and that this feature renders the treatment of efficiency-based objections redundant.[148]

Following one prominent line of thought in classical and neoliberal economics, it might be argued that even if nepotism leads to the incompetent or unqualified filling advantageous positions, and this introduces inefficiencies in the short term by reducing productivity, competitive pressures within free markets will eventually expose and eliminate such practices. On this view of market discipline, inefficient firms that persist with nepotistic practices will simply be outperformed over time as they lose clients, suffer reputational damage, and struggle to attract talent until they are ultimately priced out of the market. In this respect, competitive markets are sometimes thought to be self-correcting, not because every individual decision is itself optimal, but because systemic inefficiency is deemed unsustainable, and so individual market participants, acting in their own interest, are expected to converge on the implementation of more efficient practices over time.

An idea of this kind can, of course, be traced back to Adam Smith's metaphor of the "invisible hand", according to which the pursuit of self-interest in a competitive marketplace leads, as if by design, to socially beneficial outcomes.[149] This influential idea was revived and revised by members of the Chicago School in the 20th century, who emphasised the market's capacity to discipline inefficient behaviour and reward practices that promote the good through competition. Milton Friedman, for example, famously argued that profit-maximisation is not just a firm's right, but its social responsibility, since the pursuit of profit within the bounds of fair competition is liable to produce the greatest social good.[150] From this perspective, efficiency-curtailing nepotism may be undesirable, but it requires no moral censure or extensive philosophical analysis, as market forces will "weed it out" naturally over time.

F.A. Hayek develops a more dynamic version of this view, portraying markets as discovery processes in which agents continually test ideas, make mistakes, and adapt through feedback. Inefficient practices, on this view, are once again, not moral failures but mere stages in a longer cycle of trial and error. So, even if nepotistic practices turn out to be inefficient in certain cases, the institutions which employ these practices are likely to be outperformed as firms. For Hayek and others, the strength of the market is

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[148] Since I am not here assessing the all things considered permissibility of nepotistic practices but rather different descriptions of its wrong-making features, I set aside for now any cases in which non-moral or countervailing moral reasons might ultimately outweigh moral reasons to promote efficiency. This issue will be addressed within Chapter 5.

[149] Smith, *An Inquiry into the Nature and Causes of the Wealth of Nations*, Book IV, Ch. II.

[150] Friedman, "The Social Responsibility of Business is to Increase its Profits."

thought to lie in its decentralised informational efficiency, since even when no single actor has perfect knowledge, the price system enables dispersed agents to coordinate in ways that tend toward optimal allocation over time.[151] This tendency is thought to hold even under imperfect conditions, provided there are enough participants, low barriers to entry, and a sufficient degree of consumer choice.

Taken together, these perspectives may suggest that the forthcoming analysis is perhaps unnecessary or misdirected, provided that we are assessing the ethics of nepotism in free markets with sufficient competition. If inefficiency leads to failure, then firms have a built-in incentive to avoid it given competitive friction within the marketplace,[152] and so one may think that intervention of any kind is redundant and in some sense surplus to requirements. The resulting picture is one in which non-moral reasons for avoiding nepotism (e.g. economic success) align with the promotion of other socially beneficial goals. If this image of market discipline is correct, then one may wonder whether this renders the development of an objection to inefficient nepotism normatively redundant. Or to put the concern more bluntly, why should we toil to explain the wrong of inefficient nepotism and consider how we might regulate it, if the market corrects for such practices anyway?

However, this optimistic view of competitive self-correction rests on idealised assumptions that frequently break down in real-world contexts. Even under reasonably competitive conditions, certain inefficiencies may persist due to market friction, informational asymmetries, or structural barriers to entry. A number of theorists have challenged the view that competition will reliably eliminate inefficient or objectionable practices without ongoing intervention. As Peter Dietsch rightly highlights, 'the animating force that breathes life into the invisible hand and guarantees its functioning is competition' and yet, competition itself is a normative ideal that 'requires active institutional structuring' in order to be realised and sustained.[153] Moreover, contra Hayek, Alan Goldman persuasively illustrates how market discipline only operates effectively under conditions approximating perfect competition, a state of affairs in which firms have no power to shape market outcomes and consumers are perfectly informed.[154] These assumptions are rarely satisfied in practice. Moreover, industries where nepotism tends to thrive, including family businesses, media, law, finance, and politics, often feature

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[151] Hayek, "The Use of Knowledge in Society," 521, 524-528.

[152] I take the notion of competitive friction or 'friction competition' from Shai Agmon who designates this notion of competition as one that is designed to facilitate a clash between competitors. See, "Two Concepts of Competition."

[153] Dietsch, "The Market, Competition, and Equality," 214-215.

[154] Goldman, "Business Ethics: Profits, Utilities, and Moral Rights," 270-272.

opaque hiring processes, path-dependent advantages, and informal barriers to entry that insulate firms from competitive pressure.

Additionally, even where the effects of nepotism, such as lower productivity or poor morale, do not immediately manifest as profit losses, their cumulative impact may still be socially significant. When such inefficiencies are widespread, as they often are in the real-world, the market may fail to self-correct in response to them precisely because no single firm stands out as uniquely underperforming. As David Graeber and James Suzman both find, markets can tolerate large numbers of unproductive or misallocated white-collar workers as long as enough surplus is generated elsewhere in the firm, typically by more productive employees lower down the hierarchy.[155] In such cases, inefficiency persists not in spite of market forces, but because of how those forces maintain the status quo. This insulates nepotistic practices from correction and allows their costs, including the misallocation of talent, loss of surplus, and reduced aggregate output, to compound in ways that affect the broader distribution of socioeconomic goods in society.[156]

Moreover, even Adam Smith's "invisible hand" is frequently misunderstood as an unqualified defence of the notion of market discipline. Whilst Smith famously observed that individuals pursuing their self-interest can unintentionally promote the public good, he also warned of collusion among producers and the corrupting effects of concentrated market power.[157] Such competition, however, is undermined in societies where economic inequalities limit entry by limiting access to capital, credentials, and risk-bearing capacity, where informational advantages are unevenly distributed, and where kinship or loyalty substitute for price signals. Under the conditions of imperfect competition which we face in actual markets, firms can preserve profits not by increasing efficiency but by offloading costs onto others, reducing quality, or exploiting consumer ignorance.[158] If a firm enjoys enough insulation to survive in spite of the inefficiencies generated by nepotistic hiring or other practices, then the claim that markets will inevitably correct such practices is not just implausible, but naïve.[159]

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[155] Graeber, *Bullshit Jobs*, 145-245; Suzman, *Work*, 329-389.

[156] Whilst it is, of course, possible in principle for market entrants to outperform inefficient incumbents, this assumes that the relevant inefficiencies are sufficiently salient, firm-specific, and epistemically accessible to generate meaningful entry incentives in markets where inefficiency is often diffuse and systematically tolerated.

[157] Smith, *An Inquiry into the nature and Causes of the Wealth of Nations*, Book I, Ch. X.

[158] Goldman, "Business Ethics: Profits, Utilities, and Moral Rights," 269-273.

[159] And in further support of the former claim, one only needs to recall the various studies referenced within the introduction of this thesis that highlight the prevalence of nepotism within businesses operating with competitive markets and the inefficiencies associated with these practices.

These considerations suggest that moral critique and more thoroughgoing normative requirements cannot be outsourced to, or replaced by, the classical or neoliberal notion of the invisible hand. In many sectors, nepotism persists not in spite of competition but alongside structural features that dull or deflect its disciplinary function. When inefficiency entrenches socioeconomic disadvantage, the harms involved are not necessarily priced in nor abated by market competition in non-ideal conditions. In such cases, the moral concern is not that firms violate market logic, but that market logic fails to address morally significant outcomes.[160]

3.2 The Difference Principle

Proposed as one half of one of the principles that Rawls believes would be chosen in the original position, the Difference Principle requires social and economic inequalities to be arranged so that they are 'to the greatest expected benefit of the least advantaged'.[161] Given that there is widespread familiarity with the Difference Principle and thorough analysis of it provided elsewhere,[162] I try to avoid any unnecessary exegesis of the principle as it is situated within Rawls's theory of justice as fairness here and consider its explanatory force as a freestanding requirement. It will be necessary, however, to unpack several features of the Difference Principle if we are to understand how it might be interpreted as generating an objection to nepotism which is associated with an egalitarian concern with inefficiency.[163]

Like the other principles of justice which Rawls proposes as part of his theory, the Difference Principle applies to the basic structure which is comprised of society's political, economic, and social institutions. Rawls considers the basic structure to be the primary subject of justice not only because 'its effects are so profound and present from the start', but also because these institutions are necessary for productive social cooperation.[164] As Rawls makes clear, the principles which apply to the basic structure ought to regulate the fundamental elements of a society's political and economic system, and so concern the institutionalisation of basic rights or duties as well as the distribution

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[160] For a more detailed discussion of this final claim, see, McMahon, "Morality and the Invisible Hand."

[161] Rawls, *A Theory of Justice*, §13.

[162] See, Freeman, *Rawls*, 86-140.

[163] Despite their significance to Rawls's theory, I will not be discussing the complications which arise from the interaction between the principles proposed by Rawls, their lexical priority, or their interpretation within the confines of what Rawls refers to as democratic equality. I instead focus here on a particular reading of the Difference Principle and an objection to nepotism that this reading gives rise to.

[164] Rawls, *A Theory of Justice*, 7; Freeman, *Rawls*, 101-102.

of Rawlsian primary goods such as liberties, economic opportunities, income, wealth, and social bases of self-respect.[165] The Difference Principle is therefore only considered to apply indirectly to individuals insofar as their conduct 'is to be guided or regulated' by the 'laws and norms made pursuant' to it.[166] It is not, therefore, the case that individuals are expected to comply with the Difference Principle whenever they are making specific decisions as individual market participants, such as who to hire for a particular position. On the contrary, since agents are rarely privy to the kind of information necessary to apply the Difference Principle in specific circumstances, Rawls does not claim that it is incumbent on them to make economic decisions which are expected to improve the least advantaged's allotment of primary goods.[167] Instead, the principle governs the design of laws and institutional norms which determine the permissibility of economic transactions, allowing individuals to seek more for themselves within the confines of an economic system which ensures that any resulting inequalities are those which are necessary to raise the position of the least advantaged.

In what respect, then, can we say that the Difference Principle gives rise to an objection to inefficient nepotism? Although the Difference Principle is primarily a standard for the design of institutional rules, it indirectly raises concerns about patterns of inequality which arise through individuals' choices whenever these inequalities cannot be harnessed to make the worst-off better-off than they would be under an alternative arrangement.[168] In such cases, the maximin rationale underlying the Difference Principle requires us to calibrate society's legal rules and norms in order to ensure that the inequalities which result from economic transactions within this system can be structured to elevate the position of the least advantaged.[169] An unequal distribution of primary goods is thus justifiable if it is *necessary* to incentivise individuals to perform work that they might otherwise avoid, provided that the surplus value generated by this arrangement can be redistributed to the benefit of the least advantaged. With this in

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[165] Rawls, *A Theory of Justice*, §2, 54, §15, §67.

[166] Freeman, *Rawls*, 100.

[167] Though, contra Rawls, Jerry Cohen argues that a perfectly just, well-ordered society would require this of individuals and refers to this requirement as the 'egalitarian ethos'. See, Cohen, "Where the Action Is: On the Site of Distributive Justice."; *Rescuing Justice and Equality*. I do not discuss the nuances of this debate between Rawls and Cohen here, but I will return to reconsider the role of something akin to Cohen's ethos in addressing problematic nepotism in Chapter 6.

[168] Rawls emphasises this point when he states that 'the general level of wealth in society, including the well-being of the least advantaged, depends on people's decisions as to how to lead their lives […] the Difference Principle is essentially a principle of reciprocity'. See, Rawls, John, *Justice as Fairness*, 64.

[169] This is in keeping with Freeman's understanding of the Difference Principle in which he states that 'Rawls envisions the Difference Principle as the primary principle to guide the deliberations of democratic citizens as they debate the common good, and the decisions of legislators as they enact laws to realise the common good of democratic citizens'. See, Freeman, *Rawls*, 100.

view, we can say that nepotism will be proscribed by the Difference Principle whenever the inefficiencies and exclusionary practices associated with it lower the position of the least advantaged in a pairwise comparison with an alternative arrangement in which nepotism is prohibited.

Since the allocation of jobs and educational places are often regarded as an indirect mechanism for distributing income and other primary goods, the institutional inefficiencies which nepotistic practices generate may create inequalities which reduce the basic social minimum or perpetuate structural advantages which align with membership of advantageous networks. As such, the Difference Principle can be said to generate two objections distinct from the preceding chapters or Rawls's commitment to equality of opportunity to disfavour an arrangement of rights, powers, and immunities which secures a prerogative to distribute positions nepotistically.[170]

To elucidate the first, consider how the pervasiveness of nepotistic practices may lead to macroeconomic inefficiencies which ultimately lower the basic social minimum and position of the least advantaged. Suppose, for example, that a number of businesses consistently hire nepotistically and overlook more competent candidates in doing so. By favouring candidates with personal connections over the relevant qualifications, these institutions may be liable to suffer from reduced productivity and innovation over time. At a certain frequency, the aggregate effect of efficiency-curtailing nepotism may therefore diminish macroeconomic output, leading to lower profits and less taxable revenue for the state as a consequence. In turn, this reduction in revenue can limit the funds available for social programmes, public services, and redistributive mechanisms designed to raise the position of the least advantaged. From the perspective of the Difference Principle, efficiency-curtailing nepotism is thus concerning because it hinders society's ability to raise the "expectations of the least advantaged".

To elucidate the second, consider that the Difference Principle not only seeks to ensure a just distribution of income and wealth, but also promotes access to a broad range of primary goods over time, including economic opportunities and the social bases of self-respect.[171] For those individuals who comprise the least advantaged, lacking access to the relevant forms of social capital will worsen their position in a society where nepotism is prevalent by inhibiting their economic mobility. Given the way in which

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[170] For example, rights of ownership could be restricted to prevent employers from exercising the corresponding power to select nepotistically. Similarly, the immunity from external interference those hiring nepotistically in the private sector often enjoy could be reconsidered if it leads to inefficiencies which lower the position of the least advantaged.

[171] As Rawls makes clear, the Difference Principle is necessary to preserve 'background justice, such as the fair value of the political liberties and fair equality of opportunity, as well as to make it likely that economic and social inequalities contribute in an effective way to the general good or, more exactly, to the benefit of the least-advantaged members of society'. See, Rawls, John, *Justice as Fairness*, 52.

nepotism privileges those with membership of advantageous networks, the relevant practices will also tend to reinforce barriers to obtaining other primary goods, as those without connections find it harder and harder to secure jobs or develop careers which offer prospects for general advancement. This issue is particularly acute when considering how employment or educational opportunities confer economic benefits as well as status, recognition, and a sense of self-worth. In such cases, the prevalence of nepotism may also deprive the least-advantaged of one of the key social bases of self-respect and a sense of ambition which is cultivated within an economically mobile society.[172] I now turn to evaluate the force of these objections from this construal of the Difference Principle before proceeding to consider Scanlon's like-minded beneficial effects justification for inequality-generating institutions.[173]

A significant problem which this use of the Difference Principle faces concerns the difficulty of obtaining reliable information, but for reasons which are slightly different to those which discussions of incentive inequality and the Difference Principle typically presuppose.[174] In those discussions, this difficulty is often highlighted as part of a rebuttal to Jerry Cohen's critique that those living within a well-ordered society would internalise the dictates of the Difference Principle and so act in accordance with the maximin rationale when making decisions regarding their choice of occupation and renumeration.[175] However, unlike Cohen's argument, I have not assumed here that individuals are expected to conform with the rationale of the Difference Principle when making individual choices as market participants.[176] Instead, I gestured towards the rationale underlying the Difference Principle and suggested that, at a certain threshold, the prevalence of inefficient nepotism may prompt regulators to implement rules which

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[172] This is an important point and one which Rawls is keen to emphasise, stating that 'the basic structure as a social and economic regime is not only an arrangement that satisfies given desires and aspirations but also an arrangement that arouses further desires and aspirations in the future. This it does by the expectations and ambitions it encourages in the present, and indeed over a complete life'. See, Rawls, *Justice as Fairness*, 56.

[173] At this juncture, one may wonder whether I am providing an uncharitable interpretation of the Difference Principle given its role within Rawls's theory of justice as fairness. Since the Difference Principle is lexically posterior to the principle of equal basic liberties and fair equality of opportunity, one might think that there will be little room for nepotism once the latter principle is satisfied. Though some readers may assume that the appeal to equal opportunity will settle the matter decisively, the following chapters are dedicated to illustrating the complexities associated with this approach and explore the role of liberty in justifications of permissible nepotism.

[174] See, Williams, "Incentives, Inequality, and Publicity," 235-245.

[175] Cohen, "Where the Action Is: On the Site of Distributive Justice" and *Rescuing Justice and Equality*, 27-225.

[176] Though I shall return to discuss the role of an egalitarian ethos in Chapter 6 of this thesis when considering how to respond to impermissible nepotism.

illegitimate certain choices within the basic structure.[177] As suggested above, these rules could restrict any prerogative to engage in nepotism that employers currently enjoy as part of the status quo arrangement of rights, powers, and immunities, provided that this change can be demonstrably shown to improve the position of the least advantaged.

In spite of this, a similar epistemic worry persists. Whilst it is generally the case that regulators have better access to reliable information relevant to the distributive requirements of the Difference Principle, it is unclear whether they could attain the certainty necessary to justify a blanket prohibition on nepotism within the non-ideal world in which we find ourselves.[178] This is, in part, due to the fact that the Difference Principle only permits inequalities which are *necessary* to improve the least advantaged's distribution of primary goods and so, as a corollary, will permit any inequalities which nepotism generates as long as the relevant practices are needed to raise the position of the least advantaged.[179] This may be the case in scenarios where the inequalities associated with nepotism are deemed necessary to provide additional economic opportunities or other primary goods through social networks, or help fulfil the requirements of redistributive programmes with the surplus value generated by efficiency-conducive nepotism. As such, regulators using the Difference Principle as a guide must be able to determine the expected net cumulative effect of any intervention pertaining to the permissibility of nepotism and any consequent changes to the rules which regulate the basic structure must be consistent with raising the expectations of the least advantaged over time.

For example, it is sometimes thought that nepotism plays an important role in generating and distributing opportunities for newly-arrived immigrants. This is a point which Michael Walzer is sympathetic to, who in his very brief treatment of nepotism, argues for the containment of fair employment practices to the public sector and civil service.[180] Walzer does so, in part, because of the value he assigns to "petty-bourgeois" entrepreneurial activity and due to his fears of an ever-encroaching state. But he also

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[177] This is consistent with Rawls's statement that 'within the framework of background justice set up by the basic structure, individuals and associations may do as they wish insofar as the rules of institutions permit […] The required background rules are specified by what is necessary to fulfil the two principles of justice'. See, Rawls, *Justice as Fairness*, 50, 51.

[178] More generally, it may be difficult to satisfy the Difference Principle for this reason, since it may be unclear precisely which inequalities are *necessary* to raise the position of the least advantaged as evidenced by the complexities raised by the Rawls-Cohen debate regarding precisely what it means for some inequality to be necessary.

[179] Rawls stresses this point in *Justice as Fairness*, where he states that 'the Difference Principle requires that however great the inequalities in wealth an income may be, and however willing people are to work to earn their greater shares of output, existing inequalities must contribute effectively to the benefit of the least advantaged. Otherwise the inequalities are not permissible'. See, ibid., 64.

[180] Walzer, *Spheres of Justice*, 160-161.

views the relevant nepotistic practices as playing an important role in the distribution of economic opportunities for newly-arrived immigrants who may otherwise lack the formal qualifications and experience necessary to succeed in meritocratic competitions.[181] Although I vehemently disagree with Walzer's rationale for delimiting the scope of fair employment practices more generally, one only needs to look to the arrival of Italian immigrants in New York around the turn of the 20th century, or the migration of people of South Asian origin to Britain throughout the 20th century, to see how nepotism has sometimes played a role in facilitating the distribution of economic opportunities within small private enterprises. The Difference Principle may therefore legitimate the rules which permit the resulting inequalities insofar as we expect substantial portions of such waves of migration to be amongst the least advantaged with regards to their allotment of primary goods.[182]

Considering the latter claim concerning efficiency-conducive nepotism, there exist cases where nepotism might align with the requirements of the Difference Principle whenever the inequalities associated with the relevant practices are deemed to be necessary byproducts of practices which ultimately raise the position of the least advantaged. In addition to cases where the counterfactual prohibition of nepotism would lead to the creation of fewer businesses and opportunities, there are also institutions where the presence and visibility of special relationships leads to unique productive advantages or cases where the familial transmission of domain-specific skills or expertise may render nepotistic selection conducive to efficiency.[183] In these scenarios then, nepotism may help rather than hinder productivity and so the Difference Principle may generate moral reasons in support of the relevant practices.

Supposing that cases of this kind are indeed plausible and do exist, regulators working within the framework of the Difference Principle must either prohibit nepotistic practices altogether or identify more granular criteria under which certain forms of

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[181] ibid. I discuss this issue in further detail in the following chapter.

[182] Though, this statement would, of course, have to be caveated by the claim that the relevant rules which permit the nepotism in question are ones which are *necessary* to raise the position of the least advantaged and supposing that other socioeconomic programmes which aim at integrating migrants could plausibly fulfil this task, our judgements may remain indeterminate. The matter of fact empirical question about what would be necessary or feasible in non-ideal conditions is a complex one which I cannot treat in detail here, but it is sufficient to gesture toward these complexities to illustrate the obstacles that an objection stemming from the Difference Principle would encounter in non-ideal circumstances.

[183] I appreciate that the former claim might appear to be particularly puzzling to the reader at this juncture. The kind of businesses which I have in mind here are relatively small institutions like family cafés or restaurants, where "keeping the business within the family" might yield particular productive advantages. For those who find this claim unpersuasive, I shall return to elucidate this thought in greater detail in the following chapter.

nepotism might be permitted.[184] The difficulty, however, remains fundamentally epistemic. Because the Difference Principle permits only those inequalities that are necessary to benefit the least advantaged, any regulatory judgement must be able to reliably distinguish between cases where nepotism produces indispensable gains for the worst-off and cases where it produces no such advantage. Yet, as the preceding discussion makes clear, determining whether nepotism is necessary for raising the expectations of the least advantaged requires a complex and often speculative assessment of institutional selection practices and their macroeconomic effects. It involves counterfactual reasoning about how opportunities, resources, and surplus value might be allocated under alternative arrangements, many of which depend on indeterminate or normatively contested assumptions about productivity, social capital, incentives, and network effects.

This epistemic burden ultimately undermines the ability of the Difference Principle to yield determinate institutional guidance on nepotistic practices in non-ideal conditions. Since Rawls's principle is designed to regulate the basic structure rather than discrete interpersonal transactions within the labour market, it provides a moral rationale for favouring arrangements that improve the position of the least advantaged, but it struggles, by itself, to determine exactly when particular hiring norms or practices are objectionable. Given that the distributive consequences of nepotistic practices can often be ambiguous and mixed, the principle, in its current form, simply underdetermines any response and provides unstable footing on which a moralised objection to inefficient nepotism can be mounted.

For this reason, although the Difference Principle constitutes an influential and convincing standard for evaluating inequalities, its application to specific practices like nepotism stretches its intended design and is limited by the informational demands its idealistic construal imposes.[185] The question of whether nepotism satisfies the principle's necessity condition often exceeds what can be reasonably known in the real world, even by regulators with access to greater amounts of economic and behavioural data. This

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[184] Or, alternatively, abstain from making any regulatory intervention or evaluative judgement about nepotism's permissibility when faced with uncertainty.

[185] Regarding the former claim of conceptual stretching, Scanlon notes something similar when he states that 'if the Difference Principle were to be taken to be generally applicable to decisions of public policy, then the second form of contractualist reasoning [the idea of choosing principles in ignorance of one's position] through which it is derived would have more far reaching implications than the looser form of argument by comparison of losses, which I have employed. But these wider applications of the principle are not always plausible, and I do not think Rawls intends it to be applied so widely. His intention is that the Difference Principle should be applied only to major inequalities generated by the basic institutions of a society, and this limitation is a reflection of the special conditions under which he holds maximin to be the appropriate basis for rational choice: some choices have outcomes one could hardly accept, while gains above the minimum one can assure oneself matter very little, and so on.' See, Scanlon, *The Difficulty of Tolerance*, 149.

limitation motivates a turn to alternative approaches that retain a similar egalitarian structure but which may offer more tractable evaluative tools. In what follows, I examine Scanlon's like-minded beneficial effects justification for inequality as one such account and consider Barrett's critique and proposed solution.

3.3 Beneficial Effects and Utilitarian Efficiency

A second approach to assessing the permissibility of inequality-generating practices is proposed by T.M. Scanlon in *Why Does Inequality Matter?* Unlike Rawls's Difference Principle, which restricts the scope of permissible inequality to those which are necessary to improve the position of the least advantaged, Scanlon defends what he calls the beneficial effects institutional justification of inequality (hereafter the Beneficial Effects Principle).[186] On this view, significant inequalities generated by an economic system are permissible if they are either (1.) unavoidable consequences of the exercise of important personal liberties or (2.) 'required in order for that system to be productive in a way that benefits all.'[187] Scanlon proceeds to state that complaints about these inequalities which are 'not supported by reasons of either of these kinds benefit people in certain economic positions in ways that others have no reason to accept.'[188]

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[186] Scanlon, *Why Does Inequality Matter?*, 41-42.

[187] ibid., 141. I delimit my focus to exploring the implications of the second clause. Though the title of the chapter in which Scanlon develops this view is named "Unequal Income" and so he primarily has in economic inequalities in focus, I leave open questions about "currency" here. Since Scanlon also gestures towards the effects of economic inequalities on status, agency, political equality, and opportunity (ibid., 134-135), I suggest that the reader keeps in mind something like an index of Rawlsian primary goods. Confusingly, Scanlon (ibid., 135) also states that 'these objections to inequality based on its consequences fail to account for the sense many have that the recent rise in inequality is objectionable in itself', but then proceeds (ibid., 137, 138) to suggest that 'Rawls's argument for his Difference Principle in *A Theory of Justice* expressed one form of this idea' and rejects the idea 'that there is a particular patten that the distribution of income produced by a complex economy must take in order for it to be just.'

[188] Scanlon, *Why Does Inequality Matter?* 141. Scanlon follows Larry Temkin (see, *Inequality*, 19-20) here in understanding "complaints" as valid objections to being worse-off than others through no fault of their own. Given Scanlon's appeal to inequalities that are "required" for the system to be productively advantageous in a way that benefits everyone, a natural concern might arise here given my critique of the necessity condition in the Difference Principle. However, I believe that Scanlon's use of "required" is looser and more permissive than Rawls's necessity condition. For example, he writes that 'inequalities can also be justified by the fact that they arise from the exercise of rights and powers that are *required* for economic productivity' and that 'inequalities can in principle be justified by the fact that they are produced by features that are *required* in order to do this.' See, *Why Does Inequality Matter?*, 140-141 [my emphasis]. In §3.4, I suggest interpreting this rationale in a looser, more holistic sense that does not rely on the demonstrable necessity of a particular inequality in each case, but which instead invites us to consider whether institutional arrangements are better in light of the impartial reasons that all affected individuals could be expected to endorse. This shift retains the contractualist spirit of Scanlon's view whilst avoiding the epistemic burdens that accompany stronger necessity conditions.

In keeping with the contractualist rationale familiar to Scanlon's moral philosophy, Scanlon argues that these inequalities must be justifiable to all of the parties affected by them.[189] When the inequalities which result from competition within the labour market cannot be justified in this way, they are thought to be 'morally arbitrary' because 'there is no sufficient reason why these people should benefit rather than others.'[190] Due to the structuring of the Beneficial Effects Principle within Scanlon's conception of equality of opportunity, it also sets in place standards of procedural fairness in selection for advantageous positions, since these procedures generate relevant inequalities and so Scanlon's justification for them ultimately lies 'in the beneficial consequences of having inequalities of this kind'.[191] Adherence to this principle therefore requires institutions to select for individuals with particular abilities and so provides an egalitarian rationale for meritocratic selection distinct from the objections noted in preceding chapters, or considerations of equality of opportunity.[192]

On first pass, the Beneficial Effects Principle appears to plausibly explain many of our intuitive objections to inefficient nepotism. It illuminates a more stringent connection between the productive purpose of an institution's selection practices and the permissible grounds for selecting one candidate over another, with the benefits associated with consequent increases in efficiency. As such, it is able to accommodate cases where nepotism positively contributes to a business's productivity whilst providing a rationale which would generally eschew nepotistic selection in favour of selecting

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[189] ibid., 157. Andrew Lister explores the ramifications of Scanlon's contractualism for thinking about distributive justice and develops an invariant complaint model of reasonable rejection in "Contractualist Alternatives to the Veil of Ignorance." Given Lister's aim of exploring the implications of Scanlon's principle of reasonable rejection for theorising about justice, it is unfortunate that he overlooks Brian Barry's contribution to this topic in *Justice as Impartiality*, 52-79. Lister's invariant complaint model interprets 'reasonable rejectability in terms of objections that are sustainable in face of all permutations of positions. A prima facie objection will be sustained if the person making the objection would be prepared to affirm it regardless of which position they might come to occupy in the alternative that will obtain if their objection is accepted as decisive.' See, "Contractualist Alternatives to the Veil of Ignorance," 191. Since the model introduces a structurally novel but substantively complex decision principle that is arguably no less informationally demanding than the views discussed, I set it aside for present purposes.

[190] Scanlon, *Why Does Inequality Matter?* 141.

[191] ibid., 42. This also means that Scanlon intends to use the principle as part of a response to complaints of objectionable selection practices in individual cases, and so using the principle in the ways discussed in this Section does not risk the kind of conceptual stretching that we encountered with the Difference Principle.

[192] ibid., 42, 50. Kasper Lippert-Rasmussen refers to this view of meritocratic selection as the 'actual institutional ends view of merit' and it is a view which is now predominant amongst philosophers who endorse meritocratic conceptions of equality of opportunity. See, Lippert-Rasmussen, *Making Sense of Affirmative Action*, 82. I discuss the notion of merit and its relationship to equal opportunity further in Chapters 4 and 5.

whomever would be the best-qualified candidate.[193] In cases of the former kind, the Beneficial Effects Principle will produce no objection to the inequalities that nepotism generates whenever these practices exist as part of an economic system that everyone has reason to accept. This suggests that inefficient practices ought to be avoided in favour of selection practices that will positively contribute to fulfilling an institution's productive function, since only these practices may reliably generate the kind of macroeconomic benefits that render the relevant inequalities justifiable to the affected parties. Scanlon's view, then, supports a default rule of efficiency-conducive hiring, given reasonable expectations about the propensity of such practices to be productively advantageous and contribute to fair conditions of economic cooperation.

Some philosophers, however, have challenged the assumption that this link between localised meritocratic hiring and macroeconomic efficiency holds more generally, and it is worth anticipating this challenge before proceeding further. Norman Daniels provides the most notable argument of this kind in his critique of what he calls the microproductivity principle—the idea, that for any available position, we should simply select the best available candidate.[194] Daniels argues that this principle fails to track what matters most, the overall productivity of a society's distribution of people to roles.[195] Daniels's Productive Job Assignment Principle (PJAP) holds that we should instead endorse an arrangement of job assignments that results in a class of maximally productive outcomes for the system as a whole.[196] If, as Scanlon suggests, the rationale for selecting the best-qualified candidate relies on producing inequalities that benefit all who are affected by them, then Daniels's argument warrants acknowledgement, insofar as it shows that choosing the most competent individual for a given role may not always

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[193] Absent, of course, any other relevant moral considerations which might constrain the permissibility of practicing nepotism in cases of the former kind. It is also worth noting here that it is unclear whether Scanlon himself would endorse this reading of the Beneficial Effects Principle, since as he states quite clearly, it would be objectionable 'if among many equally qualified candidates for a position, all of those who are selected are friends of people in power'. See, *Why Does Inequality Matter?*, 50. Even though Scanlon makes this claim as part of his discussion of procedural fairness, his briefly stated objection to nepotism here appears to be grounded in the more basic idea of equal concern, rather than the Beneficial Effects Principle. As a result, it remains unclear just how we should understand Scanlon's appeal to this formal requirement of equality as interlocking with the distributive elements of Beneficial Effects Principle, particularly in cases where the beneficial effect being sought is itself a product of favouritism or what we might tentatively refer to as "meritocratic nepotism". That is, nepotism which itself does not involve partiality for the reasons discussed in the introduction of this thesis, but which one may seek to justify by appealing to the institution's raison d'être. Daniel Viehoff astutely observes a very similar tension within Scanlon's writing in his review "Why Does Inequality Matter?," 264-267.

[194] Daniels, "Merit and Meritocracy," 209-211.

[195] ibid.

[196] ibid.

yield the most efficient arrangement overall.[197] Suppose, for example, as Daniels does, that Jack and Jill both wants jobs A and B and that both prefer A to B. If, however, Jill would perform A or B more efficiently than Jack but the situation in which Jill performs B and Jack A is more efficient, then the PJAP would prompt us to assign Jill to B and Jack to A, even though this would contravene a localised meritocratic assessment in the case of A.[198]

Whilst Daniels's critique is theoretically compelling in certain respects supposing that one appeals to macroproductivity as part of their justification for meritocratic hiring, it does not decide the case against the Beneficial Effects Principle entirely. As Daniels himself concedes, applying the PJAP would require a level of centralised planning and epistemic certainty that is virtually impossible to realise in practice.[199] Since we cannot reliably evaluate or determine the relevant counterfactuals that furnish us with reasons for selecting a lesser-qualified individual, the microproductivity principle Scanlon appeals to within the context of inequality-generating selection remains the most workable proxy for promoting macroproductivity and producing beneficial effects which people have to reason to accept. As such, whilst selecting the best-qualified may not satisfy Daniels's PJAP, it remains the most feasible (and perhaps desirable) way of ensuring that the inequalities generated by different selection practices result in an efficient arrangement of people to positions and institutions.

Although the Beneficial Effects Principle appears to provide sturdy footing on which we may mount an objection to inefficient nepotism, Jacob Barrett scrutinises the consistency of the verdicts it delivers when the principle is formulated and applied with a greater degree of analytic rigour.[200] Before turning to raise Barrett's critique, first consider the following scenario in which the Beneficial Effects Principle seems to track our intuitions.

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[197] Though I am sceptical of this claim more generally, since as I argued in the previous chapter, there exist role-based duties to select meritocratically and as I will consider in the following chapter, there are also reasons of equality of opportunity to select meritocratically. That said, the argument Daniels provides is clearly relevant to the discussion of market inefficiency here.

[198] ibid., 210. One might question whether such a reassignment would be justifiable to the highly competent candidate, especially on a strict Scanlonian reading that requires each affected party to have sufficient reason to accept the inequality it generates. Whilst the move may benefit the system as a whole, it imposes a burden on the individual, which could render the resulting inequality morally arbitrary by Scanlon's lights, even if it promotes macroeconomic efficiency.

[199] ibid., 212-213, 219-220. Additionally, one might have reasons relevant to an interest in free occupational choice to reject such a principle, since its enforcement would amount to what G.A. Cohen describes as a kind of 'Stalinistically' inclined egalitarianism in *Rescuing Justice and Equality*, 186. See also, Otsuka, "Freedom of Occupational Choice."

[200] Barrett, "Efficient Inequalities."

Succession: A multinational insurance company is in the process of selecting a new CEO. The board faces a choice between two candidates: the founder's son, who is experienced and relatively competent, and a highly qualified external candidate with a demonstrable record of superior performance at a rival firm. The board selects the founder's son, citing expected gains in managerial cohesion, internal loyalty, and brand continuity. Yet internal consultants maintain that appointing the external candidate would yield greater productivity. The resultant increase in revenue would not only have produced more taxable revenue for the state, but could have supported the expansion of employee benefits, charitable giving, and enhanced opportunities for investment.

In Succession, the nepotistic transfer of the CEO position appears to produce a concentrated benefit for one individual (the founder's son), whilst imposing a diffuse loss on employees, shareholders, and the public when assessed as part of a pairwise comparison with the counterfactual situation alluded to. From the perspective of the Beneficial Effects Principle, the inequalities produced by Succession—both in the allocation of advantageous positions and in its wider distributive effects—thus seem to be objectionable because they do not seem to be "required for the economic system to function in a way that benefits all". At a glance then, Succession illustrates how the principle can produce a plausible objection to nepotistic practices that impose inefficient inequalities and concentrated benefits at the expense of wider institutional or societal benefit that people have reason to accept.

However, as Barrett argues, once we interpret the Beneficial Effects Principle in comparative terms, it generates inconsistent objections to the logically possible alternatives in cases like Succession. The principle produces these inconsistencies once we supplement it with the addition of the following principles:

Universality: If institution X is more just than institution Y in one feasible set, then X is more just than Y in any logically possible feasible set.[201]

Acyclicity: If institution X is more just than institution Y, and Y is more just than institution Z, then Z is not more just than X.[202]

Together, these background assumptions imply that our evaluations of justice must be stable across all logically possible sets and acyclical. Whilst Barrett forgoes offering a

[201] ibid., 185.

[202] Barrett, "Efficient Inequalities," 188.

rationale in support of these principles and others, such as Larry Temkin,[203] have expressed scepticism of both transitivity and the weaker principle of Acyclicity which Barrett's argument hinges on, it is necessary to provisionally assume the truth of them here in order to reconstruct Barrett's argument.[204] That said, these principles are often taken to capture intuitive constraints on comparative judgement. Universality reflects the thought that our evaluations about one comparison should not depend on the presence or absence of other alternatives, whereas Acyclicity rules out circular rankings.

Given these prima facie plausible constraints against menu-dependence and evaluative inconsistency, Barrett then argues that we are led to the following comparative reading of Scanlon's Principle:

> **Comparative Beneficial Effects Principle**: In every logically possible feasible set, institution X is more just than Institution Y if (1.) X is better for everyone than Y, or (2.) X is more equal than Y without being worse for everyone.[205]

Clause (1) reflects the Weak Pareto criterion central to Scanlon's own formulation of the principle and captures the idea that one inequality-generating mechanism is less just than another whenever it fails to be efficient in a way that benefits everyone. Clause (2), which Barrett refers to as Equality Priority,[206] articulates the egalitarian complaint that Scanlon identifies at various junctures with their being greater rather than lesser inequality and renders this egalitarian commitment sensitive to Scanlon's concerns about levelling-down.[207]

Barrett's critical move is to show that, when taken together, these clauses generate inconsistent comparative judgements once we assign specific numerical values to a particular set of logically possible distributions. To illustrate, consider the following stylised numerical thought-experiment that is similar to the one that Barrett presents, but which I have reconstructed and aligned with the narrative of Succession for our purposes.[208] Now, suppose that we have two institutional options and assign the following numerical values to three affected parties. Notably, these numerical values are

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[203] Temkin, *Rethinking the Good*, 456-476.

[204] As I shall argue below, however, I am sceptical of whether our reasoning in this domain must be constrained by these principles in the way that Barrett's argument suggests.

[205] Barrett, "Efficient Inequalities," 186.

[206] ibid., 188.

[207] See, Scanlon, *Why Does Inequality Matter?*, 3, 6, 28, 138, 139, 144, 151; Barrett, "Efficient Inequalities," 184-185.

[208] ibid., 187-189.

only intended to reflect coarse comparative assessments of how different institutional arrangements advantage or disadvantage the relevant stakeholders, in keeping with the abstraction that Barrett relies upon. Although this may strike the reader as methodologically awkward, some numerical representation is required to make Barrett's argument perspicuous.[209]

> **A = < 6, 6, 3 >** The founder's son is appointed CEO. He is content and enjoys the role (6). The firm performs moderately well (6), in terms of productivity and its contribution to stakeholders. The public, however, benefits only minimally (3), perhaps because the son lacks the vision or competence to expand services or improve outcomes.
>
> **B = < 5, 10, 5 >** A more competent outsider is appointed. The son is marginally worse-off (5), perhaps because he continues in a more junior role on a lower salary. The firm sees a major productivity boost (10), due to improved leadership. The public also benefits more (5), perhaps because higher productivity has began to lead to the creation of more opportunities and growth in taxable revenue.

At a glance, and in tension with the verdict above, Barrett's Comparative Beneficial Effects Principle appears to yield the judgement that A > B insofar as clause (2), Equality Priority, favours A over B, as A is more equal without being worse for everyone. However, as Barrett's construction shows, this initial verdict cannot be stably maintained once we consider the wider set of logically possible alternatives. Indeed, provided that we accept Universality as Barrett does, then A should be more just than B in any logically possible set, and by Acyclicity, if B turns out to be more just than some other set C, then C should not be more just than A. Barrett's key argumentative move here is to show that, for any pairwise comparison, we can always introduce a third option that is more equal than A and not worse for everyone, and so should be deemed to be more just than A. Once, however, we introduce a perfectly equal third set which is more equal than A without being worse for everyone but, in which, everyone is worse-off than they are in B, the consistency of Scanlon's principle is called into question.

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[209] The relevant decisions are, however, much more complex than Barrett's thought experiment presupposes given the number of parties who might be affected by these decisions differently. Each ordered triple here represents the outcomes for the son, the firm, and the public respectively.

With this in mind, consider

C = < 4, 4, 4 >

> A hypothetical, perfectly equal arrangement where each party receives the same moderate outcome. The son, firm, and public each receive identical but lower benefits than they would under B.

Now, a problem emerges. By clause (1), B is more just than C, because B is strictly better for everyone. By clause (2), A is more just than B, because it is more equal without being worse for everyone, but by clause (2) again, C is more just than A, since it is more equal and not worse for everyone. When taken together, these judgements imply that C > A > B > C. Or, in other words, a set of inconsistent judgements that violate Acyclicity. With this in view, Barrett then prompts us to consider how the addition of Acyclicity implies

> **Worst-Off Priority**: In every logically possible feasible set, if institution X is better for the very worst-off than institution Y, then Y is not more just than X.[210]

Although Worst-Off Priority and Equality Priority look like 'kindred spirits', Barrett argues that they 'imply inconsistent verdicts in an important range of cases.'[211] To see why, consider the following sequence. Suppose C is more equal than A and not worse for everyone, so Equality Priority implies C > A. Suppose also that everyone in B is better off than everyone in C. Barrett argues that, if Universality and Acyclicity hold, this implies B > C. But if B > C and C > A, then by Acyclicity, B > A must also hold. Crucially, this inference does not rely on B being better than A in terms of either clause (1) or (2). Instead, the logic of the Comparative Beneficial Effects Principle, together with the background assumptions of Universality and Acyclicity, ensures that whenever B is better than A for the worst-off, B must be more just than A. And because Barrett argues that this construction can be replicated for any such pair X and Y, he concludes that the addition of Universality and Acyclicity jointly imply a version of the Difference

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[210] *ibid.*, 189.

[211] *ibid.*

Principle which he calls Worst-Off Priority.[212] So long as the Beneficial Effects Principle is interpreted in comparative terms and supplemented by both Universality and Acyclicity, it will always imply that the worst-off should take precedence in our evaluative judgements (and hence conform with the Difference Principle), even in cases where this result contravenes the notion of Equality Priority that clause (2) describes.

From this emerges a contradiction. Since, by Universality, the ordering C > A must hold in *any* set in which both C and A appear, and B > C must also hold wherever C is present. Now suppose we want to compare A and B directly, without reference to C. On the Equality Priority reading, we should conclude that A > B, since A is more equal than B without being worse for everyone. But according to Worst-Off Priority, we should conclude that B > A, since the worst-off in B (5) are better off than the worst-off in A (3). So, these two principles, both implied by the Comparative Beneficial Effects Principle when combined with Universality and Acyclicity, yield contradictory assessments of the same pair.[213] Equality Priority implies A > B, whilst Worst-Off Priority implies B > A. This contradiction, Barrett argues, exposes a fatal tension when extended beyond pairwise comparisons.[214] Because Universality insists that our comparative judgements must hold across all logically possible sets, the introduction of C has implications for the A—B comparison even when C is not in the choice set. To avoid this contradiction, Scanlon must either modify Equality Priority and accept levelling-down, or deny the implication of Worst-Off Priority by rejecting Universality and Acyclicity.

Barrett concludes that Scanlon thus faces a difficult choice. One option is to simply embrace Rawls's Difference Principle and abandon the Equality Priority and Weak Pareto clauses altogether. But whilst this principle might be a viable option within the realm of more ideal theory, it is beset by its own epistemic and practical difficulties

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[212] *ibid.*, 186-187. This replication claim assumes that for any pair X and Y where X is better for the worst-off than Y, a third option Z can be constructed such that Z is more equal than Y without being worse for anyone, and that Z is worse for the worst-off than X. Whilst this can be shown to work in specific cases, its success depends on carefully assigning values that satisfy both the Equality Priority and Worst-Off Priority conditions. Contra Barrett, the numerical values of the set must therefore be finely calibrated so that the introduction of Z generates cyclical verdicts. As such, one may doubt the generality of the replication claim made by Barrett and it is not clear to me that the Comparative Beneficial Effects Principle (together with Universality and Acyclicity) would be likely to deliver these inconsistencies in practice.

[213] Andrew Lister also observes how the Comparative Beneficial Effects Principle also generates menu-dependence, 'in that the ranking of A versus B depends on whether C is feasible, a failure of contraction consistency (a version of the independence of irrelevant alternatives). When C is feasible, A and B are both unjust, as described above, but when C is not feasible, A becomes just, because B is not better for all, nor more equal than A.' See, Lister, "Contractualist Alternatives to the Veil of Ignorance," 183; 185-187. Cf. Tungodden and Vallentyne, "On the Possibility of a Paretian Egalitarianism," 147; Sen, "Maximization and the Act of Choice," 752-755.

[214] Barrett, "Efficient Inequalities," 188-191.

when it comes to explaining our intuitions about inefficient nepotism and providing normative guidance in non-ideal scenarios. Finding that alternative conceptions of efficiency such as Strong Pareto, Suppes, and Kaldor-Hicks, also produce inconsistent verdicts,[215] Barrett instead proposes the following principle.

> **Utilitarian Efficiency**: Institution X is more Utilitarian efficient than institution Y if X produces a greater total sum of benefits than Y.[216]

Unlike the other conceptions of efficiency noted, Barrett's states that his preferred principle avoids the inconsistencies discussed by allowing 'sufficiently large gains in the production of total benefits to justify inequality, regardless of how these benefits are distributed'.[217] This move attempts to retain part of Scanlon's insight that individuals have reasons to accept efficient inequalities whilst relaxing Barrett's reading of Scanlon's distributive requirement that the resultant inequalities should satisfy the Weak Pareto or Equality Priority clauses.

A supposed upshot of the Utilitarian Efficiency Principle is that it helps support consistent comparative judgements about what justice requires. What is really objectionable about the status quo, Barrett suggests, is that 'our current institutions do not create enough total benefits to make up for the inequality they produce'.[218] However, the force of this upshot quickly dissipates when one begins to consider exactly where the relevant threshold for efficient inequalities would lie. Unfortunately, answering this question is beyond the scope of Barrett's investigation and so, whilst the Utilitarian Efficiency Principle avoids the inconsistencies noted, it leaves more concrete normative questions about what trade-offs we should be willing to accept between efficiency and inequality open, whilst still making it the case that we should *only* accept a specific (but as of yet unspecified) trade-off. In itself, this might not decide the case against its adoption, but supposing that one could successfully determine and defend a particular trade-off, other challenges await. Firstly, it is not clear to me exactly why individuals would accept the kind of aggregation that Barrett's principle calls for, given the separateness of persons and contractualist rationale Scanlon provides for his original formulation of the

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[215] ibid., 192-197.

[216] ibid., 192.

[217] ibid., 191.

[218] ibid., 198.

Beneficial Effects Principle.[219] If one aims to retain this justificatory rationale, or at least one that is congruent with it, then it becomes difficult to see why individuals would accept being made worse-off simply so that others, who are already better-off, can enjoy still greater gains, absent any showing that these inequalities are *required* to secure socioeconomic benefits that are themselves part of a system that is justifiable to all.[220]

Furthermore, although Barrett's argument furnishes us with reasons to be wary of Scanlon's proposal, I am generally sceptical of the kind of argument employed here and its use within the context of non-ideal theory. Barrett's critique depends not only on assigning precise numerical values to a particular set of stylised options, but more importantly, on the assumption that we can always introduce a logically possible institutional alternative in which benefits are distributed perfectly equally across all affected parties. In fact, whilst one can reproduce Barrett's inconsistency result using a large number of institutional options, the numerical values involved must be very finely calibrated, not only in terms of the standard deviation within each distribution, but in terms of the relative differences across the sets. For instance, in the stylised example above (A = ⟨6, 6, 3⟩; B = ⟨5, 10, 5⟩; C = ⟨4, 4, 4⟩), A is more equal than B without being worse for everyone, and C is more equal than A whilst still not being worse for everyone. But to generate a contradiction, C must also be strictly worse than B for all parties, and the inter-set positioning must preserve this precise comparative structure such that B dominates C (Weak Pareto), C dominates A (Equality Priority), and A dominates B (Equality Priority again). The standard deviation within A (~1.41), B (~2.36), and C (0) must therefore be paired with just the right inter-set disparities to violate Acyclicity. It is often difficult to come up with plausible institutional narratives that match these tightly controlled intervals and just one small change to the numerical values presented (e.g., 4 to 5) will topple Barrett's reductio like a house of cards.

Whilst Barrett's manoeuvre exposes a formal inconsistency in Scanlon's principle, it does so by stretching the domain of assessment beyond the set of real-world, politically feasible alternatives. In practice, it is often unclear whether perfectly equal distributions that are not worse for everyone genuinely exist as actionable alternatives, let

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[219] For Rawls's argument in support of the former claim, see, *A Theory of Justice*, §5. In fact, it is somewhat strange that Barrett makes no attempt to address this concern directly. Especially since, elsewhere, Scanlon (*The Difficulty of Tolerance*, 145-148) famously presses a similar objection against utilitarianism and Barrett makes no attempt to show how his own proposal might be justified in terms familiar to the contractualist rationale.

[220] Alternatively, one could argue that any compensating benefit sufficient to justify any increase in inequality must also produce a surplus which could, provided that the right distributive mechanisms are in place, be utilised to raise the position of the least advantaged or be harnessed to everyone's advantage. But then the adoption of such a threshold would simply collapse Barrett's proposal into either Rawls's or Scanlon's.

alone whether they should constrain our moral reasoning about inequality-generating mechanisms in societies like ours.

Moreover, although Barrett attempts to avoid the problems discussed by appealing to a utilitarian notion of efficiency, he not only abandons the egalitarian rationale which underwrites both Rawls's Difference Principle and Scanlon's Beneficial Effects Principle, but risks recapitulating the problems associated with the implementation of Daniels's Principle of Job Assignment Productivity. Since the PJAP and Utilitarian Efficiency Principle both require information about how the total distribution of individuals to roles will affect macroproductivity, they depend on a level of centralised knowledge and predictive certainty that we are simply unable to attain in non-ideal situations.[221] As a result, it remains unclear exactly when and why the relevant inefficient inequalities sometimes produced by nepotism are objectionable in practice.

Despite this scepticism of Barrett's reductio and his proposed solution, his argument nevertheless reveals a potential tension in how the Beneficial Effects Principle is to be interpreted and applied to the cases at hand. More specifically, it highlights the difficulty of reconciling its comparative rationale with more determinate assessments of efficient inequalities and inefficient nepotism. Crucially, this difficulty does not arise solely from the idealising assumptions Barrett introduces, but reflects a more general indeterminacy in how the principle's justificatory standard—whether inequalities are "required" in a way that benefits all—should be understood and applied. It is this underlying tension, rather than the force of the reductio itself, that motivates the need for an alternative approach.

3.4 The Egalitarian Interest in Efficiency

As I have shown in the preceding sections, each of the principles discussed faces difficulties when used to help make sense of some of our intuitive moral complaints about inefficient nepotism. Rawls's Difference Principle, for instance, imposes epistemic burdens that make it hard to determine which of the inequalities generated by nepotistic practices could be justified by its maximin rationale. Whereas Scanlon's Beneficial Effects

[221] It might be objected that Barrett, like Scanlon, could appeal to the best-available institutional proxies, such as meritocratic selection, in order to guide individual hiring decisions under non-ideal epistemic conditions. But as Barrett formulates the Utilitarian Efficiency Principle, the focus is on total aggregate benefit, without the mediating idea (present in Scanlon) that some forms of selection are reliably connected to generating efficient inequalities that people have reason to accept. Barrett's account therefore leans more heavily toward a version of the PJAP which could not be realised in practice. Though one could, of course, revise Barrett's account by, for example, adopting a rule-utilitarian version of the principle that identifies selection rules which generally promote aggregate benefit, but this would bring his view much closer to Scanlon's in a way that would risk sacrificing the justificatory precision and analytic rigour which Barrett explicitly treats as being paramount.

Principle produces inconsistent evaluative judgements once it is rendered sensitive to the principles of Universality and Acyclicity, and Barrett's own proposal, Utilitarian Efficiency, not only faces similar challenges to the Difference Principle and PJAP, but forgoes the adoption of an egalitarian rationale which could be justified to each of the affected parties.

In spite of these difficulties, I want to suggest a simpler and more attractive way of understanding our objections to inefficient nepotism, one that does not rely on fixed distributive metrics or maximising the good, but which instead appeals to what I call an egalitarian interest in efficiency. A moral interest that all individuals, qua equal participants in a scheme of cooperation, share in institutional arrangements that reliably promote competence and productive role allocation, in ways that expand access to the kinds of goods, services, and opportunities that support a decent life and the possibility of a fairer system of economic cooperation. My aim in this section is to explore a rationale for this interest by reinterpreting Scanlon's Beneficial Effects Principle through an evaluative lens suggested by Derek Parfit.

In what follows, I argue that what best captures the justificatory rationale underlying Scanlon's principle is not a commitment to any strict distribution of benefits and burdens as implied by Barrett's strict comparative reading. But the underlying belief that individuals qua equal participants in a social scheme have reasons, from an impartial perspective, to prefer institutional arrangements that reliably promote competent and productive role allocation. Such arrangements improve their chances of securing access to the goods or services that enable them to participate in and benefit from a system of socioeconomic cooperation. This is not to presuppose any particular schedule or pattern of just shares. On the contrary and as Scanlon himself stresses, it does not seem plausible 'that there is a particular pattern that the distribution of income produced by a complex economy must take in order to be just.'[222] Rather, institutional arrangements must be justified to those who are affected by them, and inequalities are hence 'objectionable, and unfair, when the institutional mechanisms generating them cannot be justified in the right way.'[223]

If so, then there is reason to treat productively advantageous inequality-generating mechanisms as better than inefficient alternatives in the impartial-reason-implying sense. Such improvements, when subject to reasonable moral constraints, improve individuals' prospects of accessing whatever would count as an acceptable share under the relevant distributive standards, in a way that does not depend on their

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[222] Scanlon, *Why Does Inequality Matter?*, 138.

[223] ibid.

occupying any particular position within the scheme. In other words, we can take equal participants' interest in efficiency to be partial to securing access to a range of significant socioeconomic goods that any plausible conception of egalitarianism would endorse, rather than needing to presuppose one such account from the start. This claim should not be understood as asserting that more efficient arrangements always improve individuals' access to such goods in every case. Rather, the point is that arrangements that better promote competent and productive role allocation tend to provide a more reliable basis for securing such access over time.

This opens the door to a way of objecting to inefficient inequalities based on the impartial reasons that equal participants have to accept different arrangements. This objection does not rest on the claim that nepotism is only problematic when it fails to contribute to achieving a specific threshold of aggregate utility, nor on the idea that it necessarily fails to improve the position of the worst-off or make everyone better-off. Instead, it reveals how inefficient nepotism (or other practices) undermines a general interest that all individuals share in participating in an economic system whose inequality-generating practices can be justified to them as part of a scheme that reliably secures access to the goods and services required for their standing as equal participants in the social scheme. In this respect, the objection described does not treat efficiency as intrinsically valuable, but as instrumentally significant insofar as it helps sustain institutional arrangements that can be justified in these terms. Crucially, this approach does not presuppose any particular account of what counts as a just share, since doing so would risk reintroducing the informational and evaluative burdens discussed earlier. Nor does it rely on contentious or overly precise conceptions of efficiency that are more difficult to assess in practice and defend in theory. Rather, it appeals to a morally significant interest which individuals have in ensuring that institutions operate in ways that can reasonably be expected to structure access to the goods and services required for a life of equal standing in a manner that is justifiable across social positions.[224]

I develop this argument in four stages. First, I reexamine Scanlon's discussion of institutional justification and show how it lends itself to a scalar evaluation of institutional arrangements which are more or less objectionable. Second, I draw on Parfit's account of the impartial-reason-implying sense of "better" to suggest a way of making sense of these comparisons without appealing to total utility, interpersonal aggregation, or a fixed distribution of benefits and burdens. Third, I introduce and

[224] It may be objected that in non-ideal circumstances, where existing institutional arrangements are themselves unjust, individuals might not share a common interest in efficient practices that reinforce objectionable background patterns of inequality. I address this objection, and consider how this interest should be understood in such settings within §3.5.

define the notion of an egalitarian interest in efficiency and explain how it retains the more fundamental contractualist insight which underwrites Scanlon's discussion of efficient inequalities. Finally, I argue that this interest provides a compelling objection to inefficient nepotism whilst avoiding the informational demandingness that afflicts the principles discussed above.

To substantiate this move, it is first necessary to return to the philosophical rationale that Scanlon himself offers for the Beneficial Effects Principle. Scanlon's central concern, in my view, is not with designing an algorithm for ranking institutional options across all possible worlds, but with determining when inequalities are permissible within institutions that people are expected to accept as the background framework for economic cooperation, and the justification that can be offered to a 'person that objects to the fact that he or she is not as well off as others are, economically or in some other way.'[225] The principle arises from a contractualist rationale and the test for permissibility is whether a particular inequality-generating mechanism can be justified to each of the parties affected by it. This test is not straightforwardly aggregative, nor does it involve an appeal to a fixed distributive metric in the first instance. It is instead best understood as a context-sensitive judgement that encapsulates the idea that institutional arrangements must be acceptable in light of reasons that others could not reasonably reject.[226]

Scanlon's discussion of the beneficial effects of inequality must therefore be read against this contractualist background.[227] When Scanlon argues that inequalities must be supported by reasons that everyone has sufficient reason to accept, he is asking us to consider whether the benefits of inequality are such that each affected person could, in principle, endorse the institutional rules that permit them.[228] Our comparative moral judgements about inequality are thus governed by a criterion of justificatory reasonableness: do those made worse off by particular institutional mechanisms have reasons to reject these outcomes?[229] Do those made better off have adequate justifying reasons that are intelligible and acceptable to others?

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[225] ibid., 6-9, 40-41.

[226] ibid., 14-15.

[227] A point that Lister stresses in his development of the invariant complaint model in "Contractualist Alternatives to the Veil of Ignorance". That model, however, ultimately suffers from the problems discussed above.

[228] Scanlon, *Why Does Inequality Matter?*, 6-7.

[229] Scanlon, of course, also has in mind considerations of procedural justice but since I am focusing here on the productive advantages and outcomes associated with inequality-generating procedures, I remain silent on the reasons people have to object to particular procedures and take this question up in further detail within the following chapters.

When Scanlon speaks of 'moral arbitrariness', it is this kind of justificatory failure that he has in mind,[230] and he explicitly rejects any teleological approach both here and elsewhere.[231] When Scanlon speaks of an inequality not being required for the economic system to 'function in a way that benefits all', or when he claims that 'some are better off in ways that others have no reason to accept',[232] I believe that he is prompting us to consider the acceptability of institutional arrangements as a whole. This is not, in my view, a comparison of outcomes against a fixed telic goal, but an assessment of inequality-generating mechanisms in light of the reasons individuals have to accept or reject the inequalities they produce. The comparative structure here is shaped by the contractualist rationale underpinning Scanlon's discussion of distributive justice. What matters in the first instance is not the determination of a specific pairwise ordering using a fixed distributive metric, but whether the institutional arrangements in question could reasonably be expected to be endorsed by each affected person, considered as an equal participant in the scheme.[233] In Scanlon's words, this 'provides a higher-order reason to shape our process of practical thinking in the ways that are necessary to make it one that others could reasonably be asked to license us to use.'[234] If the Beneficial Effects Principle is specified in a way such that it encounters difficulties in interpretation and application, then this merely prompts us to return to that more fundamental, higher-order rationale and consider what we might adopt in its place.

It is here that Derek Parfit's discussion of the impartial-reason-implying sense of "better" becomes particularly illuminating. In *On What Matters*, Parfit introduces the idea that we can meaningfully describe one outcome as better than another if everyone has, from an impartial point of view, stronger reasons to want this outcome to occur, or to hope that it will.[235] As with Scanlonian contractualism, which Parfit is sympathetic to,[236] this kind of evaluative reasoning does not aim at maximising the good or a mere aggregation of personal preferences. It instead appeals to what we all have reason to

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[230] ibid., 7.

[231] ibid., 6; Scanlon, *What We Owe to Each Other*, 79-100.

[232] Scanlon, *Why Does Inequality Matter?*, 6-7.

[233] This makes *some* comparative assessment necessary in order to determine which arrangements are better or worse from the relevant moral perspective, but a satisfactory answer to this question need not entail a complete comparative ranking of arbitrarily specified numerical sets across all logically possible alternatives, as demanded by Barrett's imposition of Universality and Acyclicity.

[234] Scanlon, *What We Owe to Each Other*, 156.

[235] Parfit, *On What Matters: Vol. One*, 41.

[236] ibid., 360-370, 416-417.

want, from a perspective that takes seriously the interests and moral standing of each person. On this matter, Parfit writes:

> 'When we call one of two events *better* in the *impartial-reason implying* sense, we mean that everyone would have, from an impartial point of view, stronger reasons to want this event to occur, or to hope that it will. It would be in this sense better, I believe, if some plague or earthquake killed fewer people, or if any person or other animal ceased to be in pain. This kind of goodness is *impersonal* in the sense that, when we call some event in this sense good, we don't mean that this event would be *good* for some person or group of people. But many events are impersonally good because they are good for one or more people. The benefits to these people are what make these events impersonally good. And since everyone has reasons to want such events to occur, such impersonal goodness involves *omnipersonal* reasons. If some possible event would be in these senses good for someone, or impersonally good, this fact could be truly claimed to give us a reason to want this event to occur.'[237]

I believe that this provides a way of reinterpreting what Scanlon is ultimately getting at in his discussion of the institutional justification for inequality-generating practices and the Beneficial Effects Principle. Rather than focusing, as Barrett does, on formalising a universally stable comparative principle, what Scanlon may be articulating is that an inequality-generating arrangement can only be more just than another if there are impartial reasons to prefer it. Indeed, even though Scanlon may risk invoking some confusion when he talks of benefits that are "required" in order for an economic system to function in a way that benefits everyone, his more fundamental objection to inefficient inequalities is that they 'benefit people in certain economic positions in ways that others have no reason to accept.' These reasons are not strictly about efficiency or equality in the abstract, but ultimately concern the acceptability of different procedures or outcomes given the interests and moral standing of each participant who are, to differing extents, affected by them. Put simply, they are reasons that would remain intelligible and weighty from an impartial point of view.

Does, however, a rejection of Universality follow from what I have said so far? In the preceding section, I expressed some reservations about Barrett's appeal to Universality and the use of this principle in our comparative reasoning about justice within the non-ideal, real-world setting in which nepotism occurs. For readers sympathetic to that scepticism, my earlier remarks may be sufficient to cast doubt on the

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[237] ibid., 41-42.

relevance of Universality to practical moral deliberation in non-ideal settings. But for those inclined to accept Universality as a plausible constraint on such reasoning, more must be said in order to make my position clear.

After all, the fact that there are stronger impartial reasons to favour A over B is ultimately consistent with the idea that these reasons should retain their strength across all logically possible sets that include A and B. And if we think of Universality as merely requiring that pairwise rankings between options should not shift arbitrarily once some other choice is on the table, then dismissing it entirely appears unwarranted and dubious. Importantly, however, my concern is not with Universality in the abstract, but with the particular role that Barrett's formulation of it plays in his reductio of Scanlon's Beneficial Effects Principle. Barrett assumes that our judgements about justice must be stable across all logically possible feasible sets, even when these sets are highly stylised for argumentative purposes and hence implausible. It is this highly idealised use of Universality, paired with a fine-grained calibration of arbitrary numerical values across sets, that I find counterproductive when assessing inequality-generating mechanisms like nepotism in non-ideal settings.

What I am suggesting, is not that we must abandon the use of principles like Universality altogether as they surely have their place. Rather, my concern is with the way in which Barrett's use of Universality shifts our evaluative focus from the kind of comparative reasoning that is both useful and possible in practice. What should be central, especially in non-ideal settings, is whether individuals have sufficient reason to endorse or reject the principles that govern inequality-generating mechanisms embedded in actual institutional arrangements. Put simply, we might think that the real world matters most, and as Amartya Sen argues, it is often neither necessary nor feasible to identify the universally best institutional arrangement in order to make robust comparative judgments about justice within the actual societies we inhabit.[238] This does not entail rejecting the intuitive thought that A being better than B should remain true regardless of whether actual option C is present, but rather questions the need to construct a complete and universally stable ranking across all *logically possible* institutional options. In non-ideal contexts, the more urgent concern is whether we have sufficient reason to favour one feasible arrangement over another, and given the proximate goal of moving toward a state of affairs in which there is less rather than more injustice,[239] we can answer this question without needing to settle whether that arrangement is the best conceivable, or the judgements it renders stable across logically possible but infeasible

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[238] Sen, *The Idea of Justice*, 102-105.

[239] An aim also echoed by Scanlon in *Why Does Inequality Matter?*, 151.

and practically unattainable alternatives. Parfit's discussion of impartial reasons provides a way of returning to this more grounded form of comparative moral reasoning and helps redirect our focus toward the justificatory aims that Scanlon's contractualism is designed to accommodate.

Seen in this way, Parfit's discussion of impartial reasons allows us to refocus the normative core of Scanlon's view whilst avoiding the pitfalls of trying to formalise an objection to inefficient nepotism in ways that aim to generate complete rankings across all logically possible alternatives. Rather than insisting, as Barrett does, that our objections to inefficiency must produce universally consistent and acyclical rankings, we can instead more modestly say that an institution, and the inequality-generating mechanisms it employs, are better in the impartial-reason-implying sense if there are stronger impartial reasons that count in its favour. And since we can make plausible judgements of this kind without testing them across all logically possible alternatives, this approach preserves the contractualist insight that people's generic reasons matter,[240] whilst avoiding a collapse into more formal and highly stylised abstractions.

So, what does this mean for our analysis of nepotism? Ultimately, it means that we need not appeal to a particular distributive metric or conception of efficiency in order to substantiate the intuitive moral complaint raised at the beginning of this chapter. It instead suffices to say that inefficient practices are objectionable whenever more efficient alternatives are adjudicated to be better in the impartial-reason-implying sense, provided that these alternatives do not fall foul of other reasonable moral constraints.[241] This leads to the following proposal.

> **The Egalitarian Interest in Efficiency**: There is a standing moral interest, grounded in persons' equal status as participants in social cooperation, in living under institutional arrangements that reliably promote competence and

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[240] In *What We Owe to Each Other*, 204-205, Scanlon refers to generic reasons as 'reasons we can see that people have in virtue of their situation, characterised in general terms, and such things as their aims and capabilities and the conditions in which they are placed. Not everyone is affected by a given principle in the same way, and generic reasons are not limited to reasons that the majority of people have.' These reasons are not restricted to self-interested concerns and include considerations of fairness, arbitrary disadvantage, and other moral considerations that could be shared by all. Parfit's "impartial-reason-implying" sense of "better" captures a structurally similar idea: one outcome is better than another when everyone would have, from an impartial point of view, stronger reasons to want it to occur. Both approaches therefore direct our attention to reasons that could be seen as weighty from a standpoint acceptable to all, rather than an aggregation of individual preferences.

[241] Which is to say that the promotion of efficiency must be constrained by whatever our best theory of interpersonal morality happens to be, acknowledging that individuals would not, on balance, have impartial reasons to endorse arrangements which are otherwise morally objectionable or represent the greater of two moral evils.

> productive role allocation, subject to reasonable moral constraints, in ways that expand access to the goods and services that support individuals' standing as free and equal participants in socioeconomic, political, and civic life. This interest is egalitarian insofar as it grounds objections to inefficient arrangements that exacerbate unequal access to such goods and services, rather than the maximisation of aggregate welfare or the promotion of efficiency as an independent aim.

So formulated, this interest grounds a moral objection that individuals have to institutional practices being organised in productively disadvantageous ways, and states that we have pro tanto reason to prefer more efficient arrangements, from an impartial perspective, provided that they are compatible with whatever our best theory of interpersonal morality happens to be. This is not to suggest that more efficient arrangements necessarily reduce inequality, or that they benefit all individuals equally. Rather, the claim is that, under institutional conditions in which systems of cooperation and redistribution retain their basic integrity, such arrangements tend to provide a more reliable basis for structuring access to goods or services in ways that can be justified to persons across different social positions. Here, to consider individuals as equal participants is not to abstract away from the fact that they occupy different social positions, but to assess institutional arrangements from a justificatory standpoint in which the reasons offered must be acceptable to each person, rather than tailored to the advantages or disadvantages of any particular position.[242]

The egalitarian concern underlying this interest thus directs our focus to how inefficient practices shape the quality, reliability, and accessibility of institutional goods or services that affect everyone's prospects for participating on fair socioeconomic terms. By structuring our comparisons in this way, we preserve the contractualist insight that people's generic reasons ought to shape our assessments of the practices which make individuals better or worse off, whilst avoiding the epistemic and evaluative burdens that accompany more determinate principles of distributive justice and efficiency.

To see how this interest bears on the kind of case that motivated the preceding discussion, reconsider the scenario presented in Succession. On my view, in order to give voice to an intuitive complaint about inefficient nepotism within this case, we need not determine whether the resulting inequality violates a particular distributive pattern, nor appeal to any telic aggregative goal. The core concern, rather, is that the decision to

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[242] This is in line with Parfit's account of impartial reasons, which 'are reasons to care about anyone's well-being whatever that person's relation to us, so that we would have these reasons even if our situation gave us an impartial point of view.' See, *On What Matter*s, 40.

select a less competent successor is not one that can be supported by reasons that everyone has reason to accept, considered from an impartial standpoint. Even if more or less efficient decisions favour or disfavour the specific individuals involved, those reasons depend on occupying particular positions within a social scheme and so are not ones that can be shared by others as equal participants. Whereas the beneficiaries of inefficient nepotism in cases like Succession can only offer such self-interested reasons, the selection of a more competent candidate supports institutional efficiency in a way that individuals have reason to prefer from an impartial standpoint. The egalitarian interest in efficiency seeks to elucidate this intuition and constitutes a pro tanto objection to inefficient nepotism that should figure in our evaluation of such practices.

Before turning to motivate and defend this interest, it is important to clarify the scope of the argument just presented. The appeal to impartial reasons here is deliberately narrow, focused specifically on the contribution that more efficient role allocation makes to improving access to socioeconomic goods or services. Of course, there may be additional impartial reasons to prefer institutional arrangements that avoid nepotism, such as those grounded in procedural fairness, equal opportunity, or the legal claim-rights implicated in the integrity account. I do not deny that such considerations are morally weighty, or that they often feature prominently in intuitive objections to nepotistic practices. But for present purposes, I set these concerns aside. The aim is to show that even independently of these other moral considerations, individuals have impartial reason to object to inefficient role allocation where it undermines their prospects of accessing the goods or services that support a decent life, considered from the standpoint of participants whose claims must be justifiable to one another rather than from any particular social position. By holding constant the broader justice-enhancing features that might otherwise influence our comparative judgements, we can better isolate our reasons for productively advantageous selection. The following chapters return to consider the wrongs associated with procedural injustice and inequality of opportunity, and explore how they might ground distinct complaints. But for now, my focus is delimited to capturing an intuitive moral objection to the inefficiencies with which nepotism is often associated.

To further motivate the argument above, consider a non-ideal but liberal society in which there is some redistribution and provision of socioeconomic goods by the state. Assume, *arguendo*, that we could make a duplicate of this society such that we get a pair of otherwise identical but parallel societies, Society A and Society B, that differ only in the procedures by which individuals are allocated to advantageous positions. In Society A, positions are assigned through procedures that reliably match the best-qualified candidates to positions. In Society B, no such constraint applies: a significant number of

positions are filled through nepotistic (and other arbitrary) practices, resulting in many under-qualified individuals occupying roles for which they are ill-suited. This affects not only local institutional performance, but the overall functioning of socioeconomic institutions, and of the public institutions that interact with them.

Suppose further that at time T1, this difference in the efficiency of role allocation is the primary distinction between A and B, but that the relative inequality of income and wealth, aggregate economic output, and each individual's material holdings (income, wealth, and consumption) are held fixed across the two societies for the purposes of comparison, despite differences in the roles they occupy. That is, although individuals occupy different roles across the two societies, their material holdings are held fixed for the purposes of comparison. The only *material* difference resulting from these procedures, therefore, lies in the quality of services that individuals encounter in their everyday lives as clients and consumers.[243] The relevant comparison, then, is not between how different individuals fare under each arrangement, but between the kinds of institutional structures that individuals have reason to prefer when they abstract from their particular position within them.

Crucially, I am assuming here that both societies, though non-ideal, already possess some functional (albeit imperfect) social welfare and redistributive mechanisms, as is typical of mixed economies in liberal democratic states. Even if I am just as badly off in absolute terms in either society in purely material holdings, I have impartial reason to prefer Society A. Although the difference at T1 is artificially constrained, I can expect that the services I rely on will be delivered more competently, and the likelihood that I will suffer the negative externalities of institutional dysfunction is lower. This claim is not intended to deny that some individuals might, in particular cases, benefit from nepotistic arrangements—for example, by securing positions they would not otherwise obtain—but to highlight that such benefits depend on occupying specific positions as opposed to features of a shared scheme of cooperation that can be justified to participants more generally. As such, the benefits associated with more efficient arrangements generate reasons that each person has, considered from an impartial standpoint that abstracts from their eventual place within that structure.

This is so, in part, because the costs of institutional dysfunction are not evenly distributed: those with greater resources can often insulate themselves from its worst effects, whereas the least advantaged are more vulnerable to administrative incompetence

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[243] Of course, in reality, improved service provision is likely to enhance access to material goods (e.g., wealth) and may well affect individuals' relative or absolute position. For the purposes of this artificial comparison, however, I assume that these effects are held constant in order to isolate the normative significance of more efficient role allocation itself. This allows us to assess whether there are impartial reasons to prefer one arrangement over another even when significant distributive metrics are fixed.

and bear its costs in the form of increased time burdens and reduced quality or reliability of services. All else equal, it is better to live in a world where these cooperative systems work more effectively, even if this does not yield any individual a larger allotment of material holdings at that time.

Moreover, the difference between A and B is not exhausted by expected service quality. In Society A, the procedures governing role allocation track considerations relevant to the purposes of the institutions in question. Positions are distributed by reference to qualifications and performance rather than arbitrary criteria such as kinship or personal loyalty. This matters because the inequality-generating mechanisms are supported by reasons that all affected individuals can recognise as relevant to the institution's raison d'être. In this sense, the efficient inequalities in Society A better respect individuals' standing as equal participants in cooperative life, since they arise from procedures that do not privilege arbitrary personal relations and so are, to this extent, justifiable to those affected. By contrast, where nepotistic or arbitrary practices determine access to advantageous positions, some individuals' qualifications and contributions are denied proper consideration, and the resulting inefficient inequalities cannot be justified to those excluded in terms they have reason to accept, since they depend on considerations that are irrelevant to that purpose.

Now, to bring this comparison into closer contact with the real world, let us relax the artificial constraint on macroeconomic growth and relative income and wealth inequality, and consider the same parallel societies at a later point, T2. Suppose again, however, that the *absolute material* position of the worst-off person remains fixed in both societies, but that Society A, owing to its more efficient role allocation, has undergone modest but sustained macroeconomic growth. This growth has expanded institutional capacity and generated opportunities for redistribution that Society B lacks. Even if I again occupy the worst-off position in either society, we now have further impartial reason to prefer Society A. The better functioning of institutions has created conditions under which the existing redistributive and social welfare programmes are more likely to sustain and extend access to a range of goods and opportunities over time. This is so even if no individual, including the worst-off, is yet better off in absolute terms, since individuals remain exposed to less institutional dysfunction and participate in a scheme whose inequality-generating practices are governed by reasons that others can be reasonably expected to endorse.

The inequality may now be greater in Society A, and this might seem to intensify complaints grounded in relative material and relational disadvantage. But if the gap between myself and the best-off has widened, yet my absolute prospects have not deteriorated, then these complaints are not themselves decisive from an impartial

perspective. The impartial reasons to prefer A do not depend on any assumption that growth will automatically trickle down, nor on a Kaldor–Hicks style compensation mechanism. Rather, they rest on the fact that more competent institutional functioning strengthens the administrative and fiscal capacity of cooperative systems, and on the fact that the efficient inequalities such systems generate arise from procedures that are supported by reasons that treat those affected as equal participants. My point here is conditional and modest. Where redistributive mechanisms are already in place and retain their integrity, efficiency-conducive practices provide greater resources and institutional capacity through which those commitments can be realised. The relevant claim is not that these mechanisms will offset objectionable inequality entirely or guarantee improvements for all, but that they are more likely to function in ways that can be justified to individuals considered as participants in the scheme, rather than as beneficiaries of particular positions.

That said, I recognise that this claim might be contested on the grounds that greater relative inequality in income and wealth could entrench social and political domination, or empower elites to capture institutions and block redistribution. For this reason, I hold relative economic inequality in terms of income and wealth constant at T1, allowing us to isolate the moral importance of efficient role allocation without assuming any material gains. At T2, I relax this constraint and assume that Society A experiences modest but sustained economic growth, leading to increases in both total output and relative inequality. The argument here is that, despite this rise in relative inequality, the improved institutional performance in Society A creates stronger impartial reasons to prefer its trajectory, not because it guarantees immediate gains to each individual or to the worst-off, but because it sustains institutional conditions under which access to those goods or services can be secured over time and which are governed by reasons that treat individuals as equal participants. This is in part because redistributive mechanisms already in place are better positioned, other things equal, to realise the goods they are designed to secure when institutional performance and aggregate capacity improve.

The point of this stylised case is not to deny the aforementioned dangers, but to isolate the moral significance of productive role allocation where background conditions already support some degree of redistribution. In any case, a society like Society B, in which nepotism runs rampant, would itself pose serious risks of institutional capture and political domination, especially if access to powerful positions is mediated by familial relation and social connections. The advantages conferred by widespread nepotism can

entrench forms of inequality that are at least as corrosive, and often more difficult to dismantle, than those arising from more random patterns of income inequality alone.[244]

This formulation, I argue, makes evident how the impartial-reason-implying sense of "better" that Parfit describes can be applied to institutional evaluation, whilst remaining faithful to the contractualist rationale that underpins Scanlon's discussion of the Beneficial Effects Principle. Parfit's claim that one outcome may be better in the impartial-reason-implying sense does not depend on whether the same individuals are affected, nor on whether some benefit more than others. What matters is whether there are reasons that everyone has, from an impartial standpoint, to prefer one outcome over another. In this respect, the fact that some individuals may benefit from inefficient nepotistic arrangements does not count in their favour at the relevant level of justification, since such benefits depend on occupying particular positions within the scheme. By contrast, more efficient arrangements can be supported by reasons that abstract from such positional considerations. This is not unusual. Many of the moral interests underlying rights are shared at a level of abstraction from individuals' actual positions or preferences. Interests such as those grounding anti-discrimination rights or requirements of fair procedure can impose constraints that are disadvantageous to particular individuals in specific circumstances. The claim, therefore, is not that efficient arrangements benefit everyone, but that they are supported by reasons that each person has insofar as they are considered as equal participants in a shared scheme of cooperation.

I should stress, however, that this interest is not intended to displace the need for more specific distributive or relational principles that would make up a fuller theory of justice. Rather, it is meant to identify a shared moral interest, grounded in impartial justification, that can generate robust objections to inefficient inequalities without presupposing any particular distributive pattern or criterion of efficiency. In doing so, it complements rather than competes with more demanding distributive standards, by offering a more tractable evaluative tool for use in the non-ideal conditions in which nepotism actually occurs. In what remains of this chapter, I alleviate a number of potential worries regarding my formulation of the interest and shed further light on the role it plays in understanding one part of nepotism's wrong-making features.

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[244] And, to the extent that institutions are constrained by role-based duties of the kind defended in the previous chapter, the risk that increased relative inequality will entrench institutional capture or political domination is further mitigated.

3.5 Objections

First and foremost, given the way in which I have formulated and defended this interest, one might wonder whether the relevant practices are objectionable whenever they contravene efficient role allocation, or only when these practices are sufficient to undermine the consequent result of providing better services, increasing macroeconomic output, or widening access to additional socioeconomic opportunities. In other words, if there are impartial reasons to prefer these results and this grounds a shared interest in the assignment of suitably qualified individuals to positions, then this interest will not trigger an objection to inefficient practices whenever the location or size of the relevant inefficiency is too insignificant to meaningfully impact production of the relevant benefits. In such isolated cases, the inefficiency may in fact make no discernible difference to institutional capacity and the distribution of material or immaterial goods and services.

At a glance, this might seem to resemble something like a free-riding problem, since one could argue that efficient practices contribute to the renewal of non-excludable public goods, and that by engaging in nepotism which is, on its own, insufficient to undermine this end, those involved reap the rewards of a system that is in everyone's interest without doing their part. This resemblance, however, is superficial. In paradigmatic free-riding scenarios, the moral complaint arises wherever individuals enjoy the benefits of a cooperative scheme without contributing their fair share to sustaining it.[245] Here, by contrast, the question is whether the interest produces an objection to inefficient nepotism when the inefficiency in question has no meaningful effect on the relevant benefits. Of course, where such inefficiencies are frequent enough to cumulatively weaken the background conditions for productive cooperation, the impartial reasons to prefer more efficient arrangements would reassert themselves, but that is not the case under consideration here.

As I have described it, the interest is in efficient practices because, in the kinds of mixed economies with functioning welfare and redistributive systems that I am assuming here, there are impartial reasons to prefer arrangements that reliably secure the wider benefits in question. The interest is therefore in efficiency as a systemic feature of the background framework for economic cooperation, rather than in every marginal case considered in isolation. This means that in relatively isolated departures from efficient role allocation, or where the downstream effects of a particular practice on institutional

[245] For more on free-riding, see, Garrett, "Moral Free Riding."

performance are genuinely indeterminate, the moral litmus test may be harder to meet. In such cases, the interest may not, on its own, decisively count against the practice.

Even so, because the interest is in sustaining the background conditions under which such benefits are reliably produced, it generates a pro tanto reason to support institutional norms and practices that contribute to that aim, even if we cannot trace the precise marginal effect of each individual deviation, and where the relevant practices are governed by considerations that treat participants as equals. On this view, objections to inefficient nepotism are most robust when the practice in question forms part of a pattern that would erode the systemic efficiency that we have impartial reason to endorse. The interest is thus both narrower and more discriminating than a blanket prohibition on all inefficiency, but it remains action-guiding in the sense that it favours the preservation of practices and rules that maintain the conditions under which the relevant benefits can be secured.[246] Like Scanlon's Beneficial Effects Principle, it therefore also generates reasons for selecting individuals with qualifications of a particular kind.

This line of thought might appear to resemble a non-ideal interpretation of Rawls's Difference Principle, on which inequalities need not be strictly necessary to raise the expectations of the least advantaged, but are instead justified insofar as they form part of a system structured to do so. However, Rawls's principle is more demanding. It requires that inequalities be demonstrably necessary to secure these gains. The claim advanced here is weaker and more general. It identifies pro tanto reasons grounded in the role of efficient practices in sustaining institutional capacity, and in the fact that such practices can be supported by reasons that treat participants as equals. To the extent that defenders of the Difference Principle are willing to relax the necessity requirement under non-ideal conditions, their view moves toward the kind of interest identified here. I take this to be a feature rather than a limitation, since the aim is to capture the underlying moral concern that motivates both Rawlsian and Scanlonian appeals to efficiency.

With this clarification in mind, however, it might be questioned whether the egalitarian interest in efficiency risks collapsing into the integrity account of corruption, since both are, to some extent, concerned with maintaining or creating procedures which reliably ensure the competent performance of particular roles. The integrity account, however, focuses on the first or second-order duties attached to specific institutional positions in cases where individuals have a morally significant interest in the relevant

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[246] Many readers might not be surprised by this result, given the close relationship between contractualism and rule-consequentialism that Parfit draws out in his discussion of the Triple Theory, which seeks to elucidate a convergence between the Kantian and Scanlonian varieties of contractualism with rule-consequentialism. For Parfit, these theories come into contact with one another since the principles no one could reasonably reject are the same as those whose universal acceptance would make things go best. See, Parfit, *On What Matters Vol. 1*, 404-419.

institutional ends and this justifies a legal claim-right. The wrong in such cases either lies in a rights violation, or in undermining the procedural and relational integrity of the institutional framework that one should adhere to if the corresponding interests are to be taken seriously. Contrastingly, the egalitarian interest in efficiency is not grounded in the duties of role-occupants, nor in any concrete or abstract claim-rights to particular institutional ends. Instead, it appeals to the moral stake that everyone has in living under institutions that are reasonably expected to allocate roles productively and merely says that this stake counts against the institutionalisation of inefficient nepotistic practices. The integrity account explains why it is wrong, irrespective of efficiency, for an administrator to nepotistically hire a surgeon, whereas the egalitarian interest in efficiency explains why, even in private firms whose ends individuals have no plausible claim to, inefficient selection practices are objectionable. Not because these inefficiencies represent failures to fulfil specific first or second-order duties, but because such practices undermine the productive economic cooperation on which everyone (even if indirectly) depends.

However, this more systemic orientation also raises two further worries given the non-ideal context in which it is supposed to apply. Firstly, it might be objected here that where background conditions are unjust as they are within the actual societies we inhabit, individuals could endorse nepotism that facilitates the distribution of opportunities within disadvantaged networks. Nepotistic hiring might, for example, offer critical economic support in the absence of reliable public infrastructure which aids the creation of jobs and socioeconomic opportunities. Whilst I acknowledge this possibility, I maintain that the egalitarian interest in efficiency is best understood as a regulative moral standard that frames our evaluation of institutional practices. The fact that nepotism might operate as a second-best remedy in specific cases does not transform it into a morally defensible practice under justifiable institutional rules that people have impartial reason to accept.[247] At most, such considerations show that these practices may be locally permissible under unjust conditions, not that they should be incorporated into the standards governing cooperation. Instead, this shows how broader institutional failures force individuals into morally compromised choices, rather than identifying a class of cases in which such practices should be incorporated into the regulative standard itself.

Secondly, it might be objected that in conditions of extreme injustice, for example, where economic and political power are so deeply concentrated that any additional surplus from efficiency is captured by an advantaged elite, individuals could have no impartial reason to prefer more efficient arrangements. In such cases, they might

[247] Though, in the following chapter, I consider whether or not we have distinct moral reasons of equality of opportunity to accept nepotistic practices in exactly these cases.

reasonably remain indifferent to inefficient nepotism, since greater productive efficiency would not improve their prospects, but instead further entrench existing domination. Here, the interest in efficiency seems to lose its moral bite, because those worst positioned within the system have no reason to endorse efficiency gains that predictably reinforce their subordination. I believe this is a powerful challenge, and in such scenarios it may be correct that there are no impartial reasons to favour more efficient practices if conditions systematically ensure that the resultant surplus would exacerbate inequality and diminish the position of everyone else. Still, there may be other considerations, rooted in the need to preserve the minimal institutional reliability required for social coordination and basic security, to resist the most arbitrary and inefficient forms of nepotism, even in these societies.

A distinct concern is that the interest described provides too little practical guidance to those actually involved in selection processes. Whilst this concern is understandable given the aims of this thesis, it is important to clarify that this interest is not considered to decide the case against particular nepotistic practices and instead only contributes one part to what will ultimately be a multifaceted assessment of nepotism's permissibility. That said, in non-ideal contexts, no principle, including Rawls's Difference Principle or Barrett's Utilitarian Efficiency Principle, is able to deliver precise instructions for every hiring decision, nor do they attempt to describe the content of these principles and their relationship to other moral interests in practice.[248] The egalitarian interest in efficiency instead offers a defeasible reason to favour practices that are reliably connected to productive institutional functioning. A hiring manager can therefore treat the interest as a presumption against nepotistic hiring except where there is compelling evidence that nepotism will reliably promote institutional productivity (subject to reasonable moral constraints and other interests to be explored in what follows). This is both more realistic and more normatively defensible than requiring absolute distributive optimisation on a case-by-case basis.

Even if we accept that the interest can survive these more extreme cases, a different kind of worry concerns its practical determinacy and whether the notion of reasonable expectations is too indeterminate to ground a persuasive objection. This, however, is a feature of all alternatives theories discussed in this chapter. Rawls's Difference Principle relies on reasonable expectations about the performance of social institutions under alternative distributive rules, and even Barrett's Utilitarian Efficiency Principle depends on contestable empirical projections about aggregate welfare. The

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[248] A point that is echoed both by Sen and Fuller but which I will take up with regards to the permissibility of nepotism within the final chapter of this thesis. See, Sen, *The Idea of Justice*, 97; Fuller, "Burdened Societies and Transitional Justice," 370.

egalitarian interest in efficiency is transparent about its defeasibility and its limitations. It recognises that we must form best-available judgements under uncertainty, guided by evidence and public reasoning, rather than demanding that the justificatory threshold be held at an unrealistic level of predictive precision. In this sense, its open-ended character is a strength rather than a weakness, allowing it to adapt to the morally and epistemically complex realities of institutional design.

A further objection is that this view risks collapsing into a standard meritocratic principle.[249] This would be a mistake. This interest is not a restatement of classic appeals to meritocracy, because it does not treat meritocratic hiring as intrinsically just and produces no objection to efficient nepotism. Rather, it treats meritocratic selection as contingently justifiable because of its expected contribution to a productive institutional order that individuals, qua equal participants, have stronger impartial reasons to endorse. It also leaves space for reasonable deviations from these grounds where other moral considerations are at stake, such as diversity or anti-discrimination, and also raises no objection to nepotistic practices whenever these can be shown to reliably promote the corresponding interest. By anchoring efficiency within a higher-order egalitarian interest, it thus avoids the fetishisation of talent that sometimes characterises more naive forms of meritocratic reasoning.

Finally, perhaps the most challenging worry one might have can be framed in the following way: if more efficient alternatives are, in the impartial-reason-implying sense, better than their inefficient counterparts, and we therefore have pro tanto reason to opt for them, does this not already suppose that these alternatives are feasible? If so, the interest in efficiency risks resting on a disguised feasibility condition, and thus offers no independent reason to object to inefficient practices in contexts where their efficient replacements are unattainable. This worry has bite in cases where more efficient practices are, for all practical purposes, out of reach, for example, when individuals are unlikely to comply with them due to entrenched psychological dispositions to favour those closest to them.

My view is that this worry trades on a false dilemma. It assumes that either the interest in efficiency collapses into a feasibility condition, or it demands the impossible. In fact, the interest retains independent force whilst recognising feasibility constraints. The contractualist test asks whether a practice could be justified to others given the information and institutional options currently available, but this does not exhaust the interest's critical role. Even when a more efficient alternative is not presently realisable,

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[249] I have in mind here a desert-based principle of merit similar to the one which David Miller proposes in *Principles of Social Justice*. I discuss this conception of merit and some of the problems associated with it in the following chapter.

for example because agents are unlikely to comply given entrenched dispositions, this does not show that the interest collapses into a feasibility constraint. Rather, it reflects the familiar fact that justified norms may fail to be fully realised under non-ideal conditions. The interest remains action-guiding insofar as it supports practices that resist the entrenchment of inefficient arrangements and sustain the possibility of reform. In this way, the interest is not merely sensitive to what is possible now, it also speaks against practices whose persistence makes better arrangements less achievable in the future.

4. Nepotism, Merit, and Equality of Opportunity

I have hitherto offered two distinct answers to the desideratum which anchors Part I of this thesis in elucidating two objections that make sense of our intuitions regarding nepotism's wrong-making features in different cases. In doing so, I have developed a novel theory of institutional corruption and elucidated an interest in efficiency which makes sense of egalitarian complaints about nepotism as a source of market inefficiency. Although the preceding chapters have made some positive contribution to explaining what makes nepotism wrong, this analysis will undoubtedly feel incomplete to many readers. And this impression would be justified, for I have not yet examined in depth the relationship between nepotism, merit, and equality of opportunity. Despite this, the thought that nepotism is wrong because it undermines meritocratic principles of selection and some conception of equal opportunity might be deemed to be so well-founded and secure so as to render any further analysis redundant. As I argue below, however, this is not the case. Whilst many egalitarians appeal to some procedural or substantive notion of fairness in identifying objections to nepotistic practices, closer analysis reveals that predominant meritocratic conceptions of equality of opportunity are subject to a number of difficulties.

That being said, it is worth stressing at the outset that concerns of this sort potentially provide the most coverage in terms of applying to a broad range of cases and are among the most forceful available to us. Complaints of unfairness may take various forms. Sometimes they are expressed in the idiom of desert, as is the case when some object that nepotistic beneficiaries have not truly "earned" their position or "paid their dues". Independently of desert, others argue that inequality-generating mechanisms like nepotism conflict with the procedural and substantive requirements of equality of opportunity, requirements that are especially pressing in competitive settings where positions confer significant material and immaterial advantages. Although concerns about corruption and efficiency frequently dovetail with complaints of unfairness, it is nevertheless the case that one of the most resonant and intuitive objections to nepotism is that it is wrong because it is unfair. What is often at stake in the vast majority of cases is not necessarily efficiency or institutional integrity in the first instance, but the thought that it is objectionable that some have access to advantageous positions simply because of who they know, as opposed to what they know or may be able to do, given a sufficiently level playing field.

These two ways of describing the unfairness of nepotism, through the idiom of desert and the language of equal opportunity, are often paired together in both philosophical and public discourse. But, in Section 4.1, I argue that talk of desert should

be dismissed entirely. In this section, I offer some reasons to be sceptical of desert-based conceptions of merit and suggest that such rationales face significant normative and epistemic difficulties.

Rejecting desert as a plausible basis for meritocratic selection, I then elucidate the advantages associated with adopting an institutional conception of merit in Section 4.2 and consider whether a Rawlsian conception of equality of opportunity might provide more plausible grounds for meritocratic selection. Although this conception of merit and the accompanying theory of equal opportunity is compelling in various respects, in Section 4.3 I note how such theories face what Joseph Fishkin calls the problem of merit. By way of a response to this problem, I briefly consider Fishkin's theory of opportunity pluralism but note that whilst it avoids the problem of merit by shifting its primary evaluative focus, it too leaves unanswered more concrete questions about what might legitimately count as a qualification and hence, whether any residual egalitarian reason remains to resist exclusionary practices like nepotism even within sufficiently plural landscapes.

With these problems in view, I propose the egalitarian interest in opportunity as a way to make sense of complaints of unfairness directed at practices that narrow access to socioeconomically and developmentally significant opportunities through relational or otherwise exclusionary criteria. Like the egalitarian interest in efficiency, the interest in opportunity is a standing, scalar moral interest grounded in persons' equal status as participants in social cooperation. It identifies a pro tanto reason to resist institutional arrangements that foreseeably restrict meaningful access to advantageous positions, in virtue of the temporal, socioeconomic, developmental, and expressive costs that such selective narrowing imposes, even where comparable opportunities remain available elsewhere.

This interest does not treat every instance of selectivity as unjust, nor does it presuppose that all opportunity-restrictions are illegitimate. Rather, it renders opportunity closures morally visible and subjects them to evaluation in proportion to their developmental centrality and socioeconomic salience. In doing so, it explains why nepotism may be objectionable even in contexts where its aggregate distributive effects are limited, and why complaints of unfairness remain intelligible even within sufficiently plural opportunity structures. At the same time, because both this interest and the preceding interest in efficiency are defeasible, its justificatory force must be weighed against competing considerations, a task which I undertake in the following chapter. Section 4.4 outlines the content and structure of the egalitarian interest in opportunity and distinguishes it from the accounts discussed in preceding sections. Section 4.5 then concludes by anticipating and responding to a series of potential objections. The upshot

of the argument developed here is a more discerning account of when and why opportunity-restricting practices, such as nepotism, generate morally significant reasons for reform.

4.1 Merit and Desert

The word *merit* has a rich, though relatively consistent, etymological lineage through Old French (*merite*) and Latin (*meritum*), that in my view, is often mistakenly perceived to refer to a set of pre-institutional facts about persons. Comparative assessments of merit, in this pre-institutional sense, are typically regarded as veridical indicators of a person's prospective or actual performance in a given role or task, and typically take the form of competitive procedures that aim to align merit with some due reward. The term "meritocracy" is relatively modern, however, with its first recorded use appearing in Alan Fox's 1956 essay *Class and Equality*.[250] It was later popularised with the release of Michael Young's equal parts dystopian and satirical work *The Rise of the Meritocracy* in 1958, and is now widely used by both philosophers and the public alike to describe the practice of distributing goods, especially jobs or educational places, to the best-qualified candidates.[251]

As should already be evident from the preceding chapters, there are numerous normative reasons for particular employers or administrators to select meritocratically and various moral arguments can be levered in support of an imperative which requires us to select the best-qualified. In Chapters 2 and 3, I gestured towards the notion of meritocratic selection in discussing the integrity account and the egalitarian interest in

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[250] See, Fox, "Class and Equality," 13. In spite of this, the first recorded use of the term is often attributed to Michael Young's later 1958 work, *The Rise of the Meritocracy*. Cf. Sachs-Cobbe, "Recent Work on Meritocracy," 171; Fishkin, *Bottlenecks*, Chapter 1, n. 36; Appiah, "The Myth of Meritocracy." Since Fox and Young were contemporaries working in the South East of England, it is possible that they engaged with one another's work or even knew each other personally. It could therefore be the case that the term was originally coined by Young in some unpublished work and then later used by Fox in his 1956 essay. In any case, I draw the reader's attention to this history as it indicates that usage of the term predates what many writers on the subject typically assume.

[251] Whilst the term meritocracy is now typically used to describe the allocation of positions and the material or immaterial goods attached to them on the basis of merit, exactly what merit consists in, and what it means for someone to be qualified in the relevant sense, is more fraught with moral complexities than one might initially intuit. The definition of the word merit reflects part of this complexity, since dating back to the Latin noun *meritum*, it has been used to refer to the notion of moral worth or just deserts, as well as the appropriate grounds or reasons for a particular belief or action. This usage of the term should hardly be surprising, as the features which one may point toward in support of the claim that one ought to be allocated a particular role or reward, often serve as the very reasons which explain why one is deemed an appropriate fit for it. In this respect, merit is a thick evaluative concept which straddles both descriptive and normative terrain: it purports to track relevant abilities, traits, skills, and qualifications, whilst carrying with it implicit claims about entitlement, fairness, and justification.

efficiency, but stopped short of giving more precision to this influential yet contested idea.[252] Instead, I merely suggested that both arguments provide distinct moral reasons for distributing positions to suitably qualified individuals in different settings. In the former case, doing so is necessary to fulfil the first and second-order duties that arise from the morally significant interests associated with the relevant institutional ends. In the latter case, the selection of the best-qualified candidates promotes efficiency in ways that are reasonably expected to improve institutional capacity and expand access to goods and services.

Until now, however, I have set aside two of the most prominent arguments for meritocratic selection and hence two well-known grounds for objecting to nepotism, namely those which appeal to desert or equality of opportunity. I use the term "or" here as an inclusive disjunction, since these two ideals may be endorsed together as part of a fuller distributive theory or disentangled from one another entirely.[253] One of the most ardent egalitarian proponents of a desert-based conception of merit is David Miller.[254] Although Miller defends this conception alongside a theory of equality of opportunity, he understands desert as the ground for selecting the best-qualified whenever people have equal opportunity to attain the qualifications necessary to do well within the relevant competitions.[255] Since Miller's endorsement of equality of opportunity is in many respects philosophically continuous with the Rawlsian conceptions I discuss below, my focus here is delimited to considering whether his appeal to desert provides independently compelling grounds for meritocratic selection and hence a distinct objection to nepotism.

At multiple stages, Miller explicitly refers to nepotism in his writing on desert and meritocratic selection, beginning his discussion on "deserving jobs" by stating that his desert-based conception of merit 'condemns discrimination on grounds of sex, race, or religion when hiring employees, as well, of course, as good old-fashioned nepotism.'[256] It

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[252] I say contested because particular conceptualisations of "merit" and "meritocracy" are the subject of recent criticism by Daniel Markovits, Michael Sandel, and Kwame Anthony Appiah. See, Markovits, *The Meritocracy Trap*; Sandel, *The Tyranny of Merit*; Appiah, "The Myth of Meritocracy." I do not discuss these critiques further as their shared target is a particular ideological belief about merit which they believe to be insidious but which is compatible with much of what I say below.

[253] For example, conservatives who oppose the promotion of equality of opportunity might still endorse meritocratic selection on the grounds that the meritorious deserve the relevant positions, and that such a system better aligns economic reward and individual responsibility.

[254] For other desert-based defences of meritocratic selection, see, Sher, *Desert*, 109-132; Schmidtz, "How to Deserve." I focus here on Miller's account, but it is worth noting that alternative approaches fare no better against the sum of critiques raised here.

[255] Miller, *Principles of Social Justice*, 180, 200-201.

[256] Miller, *Principles of Social Justice*, 156.

does so because 'hiring by merit is the policy that in general brings about the closest correspondence between individuals' contributions and their rewards', and so 'nepotism or discrimination is unfair because it predictably creates a state of affairs in which there is a discrepancy between deserts and income rewards.'[257]

We can therefore say quite straightforwardly, for Miller, that nepotistic selection predictably means deviating from selecting the best-qualified candidate, and that this is objectionable because it is unlikely to align candidates with the rewards that they deserve for their prospective productive contribution.[258] The fact that this conclusion also tracks popular sentiments about why nepotism might be objectionable is, for Miller, an additional virtue of his account. Since, as he notes elsewhere, his methodological approach leaves in place ordinary beliefs and sentiments 'until strong arguments are produced for rejecting them'.[259] There are, however, a number of difficulties with treating desert as the ground for meritocratic selection and hence as an independent objection to nepotism.[260] Given Miller's appeal to ordinary beliefs about desert, and the fact that any such account must ultimately rely on some plausible specification of what grounds desert—typically a responsibility-sensitive notion of effort, achievement, talent, or contribution—the view can be assessed by examining each of these in turn. The aim here is not to impose an external theory of desert, but to test whether Miller's appeal to

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[257] ibid., 166.

[258] Notably, this statement sits uneasily with the problem of "meritocratic nepotism" alluded to above, which Miller must effectively deny if he wishes to retain a plausible conceptualisation of desert that is philosophically recognisable. Despite this, Miller (ibid., 169) acknowledges the existence of reaction qualifications and concedes that it is 'difficult to specify' any criterion of legitimacy for deciding which of these qualifications should count. In light of this acknowledgement, Miller's sustained defence of a desert-based view is even more perplexing. Miller admits here, for example, that 'it is obviously relevant in hiring a salesman to consider whether his manner is likely to please customers', but it is far from clear to me that candidates are responsible for their "manner" in the sense required to ground a meaningful desert claim, and they are surely not responsible at all for others' psychological dispositions which render these considerations relevant. If third-party reactions to socially contingent qualities like one's "manner" can ground valid desert claims, then excluding the possibility of nepotistic reaction qualifications appears ad-hoc rather than principled.

[259] Miller, "In Defence of Nationality," 4.

[260] And as Mason points out (*Levelling the Playing Field*, 56), 'it is not enough in this context to maintain that common opinion supports the idea that people deserve monetary or economic reward for purposeful achievement but only gratitude for effort unsuccessfully directed towards the same achievement, for there is no evidence that common opinion makes any systematic distinction of this kind.'

ordinary desert judgements can be sustained once these candidate grounds are specified more precisely.[261]

Andrew Mason perhaps provides the most persuasive philosophical argument in support of the claim that we should reject desert-based conceptualisations of merit entirely.[262] One reason for doing so is epistemic, since ordinary judgements about desert within this context are often sensitive to some notion of achievement or effort, and yet one's achievements or effort rarely corresponds with one's qualifications. Consider, for example, the effort that a blind person may make to attain a doctorate in medieval history. In this case, part of the achievement may itself be constituted by the difficulty of attaining this formal qualification despite the tremendous obstacles placed in one's way. Conversely, someone who attains the same degree who not only does not face this challenge but who enjoys other advantages, such as being raised by a successful historian, may exert substantially less effort and we may consider this to be less of an achievement as a result.

However, if meritocratic institutions are typically concerned with the assessment of traits relevant to performance of a role and are simply unable to track achievement or effort in the respect mentioned, then there is a mismatch between the considerations relevant to desert and the institutional capacities for assessing these considerations as part of a meritocratic assessment. All else being equal, both individuals would typically be regarded as equally qualified by most meritocratic institutions.[263] This reflects not only a tension between desert claims and prevailing selection practices, but a deeper problem for desert-based conceptions themselves, given that there is no reliable way for institutions to track judgements about either achievement or effort that these conceptions ordinarily depend on. Even if we were willing to take desert seriously as a distributive ideal, it lacks the epistemic tractability needed to function a general criterion for distributing competitive opportunities and advantageous positions.

Appeals to talent as the basis for desert, rather than effort, are also problematic, albeit primarily for normative rather than epistemic reasons. After all, one's native

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[261] One might object on Miller's behalf that his appeal to ordinary judgement is limited to the claim that desert grounds merit, and does not extend to ordinary judgements about what desert itself consists in. However, this response is difficult to sustain. If the methodological appeal to ordinary judgement is doing work in motivating a desert-based conception of merit, it is unclear why that same appeal should not also bear on the content of desert itself. To restrict its role in this way risks vindicating the connection between merit and desert only by appealing to a conception of desert that departs from the very judgements that initially motivate the view.

[262] Mason, *Levelling the Playing Field*, 39-67.

[263] Even where institutions adopt policies of affirmative action, for example by taking account of structural disadvantage in admissions or hiring, it is the disadvantage of socially salient groups that is taken into account rather than comparative effort or achievement relative to an individual's particular circumstances.

endowments are unearned and largely shaped by circumstances which one has no control over. Furthermore, the fact that some have a particular set of talents which happen to be coveted by the labour market is itself morally arbitrary and largely contingent, and so serves no better basis to justify a desert claim to differential rewards. Rawls puts this point rather wryly when he questions whether 'people really think that they (morally) deserved to be born more gifted than others?'[264]

Similarly, understanding the appeal to desert as claims about one's prospective contribution (absent any mediation through effort, achievement, or talent) suffers from similar problems insofar as the value of one's contribution is itself determined by contingent social preferences and market dynamics that often reward good fortune. Mason criticises David Miller's desert-based conception of merit on precisely this basis, arguing that the market's assessment of an individual's prospective contribution is an unreliable and normatively suspect proxy for desert.[265] Whilst Miller himself acknowledges some problems associated with good fortune in his discussion of 'integral' and 'circumstantial' luck,[266] Mason argues that labour markets are both incapable and unwilling to filter differences in qualifications which are the product of either.[267] Actual markets reward outcomes regardless of whether they arise from talent, effort, or sheer good luck, and they assign value based on preferences that may be shaped by misinformation, prejudice, or consumer ignorance. Crucially, this objection holds across both ideal and non-ideal societies. For even under idealised epistemic and competitive conditions, the value of any given individual's contribution would remain dependent on contingencies that are morally arbitrary from the perspective of any plausible conception of desert. For this reason, even if the best-qualified candidate is statistically likely to command larger rewards within the labour market, this correlation is too loose and

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[264] Rawls, *Justice as Fairness*, §21.

[265] Mason, *Levelling the Playing Field*, 42-44.

[266] Where integral luck refers to contributions that are accidental (e.g., receiving full marks on a multiple-choice exam by randomly ticking boxes) in a way which mitigates desert claims, and circumstantial luck (e.g., only encountering exam questions on the narrow range of topics revised for) the good fortune which influences one's opportunity to perform in the relevant ways that would make them deserving of a particular reward. See, Miller, *Principles of Social Justice*, 143-144.

[267] Additionally, political, civil, social, and economic institutions are also typically incentivised to select whomever might be the best-qualified, irrespective of whether the attainment of these qualifications is influenced by either integral or circumstantial luck. In the case of economic institutions, this is so because there are moral and non-moral reasons to pursue institutional efficiency as discussed in the preceding chapter, and in the case of public or quasi-public institutions, this is so because competence is also essential for institutional integrity as discussed in Chapter 3.

mediated by arbitrary factors to ground the claim that they genuinely deserve the position and specific rewards associated with it.[268]

If one is needed, Evan Behrle offers a final nail in the coffin by further critiquing desert-based conceptions of merit that rest on the notion of individual contribution.[269] As alluded to above, the idea that workers deserve to be rewarded according to their contribution is commonplace in public discourse, but Behrle argues that this intuition collapses once we recognise the pervasive interdependence that characterises complex economies.[270] On a 'difference-making' account like Miller's, a worker's desert is thought to track their productive contribution to marginal revenue. Yet, as Behrle quite convincingly shows, in any modern economy, this difference is largely a function of "what others only together do". For example, an engineer's productive contribution depends on road-builders, teachers, energy workers, and countless others who co-author her apparent contribution, just as an actor's contribution is enmeshed with the contribution of his costars, as well as those who produce and market the film.[271]

As a result, claims about deserving income in proportion to one's marginal product fail a plausible 'aboutness' condition on desert claims.[272] The fact that a worker makes a measurable marginal contribution does not entail that the resulting output is appropriately attributed to her for the purposes of desert. On the contrary, the counterfactual difference one makes is heavily conditioned by background institutions and the coordinated activity of others. Even if we grant, for example, that certain footballers make identifiable differences to performance by scoring more goals, the move from performance to marginal revenue remains highly mediated by factors beyond the individual's control, including market structure, collective team dynamics, audience demand, and so on. Consequently, the *size* of a given footballer's *marginal contribution to revenue*—the relevant metric on Miller's account—cannot plausibly be attributed to them in the way required for individual desert.

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[268] More generally, it seems odd to suppose that a candidate's personal characteristics and prospective contribution could ground a valid desert claim to some determinate bundle of material or immaterial goods. As I understand Miller's position, the idea is not merely that these properties generate an entitlement to a particular role, but also to the specific rewards that prevailing market mechanisms happen to attach to it.

[269] It is worth noting that this line of argument closely parallels Iris Marion Young's earlier claim that it is 'not possible to identify the contribution that each individual makes, precisely because the workers cooperate in producing an outcome or product' (*Justice and the Politics of Difference*, 202). Behrle does not explicitly cite Young's discussion, though the structural similarity is striking.

[270] Berhle, "Desert and Economic Interdependence."

[271] ibid., 14-25.

[272] ibid., 10.

Against the critiques raised above, one might emphasise that Miller's account can be read as appealing to a more limited notion of productive contribution and need not rely on a notion of substantive responsibility. However, Miller's methodological commitment to ordinary beliefs about desert makes this move difficult to sustain. Desert is typically understood, in both public and philosophical discourse, as being responsibility-sensitive. If the notion of deservingness is entirely detached from what individuals are responsible for, it is unclear in what sense it remains a conception of desert at all. At that point, the rationale for selecting the best-qualified begins to look less like an appeal to desert and more like either the efficiency-based considerations developed in the preceding chapter or the institutional conceptions of merit discussed below.

The cumulative lesson of these critiques is that desert cannot serve as the normative foundation for meritocratic selection. Appeals to effort, achievement, talent, or contribution all turn out to rest on factors that are either morally arbitrary, epistemically intractable, or dependent on collective processes that render attributions of individual desert misleading. Desert therefore cannot explain what is wrong with nepotism, since it provides no plausible basis for meritocratic selection to begin with. Yet we might still feel that nepotism, and other kinds of favouritism, involve a distinctive kind of unfairness which my preceding discussion of corruption and efficiency does not capture. The challenge, then, is whether we can make sense of this intuitive complaint without relying on desert, and articulate alternative grounds for selecting the best-qualified which not only avoid the intractable problems explored above, but which possess greater explanatory force. And though people frequently object to nepotism on the grounds that its beneficiaries have not "earned" their position, the thought that the relevant inequalities are unfair because they make light of desirable procedural requirements or capitalise on unequal advantages is expressed with similar vehemence and frequency.

4.2 Merit and Rawlsian Equality of Opportunity

Perhaps then, a more compelling explanation of the relevant complaint appeals not to desert but to some conception equality of opportunity. As many readers will appreciate, there are numerous ways of conceptualising this ideal, but I delimit my focus here to considering a Rawlsian conception of fair equality of opportunity, given the

considerable support which this view enjoys and persuasive arguments levelled against varieties of luck egalitarianism.[273]

For Rawlsian egalitarians who take this ideal as a starting place for thinking about equality of opportunity, two guiding principles immediately come to mind.[274] The first principle dictates that opportunities for advantageous positions should be subject to open competition and selective procedures designed such that they identify the best-qualified candidates who compete under impartially applied rules.[275] Various terms have been used to describe this *formal* requirement, including 'careers open to talents' and the notion of a 'fair contest', but I shall refer to it as the principle of merit.[276] The second requires that we "level the playing field" and aims to neutralise or mitigate the effects of one's socioeconomic background insofar as these features affect competition for advantageous positions within the cooperative scheme.[277] Various terms have been used to describe this *substantive* requirement, including the phrase 'fair life chances', but I shall refer to it as the principle of substantive opportunity.[278]

To get a firmer grip on the relationship between meritocratic selection and Rawlsian equality of opportunity, however, we must first get a better grasp on exactly what it is that we are referring to when we describe a candidate's merits, before clarifying the role that meritocratic selection plays within a Rawlsian conception of equality of opportunity, our reasons for pursuing it, and the objection to nepotism it delivers. Concerning the descriptive question, it is not the case, for Rawlsian egalitarians, that a candidate's merits must possess some positive value independently of the institutions which happen to select for them.

Instead, as Scanlon puts it, the properties of an individual 'that are an appropriate basis of selection […] are just those characteristics […] which makes a person likely to perform in the position […] What counts as a talent in the relevant sense

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[273] For a nuanced discussion of some of the differences between Rawlsian and luck egalitarian conceptions, see, Fishkin, *Bottlenecks*, 35-40. For a collection of compelling critiques of varieties of luck egalitarianism, see, Anderson, "What is the Point of Equality?"; Scheffler, "What is Egalitarianism?"; Wolff, "Fairness, Respect, and the Egalitarian Ethos."; Fleurbaey, "Equal Opportunity or Equal Social Outcome?"

[274] Rawls, *A Theory of Justice*, §11; 12; 14; Freeman, "The Second Principle and Distributive Justice," in *Rawls*; Roemer, *Equality of Opportunity*, 1-4; Scanlon, *Why Does Inequality Matter?*, 41; Fishkin, *Bottlenecks*, 29-32.

[275] Mason, *Levelling the Playing Field,* 15-16; Scanlon, *Why Does Inequality Matter?*, 40-52.

[276] Rawls, *A Theory of Justice*, §14; Fishkin, *Bottlenecks*, 25.

[277] Mason, "Rawlsian Fair Equality of Opportunity" in *Levelling the Playing Field*; Scanlon, "Substantive Opportunity" in *Why Does Inequality Matter?*; Lippert-Rasmussen, "Equality of Opportunity" in *Making Sense of Affirmative Action.*

[278] Fishkin, *Bottlenecks*, 26.

will depend not only on the goals of the institution but also on the way in which this institution and the particular position are organised'.[279] I shall refer to this view as the institutional conception of merit.[280] Unlike desert-based views, institutional conceptions of merit are, in the first instance, purely descriptive. That is, they do not provide an independent standard against which institutional criteria can be assessed, but instead take those criteria to be fixed by the purposes of the practice itself. To say that a candidate has the relevant talents, abilities, or characteristics for a particular position, is just to say that they possess the kinds of qualifications that would enable them to promote the ends of the position and institution of which they hope to be a part.

Importantly, this conception of merit severs the justificatory link between role-specific qualifications and claims of individual desert grounded in either effort, achievement, or contribution. Although institutional conceptions of merit inevitably refer to a candidate's prospective performance in the position, they do so as a constraint on what should count in selection, as opposed to the idea that such features ground attributions of individual desert. For this reason, the positive appraisal of a candidate's qualifications does not, on its own, vindicate an entitlement to whatever material rewards the market happens to allocate.[281] On Rawlsian views of equal opportunity, meritocratic allocation is a necessary procedural condition for legitimate selection, but the principle of merit itself remains silent on the distributive justice of broader patterns of economic inequality which are open to independent moral evaluation.

The limited justificatory role that the principle of merit plays within contemporary Rawlsian conceptions is perhaps best illustrated by Bernard Williams's well-known discussion of a hypothetical warrior society.[282] Williams introduces this

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[279] Scanlon, *Why Does Inequality Matter?*, 45.

[280] Lippert-Rasmussen similarly refers to this view as the '*actual institutional ends view of merit*' and distinguishes it from the more desirable '*permissible, actual institutional ends view of merit*', since the latter rules out one having 'greater merit than another on account of better ability to commit atrocities, etc'. See, Lippert-Rasmussen, *Making Sense of Affirmative Action*, 82-83. Although I believe the latter view to be correct when specified in a distinct way, I postpone further discussion of how we might moralise merit to Chapter 5. For present purposes, it is sufficient that readers are aware of the thought that a candidate's merits are institutionally determined and that ascriptions of merit do not involve an attribution of desert to the rewards allocated through labour markets.

[281] Scanlon (*Why Does Inequality Matter?*, 40) makes a similar observation when he describes the meritocratic selection that equality of opportunity calls for as an 'independent requirement that must be satisfied in order for inequalities that are justified in some other way to be just'. Whilst Scanlon's phrasing may appear somewhat confusing, the idea here is relatively straightforward, in that the promotion of equal opportunity is considered necessary, but not sufficient, for distributive justice. As Mason (*Levelling the Playing Field*, 22) also observes, it is entirely consistent for advocates of meritocratic selection to adopt a strictly equal material rewards schedule, or as Christian Schemmel ("Why Relational Egalitarians Should Care About Distributions," 385-389) notes, an allocation of goods which aims at engendering egalitarian relationships.

[282] Williams, *Problems of the Self*, 244-249.

thought experiment by prompting us to consider a society in which 'great prestige is attached to membership of a warrior class, the duties of which require great physical strength.'[283] We are then asked, to suppose further, that the warriors who make up this class have hitherto only been recruited from particular wealthy families, but that egalitarians manage to reform this system by introducing something like the principle of merit described above. Entry into this prestigious warrior class is therefore no longer determined by familial background and suitable warriors are to be recruited from all sections of society. However, as Williams observes, without any complementary requirements, the result of this 'is that the wealthy families still provide virtually all the warriors, because the rest of the populace is so under-nourished by reason of poverty that their physical strength is inferior to that of the wealthy and well nourished.'[284]

The issue that this thought experiment makes vivid is what Rawls refers to as the problem of 'natural aristocracy'.[285] Whilst the formal requirement of the principle of merit allows for differences between individuals' talents and efforts to shine through competitive procedures, this commitment is rather trivial from the perspective of equality if unequal social circumstances effectively bar people from meaningfully competing for an array of advantageous positions. Of this situation, Williams rightly observes that 'the supposed equality of opportunity is quite empty—indeed, one may say that it does not really exist—unless it is made more effective than this.'[286]

It is this observation which motivates Rawlsian egalitarians to move beyond the formal requirement alluded to and towards some version of fair equality of opportunity.[287] Without a more substantive requirement, the principle of merit risks legitimating a hollow "fair contest" that predictably reinforces existing inequalities rather than correcting them. As Rawls formulates it, advantageous positions should not only be open to all individuals on the basis of their institutionally relevant qualifications, but those 'who are at the same level of talent and ability, and have the same willingness to use them, should have the same prospects of success regardless of their initial place in

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[283] ibid., 244.

[284] ibid.

[285] For an extended discussion of the natural aristocracy alongside what Rawls calls the 'liberal' and 'democratic' interpretations of equality see, *A Theory of Justice*, §12-14.

[286] Williams, *Problems of the Self*, 245.

[287] I say "toward some version" of fair equality of opportunity given the divergent readings that philosophers working within the relevant area have proposed for both ideal and non-ideal societies. Some of these readings have already been referenced in the preceding footnotes, but for further interpretations of the conception's application in ideal and non-ideal theory, see, Taylor, "Rawlsian Affirmative Action"; cf. Meshelski, "Procedural Justice and Affirmative Action."

the social system.'[288] This secondary clause of the Rawlsian conception, which I refer to as the principle of substantive opportunity, thus aims to mitigate the problem that Williams so eloquently articulates.[289] The basic idea, then, is not to treat all observed differences in one's institutional merits as necessarily justifying the resultant distribution of advantageous positions. Rawlsian equality of opportunity distinguishes between inequalities that arise within a system of fair background conditions and those that are traceable to unequal starting positions within the social structure. Justice requires us to mitigate the latter by allocating redistributable resources in such a way so as to secure genuinely equal prospects for those with the same native talents and willingness to use them.[290]

With this conception of equality of opportunity in view, we can say that for Rawlsian egalitarians, there are at least three distinct moral reasons to pursue it. First, the promotion of equality of opportunity is congruent with, and indeed required by, a more fundamental respect for persons as free and equal.[291] Applied to competitive procedures, the principle of merit embodies a formal respect for citizens by ensuring that selection tracks institutionally relevant qualifications rather than typically irrelevant traits like one's socioeconomic background, gender, or ethnicity. The principle of substantive opportunity complements this by seeking to ensure that individuals with similar native talent and ambition enjoy equal prospects of attaining advantageous positions. Taken together, these principles aim to ensure that individuals' prospects are not determined by unregulated or unjust influences of what Rawls and others refer to as "morally arbitrary factors".[292]

Second, equality of opportunity plays a significant justificatory role in addressing the complaints that may be raised by those who are made worse-off by the inequalities generated by various institutions. As Scanlon notes, inequality-generating institutions must be justifiable to all who are affected by them, and this requires more than sheer

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[288] Rawls, *A Theory of Justice*, 63.

[289] Rawls (ibid., 63 n.11) himself states that this understanding of equality of opportunity follows suggestions made by Bernard Williams, Henry Sidgwick, and Richard Tawney.

[290] I return to the question of how such comparisons are to be specified below.

[291] In his analysis of fair equality of opportunity, Freeman (*Rawls*, 91) stresses that this distributive ideal is '*integral to the equal status of free and equal citizens*' and that being 'excluded from social positions on grounds of race, gender, religion, and so on, is an affront to one's dignity as an equal person and citizen.'

[292] Rawls, *A Theory of Justice*, §12; Scanlon, *Why Does Inequality Matter?*, 46-47.

efficiency.[293] Where either the principle of merit or the principle of substantive opportunity is flagrantly violated, those disadvantaged by the practice have no reason to accept its outcomes. On the contrary, they can reasonably reject the terms of competition and the relevant inequality-generating mechanisms. By contrast, when these requirements are respected, the resulting inequalities in advantageous positions can plausibly be regarded as legitimate.

Third, equality of opportunity matters because of its formative impact on the development of individuals' moral and practical capacities.[294] For Rawls, justice requires securing 'equal prospects of culture and achievement for everyone similarly motivated and endowed'.[295] Importantly, this requirement is not merely treated as instrumental to economic efficiency or legitimacy, but as connected to the Aristotelian Principle and the social bases of self-respect.[296] In his elucidation of the former, Rawls states that Aristotelian Principle encapsulates the idea that 'human beings enjoy the exercise of their realised capacities (their innate or trained abilities)' and suggests that 'this enjoyment increases the more the capacity is realised, or greater its complexity.'[297] In his elucidation of the latter, Rawls describes the social bases of self-respect as 'perhaps the most important primary good', for it 'includes a person's sense of his own value [and] implies a confidence in one's ability, so far as it is within one's power, to fulfil one's intentions.'[298]

To be excluded from opportunities on arbitrary grounds is thus not only offensive to individuals' dignity as equals. For the promotion of equal opportunity, as Freeman writes, is more positively deemed to be 'essential to the adequate exercise and development of our "higher capacities" […] including our capacities for productive labour and for a sense of justice'.[299] In light of complaints about unequal access to advantageous positions, Rawls states that individuals 'would be right in feeling unjustly

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[293] Scanlon (ibid., 41) conceptualises equality of opportunity 'as part of a three-level response to an objection to inequality.' The first part of this response is the beneficial effects justification which was discussed at length in the preceding chapter, the second and third requirements are effectively the principles of merit and substantive opportunity as I have described them here.

[294] Although it is unclear whether Rawls endorses this thought in later work given his turn to political liberalism.

[295] Rawls, *A Theory of Justice*, 63.

[296] See, Rawls, *A Theory of Justice*, §65; Freeman, *Rawls*, 91.

[297] Rawls, *A Theory of Justice*, 374.

[298] ibid., 386.

[299] Freeman, *Rawls*, 91. It is worth noting that Freeman borrows the phrase "higher capacities" here from John Stuart Mill, albeit in a context quite different from Mill's defence of Utilitarianism against the criticism that it implies 'superiority to frivolity and the mere pleasures of the moment'. See, Mill, *Utilitarianism*, 14, 16-26.

treated', in part, because they are 'debarred from experiencing the realisation of self which comes from a skilful and devoted exercise of social duties' which constitutes 'one of the main forms of human good.'[300] We thus have reasons to equalise opportunities not only because this respects individuals' equal status and contributes to justifying the relevant inequalities, but also because the scope of opportunities which one enjoys plays an important role in enabling citizens to pursue and revise their conceptions of the good.[301]

When taken together, the principles of merit and substantive opportunity provide a powerful explanation of the complaints of unfairness that animate objections to nepotism across a diverse range of cases. They explain why nepotism appears objectionable even when no plausible desert claim is at stake. In the nepotistic distribution of prominent positions in media or business, contemporary allegations that the relevant beneficiaries are "nepo babies" do not plausibly rest on the thought that others deserve the associated rewards in virtue of a counterfactual analysis of prospective marginal contribution. Rather, the intuition underwriting such complaints is that access to desirable positions has not been governed by procedures that give similarly endowed or motivated individuals fair prospects of success and self-realisation. Likewise, in the perpetual rat race for jobs and educational places that all individuals are challenged with navigating, nepotism is widely regarded as objectionable not because it deprives "the most deserving" of their due, but because it fails to treat participants in a shared scheme of cooperation as individuals with capacities and aspirations that are worthy of equal recognition. Wherever access hinges primarily on social membership rather than qualifications that are defensible relative to an institution's purpose, the principle of merit is strained, and the principle of substantive opportunity is plainly undermined. For these reasons, merit should be disentangled from desert and instead grounded in these egalitarian considerations.

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[300] Rawls, *A Theory of Justice*, 73.

[301] Though some directly appeal to the value of autonomy in connection with the promotion of equal opportunity (see, Christman, *The Politics of Persons*, 243; Fishkin, *Bottlenecks*, 193–197), Rawls does not explicitly ground the ideal in the promotion of autonomy or any other particular conception of the good, given his disavowal of comprehensive and perfectionist theories (see Rawls, "Justice as Fairness: Political Not Metaphysical"; *Political Liberalism*, Lecture V). Still, as noted above, fair equality of opportunity is closely connected to the moral powers ascribed to free and equal persons and to what Rawls calls the Aristotelian Principle, according to which the development of our "higher capacities" is rationally desirable and among the main forms of human good. Like Fishkin, I think it is unfortunate that so many advocates of equal opportunity have overlooked the significant role that this distribuendum plays in shaping what we can do, be, and become. What is objectionable about inequality of opportunity, therefore, is not only that it is unfair in giving some unjustifiable advantages to some over others, but also that it imposes austere limitations on autonomous development and self-realisation. I note this now, as I shall return to discuss how we should make better sense of this appeal to autonomy in the context of selection for advantageous positions within the following two chapters.

Yet, as Joseph Fishkin argues, even Rawlsian conceptions confront a number of persistent difficulties. For present purposes, the most significant of these is what Fishkin calls the problem of merit: the worry that what count as differences in "talent" or "effort" are themselves inseparable from background social advantage.[302] Fishkin responds not by abandoning the aspiration to equal opportunity, but by reconceiving it through his theory of opportunity pluralism, which seeks to widen and diversify the bottlenecks that structure socioeconomic advancement and self-realisation. In what follows, I argue that whilst Fishkin's pluralist alternative avoids certain internal instabilities of Rawlsian fair equality of opportunity, neither framework can fully account for a distinctive class of cases involving what I call nepotistic reaction qualifications: scenarios in which the raison d'être of a position or institution appears to render relational properties relevant to selection. Together, these tensions reveal an indeterminacy within contemporary theories of equal opportunity concerning what may legitimately count as a qualification in the first place, and this motivates the turn to a more granular egalitarian interest in opportunity.

4.3 The Problem of Merit and The Puzzle of Reaction Qualifications

Despite the enduring influence of Rawlsian conceptions and the intuitive objections to nepotism they generate, Fishkin puts his finger on what turns out to be an intractable issue for such theories of equality of opportunity.[303] All such views attempt, in one way or another, to make a cut between two sets of properties with the aim of allowing inequalities that arise from native endowments to "shine through" competitive procedures, whilst neutralising those that stem from socioeconomic circumstance. Yet, as Fishkin persuasively shows, this neat division between natural endowment and social circumstance cannot be sustained, in either theory or practice.

Rawlsian equality of opportunity presupposes that we can meaningfully demarcate an individual's native talent and effort from their social background, and then

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[302] Fishkin also discusses what he calls the problems of the family, the starting gate, and of individuality in *Bottlenecks*, 48-56, 65-74, 74-82. Since my primary concern here is with the justificatory structure of meritocratic selection rather than with parental partiality, I focus on the problem of merit. For more discussion of the problem of the family, see, Munoz-Dardé, "Is the Family to Be Abolished Then?"; Gheaus, "What Abolishing the Family Would Not Do"; Brighouse and Swift "Legitimate Parental Partiality."

[303] As Fishkin notes, it is not the case that one is able to avoid the problem of merit by deferring to a starting-gate or luck egalitarian theory of equal opportunity, as these conceptions fare no better, see, *Bottlenecks*, 59-61, 65-66. Iris Marion Young also notes a problem similar to the one which Fishkin identifies in her discussion of 'the myth of merit', as does Clare Chambers in her discussion of the 'moment of equal opportunity'. See, Young, *Justice and the Politics of Difference*, 193-194, 200-206; Chambers, "Each Outcome is Another Opportunity."

design the basic structure so as to neutralise the influence that the latter has on the generation of inequalities. But building upon Williams's thought experiment, Fishkin invites us to consider the following example that brings the problem of merit into sharp relief.[304] Imagine two applicants competing for a single place at medical school. One is the child of highly educated parents, raised in an environment rich with books, expectations of academic success, and informal mentoring about how to navigate higher education. The other applicant is equally intelligent and hardworking but comes from a family and neighbourhood where few pursue college, and where even modest academic success requires overcoming significant obstacles. Both exhibit comparable effort, yet their realised achievements and credentials will likely differ: the first will score higher on standardised tests and present a stronger application, not because of greater native talent or ambition, but because their effort has been channelled through a vastly more enabling social environment.

From the standpoint of Rawlsian equality of opportunity, these effects of the socioeconomic structure should be neutralised so that competition reflects only differences in native endowment. Yet Fishkin argues that there is no coherent or practicable way to make this separation. For what appear to be "natural" traits—abilities, ambitions, or even dispositions to exert effort—are themselves products of iterative developmental interactions between individuals and their environments.[305] As Fishkin succinctly puts it, there is 'no way to separate a person from the accumulated effects of her interactions with her circumstances […] because the product of those accumulated interactions *is* the person.'[306] The Rawlsian attempt to identify a residual set of native endowments, against which outcomes can be assessed, thus relies on a counterfactual ideal that cannot be identified or measured.[307] Once talents and dispositions are

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[304] Fishkin, *Bottlenecks*, 57-59.

[305] ibid.

[306] ibid., 64.

[307] One might be tempted to push back here and argue not only that Rawlsian conceptions remain plausible, but that many actual institutional efforts to mitigate socioeconomic disadvantage, such as those employed in university admissions, render such theories viable in practice. This response, however, mistakes the fundamental point at issue. The claim is not that there exist no imperfect measures for mitigating socioeconomic disadvantage or levelling the playing field, for example, by calibrating the evaluation of test scores in light of the school one attended or the area in which one grew up. The difficulty highlighted is more fundamental. Rawlsian theories presuppose that, once unequal background conditions are appropriately discounted, there remains some morally relevant residue of native talent and ambition that can legitimately justify differential outcomes. But if one's talent and ambition is developmentally inseparable from the environment that shapes them, then any justification of inequality that hinges on comparison with such a purified baseline risks appealing to counterfactual individuals—persons who would have emerged under entirely different formative conditions—whose determinate capacities cannot be specified independently of the very social structures the theory seeks to neutralise.

understood as developmentally constituted aspects of individuals' identities, it becomes unclear what independent justificatory work is done by appealing to differences in "native" endowments, as opposed to differences in *realised* endowments within more or less equal conditions.

Rawlsian theories of equality of opportunity thus inherit a dilemma. If they adopt a broad institutional conception of merit, such that it is permissible to defer to *any* qualifications that predict performance, then they risk rewarding precisely the social advantages that the principle of substantive opportunity aims to neutralise and we arrive at something akin to a less austere version of Williams's warrior society. If, by contrast, they narrowly construe legitimate qualifications as native talent plus effort, then they invoke a distinction that cannot be operationalised.[308] Either way, the problem of merit presents a significant internal challenge for those sympathetic to a Rawlsian conception of equality of opportunity and so has implications for our capacity to evaluate part of the wrong of nepotism, as well as the unequal distribution of advantageous positions simpliciter.

Fishkin's proposed solution to these problems works forward from the insight that opportunities cannot be equalised in this way at a single point in time, and so must

[308] It might be thought that one can avoid many of these problems by appealing to the role that the Difference Principle plays within Rawls's conception of democratic equality. Following this line of reasoning, rather than attempting to make the separation discussed, one might seek to justify differential outcomes that flow from unequal social circumstances whenever they serve to raise the expectations of the worst-off. On this reading, otherwise morally arbitrary factors may permissibly generate greater reward, but only where the resulting inequalities benefit the least advantaged. However, appealing to democratic equality in this way risks undermining the distinctive normative role that fair equality of opportunity is meant to play within Rawls's framework and sits uneasily with his explicit claims about lexical priority. For if inequalities traceable to background conditions are deemed permissible solely because they improve distributive outcomes, then the constraint imposed by fair equality of opportunity no longer operates independently. The idea that individuals should rise only as far as their native endowments and ambitions will take them ceases to do primary justificatory work and would instead be conditional upon the satisfaction of the lexically subordinate Difference Principle.

instead be addressed in a more holistic manner.[309] More specifically, Fishkin argues that egalitarian concerns about opportunity are best conceived as objections to narrow competitive procedures through which everyone must pass, and that meaningfully exclude people from a variety of socioeconomic opportunities and developmental pathways. To make sense of this, Fishkin introduces the metaphor of 'bottlenecks': those critical junctures or narrow gates in social and educational systems that determine access to advantageous positions.[310] The problem with bottlenecks is that they concentrate developmental opportunity and thereby magnify the effects of prior inequality. Once someone is excluded from the range of goods and opportunities that flow from success in a particular competition, she is not only setback in the grand scheme of things, but may find herself locked into a course of life that, to echo Fishkin's discussion of John Stuart Mill, is alien to her interests as a progressive being.[311] Conversely, when bottlenecks are widened or multiplied, individuals can develop their capacities and pursue diverse conceptions of the good along different trajectories,[312] rather than being bound to a narrow path with little recourse for further development.

Fishkin refers to the more dynamic ideal underlying the imperative to open bottlenecks as opportunity pluralism.[313] Whereas Rawlsian equality of opportunity seeks to neutralise inequalities arising from arbitrary advantage within society's overarching economic hierarchy, opportunity pluralism aims to multiply and diversify the routes through which individuals must proceed. Equal opportunity, in this more dynamic sense, requires maintaining an institutional landscape in which people with different talents,

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[309] Interestingly, Fishkin draws some inspiration here from David Miller and Michael Walzer. Fishkin gestures towards Miller's (*Principles of Social Justice*, 200) statements on whether economic desert should count 'for everything', or if other spheres such as 'artistic achievement', 'public service', and 'education and scholarship' might carry 'their own mode of recompense', thereby contributing to fulfilling something like Walzer's (*Spheres of Justice*, 16–17) notion of 'complex equality': the idea that different principles should govern the distribution of different goods in different spheres. From Miller's discussion, however, it is ambiguous how these comments should be interpreted in light of his fundamental commitment to a desert-based conception of merit. Though it is evident that his endorsement of such a conception need not entail any claims about the distribution of basic necessities 'such as healthcare' (see, *Principles of Social Justice*, 200), it is less clear how one might disentangle desert-based justifications for economic rewards in the labour market from the rewards attached to educational achievements that typically qualify individuals for these positions. Although Walzer's complex equality sets out different principles for different social and economic spheres, I understand him as being motivated by concerns that are distinct from the ones which Fishkin raises. Towards the end of this chapter, I consider Walzer's claim that the regulation of nepotism within the private sector is objectionable, not only because it harms entrepreneurial activity but also because it blocks an important pathway for newly-arrived immigrants.

[310] Fishkin, *Bottlenecks*, 80-82.

[311] See, ibid., 193-194.

[312] ibid., 135.

[313] For Fishkin's detailed discussion of bottlenecks and opportunity pluralism, see, ibid., 130-193. For brevity, I summarise the central contours of Fishkin's view here.

ambitions, backgrounds, and conceptions of the good are able to flourish. The commitment to open competition and socioeconomic mobility that underwrites conceptions of equal opportunity is thus advanced not by perfecting fairness within a single sequence of contests, but by widening the gates through which people must pass and installing new ones at different junctures.

To make the metaphor of a bottleneck more vivid, consider the more concrete example of college as a bottleneck that Fishkin discusses.[314] In many societies, access to a wide range of advantageous positions is effectively gated by possession of an undergraduate degree. This creates a significant bottleneck by Fishkin's lights, since individuals must filter through a single and oftentimes highly selective pathway in order to access a broad range of opportunities. From the perspective of opportunity pluralism, widening the gates here involves not only making access to higher education more equitable, but also creating alternative routes into such careers—for example, through apprenticeships, vocational training, or forms of on-the-job accreditation that allow individuals to demonstrate competence without passing through a narrow educational sequence at a particular juncture of their lives.

There are two upshots to moving in the direction which Fishkin's theory proposes. Structurally, it calls for institutions to evolve so that advantages do not continually compound, and so that new openings appear for those previously excluded. Morally, it explicitly connects the promotion of equality of opportunity with human flourishing and a thin notion of autonomy that is sensitive to 'diversity in regard to what roles (jobs, relationships, or other roles in society) and what goods people wish to have in

[314] ibid., 205-212.

their own lives.'[315] Taken together, these structural and moral upshots mark a change in tack by reorienting the aim of equality of opportunity from the static achievement of fairness within a particular competition to the cultivation of institutions that widen access and enable self-realisation. For Fishkin, the value of promoting opportunity for all citizens lies not only in its distributive fairness, but in the way that enhancing the scope of people's opportunities enables them to exercise their capacities and pursue their own good in their own way. On this view, justice does not require us to separate nature from nurture with the ultimate end of assessing the former, but the more pragmatic task of ensuring that individuals are not confined by the particular pattern of opportunities or tests that define their upbringing and constrain their future options. By relieving bottlenecks and proliferating occupational pathways, societies can mitigate the arbitrariness of social advantage and embolden citizens to pursue diverse plans of life.

Finally, it is worth noting that Fishkin's account invites a further insight that bears directly on the relationship between nepotism and forms of structural injustice. The metaphor of a bottleneck can be extended beyond the evaluation of educational and occupational gates to the informal social structure through which access to those gates is mediated by one's membership of, or placement within, a socially salient group.[316] Although Fishkin has in mind the sequence of educational and professional gates through which individuals must pass to access advantageous positions, nepotism can be

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[315] ibid., 135. In a review article, Kimberly Yuracko suggests (*Symposium on Joseph Fishkin's Bottlenecks*, 17) that Fishkin's theory 'seems deeply rather than weakly perfectionist', and so egalitarians opposed to perfectionism may question whether this really is a moral upshot. I believe, however, that this need not trouble such egalitarians too much, since Fishkin appears to invoke a notion of autonomy akin to what Ben Colburn describes as 'content-neutral' in "Anti-Perfectionisms and Autonomy," 249. This appeal to autonomy is plausibly considered to be content-neutral insofar as it 'does not fully specify any particular states of affairs' as valuable and thus may constitute only a thinner variety of second-order perfectionism. Yuracko's interpretation hinges on Fishkin's rejection of appearance-based discrimination, but this may ultimately reflect her own perfectionist commitments as outlined in "Toward a Feminist Perfectionism." For a recent, complementary analysis of appearance discrimination see, Mason, *What's Wrong with Lookism?* Putting aside the question of Fishkin's own perfectionist commitments (for his own discussion see, *Bottlenecks*, 193-197), I consider the appeal to self-development and autonomy here to be broadly consistent with an anti-perfectionist, Rawlsian commitment to fair equality of opportunity and the Aristotelian Principle. That said, although Fishkin is right to emphasise the connection between opportunity, reasonable pluralism, and a thin conception of autonomy, I do not incorporate this appeal directly into the egalitarian interest in opportunity developed below. Instead, I treat considerations of autonomy and self-authorship as generating distinct moral reasons—namely, interests in associative and occupational authorship—which are considered in Chapter 5. This separation avoids potential ambiguity about the role such considerations should play within an account of equal opportunity, particularly in cases where appeals to individual projects or relationships might otherwise be treated as internal to the egalitarian standard itself, rather than as distinct, countervailing considerations bearing on the permissibility of opportunity-restricting practices.

[316] Though I have in mind here how nepotism might reinforce structural injustice given homophilic social tendencies, others such as Derrick Bell, observe how the language of kinship is often used so as to mask racial considerations. On this matter, Bell states that 'whites tend to treat one another like family, at least when there's a choice between them and us. So that terms like "merit" and "best qualified" are infinitely manipulable if and when whites must explain why they reject blacks to hire "relatives"—even when the only relationship is that of race.' See, Bell, *Faces at the Bottom of the Well*, 56.

seen as both exploiting and intensifying what we might refer to as *social bottlenecks*: those narrow and exclusionary networks that individuals must enter if they are to attain certain positions. Because individuals tend to form close relationships with others of similar educational, class, ethnic, religious, and gender backgrounds, these networks often reproduce existing hierarchies and offer few entry points for outsiders.[317] Given this homophilic organisation of social networks, nepotism not only compounds advantage over time for specific individuals, but often deepens inequality between socially salient groups by sustaining patterns of informal exclusion.[318]

For these reasons, opportunity pluralism appears congenial to various egalitarian considerations, and rightfully recognises nepotism as an exclusionary mechanism through which advantage compounds and which plausibly solidifies particular occupational paths into socially exclusive bottlenecks. Notably, however, where nepotistic selection does not materially restrict mobility or self-realisation because comparable pathways exist elsewhere, Fishkin's pluralism may have little reason to condemn it. Conversely, where such practices demonstrably entrench bottlenecks, the appropriate response may be a kind of institutional diversification as opposed to a prohibition on such practices themselves.

Fishkin's pluralist framework therefore represents a significant shift in the way egalitarian concerns about opportunity might be understood. Rawlsian theories attempt to capture intuitive complaints of unfairness by articulating a precise principle governing the fairness of particular competitions. Yet, as Fishkin shows, this approach relies upon a

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[317] Given that such homophilic social tendencies are so well established, it is striking how little attention philosophers have paid to nepotism as a pervasive practice that risks deepening structural injustice and exclusion along lines of social salience, since it is precisely these inequalities which have been the primary focus of reform in recent decades. For an overview of the extensive empirical evidence supporting what sociologists call the 'principle of homophily', see, McPherson et al, "Birds of a Feather: Homophily in Social Networks." For an interesting analysis of the effects of homophilic organisation for women participating within academic philosophy, see, Demarest et al, "Similarity and Enjoyment: Predicting Continuation for Women in Philosophy."

[318] With this in view, one might scrutinise my earlier rejection of the view that nepotism constitutes wrongful discrimination in §1.3, given what I say here about nepotism's predictable disparate impact in contexts marked by homophily and unequal social capital. Whilst I acknowledge that nepotism often sustains informal exclusion along socially salient lines, it would be misleading to characterise it as a form of indirect discrimination. In paradigmatic cases of indirect discrimination, a seemingly neutral criterion (e.g. a height requirement) is applied uniformly and is later shown to disproportionately burden members of a socially salient group (e.g., women). Nepotism, by contrast, privileges particular relationships and any group-level disparity is derivative of background network structures rather than constitutive of a particular criterion. Anti-discrimination norms regulate criteria that sort individuals in ways that track or proxy protected characteristics. If nepotism were classified as discriminatory merely because it predictably widens structural inequality, the wrong of discrimination would expand beyond those limits and any preferential treatment contributing to background injustice could be redescribed as discriminatory, irrespective of its basis. Discrimination would thus cease to be a normatively distinct moral and legal category, and conceptual confusion would abound regarding what discrimination consists in.

distinction between native endowment and social circumstance that cannot be sustained in either theory or practice. In response, Fishkin proposes that we shift our focus away from the fairness of particular contests and instead evaluate the overall structure of opportunity. The central question becomes not whether any given competition perfectly isolates merit, but whether the institutional landscape contains sufficiently diverse pathways through which individuals may develop their capacities and pursue valuable projects.

This move successfully avoids the problem of merit that besets Rawlsian conceptions, but it does so by altering the object of evaluation. Rather than considering whether a particular gate is fair, Fishkin asks whether the opportunity structure as a whole contains enough gates. Yet this shift in rationale comes at a cost. Once our evaluative focus moves to the overall ecology of opportunity, we are less able to produce determinate answers about the permissibility of specific selection practices, even if we retain a loosely specified commitment to selecting qualified candidates within particular roles. This reflects the fact that Fishkin's framework is primarily diagnostic, identifying problematic opportunity structures rather than providing a fine-grained standard for evaluating particular selection decisions.

But even within a relatively plural opportunity structure, a question remains concerning whether any egalitarian concern persists regarding the way in which particular positions are allocated. It is precisely here that a further puzzle emerges for the theories of equal opportunity discussed, for even a pluralist framework must presuppose some account of what may legitimately count as a qualification in selection for advantageous positions.[319] After all, the identification of bottlenecks and the evaluation of opportunity structures depend upon background assumptions about which institutional gates are normatively defensible and which merely reproduce objectionable advantage. Whilst Fishkin's framework provides a nuanced diagnosis of the problems associated with bottlenecks, it offers comparatively less guidance about how such questions should be resolved in particular cases, and is less well suited to diagnosing or remedying practices like nepotism, whose effects are far less visible than those involving undergraduate degrees or residential segregation.

This puzzle arises in a distinctive class of cases that involve what I call nepotistic reaction qualifications: scenarios in which the raison d'être of a position or institution appears to render relational properties relevant to selection. These cases do not only raise

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[319] A point which Jacob Vigdor echoes in his review of *Bottlenecks*, where he presses Fishkin for further analysis on the utility of such competitions, stating that in 'many cases, the "bottlenecks" themselves may have been conceived as methods of more fairly assessing individuals who had previously been assessed on the basis of ascribed characteristics. At the time of their implementation, they were steps in the right direction.' See, Vigdor, "Joseph Fishkin. Bottlenecks," 179.

concerns about unequal social capital or the concatenation of opportunity, but press on the concern of what may legitimately count as a qualification in the first place and just how open the relevant competitions ought to be. Even within a relatively plural structure, we must still decide whether such relational properties can permissibly legitimate access to particular positions and whether a commitment to fairness underwrites objections to both meritocratic and non-meritocratic nepotism.[320] It is this normatively prior question that neither Rawlsian theories of equality of opportunity nor opportunity pluralism by themselves fully resolve. To further elucidate the puzzle described, consider the following cases which, in my view, are not all equally troubling nor straightforwardly objectionable, but rather bring into view finer-grained questions about what may legitimately count in selection given the aforementioned egalitarian concerns about opportunity.

> ***Agency*:** Victor is the president and chairman of a prominent sports management agency that negotiates contracts for elite athletes. Victor founded the company decades ago and brands the agency as a family-run operation that treats its clients like family. As Victor ages, he appoints his son as chairman and tasks him with day-to-day operations of the agency. Whenever the business expands into new markets, Victor fills the new senior positions that these opportunities generate with unqualified relatives and long-time family friends. These appointments effectively exclude outsiders from some of the most desirable positions within the agency and hence the sector. The agency's core activities (e.g., negotiating contracts, managing clients, coordinating publicity, and expanding into new markets) do not depend on collaboration with particular individuals. Nor do clients seek out the agency because of its familial branding, but rather in virtue of the services it provides and the outcomes it delivers within a competitive market.

> ***Band*:** Rostam and Henry are close friends who grew up playing music together. Henry taught Rostam how to play the guitar and both had a significant influence on one another's musical taste. Rostam secures a major record deal and is scheduled to record a solo album and embark on an international tour. Rostam has complete discretion over the musicians who will join him in production and on tour. Rostam decides to hire Henry, despite knowing that Henry is (at best) a middling guitarist and that there is no shortage of technically superior musicians

[320] In fact, it is plausible to think that answering these questions will be integral to the project of opportunity pluralism itself, since the structure of opportunities individuals face cannot be evaluated without some account of what counts as a legitimate constraint on access.

who are recommended to him. Rostam's rationale is not sentimental indulgence alone, as he believes that his close relationship with Henry will produce greater musical chemistry and help him stay true to his artistic vision. In this respect, Rostam understands continued collaboration with Henry to be integral to the project he aims to realise.

***Cafe*:** Maria is the owner and manager of a modest but successful cafe that has been within her family for three generations. The cafe prides itself on being a family business and has been intimately tied to its local community for a century. In an oversaturated market, the cafe's familial ethos provides a competitive edge as customers enjoy family recipes and react positively to family members performing various roles. Maria is nearing retirement and must choose someone to succeed her as manager. Maria selects her daughter Roberta over candidates with greater technical expertise because the cafe's success is predicated on its familial legacy and because she trusts Roberta as a custodian of the business.

Cases like Agency, Cafe, and Band, exemplify the existence of what Alan Wertheimer referred to as 'reaction qualifications'.[321] They are scenarios in which the evaluative dispositions and preferences of either employers, employees, or clients (hereafter recipients) render a number of personal characteristics, including relational properties, relevant to selection.[322] In these cases, membership of a social network positively influences the distribution of a position, and this presents the aforementioned theories of equal opportunity with a complex puzzle.[323] Such cases prompt us to view considerations like "being a relative" as meritocratic reasons for selection in scenarios where the presence and visibility of these special relationships promote the relevant

[321] Wertheimer, "Jobs, Qualifications, and Preferences."

[322] ibid., 99-112. Although it perhaps worth noting that I am the first of the few theorists who have engaged with this puzzle to explicitly discuss the possibility of nepotistic reaction qualifications. I consider one way of delineating the permissibility of such reaction qualifications proposed by Lippert-Rasmussen in the following chapter before proposing my own solution.

[323] Contra Walzer (*Spheres of Justice*, 161), this presupposes that the relevant principles of equality of opportunity may apply to both the public and private sector, or at the very least, leaves the scope of these principles open to further debate. I take it for granted here that advocates of contemporary conceptions of equal opportunity subscribe to the view that formal equality should apply in both sectors, as narrowing the scope of this requirement to the public sector would trivialise the commitment to equal opportunity and permit egregious forms of discrimination in the private sector which are typically thought to be impermissible. Moreover, if one takes the commitment to substantive opportunity and opening of bottlenecks as seriously as Fishkin and others do, then one has reason to be concerned about a society in which nepotistic hiring is prevalent, since the relevant practices effectively bar outsiders from gaining the qualifications or experience necessary to climb the socioeconomic ladder or pursue different occupational paths.

institutional purposes as defined by those selecting.[324] Though ordinary meritocratic judgements typically appeal to what one might regard as "technical" qualifications, closer examination of the attributes relevant to the distribution of positions reveals a much broader range of considerations.

Not everyone, for example, can cultivate the kind of charisma that makes one an effective salesperson, yet a recipient's positive reaction to this trait may seem both permissible and appropriate from the perspective of an institutional conception of merit. Acknowledgement of reaction qualifications is perhaps necessary, then, if we are to differentiate between candidates who would better promote an institution's purpose and a candidate has good reaction qualifications when they have 'abilities or characteristics which contribute to job effectiveness by causing or serving as the basis of the appropriate reaction'.[325] However, we may wonder whether it is always permissible to count nepotistic reactions as part of a meritocratic assessment given the way in which their appraisal risks excluding others.

Enlarging the scope of what might legitimately count as a qualification to include such considerations seems to sit uneasily with the commitment to open positions that contemporary conceptions of equal opportunity presuppose. One way to illustrate this tension is to return to the notion of substantive opportunity which influences much of the relevant theory. On common readings of this principle, it not only matters that individuals are able to enter a procedurally fair competition for a position, but as Scanlon puts it, that they have access to the means 'required to develop the abilities required for that career'.[326] Once, however, we recognise considerations like "being a relative" as potentially meritorious features, some positions will cease to be meaningfully open even within a relatively open opportunity structure.[327] The difficulty, however, is not merely

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[324] Crucially, that a given selection plausibly contributes to an agent's stated institutional purpose should not be conflated with satisfying the egalitarian interest in efficiency developed in Chapter 3. The latter does not concern the success of individual decisions relative to locally defined aims, but whether institutional practices form part of a scheme that reliably tracks competence and sustains productive capacity in a way that people have impartial reason to endorse. Localised or role-relative contributions may therefore come apart from this broader standard.

[325] Wertheimer, "Jobs, Qualifications, and Preferences," 100.

[326] Scanlon, *Why Does Inequality Matter?*, 65.

[327] Some suggest that the distribution of social capital can be equalised in order to attend to issues concerning integration and distributive injustice. Irrespective of whether one endorses the equalisation of opportunities for social capital, integrationist policies, or the redistribution of relationships themselves, these solutions strike me as unlikely to redress problematic nepotism. Even if we are able to move towards a more egalitarian distribution of social capital, this would do nothing to ameliorate nepotistic tendencies and we will still be left with social networks which are more or less advantageous given homophilic social tendencies. Cf. Anderson, *The Imperative of Integration*; Cordelli, "Justice as Fairness and Relational Resources."

that access to the relevant networks is socially contingent and exclusive. Rather, reaction cases force us to confront the prior question of what may legitimately count as a qualification in the first place, and how that question should be answered once the problem of merit is in view. In this way, the puzzle of nepotistic reactions exposes a further tension between institutional conceptions of merit and the commitment to open positions that the spirit of equal opportunity encapsulates.

Are complaints of unfairness morally legible in cases involving nepotistic reaction qualifications, or is such nepotism entirely innocent whenever those selecting deem it relevant to an institution's purpose? On the one hand, if relational properties such as being a friend or relative plausibly contribute to an institution's purpose in certain cases, then excluding them outright appears misguided from the perspective of efficiency. On the other, admitting them without constraint not only risks undermining the commitment to open positions that animates theories of equal opportunity, but may normalise exclusion in ways that inhibit self-development and signal whose ambitions are to be taken seriously within shared schemes of cooperation. This is not only the case, I contend, in cases where more pernicious reactions are present, but also in cases involving nepotistic reactions where comparable opportunities exist elsewhere, since selective narrowing in the allocation of advantageous positions carries some egalitarian cost, even absent any significant bottleneck.

The thought here is that even against a relatively plural background, competitions for particular positions occur at specific moments in time, and so exclusion at any given juncture may impose costs that are not fully ameliorated by the availability of alternative routes. Since opportunities are not interchangeable across time or context, being passed over in one competition *always* produces a temporal cost even when a particular closure does not ultimately block access through comparable gates in the future. Moreover, even a single restriction or closure may produce further developmental or expressive costs and these costs arise from the fact of exclusion itself, rather than from any prior judgement about whether the criteria employed are legitimate.

To motivate this further, return to Band where Rostam selects Henry, in part due to beliefs about their musical chemistry and shared vision. Suppose further that this occurs against a plural opportunity structure: nepotistic practices are rare both in this sector and elsewhere, there are multiple alternative entry points into similar positions, and so no broader exclusion exists which Fishkin is liable to find worrisome. Given this plural backdrop, the severity of the bottleneck here is both mild in terms of its pervasiveness and not clearly arbitrary since it may reasonably serve some functional

purpose.[328] As a consequence, it does not clearly undermine the kind of opportunity pluralism he has in mind.[329] The criterion bears some connection to the aims of the enterprise, and its effects on the overall opportunity structure are limited. As such, there may be no moral reason, from the standpoint of opportunity pluralism, that counts against it.

Even so, it is not clear to me that egalitarian concerns are entirely extinguished. Even if those who are overlooked are able to secure comparable work weeks, months, or years later, exclusion from this *particular* opportunity at this *particular* time may alter the trajectory of their career in ways that are not fully recoverable, given the non-fungibility of time and the path-dependent nature of many careers. Because opportunities are encountered at specific moments rather than as temporally exchangeable units, such exclusion can impose costs that are not eliminated by the later availability of similar but ultimately distinct positions. Moreover, the counterfactual effects of any particular decision are often difficult to predict in advance and may have downstream consequences for particular individuals that are not accurately captured by a structural assessment of opportunity alone. Although the costs identified may be small and easily outweighed within a plural structure, they do not, in my view, disappear entirely from the moral ledger. Such cases register, however weakly, as departures from the ideal of treating persons as equal participants in a shared scheme of cooperation. These worries only intensify when it comes to considering nepotism in non-ideal societies where the pervasiveness of social bottlenecks may be unclear, not simply because such societies are less plural than the one described, but because we may simply be unable to make the kind of structural assessment that Fishkin's pluralism calls for.

A remaining difficulty, then, for such theories concerns whether there exists a moral reason to object to the use of such relational criteria in selection, and how that reason should be characterised. The problem of merit already complicates Rawlsian attempts to isolate "pure" qualifications from social background. Fishkin avoids that difficulty by shifting the object of evaluation from the fairness of individual competitions to the structure of opportunity as a whole. Reaction cases, however, show that something important is left unsettled by this move. Even if a broadly plural structure would mitigate many of the gravest injustices associated with the restriction of opportunity, it remains unclear whether and in what sense particular acts of selective narrowing carry an egalitarian cost. The existence of alternative routes may mitigate that cost, but it does not by itself determine that the narrowing at hand is unobjectionable.

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[328] ibid., 160-164.

[329] ibid., 160-164.

This is in part due to non-fungibility of opportunities that occur at particular moments in time, but also as I noted above, because the operation and reach of social bottlenecks are opaque in practice, and so cannot be reliably assessed from the standpoint that Fishkin's framework presupposes.

With the spirit of substantive opportunity and pluralism in view, the question, therefore, is whether there is always some egalitarian reason to resist selective narrowing and, if so, how that reason should contribute to more concrete assessments of either meritocratic or non-meritocratic nepotism. In what follows, and in keeping with the turn to the interest in efficiency in the previous chapter, I argue that there is always a pro tanto egalitarian reason to resist selective narrowing in the allocation of advantageous positions, even though the force of that reason varies depending on what is foreclosed and what countervailing considerations are at stake. This, I believe, allows us to avoid the problem of merit, whilst also supplementing Fishkin's structural insight with a more fine-grained account of the costs imposed by particular exclusions. In this way, we can recognise an egalitarian interest in opportunity that is sensitive both to the shape of the opportunity structure as a whole and to the localised closures through which that structure is experienced.

4.4 The Egalitarian Interest in Opportunity

The preceding discussion reveals a specific limitation of both Rawlsian and pluralist approaches to equality of opportunity. Whilst each registers familiar worries about the compounding effects of advantage and exclusion, neither offers a sufficiently determinate account of whether complaints of unfairness remain morally intelligible in scenarios where relational properties ostensibly contribute to institutional purposes. What is needed, I contend, is a way of registering the wrong associated with both the structural and expressive dimensions of opportunity concentration, as well as the local moral reasons that individuals have to reject competitions that are effectively closed to them by the use of relational criteria. Such an account must capture the standing moral reason that individuals, qua equal participants in a shared scheme of cooperation, have in the continued expansion and accessibility of socioeconomic opportunities. It must also explain why nepotism can be objectionable even when its aggregate effects appear marginal, and why the narrowing of competitive terms may produce a pro tanto reason against practices. It is with this in mind that I propose the following interest, which all individuals share in being able to access open positions.

The Egalitarian Interest in Opportunity: There is a standing moral interest, grounded in persons' equal status as participants in social cooperation, in living under socioeconomic conditions that preserve and expand meaningful access to opportunities for education, work, and self-development across a diverse array of advantageous positions. This interest is scalar in weight and grounds pro tanto objections to institutional practices in proportion to the developmental and socioeconomic significance of the opportunities they foreclose. It is egalitarian insofar as: (i) it reflects each person's interest in pursuing primary goods and developing their capacities through access to advantageous positions; and (ii) it appeals to impartial reasons to resist practices that predictably concentrate advantage, restrict others' prospects for self-development and inclusion, or undermine the social assurance that access reflects equal standing rather than inherited connection, arbitrary preference, or the cumulative effects of background inequality.

Crucially, this interest is standing but defeasible. It does not condemn every exclusion or foreseeable narrowing as impermissible, but it renders all opportunity-restriction morally visible and requires that such restrictions are justified against the egalitarian costs they impose. Because almost every selection practice risks foreclosing some possible path for someone, this interest exerts *some* moral pressure in every case, but the pressure it exerts varies with the breadth and persistence of the restriction, its socioeconomic, developmental, and expressive salience, and the temporal structure of the opportunities it affects. Thus, not all forms of selectivity count as impermissibly exclusionary in the relevant sense, even if the interest identifies pro tanto reasons against the narrowing of criteria used in selection for advantageous positions. As will be made clear in the following chapter, selection on the basis of role-relevant competence or criteria integral to the institution's legitimate purpose will be permissible all things considered, provided that the relevant practices are constitutive of an institutional purpose that is itself capable of being justified on reciprocal terms to those affected by it.

Nepotism and other kinds of opportunity-restriction in selection may be relatively benign within small-scale institutions, such as Cafe, where the relevant practice is limited in scope and produces only modest egalitarian costs. By contrast, the cost registered by the interest heightens in scenarios where such practices structure access to positions that significantly shape life prospects, rendering them more difficult to justify. Even within a sufficiently plural opportunity structure of the kind Fishkin defends, this

interest registers a residual moral cost, though one that does not necessarily constitute a defect of justice. I acknowledge here that the allocation of scarce opportunities necessarily involves trade-offs between competing values, and that the presence of *some* cost on opportunity does not imply that an otherwise just arrangement is unjust.

Although the rationale underlying the interest in opportunity partly aligns with the structural concern expressed in Fishkin's opportunity pluralism, the interest presented here differs in both its application and level of moral specification. Fishkin's framework specifies what justice requires of society's basic structure, whereas the interest developed here articulates the moral grounds of the complaints that individuals have against the narrowing of specific gates that they must navigate. Fishkin's central insight, that we should abandon the pursuit of perfecting the principle of substantive opportunity and instead seek to widen bottlenecks and diversify life paths, presents us with an ideal to which I am largely sympathetic.

Yet opportunity pluralism remains primarily a structural ideal. It tells us why societies should cultivate more diverse and accessible routes to advantage, but stops short of identifying the more fundamental interest that underwrites this imperative, and how such an interest should bear on our assessments of the selective criteria which structure specific institutional gates. Moreover, whilst Fishkin's framework clarifies why opportunity concentration is unjust, it leaves uncertain whether particular closures, such as those brought about by nepotism, are objectionable even within a sufficiently plural landscape. Where Fishkin evaluates fairness by reference to overall ecology of opportunity, the egalitarian interest in opportunity explains why individuals may retain some moral complaint about particular closures even when other paths remain open. This is because such closures impose socioeconomic, developmental, and expressive costs at particular moments in time, costs that remain morally intelligible as grounds for complaint from the standpoint of those excluded, even when they are ultimately outweighed.

The existence of alternative routes elsewhere does not eliminate the costs of exclusion from a given gate, especially where that gate structures formative trajectories or shapes access to socioeconomically significant forms of recognition and advancement. This point is particularly salient in cases where access to such positions is temporally sparse or not easily replicable, as in the case of Agency, and, in a different way, Band. However, the normative significance of this fact differs across cases. In Band, the use of relational criteria is plausibly constitutive of the organisation's legitimate purpose, whereas in Agency, nepotism structures access in a way that is harder to defend as

such.[330] In these cases, it becomes difficult to see what a genuinely plural structure would require in practice. It would be implausible to suppose that fairness demands the creation of comparable opportunities where there is no independent basis for their existence, and yet there remains, in my view, an egalitarian cost in such cases, even if this cost does not entail duties of institutional reform.

Opportunity closures not only affect the allotment of goods attached to advantageous positions, but are of temporal and expressive significance. They occur at particular moments that shape an individual's developmental trajectory and signal whose efforts and ambitions are regarded as legitimate or worthy of reward. The expressive dimension operates in two related ways. First, selection practices signal who counts as a plausible candidate within a given domain (e.g., a professional field such as the entertainment industry). Second, these signals have downstream developmental effects, shaping how individuals come to understand which pursuits are realistically open to them. Indeed, the narrowing of competitive terms can meaningfully alter a person's capacities, confidence, and perceived standing within shared schemes of social cooperation, whilst redirecting them onto alternative paths that may themselves be burdensome to pursue.

These expressive considerations are most apparent in cases where exclusionary practices not only restrict material access but also shape whose ambitions are treated as credible within shared schemes of cooperation. When a small family cafe hires a relative over an outsider, the effects of the resulting closure may be minimal not only in socioeconomic or developmental terms, but also in its expressive significance. If comparable opportunities exist elsewhere and the role is not structurally central to economic or social mobility, the decision may say very little about individuals' standing as equal participants within the scheme of cooperation. By contrast, when a senior academic appoints a spouse to a junior role, or a political leader installs a relative in a key advisory post, the expressive weight of the decision increases. Such roles are gateways to recognition, social or cultural influence, as well as significant economic advancement. They structure access to positions whose benefits concatenate and whose allocation carries wider social meaning. It is here that such restrictions may communicate something about whose ambitions are to be taken seriously within shared schemes of cooperation, and, given the homophilic social tendencies noted above, may thereby intensify both the personal and systemic costs of exclusion over time.

Though this may initially seem demanding, I believe that this interest better reflects our intuitions about nepotism and other exclusionary practices, as well as our

[330] I elucidate this claim further in the following chapter.

continuing appetite for the renewal and expansion of opportunity structures. Historically, struggles for equality of opportunity have evolved in precisely this way. What once seemed sufficient in a particular domain soon appears inadequate when observers recognise that meaningful access is frustrated by informal disadvantages, prejudicial attitudes, unequal developmental opportunities, or the internalisation of narrowed horizons. Consider, for example, cases such as Agency or Succession (p.86), where access to a small number of highly influential positions structures entry into a distinctive and socioeconomically significant career. Where such positions are repeatedly allocated through relational criteria, the effect is not only to disadvantage particular candidates at specific junctures, but to shape who comes to see such careers as realistically open to them at all. Over time, individuals may rationally adjust their ambitions in light of these patterns, treating certain roles as effectively unavailable, even where no formal barrier exists. The egalitarian interest in opportunity captures this progressive deepening of moral expectations as institutional reforms unfold. As societies tend towards formal equality, the demand for genuine accessibility and diversification of opportunity becomes more finely specified as it becomes clear that earlier reforms leave significant obstacles unaddressed.

In this sense, the egalitarian interest in opportunity grounds pro tanto objections to exclusionary practices in proportion to the quantity and quality of the opportunities they foreclose, where quantity tracks the extent and pervasiveness of the restriction and quality the socioeconomic, developmental, and expressive significance of what is foreclosed. It thus makes clear that distinct considerations—such as those discussed in preceding chapters and those to be developed in Part II—must be balanced before the interest generates corresponding duties. Its moral force derives not only from individuals' claims to meaningful participation in social and economic life, but also from the ways in which opportunity closures foreseeably constrain ambition and, when entrenched within or across domains, express unequal regard within shared schemes of cooperation.

This interest therefore identifies something of moral significance that the frameworks discussed above do not fully capture. Rawlsian approaches attempt to secure fairness by isolating the effects of morally arbitrary endowments within particular competitions, whilst Fishkin's pluralist account shifts attention to the overall structure of opportunity and the distribution of pathways across it. Although each framework captures important aspects of egalitarian concern, both remain primarily oriented toward structural or procedural evaluation and are not oriented toward explaining why particular exclusions may remain objectionable even within otherwise acceptable arrangements. The egalitarian interest in opportunity not only preserves the intelligibility of such complaints, but explains them by identifying the socioeconomic, developmental, and

expressive costs that particular closures impose, especially as these arise at specific moments in time and shape individuals' trajectories and ambitions. In doing so, it articulates part of the moral ground on which opportunity structures must rest and provides a basis for evaluating and, where appropriate, revising the selective practices through which they are realised. Even under conditions approximating substantive fairness, competitive arrangements cannot be rendered fully self-justifying simply by aligning selection criteria with institutional purposes, since realised qualifications inevitably reflect background inequalities that no institutional design can wholly neutralise.

For this reason, selective practices do not lose their moral remainder once embedded within a broadly acceptable opportunity structure, and some pro tanto egalitarian reason to widen access or mitigate closure persists. In a world where social capital remains unevenly distributed and advantages concatenate across domains, individuals, considered as participants in a shared scheme of cooperation, have forceful reasons to object to practices, such as nepotism, that predictably narrow the scope of advancement, development, and ambition. The weight of this interest varies with both the extent of the restriction and the significance of what is foreclosed, understood in terms of its role in shaping individuals' developmental trajectories, socioeconomic prospects, and capacity to form and pursue ambitions. It weighs more heavily where opportunities are scarce or where exclusion coincides with other structural inequalities, and it remains sensitive to how the narrowing of any socioeconomic gate can dampen not only material prospects but also the aspirations for self-development and realisation that, in Rawls's terms, constitute one of the main forms of human good.

This helps to explain why complaints of unfairness, though always morally intelligible, vary in their weight across domains. Nepotistic hiring in a small family business may constitute a minor infringement, given its limited reach and the availability of comparable routes to employment. By contrast, nepotism in elite universities, government appointments, or concentrated industries like Victor's sports agency carries greater moral weight, as it restricts access to positions that function as gateways to concatenating opportunity and influence within their respective domains. The egalitarian interest in opportunity therefore supplies a continuous, though variable, source of moral pressure. It does not demand the impossible elimination of contingency or discretion, but it insists that restrictions be justified in light of both their particular and cumulative effects. It weighs more heavily where opportunities are scarce, structurally central, or socially salient, and it remains sensitive to how the narrowing of any socioeconomic gate can dampen not only material prospects but also the aspirations that give them meaning. Where roles are peripheral, widely replicable, and not embedded within patterns of

cross-domain advantage, the moral remainder may be negligible, though never absent entirely.

4.5 Objections

Having elucidated the egalitarian interest in opportunity, I now anticipate several objections to this proposal and develop my account further in response. As noted above, although much of what I have said here is in keeping with the spirit of opportunity pluralism, one might question the extent to which the interest proposed truly diverges from this ideal. By way of a response to this worry, recall once more that Fishkin articulates a structural ideal primarily concerned with the design of opportunity structures and diversification of life paths. The interest in opportunity, on the other hand, is a moral interest grounded in the claims of persons qua equal participants in a shared scheme of cooperation that draws attention to the moral weight of specific restrictions, and the role that the relevant moral costs should play in reform. As such, it identifies a standing moral stake that individuals have in living under conditions where opportunities are meaningfully open and identifies some residual moral cost on which particular closures can be contested even when other pathways are accessible. The explanatory upshot is that this interest clarifies the egalitarian appetite for ever greater inclusion and provides non-ideal theories with a principled objection to the narrowing of opportunities by pointing to their material, developmental, and expressive effects.

That being said, one might press this distinction further and scrutinise whether Fishkin could ultimately adopt such an interest, as well as my claims about what exclusionary mechanisms like nepotism express about individuals' equal standing. I acknowledge that such a move would indeed be plausible for Fishkin to make, but it is worth emphasising that this would vindicate rather than negate much of the work undertaken in this thesis. Although Fishkin offers persuasive reasons for widening bottlenecks, he devotes comparatively less attention to the origins and utility of such selective mechanisms. Many of the bottlenecks we encounter arise not only from prejudice or arbitrary exclusion, but as a means sometimes directed towards achieving greater fairness, managing scarcity, and promoting efficiency.

The moral question is therefore not simply whether a bottleneck exists, but how the reasons to mitigate it interact with other values, such as efficiency or liberty, that often explain its emergence in the first place. Yet, from Fishkin's discussion of pluralism, it remains unclear how such moral reasons are to be specified, weighted, and integrated with competing considerations in particular cases. Contrastingly, the egalitarian interest in opportunity does not merely identify bottlenecks as problematic but contributes to a

theoretical apparatus capable of assessing their moral weight and interaction with competing values. In doing so, it enables finer-grained judgements about when reform is warranted and when countervailing considerations may ultimately prevail. That being said, one might wonder whether such an interest ultimately identifies anything of independent moral significance beyond the pluralist concern with diversifying life paths and mitigating structural bottlenecks.

With this scepticism in mind, it might be argued that if justice requires something like opportunity pluralism and, hypothetically, if opportunity pluralism could be achieved, then what reason would we have to continue treating particular exclusions as morally troubling? In a sufficiently diverse opportunity structure, it might seem excessive to object to every narrowing of opportunity. The egalitarian interest in opportunity recognises that plural sufficiency mitigates injustice but denies that it exhausts our moral reasons for scrutiny. Even within a highly plural society, the temporal structure of opportunity would continue to generate residual costs: restrictions occur at particular moments in a person's life, foreclosing specific developmental paths and which require time, resources, and effort to ameliorate. These temporal and developmental costs are ineradicable features of social life, and so the interest registers a standing, though often modest, moral reason to remain attentive to opportunity-restriction, even if alternative routes remain available. This does not entail the judgement that every exclusion is morally urgent or impermissible, but that even in societies that approximate plural conditions there would remain scope for moral reflection and incremental reform. And so, in practice, the force of this scepticism is limited, given how far actual societies fall short of such plural conditions.

A further set of concerns takes aim not at the distinctiveness of the egalitarian interest in opportunity, but at its moral scope. For if every restriction is rendered morally visible, it might be argued that two related worries arise. The first holds that this implausibly commits us to the view that an endless widening of opportunities is always morally desirable and that this would culminate in what critics might describe as a "race to the bottom". By treating every opportunity-restriction as imposing some moral cost, the egalitarian interest in opportunity might seem to demand that all forms of selectivity be weakened or abolished, eroding meaningful standards, competition, and role differentiation. A further worry, the trivialisation objection, similarly presses the moral scope of the interest albeit from a different perspective. It suggests that if the interest exerts some moral force in every case, it risks depriving complaints of unfairness of their critical bite. On this view, the attribution of standing moral pressure becomes so pervasive as to be not only be redundant from the perspective of action-guidance, but potentially self-defeating for the aims of normative egalitarian theory.

Importantly, both objections misinterpret the function of the egalitarian interest in opportunity. The interest is scalar and defeasible, not absolute. It identifies a standing moral reason that varies in strength with the magnitude, persistence, and social salience of the opportunities at stake. To say that all closures are morally visible is not to claim that any narrowing is impermissible tout court. Rather, it acknowledges that the world cannot be purged of arbitrary advantage and insists that closures remain open to justification against the egalitarian costs they impose. The interest does not aim to flatten distinctions or dissolve selectivity, but to cultivate moral responsiveness: a reflective sensitivity to how institutional purposes and selective rationales can become objectionable when they impose disproportionate costs on participation, self-development, or aspiration.

The related charge of trivialisation mistakes the constancy of moral reason for its irrelevance. The fact that the egalitarian interest in opportunity exerts some pressure in every case does not make its claims vacuous, just as the existence of morally legitimate acts of deception does not trivialise our standing reasons to value honesty. What the interest provides is not a binary verdict but a measure of moral gravity, one that scales with the breadth, persistence, and social significance of the opportunities foreclosed. In this respect, the egalitarian interest in opportunity refines rather than inflates our moral vocabulary. It explains why some restrictions, such as narrow hiring decisions in small firms, carry minimal moral weight, whereas others, like nepotistic appointments to elite and symbolically charged positions, impose significant moral costs even when they remain formally lawful.

A further challenge arises from Michael Walzer's defence of the 'petty-bourgeois' world as a distinct moral sphere within which favouritism and familial exchange are not only permissible but, at times, morally required.[331] In *Spheres of Justice*, Walzer argues that small enterprises, such as 'stores, shops, and services', form the 'staple of neighbourhood life' and are often the source 'of economic innovation'.[332] He contends that within this world, 'favours are constantly being exchanged and jobs given out to friends and relatives'; nepotism, he suggests, is thus 'not merely approved; it often appears to be morally required'.[333] For Walzer, interference by the state and the extension of public-sector norms of fair employment into this sphere is 'not only undesirable but illegitimate', since entrepreneurial activity sustains valuable forms of community control

[331] Walzer, *Spheres of Justice*, 161.

[332] ibid.

[333] ibid.

and offers a crucial foothold for newly arrived immigrants who 'have been able to move into this economic world and to prosper there'.[334]

At first glance, these claims appear to undermine the moral significance of the egalitarian interest in opportunity. If nepotism can aid social mobility among groups otherwise excluded from mainstream labour markets, then perhaps certain opportunity closures are not objectionable at all. Yet Walzer's example in fact reveals the strength of the interest rather than its weakness. The egalitarian interest in opportunity assigns appropriate moral weight to such practices without rendering them either wholly permissible or devoid of moral force. It recognises that, within contexts of structural disadvantage, exclusionary mechanisms like familial hiring can function as adaptive responses to background injustice. Nevertheless, the same interest directs our attention to the systemic conditions that make such adaptive practices necessary in the first place, and therefore to the importance of widening the range of opportunities available to newcomers so that access to work and development does not depend upon inherited or ethnically bounded networks. In this respect, the interest neither condemns immigrant entrepreneurship nor romanticises its exclusionary elements, but evaluates them as context-sensitive responses whose moral defensibility weakens as access is widens.

It might be argued here, however, that Walzer's deeper claim is not merely that familial hiring can mitigate background injustice, but that the petty-bourgeois sphere possesses its own internal goods, such as entrepreneurial discretion, neighbourhood solidarity, and associative exchange, whose value may justify departures from norms of fair employment. The egalitarian interest in opportunity does not deny that such sphere-specific goods exist, but only that they do not render opportunity costs morally invisible. Even where entrepreneurial discretion has independent value, the exclusions it generates remain part of the broader evaluative ledger and must be weighed against the egalitarian costs they impose. The view therefore respects sphere differentiation without treating economic spheres as normatively sealed.

This response also anticipates a deeper objection grounded in liberty and associative autonomy. By treating opportunity closures as morally significant, one might worry that the egalitarian interest in opportunity threatens individuals' liberty to choose their business partners, employees, or collaborators on non-egalitarian grounds. Would not constant moral scrutiny of such choices collapse the space for occupational choice and cultural or familial association? Here, however, the defeasible nature of the interest does important work insofar as it identifies moral costs as opposed to duties that are the outputs of all things considered judgements. To acknowledge that nepotism and similar

[334] ibid.

forms of exclusion impose opportunity costs is not to claim that they are always impermissible, but to make those costs visible so that they can be weighed against competing claims of efficiency and associative or occupational integrity. Indeed, recognising these countervailing interests is what distinguishes my overarching framework from less realistic theories which flatten consideration of countervailing interests in order to arrive at seemingly eloquent solutions. The egalitarian interest in opportunity thus preserves room for the goods of associative and occupational authorship, whilst requiring sensitivity to the costs which the exercise of such authorship may produce. Notably, this does not assume that one only needs to invoke the offence of some mere negative liberty in order to defeat the egalitarian pressure that the interest generates and in the following chapter, I consider how such balancing should proceed as a means to generate more concrete duties.

A further objection targets the expressive and aspirational dimensions of the egalitarian interest in opportunity. Even if one accepts the preceding arguments, it might be argued that by construing exclusions as morally problematic expressions of unequal regard, the account risks a kind of expressive overreach. On this view, the interest inflates the moral stakes of ordinary selectivity, misconstruing pragmatic, professional, or associative judgments to questions of recognition and respect. After all, not every exclusion—say, a director's aesthetic preference in casting, a coach's selection based on teamwork, or a club's criteria for shared purpose—expresses unequal regard or has a salient effect on ambition. In many contexts, selective narrowing may be morally insignificant. They neither communicate disrespect nor meaningfully diminish anyone's standing as a participant in cooperative life.

The egalitarian interest in opportunity does not deny this. Its expressivism is diagnostic and pattern-sensitive, not totalising. It highlights how certain exclusions can acquire moral significance when they predictably communicate or entrench patterns of unequal standing—particularly where exclusion tracks inherited connection in socially salient domains—but it does not collapse all exclusions into expressive wrongs. The interest is thus sensitive to the expressive dimensions of exclusion but nuanced. The interest tracks a moral remainder in cases where exclusion communicates who counts as a plausible participant and hence predictably undermines ambition and self-development. Not every isolated or role-dependent exclusion generates weighty expressive costs. Many exclusions will be fully justified by reasons of efficiency and occupational or associative reasons, and considerations such as professional competence, trust, or shared vocation. Yet the point of the interest is to show why such exclusions are not always normatively inert features of institutional life, but may carry a residual moral cost even when they are justified all things considered. Even when a particular decision is justified, its opportunity

costs still register within the broader egalitarian ledger as something to be weighed and, where possible, mitigated. Recognising these residual costs is not merely theoretical. It allows for greater evaluative precision in distinguishing cases, and provides direction for incremental reform by identifying where and how opportunity structures can be made more inclusive over time.

Finally, one might question whether the narrowing of ambition truly has moral weight in every case. After all, not all foreclosed opportunities meaningfully shape a person's sense of what is worth aspiring to. This is partly correct, since the moral force of the interest depends on the developmental and social salience of the opportunity in question. Yet it is precisely this sensitivity that distinguishes the view from more demanding egalitarian ideals. The egalitarian interest in opportunity does not claim that every dampened ambition constitutes an injustice, but that societies have reason to care about the cumulative effects of opportunity structures on the scope of aspiration itself. By attending to how exclusionary practices delimit what people come to regard as plausible or worthy pursuits, the interest captures an overlooked moral dimension of inequality of opportunity that connects personal ambition to the background conditions of recognition and participation that make aspiration meaningful.

PART II

5. What Makes Nepotism Wrong?

Having assessed some false starts within the introductory chapter, Part I then developed three distinct but complementary objections to nepotism in the integrity account of corruption, the egalitarian interest in efficiency, and the egalitarian interest in opportunity. Taken together, these arguments provide a response to the first desideratum identified within Chapter 1. Namely, they faithfully capture and make sense of our intuitions regarding nepotism's wrong-making features across a diverse range of cases. Each captures an important aspect of what is morally troubling about nepotism and helps to illuminate why we have reason to object to its occurrence whenever it corrupts the relevant institutions or harms the relevant interests. A further question, however, still remains open concerning how we might draw a more precise line between permissible and impermissible nepotism once these moral considerations are in view. This chapter takes up that task. In doing so, it responds to the second desideratum identified within Chapter 1 by integrating these earlier contributions into a framework for assessing the permissibility of nepotism.

In Section 5.1, I begin by considering the impermissibility of nepotism within institutions whose ends citizens ought to have legal claim-rights to and argue that such nepotism is always impermissible. In institutions covered by the integrity account, the relevant interests generate legal claim-rights and so corresponding first or second-order duties leave no room for countervailing considerations which might justify nepotistic conduct. Assessing the permissibility of nepotism in other contexts, however, is less straightforward. In Section 5.2, I elucidate this complexity by turning to the broader question of how rights and interests interact in cases that fall outside the domain handled by the integrity account. I acknowledge that whilst nepotistic decisions in these settings often frustrate the aforementioned egalitarian interests, these interests do not automatically generate corresponding claim-rights against such practices. It is not immediately clear, then, that such nepotism is always impermissible and where the requirements of justice might be drawn. Drawing on Scanlon's discussion of rights-specification, I suggest that determining whether individuals have a right against nepotism in these contexts requires considering whether any competing interests are sufficient to outweigh these egalitarian considerations, such that the practice in question is permissible all things considered.

In Section 5.3, I outline the complexity of this task and consider how attempts to moralise qualifications help clarify what any adequate account must explain. More specifically, I evaluate the strengths and limitations of a notable approach developed by Kasper Lippert-Rasmussen. Whilst this approach helps illuminate the relationship between an institution's purposes, normative authority in selection, and the qualifications it would therefore be legitimate to count, it leaves unanswered how egalitarian interests are to be balanced against non-egalitarian considerations in the justification of nepotistic practices. Section 5.4 then elucidates the nature of the countervailing liberty interests in association and occupational choice that are often implicated in nepotistic practices. It explains why these interests are morally weighty and how the imposition of duties to avoid nepotism, or to implement organisational reform, may impose unacceptable costs. Clarifying the structure and significance of these interests is a prerequisite to determining when, and to what extent, they may constrain egalitarian imperatives in the context of selection.

In Section 5.5, I draw these considerations together and develop a framework for evaluating the permissibility of nepotism across the diverse cases discussed. This framework articulates how egalitarian interests in efficiency and opportunity are to be balanced against countervailing liberty interests in association and occupational choice as part of a process of rights-specification. It also introduces a principle of reasonable reorganisation, which identifies when institutions have duties to revise their aims or practices in order to better accommodate egalitarian concerns, and when such reorganisation would impose unacceptable costs on the core of the interests that are constitutive of an institution's raison d'être. Section 5.6 then concludes the chapter by anticipating and responding to some potential difficulties.

5.1 Impermissible Nepotism and Corruption

In Chapter 2, I argued that whilst contemporary accounts of institutional corruption, like those defended by Seumas Miller or Ceva and Ferretti, provide some insight as to why nepotism is objectionable within certain institutions, they ultimately yield too much normative indeterminacy and fail to fully capture the nature of the wrong involved. In response, I developed the integrity account of corruption, according to which nepotism is wrong whenever it involves a failure to fulfil either the first-order duties that directly correlate with the legal claim-rights citizens ought to have to particular institutional ends, or the second-order duties that safeguard the procedural and relational integrity of the institutional framework tasked with protecting the underlying interests. This account sits between the two theories discussed and captures intuitive

concerns about nepotism being both inherently and instrumentally wrong within these contexts. Importantly, the integrity account is able to explain the wrong of nepotism even when no rights violation occurs, since second-order failures may still fail to appropriately respect the morally significant interests which justify the relevant entitlements in the first place.

The central thought is straightforward. Many institutions, such as hospitals, schools, welfare agencies, or courts, exist to provide goods or services that citizens ought to have legal claim-rights to.[335] Where such rights exist or ought to exist, they generate corresponding duties for role-occupants whose positions are designed to secure those ends. First-order duties require actors to do what is necessary to fulfil the right in question. But fulfilling these duties in a manner that is reliable and which takes the relevant interests seriously depends upon the maintenance of a broader practical framework that structures institutional roles, rules, and procedures. Role-occupants therefore also bear second-order duties to uphold this framework, and failures to do so are morally objectionable even when first-order duties happen, contingently, to be fulfilled.

This two-tiered structure allows us to explain why nepotism within these institutions is always impermissible and contravenes what justice requires of us. When nepotistic hiring violates first-order duties, for instance, because a role-occupant selects an unqualified relative who is incapable of performing the functions necessary to fulfil the relevant entitlement, the wrong is straightforwardly rights-violating. But even when nepotistic selection does not result in such a violation, it nevertheless amounts to a failure to honour second-order duties. Such failures threaten the procedural integrity of the institution by substituting arbitrary or self-serving considerations for those which are rationally connected to the institution's raison d'être, and they jeopardise its relational integrity by undermining trust between citizens and the institutions on which they rely. As I argued in Chapter 2, recognising the significance of these duties allows us to explain why cases such as Hospital (p.31) strike us as objectionable even when no immediate

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[335] Though many of these institutions are public in reality, nothing in this account turns on a simple public-private distinction. What mattes is not whether an institution is publicly owned or directly administered by the state, but whether it is charged, de facto or de jure, with securing an end to which citizens ought to have a legal claim-right. Where private or hybrid institutions perform such functions, as in publicly funded but privately delivered healthcare or outsourced welfare provision, the same first and second-order duties apply to relevant role-occupants. Conversely, where institutions operate primarily within competitive markets and are not tasked with securing these entitlements, the integrity account does not straightforwardly apply, and objections to nepotism must instead be grounded in considerations of efficiency or opportunity alone. Conversely, this is not to say that the latter objections do not apply in the cases under consideration here, but merely that their impermissibility can be determined without reference to them.

rights violation occurs, whilst making it clear that it is the interests of citizens, as opposed to the interests of colleagues, which are of primary moral importance.

Importantly, the objection does not depend upon a probabilistic judgement that nepotism will, over time, undermine rights fulfilment, even though I acknowledge that such risks will be present. Rather, failures to fulfil second-order duties are inherently wrong because they constitute a failure to give the underlying interests the consideration they are due. In Chapter 2, I argued that the failure to uphold the practical framework that protects these interests amounts to a failure of recognition respect in treating interest grounding the claim-right as a constraint on one's deliberation and conduct. Whilst many role-occupants may satisfy this requirement by simply complying with procedures that already embody the relevant normative rationale, those responsible for designing, shaping, or overseeing institutional rules must internalise the appropriate dispositions if they are to uphold the integrity of the framework in a way that respects the corresponding interests.

Placed in this light, nepotism within institutions tasked with securing goods or services to which citizens ought to have legal claim-rights is objectionable even when it is not independently harmful and even when first-order duties happen, contingently, to be fulfilled. As argued in Chapter 2, the wrong in such cases lies in a failure to discharge the second-order duties that structure institutional roles in ways that appropriately respect the interests grounding those rights. Nepotistic selection is incompatible with these duties because it rests on considerations that cannot be rationally related to the institution's raison d'être and therefore fails to treat the relevant interests as authoritative constraints on role-based deliberation and conduct.

If this is correct, it follows that nepotism in institutions whose goods or services citizens ought to have legal claim-rights to is categorically impermissible. Such nepotism either violates a claim-right directly or constitutes a failure to uphold the institutional framework required to respect and robustly protect the interest that grounds that right. In these contexts, the weight of the underlying interests and the structure of the corresponding duties leave no room for countervailing considerations that might otherwise justify departures from job-relevant criteria. Personal prerogatives and forms of favouritism cannot be permissibly invoked in environments where institutional actors bear directed duties to right-holders. Nor can one appeal to general associative, expressive, or occupational liberties at this stage. Whatever freedoms individuals enjoy as private persons, such interests have no normative force within roles whose deliberative standpoint is fixed by directed duties to right-holders, regardless of whether these roles

are situated within formally public or private institutions.[336] These duties exclude the permissibility of counting relational considerations as qualifications simpliciter. As such, these cases represent a class of clear verdicts which require no further balancing: nepotism in these contexts is always wrong.[337]

This conclusion provides the first pillar of the broader evaluative framework developed in this chapter. But these cases do not exhaust the moral terrain. Much nepotism occurs in contexts where no such claim-right is plausibly at stake and where institutional purposes are shaped by a number of interests which individuals may reasonably have in their continuation. In these settings, the moral reasons that count against nepotism are not underwritten by directed legal duties to stakeholders, and so an immediate verdict of impermissibility no longer follows. To understand the permissibility of nepotism beyond the domain mapped by the integrity account, I now turn to a more general examination of how rights and interests interact.

5.2 Rights and Interests

Whilst the impermissibility of nepotism within the institutions described above follows directly from the rights and duties identified, the normative status of nepotism which lies beyond the scope of the integrity account is decidedly more complex to settle. In many private institutional contexts, nepotistic decisions may frustrate important egalitarian interests in efficiency and opportunity as observed in the preceding chapters,

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[336] This distinction between private moral reasoning and the deliberative constraints associated with certain institutional roles finds broader support within political philosophy. Rawls argues that officials acting within institutions exercising coercive power are bound by the duty of civility and may only appeal to public reasons, not personal commitments (*Political Liberalism*, 214–220). Raz's theory of authority likewise holds that occupying certain roles imposes exclusionary reasons that displace private or agent-relative considerations (*The Morality of Freedom*, 135–137). Scheffler and Munoz-Dardé defend a division of moral labour in which institutional agents are subject to distinctive role-based constraints that limit the admissible range of reasons ("The Division of Moral Labour," 77–81). Nagel similarly maintains that institutional action whose point is to secure goods or outcomes owed to others must be justified from an impersonal standpoint, excluding personal attachments or associative reasons (*Mortal Questions*, 76–84). I rely on this well-supported distinction between roles structured by directed duties to others and roles that permissibly accommodate personal prerogatives, without defending it further here.

[337] One might worry that the range of private institutions subject to the integrity account is extensive, such that a significant portion of the private sector would fall within its scope. However, this implication should not be regarded as problematic. On the account developed here, such duties arise only where there ought to be legal claim-rights to the goods or services in question, and hence where institutional roles are already constrained by duties to others. This is not an unfamiliar feature of our normative landscape. Many roles within the private sector—such as those occupied by lawyers, doctors, or financial fiduciaries—are already governed by role-based duties that constrain discretion in precisely this way. The present account does not introduce a novel restriction on private activity, but rather offers a more general framework for understanding when and why such constraints arise within an account of corruption. Where institutions play a vital role in securing goods to which individuals should have claim-rights, the fact that they are privately organised does not diminish the force of the corresponding duties.

yet it is not immediately clear that these interests automatically generate directed duties or corresponding claim-rights against such practices. Though these interests generate pro tanto objections to the practices (nepotistic or otherwise) which curtail them, as of now, I have only formulated them as the moral grounds of what Cohen describes as a weak equalisandum claim.[338] Following Cohen, a weak equalisandum claim acknowledges that individuals 'should be as equal as possible in some dimension […] subject to whatever limitations need to be imposed in deference to other values', even if these 'limitations are not specified by the claim in question'.[339] Although one need not specify these constraints when advancing a weak equalisandum claim, it has been my task in this thesis to develop principles that are capable of guiding evaluative judgements about actual institutional practices. In this respect, the methodological approach taken here differs from much egalitarian theory in two important respects.[340]

Firstly, instead of arguing for a particular equalisandum that neatly specifies some correlative set of egalitarian duties, I have sought to describe interests that all citizens have in the promotion of particular egalitarian goals and to show how these interests underwrite many of our intuitive objections to nepotistic practices. This does not assume that there is a corresponding duty to implement particular selection procedures or to avoid nepotism tout court, since we have not yet determined when these interests are sufficient to generate egalitarian claim-rights. By contrast, much egalitarian theorising proceeds by identifying requirements that are taken to follow from a commitment to equality in the abstract, with little attention paid to the countervailing interests that plausibly constrain what this commitment requires us to do. The result, in my view, is an incomplete theory. Without specifying what these constraints are or how they might temper egalitarian commitments, weak equalisanda cannot guide action nor clearly delineate permissible from impermissible conduct. Such theories are therefore unable, by their very design, to satisfy the second desideratum which anchors Part II of this thesis.

Secondly, although it is widely acknowledged that equality is but one political value amongst others, much egalitarian theory nevertheless proceeds as if egalitarian considerations were effectively unbounded. The limiting interests that are said to constrain egalitarian requirements are rarely identified with any precision, nor are they integrated into a more practicable account of what equality demands. As such, many

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[338] Cohen, "On the Currency of Egalitarian Justice," 908.

[339] ibid.

[340] I should stress that one need not endorse the specific account of rights-specification sketched here in order to accept the substantive conclusions drawn later in the chapter. The normative balancing of competing moral reasons undertaken below is familiar to deontological ethics more generally. One could therefore reject Scanlon's account of rights-specification whilst still endorsing the judgements defended below.

theories opt for prima facie parsimony and philosophical elegance, but in doing so, risk postponing indefinitely the normative work required to understand what we ought to do all things considered.[341] The approach pursued here reverses this tendency. Rather than assuming that egalitarian interests automatically generate concrete duties, I take seriously the fact that any plausible principle for guidance must be responsive to the range of comparably weighty interests that bear on the case at hand. This is not to deny the philosophical value of strong or weak equalisandum claims in mapping the normative terrain, but to insist that the duties they *actually* ground depend on how they interact with other morally salient considerations.[342] This methodological shift is not only of particular use to the aims of this thesis, but also finds philosophical support in Scanlon's account of rights-specification.[343]

For Scanlon, rights are not themselves the kinds of things that conflict or require balancing.[344] What conflicts, instead, are the interests that underlie rights, and it is these interests, rather than the rights they ultimately support, that must be weighed against one another when specifying a right's content. When we recall the interests implicated in both efficiency and opportunity, it is clear that they provide forceful grounds for objecting to organisational practices that either undermine productivity or restrict access to advantageous positions. These interests suggest the possibility of inchoate rights to more efficient and increasingly open organisational practices, but any attempt to specify them

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[341] David Miller observes something similar in his discussion of "neo-Augustinian" political philosophy of which he deems Jerry Cohen's *Rescuing Justice and Equality* to be exemplary. Such theory 'elaborates political principles which it freely admits will not be realised in human societies, without displaying any discomfort about that fact; the happier the philosopher is to concede the practical (in the sense of presently action-guiding) irrelevance of the principles thus elaborated, the closer he or she comes to pure neo-Augustinianism.' See, Miller, *Justice for Earthlings*, 230-231 n.7. I do not rely on Miller's broader critique here, but invoke this contrast only to situate the methodological contours of the present argument.

[342] On Cohen's view, strong equalisanda are 'unqualified' claims of the kind asserted by 'an uncompromising egalitarian': they specify what justice requires without indicating whether, or how, egalitarian demands may be limited in deference to competing values, and are therefore vulnerable to non-egalitarian objections. Weak equalisanda, by contrast, explicitly acknowledge the existence of such constraints, even if they do not specify what those constraints are, and so are not subject to non-egalitarian objections in the same way. Neither claim should be interpreted as an all things considered judgement. See, Cohen, "On the Currency of Egalitarian Justice," 908-909.

[343] Which, in many respects, makes it all the more surprising that Scanlon himself makes the same omission elsewhere (see, *Why Does Inequality Matter?*, 151) when he states that permissible inequalities may arise from the 'unavoidable consequences of the exercise of important personal liberties' without specifying what these liberties are, or how they ought to be weighed against egalitarian interests.

[344] Scanlon, "Rights and Interests" in *Arguments for a Better World*, 68. Cf. Kamm, *Intricate Ethics*, 248-267; Waldron, "Rights in Conflict."

must acknowledge not only the internal tensions between them, but also comparably weighty non-egalitarian interests in liberty.[345]

Scanlon's suggestion is that such apparent conflicts are not easily resolved by appealing to the supposed stringency or lexical priority of any right, nor by relying on the moral weight of the interests underlying them. Even basic liberties, such as the right to free expression, can be restricted when they impose unacceptable costs on relatively modest competing interests, as is the case when 'opportunities to speak' are limited 'for the sake of peace and quiet'.[346] The lesson is that rights do not settle these disputes by their intrinsic moral weight. Their correct specification depends upon a prior assessment of how the interests they protect interact with other interests at stake and with considerations of institutional design, as well as ensuring that the duties they generate adequately protect the significance of the underlying interest.[347]

Scanlon's central insight is that rights are not independent moral atoms with fixed weights that can be straightforwardly pitted against one another in order to reveal what we ought to do all things considered. Instead, rights are better understood as the outcome of a justificatory process with two parts. The first identifies interests of sufficient moral importance to ground a claim-right; the second assesses whether 'certain limitations on the discretion to act of individual and institutional agents are *necessary* if important interests are to be adequately protected, and *feasible* as a way of providing this protection.'[348] This second step is essential. A right can only be specified once an interest has been balanced against competing interests which are liable to be affected by the imposition of a right, and so the corresponding duties that give a right its content can only be determined once we have considered the relevant costs. When we encounter an apparent conflict of rights, say, between free expression and the right to a fair trial, Scanlon argues that this conflict merely reveals an error in the specification of one or

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[345] By "internal tensions", I refer here to the fact that these interests may pull our judgements in opposing directions in cases like Cafe, where it appears that nepotism is productively advantageous even though it effectively disbars outsiders from competing for the position. I discuss the inevitability of some conflict between the interests identified in §5.6.

[346] ibid., 77. Scanlon's example here contrasts two cases. In the first, Scanlon prompts us to consider that it would be acceptable to limit my freedom to drive through a neighbourhood at night with a loudspeaker amplifying my voice, since my interest in free expression does not require protection of this specific opportunity. By contrast, a restriction on my freedom to engage in a loud and disorderly political protest, where the disruption to others is greater, appears more problematic, because such restrictions threaten the core of the interest that the right to free expression is intended to protect. This contrast shows that we cannot resolve such cases by appealing to the stringency of each right. We must instead attend to the relationship between the relevant interests, the opportunities in question, and the potential costs of any restriction.

[347] ibid., 78.

[348] ibid., 77. Notably, Scanlon adds here that 'this claim of feasibility is that the cost these limitations impose on our other interests is acceptable given the importance of the interests being protected.'

both rights.[349] The appropriate response is not to weigh rights against each other, but to refine their content in light of the interests they serve and the empirical conditions under which those interests can be jointly protected.[350] On this view, properly specified rights do not conflict whenever they are shaped by a prior balancing of the interests that ground them.[351]

Scanlon's reasoning about rights and interests has the following implications for egalitarian theory in general and for the task of this chapter in particular. First, if rights only arise once competing interests have been balanced, then purely aspirational egalitarian claims, such as weak or strong equalisanda, cannot by themselves generate a stable set of directed duties across diverse cases. They may identify important interests in equality, but they do not specify how these interests weigh against comparably strong interests that are often present in many real-world cases. Without this further step, egalitarian principles risk being normatively incomplete in the way described above. At best, they state what equality favours on some conception, but not what anyone actually owes.[352]

Secondly, this approach to rights and interests provides a principled basis for the structure of the project undertaken in Part I of this thesis. In Chapters 3–4, I intentionally formulated objections to nepotistic practices in terms of the egalitarian

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[349] ibid., 76.

[350] ibid., 77-78.

[351] One might worry that this approach renders rights intractably complex. A full specification of, say, the right to free expression would need to account for every relevant interest and circumstance, yielding something closer to a vast set of context-specific rights than a tractable guide to deliberation. I do not take this to be a distinctive cost of the present approach. Any account that must adjudicate competing claims faces the same underlying complexity. Rights-specificationism simply locates this complexity within the content of rights themselves, rather than leaving it implicit in a further stage of balancing. What rights retain, on this view, is their distinctive role in fixing the deliberative standpoint of institutional actors and determining which considerations are admissible within particular roles. A related worry, raised by the classic cabin case, asks how a specificationist view can accommodate B's duty to compensate A for damage caused by B's permissible emergency entry, given that a proper specification of A's property right would presumably already exempt such entry from counting as an infringement. But the puzzle dissolves once A's property right is specified more richly from the outset: not merely as a right to exclude others, subject to an emergency exception that exhausts its content in such cases, but as a right to exclude except where necessity requires entry, in which case the entrant owes compensation for any resulting loss. On this reading, the duty to compensate is not generated by a separate, freestanding interest bolted on after the fact but is part of the content of the original property right itself, properly specified. B's permissible entry and B's duty to compensate are therefore both aspects of a single, coherently specified normative relationship rather than products of two independently grounded claims that happen to coexist.

[352] A further upshot of this view is that it avoids the implication that agents or institutions can be subject to conflicting directed duties. If right themselves are said to conflict, then it will appear, in some cases, that an agent has a duty to both φ and not to φ. On Scanlon's view, apparent conflicts instead signal under specification. Once the underlying interests are balanced, the content of the relevant rights is fixed in a way that avoids contradictory obligations. This theoretical elegance comes at the expense of additional justificatory work, but that cost is one I am willing to accept.

interests that nepotism may offend. At that stage, I did not assume that the interests identified automatically generate claim-rights against nepotism or to particular organisational practices, because doing so would presuppose a completed balancing exercise and we would be unable to address the second desideratum convincingly. I believe that Scanlon's model vindicates this methodological choice. Recognising that rights emerge only after competing interests are weighed shows why my earlier analysis had to first identify pro tanto moral reasons to object to nepotism, before considering when they collectively justify specific duties. It is precisely because we can foresee that significant non-egalitarian interests are present in many of the relevant cases that we cannot simply conjure a right to particular practices, or against certain ways of organising private enterprises, out of thin air. As such, we must now examine how these competing interests interact, and when the egalitarian interests identified generate claim-rights to practices once appropriately balanced against the costs that different duties would impose.[353] Only then, can we consider what the content of these rights are, as well as how we ought to respond to impermissible nepotism.

5.3 Moralising Qualifications

Before turning to begin the process of balancing and specification sketched above, it is worth briefly considering how existing attempts to moralise, and therefore define, what counts as a legitimate qualification have sought to address similar conflicts. As we saw in Chapter 4, the problem of nepotism in selection for advantageous positions is complicated further when analysed through the puzzle of reaction qualifications. What this puzzle makes vivid, are the kinds of considerations which ought to figure into our evaluative judgements about institutional design and selection practices in the context of private businesses and associations. For if we can render more determinate evaluative judgements in these scenarios by examining the justificatory basis for counting nepotistic considerations as qualifications, we can better understand what any adequate account must explain in order to satisfy the second desideratum identified.

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[353] This approach is continuous with Stuart White's interest-based account of freedom of association and opportunity, see, "Freedom of Association and The Right to Exclude." White similarly rejects choice-based principles in favour of a framework that evaluates exclusionary practices by reference to their effects on opportunity and integrity interests, and denies that associative freedom necessarily enjoys lexical priority over egalitarian concerns. My argument draws on this shared methodological orientation, but differs in focus and scope. Whereas White is primarily concerned with the legitimacy of state inference with associational exclusion and the protection of comprehensive ethical commitments, I ultimately consider whether agents engage in wrongdoing by sustaining exclusionary or inefficient practices, and when egalitarian interests constrain prerogatives grounded in associative or occupational authorship under non-ideal conditions.

I now briefly elucidate the moral complexity of these cases further and turn to examine the views currently on offer.

One initially tempting thought is that, once we take seriously the productive advantages that the presence of certain reactions may confer, nepotistic reactions ought to pose no greater challenge for an egalitarian assessment of opportunity than the wide range of native endowments or personal traits that ordinary meritocratic procedures already track. If it is consistent with equal opportunity to reject the untalented, then perhaps it is also consistent to count nepotistic reactions as qualifications wherever they make the relevant candidate more effective in the role and promote the egalitarian interest in efficiency. On this view, it is simply an unfortunate fact that some individuals cannot qualify for certain familial enterprises in the same way that others, no matter how level the playing field, cannot acquire the abilities required to become neurosurgeons or concert pianists.

However, as I suggested in Chapter 4, this line of thought is difficult to endorse in its current form. Firstly, it not only seems clear that individuals have plausible complaints about the informal socioeconomic exclusion that nepotism produces in such scenarios, but a significant interest in being able to navigate a meaningfully open opportunity structure. Even in relatively benign cases like Cafe, the productive benefits alone fail to explain why the nepotistic practice might be permissible.[354] Since granting prerogatives to hire nepotistically whenever doing so offers marginal returns on productivity is liable to result in the kind of closed labour market that is offensive from the perspective of the egalitarian interest in opportunity.

Additionally, resting the acceptance of any reaction qualification, whether nepotistic, sexist, racist, or otherwise, on an unconstrained appeal to economic efficiency, collapses a morally significant distinction between legitimate and illegitimate preferences.[355] Surely, sexist reactions cannot legitimately count against hiring women simply because the relevant dispositions might render sexist hiring productive. The contention here is not that nepotism is morally on a par with sexism or other forms of wrongful discrimination, even though homophilic social tendencies often mean that nepotism exacerbates forms of structural injustice in practice. Rather, the point is that an untempered appeal to efficiency would force us to treat otherwise irrelevant traits as qualifying or disqualifying whenever prejudicial attitudes render them productivity-

[354] Even if nepotism can, in certain cases, promote efficiency, the question of how such considerations should be weighed against considerations of opportunity is not settled at this stage and will be addressed in §5.5.

[355] As Wertheimer, Mason, and Lippert-Rasmussen all observe, this leads one to the conclusion that some, but only some, reaction qualifications count. See, Wertheimer, "Jobs, Qualifications, and Preferences," 102; Mason, *Levelling the Playing Field*, 56-64; Lippert-Rasmussen, *Born Free and Equal?*, 235-260; Mason, *What's Wrong with Lookism?*, 104-128.

enhancing.[356] In many of these cases, the resultant productive advantages are merely contingent upon individuals adopting preferences or institutional ends which coincide with an unwillingness to work with strangers. The productive advantages in such cases are contingent upon individuals sustaining exclusionary dispositions, and it is precisely these dispositions and the inegalitarian practices they sustain that warrant criticism.[357]

More, then, needs to be said about how we might balance the freedom of institutions to count nepotistic reactions or pursue nepotistic purposes against the commitment to expanding opportunities which the egalitarian interest in opportunity supports. Dismissing nepotistic reactions entirely risks instituting a less plausible interpretation of the principle of merit and seems somewhat incongruent with our acceptance of qualifications which result from native endowments. At the same time, the unconditional acceptance of efficiency-conducive nepotistic reactions risks trivialising the commitment to open positions which advocates of equality of opportunity take so seriously. Pursue the former approach, and small family businesses may struggle to operate in ways which might render them commercially viable or valuable to the individuals involved. Pursue the latter approach, and one's access to social capital is likely to have an outsized influence on one's ability to attain advantageous positions. What is required, then, is a principled way of constraining the way in which selectors are able to defer to institutional purposes such that they render nepotistic considerations relevant to selection.[358]

One tentative suggestion, offered by Kasper Lippert-Rasmussen, appeals to a distinction between agents who act on their own behalf and those who act as representatives of a wider collective.[359] We might, for example, differentiate between selectors who act as representatives of a larger collective, as is the case with a university,

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[356] Which is precisely the worry which Wertheimer, Mason, and Lippert-Rasmussen all set out to address.

[357] Cohen formulates a well known objection of this kind to Rawlsian incentive inequality in *Rescuing Justice and Equality*, 27-87. I return to discuss the role of an egalitarian ethos in responding to impermissible nepotism in the following chapter.

[358] For a sophisticated account of when reaction qualifications are impermissible due to their discriminatory character, see, Mason, *What's Wrong with Lookism?*, 104-128. Since Mason's argument presupposes a settled account of job relevance and does not address the permissibility of nepotistic selection grounded in the core of the legitimate interests that are constitutive of an institution's purpose, I do not engage with it further here.

[359] I use the phrase "tentative" here as Lippert-Rasmussen himself states that he 'does not propose this explanation with great confidence, and this is why [his] symmetric view [of reaction qualifications] only ranges over nonindividualised, antimeritocratic attitudes.' See, Lippert-Rasmussen, *Born Free and Equal?*, 248.

and those in cases like Agency, Band, or Cafe, who act on their own behalf.[360] When selectors act on their own behalf, such as when a business owner is deciding who to employ, we might think it is permissible for them to defer to their own idiosyncratic preferences when determining the best-qualified. As Lippert-Rasmussen puts it, 'an employer who hires a person for her own shop may count the fact that she likes a certain candidate as a qualification. After all, within limits she may define what aims the shop pursues and, thus, which characteristics counts as qualifications.'[361] By contrast, agents acting on behalf of a larger collective should disregard idiosyncratic preferences and instead base their decisions on the aims identified by the relevant body. If one has the power to act independently when selecting for positions in practice, then such a response suggests that one ought to enjoy the correlative normative authority discussed.[362]

We might suppose this to be the case insofar as rights of ownership grant powers to set in place an institutional purpose which legitimates counting nepotistic considerations as qualifications. In Cafe, for instance, it appears as though the owner is free to characterise the business as a "family cafe" and institute a familial ethos by employing relatives, serving authentic family recipes, and so on. Where small business owners have such authority, they also have the power to transfer ownership or reorganise institutional practices and purposes such that considerations like "being a relative" are no longer relevant. On Lippert-Rasmussen's view, then, the authority to define the ends an institution pursues generates a prerogative to hire nepotistically whenever the idiosyncratic preferences which render nepotistic reactions relevant are rationally related to the institution's stated purpose. In such cases, a selector may therefore count the fact that a recipient (either themselves, other colleagues, or clients) has a preference for a certain candidate or their individual characteristics as a qualification.[363]

Importantly, this proposal imposes some constraints on the authority to determine institutional purposes whilst providing some freedom in the definition of these purposes in order to accommodate nepotism within certain settings. It grounds the

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[360] One way of understanding this distinction is that, where agents act on behalf of a wider collective, the aims to which selection procedures must answer are subject to a form of public or impersonal constraint, which requires selectors to defer to the goals of the collective rather than their own idiosyncratic preferences. In this respect, Lippert-Rasmussen's view may be taken to gesture toward a concern similar to the egalitarian interest in efficiency developed in Chapter 3. However, since the relevant aims themselves are not independently constrained, and agents acting on their own behalf are permitted to define institutional purposes freely, the proposal does not provide a general account of when such purposes are permissible.

[361] ibid.

[362] I use the term power here to refer to the legal powers one enjoys as part of a Hohfeldian framework of rights. See, Hohfeld, "Some Fundamental Legal Conceptions as Applied in Judicial Reasoning."

[363] Lippert-Rasmussen, *Born Free and Equal*, 248.

normative authority to count nepotistic considerations in the power one enjoys within an organisational structure. Although this may align with our intuitions about the permissibility of nepotism in some different cases, it faces several difficulties once we consider the egalitarian interests identified in Chapters 4 and 5.

Firstly, a non-trivial commitment to the egalitarian interest in opportunity surely requires more than this response can deliver.[364] Since many desirable positions in mixed economies are allocated by agents acting on their own behalf, granting such agents broad prerogatives to count idiosyncratic preferences as qualifications risks entrenching nepotistic hierarchies and legitimating a large array of arbitrary practices. Even when these reactions bear no plausible relation to effective performance, selectors may simply redefine the scope of the institution's aims so as to present them as productivity-enhancing. This fails to take seriously the unfairness of such informal exclusion and contributes to a narrowing of the opportunity structure. If a more just society should mitigate the influence that one's social network has on the relevant opportunities, then such an approach to the puzzle raised by nepotistic reactions falls worryingly short.

Secondly, a laissez-faire approach to nepotistic reactions will also be offensive from the perspective of the egalitarian interest in efficiency. As Seumas Miller notes, businesses operating within competitive markets play a central role in sustaining a wide array of goods through production, taxation, and employment.[365] As such, there might some expectation that these businesses not only act in ways which are congruent with a respect for an interest in opportunity, but operate efficiently to ensure some contribution to the renewal of other goods as argued in Chapter 3. If granting the aforementioned normative authority results in significant inefficiencies, then this will be liable to produce negative externalities which undermine economic interdependence and the capacity for a more just distributive background.

Ultimately, though such an approach provides a proverbial step in the right direction, the conclusion that we should grant prerogatives to select nepotistically whenever some agent enjoys the authority to define what aims the institution pursues risks leaving an important normative question unanswered. Merely referring to the authority which some agents currently enjoy as a result of some combination of legal powers hardly seems to justify the institutionalisation of nepotistic practices amidst egalitarian complaints. Without a more principled basis for determining when relational considerations may permissibly shape qualification standards, the appeal to existing

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[364] It is worth emphasising that Lippert-Rasmussen may accept the force of this point given the way in which he caveats this claim. Though it is less clear how he might go about making the relevant accommodations, given his primary concern with non-individualised attitudes.

[365] Miller, *Institutional Corruption*, 44.

authority risks reasserting the status quo in a way that struggles to provide a compelling justification.

What the problem of nepotism brings into sharper focus, however, is a more fundamental question that much of the reaction-qualification literature has tended to bracket. In all of the existing literature,[366] the primary concern is typically whether demeaning or prejudicial attitudes may permissibly influence selection, often against the background of a relatively settled account of the traits that contribute to job effectiveness. By contrast, nepotism forces us to confront not only whether particular considerations may legitimately count as qualifications, but on what normative grounds individuals may determine the institutional purposes that render those considerations relevant in the first place.[367] Can one justify nepotism by merely appealing to an institutional rationale that renders nepotistic reasons relevant to selection? If so, when and why? Lippert-Rasmussen's proposal is valuable precisely because it gestures toward this deeper issue, locating permissibility in the selector's authority to define institutional aims. Yet without a principled account of the liberty interests which might justify such authority, and of how those interests ought to be constrained by competing egalitarian considerations, this move risks permitting whatever purposes agents are in a position to assert.

The lesson, I suggest, is not that moral assessment of the preferences that shape reactions is misguided, but that resolving the permissibility of nepotism requires shifting attention from the moral status of particular reactions to the interests that justify institutional purposes themselves, and to whether those purposes and practices can be adjusted or restructured in ways that better accommodate the balance of morally significant interests at stake.

5.4 Association and Occupational Choice

In order to develop such a framework, we must first identify the relevant countervailing interests and clarify how the imposition of duties to avoid nepotism, or to implement particular organisational practices, may impose significant costs on them. Individuals have weighty interests in forming social relationships, expressing shared values through collective activity, and shaping the terms on which they pursue particular

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366 Aside from the analysis developed in this thesis, including the Cafe case presented here, which I also consider in a more exploratory article on the same topic. See, Mowla, "What Makes Nepotism Wrong?"

367 There is a suggestive analogy here with debates about the scope of religious group autonomy in institutional settings, where claims to authority over internal purposes and employment decisions play a similarly central role. For further discussion, see, Billingham, "The Scope of Religious Group Autonomy."

kinds of work and collaboration. These interests are not mere liberties that are peripheral to an individual's sense of self-authorship or to an institution's functioning, but are oftentimes central to the expression of individual agency and intertwined with the raison d'être of the institutions through which they are exercised.[368] The task of this section is to elucidate their moral significance and to clarify the kinds of costs that different forms of institutional reorganisation may impose upon them. Doing so is a necessary precursor to the balancing task undertaken in Section 5.5, where I assess when egalitarian objections to nepotism generate enforceable duties, and when they must give way to countervailing concerns in association and occupational choice.

5.4.1 Freedom of Association

The freedom of association is frequently touted as a central tenet of contemporary liberal political thought, often appearing not only as a basic liberty which enables citizens to pursue their conceptions of the good, but also as a significant legal claim-right enshrined in many states and human rights doctrines.[369] Since the content and scope of both this liberty and occupational choice are deeply contested in both theory and practice,[370] a full account of either interest would require far more analysis than can be offered here. Fortunately, for present purposes, it is sufficient to illuminate the content of this interest as it pertains to social relationships, and illustrate how duties that significantly restrict the freedom to make associative choices within economic organisations risk infringing the moral core of this liberty in ways that we have reason to find troubling.

Much of our existence is structured and given meaning or direction by the time that we spend with others. First as family, then as friends, peers, colleagues, lovers, members, devotees, players, or patrons, a wide range of our activities, projects, commitments, and relationships are shaped by our freedom to associate and disassociate. All of these associations, whether intimate or instrumental, not only enable the realisation of various material and immaterial goods, but influence our personal identities

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[368] A point that both Stuart White and Cécile Laborde discuss in some detail, and which I develop further in the context of occupation, association and nepotism. Notably, both White and Laborde appeal to integrity interests in freedom of conscience and expression. Though the discussion of these interests are both valuable and relevant to associations which are demonstrably religious or ethical in character, the moral core of these freedoms is not engaged in the same way in the case of nepotistic institutions, and so I delimit my discussion to association and occupational choice here. See, White, "Freedom of Association and the Rights to Exclude."; Laborde, *Liberalism's Religion*, 160-238.

[369] See, Rawls, *Justice as Fairness*, 45; Universal Declaration of Human Rights, GA Res 217A (III), UN Doc A/810 (1948), article 20, which recognises a right to freedom of peaceful assembly and association

[370] See, Brownlee. "Freedom of Association." (2024).

as individual agents and are closely connected to our life plans and conceptions of the good. It follows from these familiar observations that associative freedom is of special moral significance and that restrictions upon it risk undermining individual or collective autonomy.[371]

Crucially, our interest in association is not confined to paradigmatically private or intimate domains, such as friendship, marriage, or familial life, but is also deeply implicated in our economic organisations and practices.[372] Many of the organisations through which individuals pursue work—business partnerships, artistic collaborations, family enterprises, and small firms—are also associative sites of cooperation that influence (and are influenced by) one's personal identity, social relations, life plans, and conceptions of the good. As Kimberley Brownlee notes, seemingly less intimate associations often function as the 'gardens in which more intimate connections grow', and business or collegial ties frequently carry social and identity-forming significance alongside their more instrumental aims and purposes.[373] To treat economic organisations as morally inert coordination mechanisms, rather than as practices with moral implications for our associative interests, therefore risks understating the extent to which restrictions on who one may work with, employ, or collaborate alongside bear on the freedom of association as such. What these observations foreground is the thought that our interest in free association cannot be neatly partitioned into discrete domains without assuming a crude view of the social landscape.

More importantly for present purposes, however, some associations within economic organisations are not merely by-products of economic coordination, but arise directly from choices about whom to work with, employ, or collaborate alongside. Entrepreneurial or artistic collaboration may be motivated or sustained by friendship, business partnerships may be constitutive of familial commitments, and firms may themselves be founded with the express purpose of distributing opportunities to members of one's social network. Patently, many economic organisations function as important sites of association, such that restrictions imposed in this sphere may reverberate across others. Duties that significantly constrain who individuals may work with, employ, or collaborate alongside therefore risk impacting the freedom of association as such, rather than merely regulating an isolated economic practice. This

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[371] For a brief sketch of the individual and collective interests at stake, see, Brownlee, "Freedom of Association," 361, (2017).

[372] See, Alexander, "What is Freedom of Association, and What is its Denial?," 13-14. Seana Shiffrin also questions a sharp bifurcation between intimate and collective associations on the grounds that both constitute sites in which the content of members' ideas are formed. See, Shiffrin, "What is Really Wrong with Compelled Association?"

[373] Brownlee, "Freedom of Association," 356, (2017).

does not entail that such duties always impose unacceptable burdens, but it does show that they impose genuine moral costs that must be acknowledged and justified.

Yet the fact that economic organisations engage our associative interests does not imply that those interests are always decisive, or that they are immune from principled constraint.[374] Even on views that treat freedom of association as a claim-right protecting a valuable sphere of self-direction, the scope of that sphere is not plausibly content-insensitive in the manner sometimes attributed to freedom of expression. As Brownlee argues, we should reject both the thought that no one may ever be compelled to associate and the thought that associative freedom protects choices irrespective of their moral profile.[375] It is sometimes permissible to compel association, and the protections of associative freedom must be sensitive to the kinds of wrongs that particular associative practices impose on others.

In practice, liberal societies routinely accept restrictions on association in order to secure equality, non-discrimination, and the protection of basic rights. Anti-discrimination law limits the freedom of employers to associate exclusively with those they bias; professional licensing regimes restrict with whom individuals may collaborate in certain fields; and rules governing access to essential services constrain the associational discretion of providers. These constraints are widely regarded as permissible not because the interests in association they burden are presumptively insignificant, but because the reasons supporting them are sufficiently weighty and since the restrictions imposed are limited in scope and content-sensitive. The relevance of these familiar cases is not that they vindicate any particular requirement, but that they show how burdens on associative freedom are often treated as costs to weighed against competing interests, rather than as decisive objections in themselves.

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[374] Some accounts of freedom of association resist this conclusion, treating associative liberty as presumptively immune from regulation across domains. Cf. Alexander, "What Is Freedom of Association, and What is its Denial?", who presses the freedom of association to its logical conclusion, rejecting the asymmetric tendency to treat discrimination in patronage as legally permissible whilst condemning discrimination in employment or provision. Though I believe his critique to be subject to a number of notable objections, the challenge he raises is important, since it forces defenders of either moral or legal regulation to explain why associative freedom may be constrained in some institutional settings but not others. My argument accepts the force of this challenge but rejects the conclusion that associative freedom must therefore be immune from context-sensitive restriction. I do not engage with Alexander's stronger libertarian position any further here, except to note that it sits uneasily with widely accepted constraints on association in employment, education, and service provision, and would render much ordinary regulatory practice impermissible.

[375] Brownlee, "Freedom of Association," 367-368 (2017).

5.4.2 Freedom of Occupational Choice

Like the freedom of association, freedom of occupational choice constitutes another significant interest which is frequently given normative priority as part of a set of basic liberties in contemporary liberal thought and politics. Whereas the former freedom concerns the range of associative choices individuals are free to make, the interest in free occupational choice concerns control over the direction of one's working life. Since the work we undertake and skills we develop in pursuit of it dominate a large portion of our existence, the scope of freedom which we enjoy in this domain is likewise thought to be integral to one's expression of agency as well as a special source of personal or collective fulfilment. Indeed, empirical research suggests that many of us will spend around 90,000 hours at work in total, amounting to almost a third of our adult lives.[376] Our freedom to pursue particular occupations and different kinds of work thus not only affects *how* we earn the goods for which work is typically necessary, but dictates *what* we are able to do with much of our time on earth. It is not surprising then, that many converge on the significance of individual freedom in this domain and the role that this liberty plays in structuring one of life's primary activities.[377]

Following Rawls, one way to make greater sense of the significance of occupational choice is to appeal to the role it plays in the cultivation of one of the two moral powers that enable citizens to fully cooperate as members of a society over their lives and maintain their status as free and equal citizens.[378] Rawls groups together occupational choice, liberty of conscience, and freedom of association as civil liberties that are 'necessary for the development and exercise of citizens' capacity for a conception of the good'.[379] This capacity concerns individuals' ability to form, revise,

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[376] Estimates vary by country, cohort, and employment pattern, but in high-income economies individuals commonly work between 1,600 and 1,900 hours per year. Over a working life of approximately 45–50 years, this implies a lifetime total in the region of 80,000–95,000 hours. See, OECD, *Hours Worked*; Office for National Statistics, *UK Time Use Survey*.

[377] See, Muirhead, *Just Work*, 1; Veltman, *Meaningful Work*, 5; Yeoman, "Conceptualising Meaningful Work as Fundamental Human Need."; MacKay, "Incentive Inequalities and Freedom of Occupational Choice."

[378] Rawls, *Justice as Fairness*, §32; 169.

[379] ibid.

and pursue a rational plan of life that is often grounded in a set of moral, religious, or philosophical beliefs.[380]

For many individuals, the content of their conception of the good is not exhausted by the pursuit of particular tasks or roles, but includes forms of work organised around close collaboration with others, including but not limited to the shared pursuit of projects or the realisation of ideals and interpersonal commitments that are relationally significant to members of the relevant association. This is especially clear in particular instances of entrepreneurial activity, family businesses, or joint professional ventures, where occupational freedom enables individuals to act upon shared conceptions and loyalties. The connection between this freedom and the relevant capacity is thus relatively straightforward, as people often seek out work that embodies their conception of the good, but also revise and develop their conceptions in response to the opportunities that work and occupational development present. Since work occupies a central and enduring place in most lives and mediates our ability to pursue particular conceptions of the good, an interest in retaining some freedom over both what we do, and with whom we do it, carries significant implications for individual autonomy.

However, the significance of occupational choice is not exhausted by considerations of individuals' opportunities to pursue their conceptions of the good. As Andrea Veltman and others argue, meaningful work is itself an important human good, and one that cannot be reduced to the exercise of autonomy or the pursuit of antecedently valued ends.[381] For Veltman, the meaningful nature of the work we undertake lies not only in the development of capacities or promotion valuable purposes, but also in the way that it integrates elements of a worker's life into a coherent whole, including by placing them within a 'social-relational context' with which they identify.[382] On this view, the meaningfulness of one's occupation may derive, in part, from the 'broader personal purposes and relationships served through the work'.[383] Working

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[380] Rawls, "Justice as Fairness: Political not Metaphysical," 233-234. It is here that Rawls emphasises that this good 'must not be understood narrowly but rather as a conception of what is valuable in human life. Thus, a conception of the good normally consists of a more or less determinate scheme of final ends, that is, ends we want to realise for their own sake, as well as of attachments to other persons and loyalties to various groups and associations. These attachments and loyalties give rise to affections and devotions, and therefore the flourishing of the persons and associations who are the objects of these sentiments is also part of our conception of the good.'

[381] See, Veltman, Meaningful Work, 117. See also, Arneson, "Meaningful Work and Market Socialism," 517; Young, *Justice and the Politics of Difference*, 214-225; Walsh, "Meaningful Work as a Distributive Good," 241-247.

[382] Veltman, *Meaningful Work*, 131-135.

[383] ibid.

alongside friends, family members, or long-standing collaborators can render an activity meaningful by situating it within a broader life narrative, even if the work itself is repetitive, unskilled, or otherwise mundane.[384] Forms of work that would otherwise appear tedious or burdensome can take on significance when they sustain valued relationships, shared identities, or collective projects, thereby connecting everyday labour to enduring interpersonal commitments. The value of occupational choice therefore lies not only in enabling individuals to choose what they do with a significant portion of their lives, but also with whom and in what social context they do it.[385]

With this in view, the relevance of occupational choice to nepotism arises not only because decisions about who to hire are often partly decisions about the kind of occupational environment one inhabits, but more concretely because prohibitions on nepotism risk ruling out specific occupational choices whose relational context is constitutive of their value. Where individuals seek to structure their working lives around shared projects, loyalties, or relational commitments, duties to avoid nepotism may constrain the kinds of occupational endeavours individuals are able to create for themselves with particular others. In this respect, restrictions on nepotistic hiring can implicate the interest in self-authorship and meaningful work that underwrites the importance of occupational freedom more generally.[386]

Recognising the weight of this interest, it is natural to worry that duties to avoid nepotism may impose significant constraints on occupational choice, particularly in cases

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[384] For further evidence of the latter claim, see Muirhead's (*Just Work*, 171-173) discussion of Victor Davis Hansen, who lamented the bankruptcy of his family raisin farm despite Hansen ranking it as the 'worst job in America, a vocation right out of the poet's inferno.' For the original account, see, Hansen, *Fields without Dreams*, 38.

[385] One might wonder whether the considerations invoked here are more naturally captured by the freedom of association, as opposed to the interest in occupational choice. Whilst the discussion here outlines their relationship, the two interests are ultimately not coextensive. The interest in occupational choice concerns control over the direction and character of one's working life, including the conditions under which access to relationally valuable work is regulated, whereas the freedom of association protects a more general liberty to form and sustain interpersonal relationships across domains. That the meaningfulness of work may depend, in part, on relational features does not therefore show that this element of the relevant interest is exhausted by associative freedom.

[386] It might be questioned whether those excluded by nepotistic practices have a symmetrical associative or occupational complaint, grounded in an interest in working with the particular others whom they are prevented from working with. I do not treat this as the primary locus of the complaint. Such cases are better understood as giving rise to concerns about the structure of opportunity, including the ways in which access to positions is shaped by social networks and informal exclusion, and the attendant socioeconomic, developmental, and expressive implications of such exclusion. Whilst nepotism necessarily involves some restriction on individuals' ability to work with particular others and narrows opportunities for meaningful work, it would be implausible to treat this as engaging the core protections of the interests underlying freedom of association or occupational choice. The relevant claim would depend on a putative interest in associating with, or working alongside, particular strangers, and this is not typically among the central protections these liberties are intended to secure. The complaint is therefore more plausibly located within the egalitarian interest in opportunity developed above, rather than as a freestanding associative or occupational claim.

where individuals seek to pursue forms of work that are tethered to their conceptions of the good and close personal relationships or shared projects. As Michael Otsuka argues, requirements that effectively force individuals into or out of particular occupations, whether through legal coercion or moral pressure, can resemble objectionable forms of conscription, even when these requirements fall short of outright compulsion.[387] Relatedly, Paula Casal emphasises that occupational autonomy concerns not merely the absence of legal barriers, but agents' ability to shape their working lives in line with their values and commitments, whilst Ewan MacKay's Rawlsian account treats freedom of occupational choice as a significant basic liberty which cannot be justifiably compromised in service of the realisation of egalitarian goals.[388]

Whilst these concerns give genuine weight to worries associated with duties that compromise free choice in this domain, they do not yet show that any such constraint on occupational choice is impermissible. Even for liberal theories that accord occupational choice the status of a basic liberty, it is widely accepted that this freedom is neither absolute nor exclusionary, with Rawls himself acknowledging that the 'priority of these liberties is not infringed when they are merely regulated, as they must be, in order to be combined into one scheme.'[389] The interest it protects is better understood as granting meaningful control of one's working life and not an entitlement to unconstrained discretion over access to particular roles or positions. As a result, restrictions on occupational choice are commonly regarded as permissible where they serve to prevent harm, uphold fair terms of cooperation, or regulate access to advantageous positions in ways that are consistent with the underlying rationale of the liberty itself. The mere fact that a duty limits the range of occupational options available to an agent, or constrains the manner in which occupational opportunities may be allocated, is therefore insufficient to establish that it constitutes an unjustifiable infringement of occupational freedom.

This thought is reflected in a range of familiar and largely uncontested practices. We routinely accept constraints on occupational choice through licensing regimes, qualification requirements, professional standards, and rules governing fair recruitment and promotion, even when these limit individuals' ability to pursue particular forms of work or work with particular others. Such constraints are typically justified not as regrettable infringements of a fundamental liberty, but as necessary conditions for

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[387] Otsuka, "Freedom of Occupational Choice."

[388] Casal, "Occupational Choice and the Egalitarian Ethos."; MacKay, "Incentive Inequalities and Freedom of Occupational Choice." Cf. Lucas Stanczyk and Brian Berkey who interrogate the constraints that the freedom of occupational choice may impose in "Productive Justice" and "Obligations of Productive Justice: Individual or Institutional?"

[389] Rawls, *Justice as Fairness*, 111.

securing other important values, including safety, efficiency, fairness, and public trust. Crucially, these restrictions do not ordinarily strike us as resulting in something like conscription or compelled labour, paradigmatic examples of occupational constraints that meaningfully negate self-authorship. Rather, they are understood as regulating the terms on which access to occupational roles is granted, with such regulation remaining compatible with meaningful freedom to pursue a rational plan of life within their confines. This suggests that at least some duties that constrain occupational choice are compatible with the core of the interest that renders freedom in this domain morally significant in the first place.

Yet none of this undermines the thought that our liberty interest in occupational choice is of special moral significance. On the contrary, the normative difficulty pertaining to the question of how to structure rules so as to accommodate the importance of occupational choice and associative freedom lies in determining when restrictions on these freedoms cross an evaluative threshold and impose unacceptable burdens. As Scanlon's discussion of rights and interests illuminates, the permissibility of restricting a morally significant interest turns on whether its core is preserved, whilst Rawls similarly holds that basic liberties are impermissibly infringed when the 'central range of their application' is no longer secured.[390] These ideas do not license a relaxed attitude toward constraints on either freedom, but foreground the need for careful assessment of how and under what conditions, such constraints interact with the interests that render these liberties worthy of protection in the first place. It is this assessment that structures the balancing exercise to which I now turn.

Before doing so, however, it is worth stressing that the account of occupational choice developed here stands in close relation to the interest in freedom of association as discussed above. More specifically, my discussion of both interests has appealed, in particular, to the role that interpersonal relationships play in the pursuit of meaningful work and a conception of the good. In many of the cases under consideration, especially those involving nepotism, the value of occupational choice is partly constituted by the opportunity to engage in shared projects with particular others and admittedly, this gives rise to a degree of overlap between the two interests.

This does not, I contend, render one of the two interests redundant. The interest in occupational choice concerns agents' ability to exercise meaningful control over the direction and content of their working lives, including the kinds of projects they pursue and, in some cases, the relationships through which these are realised. By contrast, the interest in associative freedom is centrally concerned with agents' ability to determine the membership and character of shared practices themselves. The distinction becomes

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[390] ibid.

clearer once we consider cases in which individuals have a significant interest in pursuing a particular form of work, but where that interest does not depend upon collaboration with specific others. In such cases, constraints on selection may engage occupational choice without implicating associative freedom in the same way. Retaining both interests therefore allows for a more fine-grained account of the moral landscape. It ensures that we can capture the full range of considerations at stake in cases where work is bound up with shared authorship, whilst also recognising that many disputes about occupational choice cannot be reduced to associative claims. Making this distinction is not merely a matter of offering a more complete description of the moral landscape. It also allows for a more precise specification of when and how egalitarian duties of reform bear on a wider range of cases, including those in which occupational interests are implicated independently of associative considerations.

5.5 Impermissible Nepotism and Reasonable Reorganisation

This section develops a framework for specifying how egalitarian interests in efficiency and opportunity bear on, and are limited by, liberty interests in occupational choice and association. The result of this balancing act is the imperative of reasonable reorganisation, which generates a constraint on nepotism and remedial, forward-looking duties of organisational reform. Rather than assigning lexical priority to one set of considerations, the normative rationale guiding this exercise considers when duties to avoid nepotism and implement particular organisational practices merely regulate the exercise of these liberties in ways that can be justified as consistent with their equal respect for all, and when they instead undermine their core by negating agents' interest in occupational and associative authorship. Distinguishing between the regulation of mere liberties and negation of self-authorship allows us to identify the circumstances in which egalitarian interests generate enforceable duties, and those in which they give rise only to pro tanto moral reasons. Whilst considerations of meaningful work and association help explain why the relevant liberty interests are morally significant, it is the notion of self-authorship in the relevant domains that functions as the justificatory threshold which illuminates when moral or legal interference becomes unacceptable.[391] As such, I limit

[391] Though the discussion of meaningful work in §5.4 focused on occupational choice, similar considerations also bear on freedom of association, insofar as associative relations structure the relational context in which work is experienced as meaningful, or enable shared projects that figure centrally in agents' plans of life. For now, I leave open the question of *how* these duties might be taken up and discuss the implications of the framework developed here for moral and legal regulation in the following chapter.

my discussion here to identifying when this threshold is crossed. For ease of illustration, I begin with occupational choice before turning to associative freedom.

In the case of occupational choice, the core of this interest is patently undermined in scenarios where agents are morally or legally compelled to enter, remain in, or exit particular occupations in ways that meaningfully negate their ability to shape the direction of their working lives. Paradigmatic cases here will include forms of conscription, forced labour or role assignment, where individuals are treated as mere instruments for the advancement of specific ends. However, many familiar constraints on occupational choice, like those discussed above, are not ordinarily understood as negating self-authorship in this domain. Rather, they are best understood as regulating access to occupations in ways that remain compatible with agents retaining substantive control over their occupational pursuits and broader life plans, even in scenarios where some options are foreclosed. The contrast between these cases reveals that what matters is not the mere presence of some constraint, but whether agents retain access to a set of alternatives compatible with meaningful authorship in this domain. In this respect, compulsion is not understood narrowly in terms of overt legal sanctions or the mere foreclosure of a particular option, but more broadly in terms of whether the structure of available alternatives allows agents to author their occupational trajectories in ways that are congruent with their pursuit of a diversity of conceptions of the good and meaningful work.[392]

A similar threshold can be drawn in the case of freedom of association. The core of this interest is threatened in scenarios where agents are compelled to associate or prevented from dissociating in ways that foreclose the possibility of associative authorship or redefine the association's raison d'être. Paradigmatic cases of this kind of compulsion, such as forced marriage, or laws that prohibit religious assembly, undermine individuals' ability to coauthor the associative dimensions of their lives with others. By contrast, many existing background constraints on association, including anti-discrimination laws or rules governing access to political, civil, or socioeconomic institutions, are commonly regarded as compatible with legitimate associative freedom,

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[392] For an insightful debate on vitiated voluntariness and acceptable alternatives in cases of constrained choice, see, Olsaretti, *Liberty, Desert, and the Market*, 139, 154; and Colburn, "Debate: The Concept of Voluntariness." Olsaretti argues that actions are non-voluntary whenever they are performed because no objectively acceptable alternatives are available, whilst Colburn revises this account by emphasising the role of agents' beliefs about their options and by restricting the class of relevantly unacceptable alternatives to those involving serious prudential harm. Nothing in the present argument requires endorsing either account in full. It instead relies on a threshold notion of acceptability sufficient to distinguish paradigmatic cases which undermine self-authorship in the relevant domain from interference which leaves such discretion untouched. The relevant question is whether constraints deprive agents of meaningful authorship over the direction of their working or associative lives, not whether they satisfy any fully specified prudential, welfare-based, or preference-sensitive metric concerning the acceptability of the options on offer.

even if their scope may be debated in the case of both nepotistic and religious institutions.[393] This is so insofar as these constraints regulate the external effects of association without dictating its internal meaning or direction across all domains of life, even though they impose content-sensitive limits on organising practices or permissible purposes in contexts where the character or consequences of association are morally objectionable.[394] Though the interests discussed differ in their object, the underlying threshold is the same. Namely, whether constraints meaningfully negate agents' interest in authoring the relevant occupational and associative aspects of their lives.

With these thresholds in view, I now return to consider several cases discussed earlier in the thesis to illustrate when duties to avoid nepotism or implement particular selection practices engage the core of the relevant liberty interests. In cases like Band or Cafe (pp.136-137), prohibitions on nepotism plausibly risk crossing the relevant thresholds. These are contexts in which occupational choice and association are intertwined in a way that not only define part of the relevant institutional purposes, but structure agents' working lives and ongoing projects, commitments, or shared ideals with one another. For those involved, the freedom to pursue work in close collaboration with friends or relatives is not merely a preference over working conditions. On the contrary, the presence of these individuals and collaborative endeavours they make possible is a *constitutive* element of the institution's raison d'être and of the occupational or associative plans at stake. The pursuit of these plans is integral to agents' ability to exercise authorship in this domain, often in ways that are irreducibly shared or coauthored with others.

In Band, this takes the form of joint creative activity which depends upon collaboration among individuals within the relevant relational scope, whilst in Cafe, it is reflected in Maria's commitment to continuing the intergenerational stewardship of a small, family-based enterprise alongside intimate others with whom authorship of the project is shared. Duties that would require such projects to be reorganised so as to exclude this kind of coauthorship risk undermining the core of the relevant interests because they fundamentally alter the nature of the pursuits themselves. Indeed, if one were to "zoom out" and assess the implications of such duties across a broader range of cases, this would not only render nepotism impermissible in the cases mentioned, but prohibit collaboration between friends qua academics on joint philosophical ventures or the start-up of business ventures between intimate associates. This is because the

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[393] See, Laborde, *Liberalism's Religion*, 197-242; White, "Freedom of Association and the Right to Exclude." Cf. Alexander, "What is Freedom of Association, and What is its Denial?"

[394] Though the line between external regulation and internal interference is blurred in some cases, it is precisely this ambiguity that an appeal to the core of associative or occupational authorship is intended to resolve.

projects and ways of life at stake in these cases are made possible by relationships with others who cannot be exchanged for strangers without meaningfully altering the nature of the pursuit or negating its possibility altogether. This is not only evidenced by the fact that these endeavours are realised within pre-existing relationships of trust, familiarity, and shared commitments or ideals, but more crucially by the thought that interference would modulate the constitutive purpose of the relevant organisation's raison d'être.

By contrast, in cases such as Succession (p.86) or Agency (p.136), prohibitions on nepotistic appointment do not risk negating agents' authorship over the occupational or associative dimensions of their lives in the same way. Although such cases involve familial relationships, continuity, or deeply held personal commitments, the roles in question do not stand in the same constitutive relation to the possibility of authorship or coauthorship itself. Filling these roles nepotistically is not a necessary condition for pursuing a plan of life in the relevant domain, nor does the inclusion of others dissolve a shared project that depends upon collaboration with particular individuals.

Unlike Band or Cafe, where working with specific others is necessary for the activity to remain the same kind of activity, the purposes associated with the roles in Succession and Agency are not constitutive of the possibility of occupational or associative authorship in the same way.[395] Prohibiting nepotistic selection would constrain the grounds on which these positions can be allocated, but does not foreclose the space within which selectors or potential beneficiaries can write their own lives in their own way. After all, there is no plausible respect in which the occupational or associative dimensions of the institution's raison d'être in Succession depend upon the appointment of a particular family member, nor does the intelligibility of authorship in Agency for either party require that the president's son and extended social network occupy senior positions within the organisation.[396] The appeal to occupational choice or association in defence of nepotistic appointment is thus comparatively weak at the level of either liberty's core, even before egalitarian considerations are brought into view. The difference, in short, is not that relational considerations are absent in either Succession or Agency, but that they do not engage the core of the relevant liberty interests in the way that is required to ground prerogatives to nepotistic selection. A duty to avoid nepotism or to reorganise selection practices is thus unreasonable if complying with it would undermine the core of a relevant liberty interest, where that core consists in agents'

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[395] This claim is cashed out more precisely in the discussion of substitutable participation below.

[396] This is not to deny that familial or collaborative relationships may be constitutive of certain shared projects, but rather to insist that the nepotistic allocation of advantageous positions is typically a contingent rather than constitutive condition of coauthoring a recognisable plan of life in the relevant domain.

ability to author their working or associative lives through practices whose purposes and meaning are partly constituted by relational considerations.

Where duties to avoid nepotism or implement particular practices do not plausibly undermine the core of the relevant liberty interests, further moral argumentation is required in order to establish what selectors ought to do all things considered. In such cases, the permissibility of nepotism turns on the weight of competing egalitarian considerations that bear on how institutions ought to be organised and how advantageous positions are distributed. Two such considerations were identified in Part I of this thesis: an egalitarian interest in efficiency, understood as a standing interest in productive role allocation and competent performance; and an egalitarian interest in opportunity, understood as a standing interest in preserving and expanding access to advantageous positions and occupational pathways. These interests generate distinct pro tanto objections to nepotism and whilst they reinforce one another in many contexts, in others they pull our evaluative judgements in opposing directions.

This divergence is particularly evident in scenarios where nepotism plausibly enhances, or at least does not undermine, productive efficiency, yet nevertheless restricts access to advantageous positions or occupational pathways. The small family business in Cafe provides a clear illustration. There, the use of relational criteria in selection reduces search costs and sustains an organising practice that enables the business to compete in a crowded marketplace. At the same time, such practices predictably curtail informal access to positions that may represent meaningful opportunities for work, training, or advancement for those outside the relevant social network. In such cases, the interest in efficiency appears to support, or at least tolerate, nepotistic selection, whilst the interest in opportunity exerts pro tanto moral pressure, even if that pressure is modest in cases of this kind. Understanding how to adjudicate these cases, without collapsing opportunity into efficiency or treating liberty as entirely decisive, requires a more granular account of how these interests interact.

As a way of resolving this tension, one might wonder whether egalitarian intuitions about nepotism's permissibility ultimately reduce to an assessment of scale. On this reductive view, nepotism is of little moral concern in small-scale contexts like Cafe, where productive advantages are apparent and the number of foreclosed opportunities limited, but increasingly problematic as its inegalitarian effects expand across a larger number of positions, institutions, or sectors. From this perspective, there exists a basic, nondescript moral prerogative to select nepotistically which is only overwritten once the magnitude of its consequences for efficiency or opportunity

exceeds some threshold.[397] The appeal of this proposal lies in its apparent parsimony. For it promises to resolve the tension alluded to by appealing solely to scale, treating nepotism as largely innocuous where its effects are local and limited, and objectionable only once those effects are sufficiently weighty.

This reductive proposal gains initial traction when we consider the following modified version of Cafe.

> ***Cafe'***: Maria hires her daughter Roberta as in Cafe. Over time, the business expands into a national chain through franchising. The enterprise continues to market itself as a familial business and maintains the practice of hiring nepotistically. Each new location becomes a locus for nepotistic appointment within the family's extended social network, whilst members of the founding family increasingly occupy senior managerial roles across the organisation. Access to employment and advancement throughout the enterprise is systematically mediated by familial connection rather than open competition.

At a glance, Cafe' appears to differ from Cafe only in scale, and many might intuit that the permissibility of nepotism becomes increasingly fragile as the enterprise expands, even though the justificatory rationale offered by those in charge remains unchanged. From the perspective of the egalitarian interests identified above, this increasing unease is readily explained. As the organisation grows, the opportunity costs imposed by nepotistic hiring become more extensive and more predictable, affecting a larger pool of potential candidates for whom these positions may represent meaningful pathways to employment, training, or advancement. Additionally, the claim that nepotism continues to confer unique productive advantages is contestable in light of growing organisational complexity, and because the advantages made possible by close familial collaboration within a particular community are increasingly absent once the organisation is a certain size. Taken together, these considerations appear to vindicate the reductive view: nepotism is permissible at small scales, but becomes impermissible once its aggregate effects on efficiency and opportunity cross a certain threshold.

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[397] Even setting aside the specific problems raised below, this picture of prerogatives is independently controversial. As Alan Thomas argues, views which posit a basic agent-centred prerogative but then make its permissibility sensitive to agents' distance from the worst-off risk undermining the very idea of a prerogative, since discretion constrained in this way may cease to be genuine discretion. Whilst Brian Berkey rejects this objection, he reconstructs it as arising from a concern that such views blur the distinction between permitted deviations from impartiality and impermissible ones. See, Thomas, "Cohen's Critique of Rawls: A Double Counting Objection," 1115; Berkey, "Double Counting, Moral Rigorism, and Cohen's Critique of Rawls," 858.

Yet this way of framing the issue risks obscuring more fundamental questions about when and why such a permission to favour nepotistically exists at all, and about how egalitarian concerns should constrain institutional practices even before their aggregate effects cross some threshold. Individuals do not merely value opportunities in the aggregate, but have reason to care about access to particular kinds of positions and occupational pathways,[398] especially where these are scarce, socially or culturally salient, or closely connected to prospects for self-development and recognition. Moreover, in societies marked by significant background inequality and structural injustice, even "small-scale" nepotism may contribute to objectionable patterns of exclusion or advantage concentration that are not well captured by a reductive quantitative appraisal. These considerations suggest that whilst scale mediates our evaluative judgements, it cannot, by itself, adjudicate the puzzle in focus.

To see why, recall the cases of Succession and Agency, where nepotism affects the distribution of a single position in the former and a handful of positions in the latter. In both cases, the positions at stake are scarce and associated with significant prospects for socioeconomic advancement, self-development, and recognition. Moreover, few genuinely comparable opportunities exist elsewhere, since the positions themselves and the occupational pathways they anchor are relatively rarefied. If the permissibility of nepotism turned solely on the *number* of opportunities foreclosed or the magnitude of efficiency losses, then nepotism in these cases should strike us as morally unproblematic. Yet this conclusion should sit uneasily with widely shared egalitarian intuitions. Informal exclusion from such positions is not readily reducible to the loss of opportunities in the aggregate, but raises forceful concerns about being barred from particular positions whose social meaning and occupational pathways cannot easily be replicated elsewhere at another time. When access to these roles is mediated by relational connection rather than open competition, this undermines the assurance that such opportunities are, in practice, available on terms consistent with equal standing and exacerbates structural injustice given homophilic social tendencies. It is precisely this concern that the egalitarian interest in opportunity is intended to capture.

Even so, this diagnosis is still incomplete. For consider Band. Like Succession or Agency, the opportunity at stake is scarce and plausibly associated with substantial prospects for socioeconomic advancement and recognition. Entry into a successful band may be life-changing in this respect, and few comparable opportunities exist elsewhere. These facts are sufficient to engage the egalitarian interest in opportunity and to generate a standing moral reason to widen access where possible. Yet they do not suffice, on their

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[398] A point which Scanlon also notes but does not discuss in further detail. See, *Why Does Inequality Matter?*, 46.

own, to delineate the permissibility of nepotism or to specify concrete duties of selection in this case. If we are inclined to judge that relational selection in Band remains permissible, then this judgement cannot be explained solely by appeal to scale, nor by the moral relevance of scarcity and socioeconomic, developmental, or expressive salience. Instead, this suggests that whilst the aforementioned egalitarian interests are always operative, they do not by themselves determine the permissibility of nepotism in contexts where the core of the relevant liberty interests is engaged.

What matters here, however, is not simply that some agents attach great subjective importance to working with particular others, nor that a practice presents itself under a familial or intimate ethos. Nepotism is constitutive of a practice in the relevant sense only where the practice could not continue as the same *kind* of activity under conditions of open or substitutable participation, because collaboration with these particular individuals partly determines the character of the activity as an exercise of shared authorship. In cases of this kind, substituting participants would not merely change who performs the role, but alter the kind of project being pursued. Where the activity can be pursued as the same kind of enterprise under substitutable participation, nepotism concerns the allocation of positions within the practice rather than the preservation of the distinctive occupational or associative practice itself. In such cases, appeals to liberty are correspondingly weaker, because what is being protected is no longer the integrity of a coauthored practice as such, but preferential control over access to roles within it. For example, in Band, collaboration partly constitutes the artistic endeavour itself whereas in Succession, Agency, or Cafe', the core functions of these institutions remain intelligible independently of who occupies the relevant roles. Hence, the relevant question is whether an institution's purpose can be specified independently of the particular identities of its participants.

This, however, might lead one to press a further challenge. If liberty blocks countervailing egalitarian considerations in cases like Band because nepotism is constitutive of the practice, then why can the same appeal not be made in cases like Succession, Agency, or Cafe'? After all, the potential benefactors or beneficiaries of nepotism in these contexts may also claim to be exercising occupational choice or associative freedom, by seeking to preserve continuity, work closely with intimate associates, or realise a specific vision of how their occupational and associative plans should unfold. If liberty is capable of blocking egalitarian demands in the one case, it is natural to scrutinise why it should not do so in the others as well.

One way of developing this line of thought is to interpret the relevant liberty interests as grounding an entitlement for either benefactors or beneficiaries to realise increasingly specific occupational and associative plans. On this reading, the freedom at

stake would legitimate the ability to hand down or receive control of a multinational firm, to leverage success within an agency so as to distribute or receive advantages within a narrow relational scope, or to continually press claims via increasingly distant relatives to new roles as opportunities arise. If understood in this way, liberty would indeed appear to provide a powerful and near unrelenting defence of nepotistic practices across a wide range of cases.

But this interpretation of the relevant interests is difficult to sustain. Firstly, if occupational choice or associative freedom were understood as entitlements to realise narrowly specified and increasingly exclusive plans, then those excluded by nepotistic practices could press symmetrical claims of the same form. Once these liberties are interpreted as positive entitlements to specific roles or trajectories, they cease to function as plausible constraints on egalitarian demands. The competing claims simply reappear on both sides, and adjudication must again defer to egalitarian concerns in efficiency and opportunity. This does not show that all appeals to specificity are suspect. In cases like Band, the specificity at issue is internal to a jointly authored activity, whereas in cases like Succession or Agency it concerns discretionary control over access to roles within an independently intelligible structure.

Secondly, and more fundamentally, this expansive reading mischaracterises the core of the relevant liberty interests. Their point is not to secure unilateral discretion over the distribution of advantageous positions, but to protect a reciprocal freedom to participate in meaningful work, collaboration, and shared projects on terms that others could also reasonably accept. The core of occupational choice and associative freedom does not, therefore, ground a unilateral prerogative to structure inequality-generating institutions around one's preferences, but a claim to author one's working and associative life under conditions of equal respect.[399]

Reciprocity is normatively salient here because it distinguishes claims about preserving the conditions of shared authorship from claims about preserving preferential control over access to roles. Regulative duties do not plausibly undermine the core of these liberties where they appear necessary to secure comparable freedom for others. Where protecting one agent's preferred exercise of occupational choice or association would impose non-reciprocal, identity-affecting constraints on others' ability to author

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[399] This account of prerogatives differs from agent-centred prerogatives defended by Cohen (*Rescuing Justice and Equality*, 10-11, 61-62, 387-394) and Samuel Scheffler (*The Rejection of Consequentialism*, 20), and is not vulnerable to the concern raised by Thomas and Berkey (see, n. 398). The present framework does not balance self-interest against impartial political requirements. Rather, both egalitarian and liberty-based considerations are cashed out in terms of interests that all individuals have as equal participants, and prerogatives arise only where the protection of the latter interests is reciprocal. Where a liberty's exercise undermines the conditions of reciprocal self-authorship, it ceases to ground a prerogative, rather than remaining permissible whilst becoming increasingly morally objectionable.

their working lives, the justificatory force of the appeal to liberty is weakened. Liberty, properly understood, does not license arrangements that systematically deny others access to the same freedom in the very domain at issue.

This reciprocity-sensitive understanding helps to explain why liberty blocks egalitarian demands in cases like Band or Cafe, but not in Succession, Agency, or Cafe'. In the former cases, what is at stake is not access to a position that could be subject to open competition without altering the character of the practice, but participation in a coauthored practice whose existence, character, and value depend upon collaboration among particular individuals. In other words, the relevant role or activity is not intelligible in the same way independently of the relationships that constitute it. Requiring open access here would not merely regulate selection, but would reshape the activity itself in a way that plausibly negates the form of occupational and associational authorship at stake. In this context, imposing duties of non-nepotistic selection would burden the core of the liberty interest in a way that is non-reciprocal and identity-affecting.

By contrast, in Succession, Agency, and Cafe', any attempt to appeal to liberty takes on a different character and one which we should be suspicious of. The roles at issue are embedded within organisations whose purposes, authority structures, and occupational pathways do not hinge upon collaboration among particular individuals. Although familial continuity or loyalty may be deeply valued, occupying these positions is not constitutive of a shared practice in the way it is in Band or Cafe. Exclusion from such roles does not dissolve a form of life that could not plausibly be realised except through collaboration with specific others, nor does it negate agents' ability to author their working lives as such. Instead, it forecloses access to scarce and socially salient positions within an institutional domain that could, in principle and practice, be reorganised so as to be more inclusive and efficient.

Once this is recognised, the appeal to liberty in these cases begins to look less like a defence of self-authorship and more like an attempt to secure increasingly specific advantages against a prospective egalitarian constraint. To the extent that such appeals depend upon denying others reciprocal opportunities for occupational or associative authorship, their justificatory force is weakened. This is not because liberty ceases to matter, but because respecting it as a shared interest places internal limits on the prerogatives it can ground. It is in this light that concerns about moral opportunism arise. Invoking liberty to defend nepotistic practices in Succession, Agency, or Cafe' often hinges on treating freedoms already secured under relatively open conditions as grounds for their subsequent restriction. Even where such appeals are sincere, they risk functioning as ad hoc justifications for prerogatives that are not necessary for agents to meaningfully author their working or associative lives, but instead serve to entrench

asymmetrical distributions of opportunity for self-authorship. Where this is so, liberty no longer blocks egalitarian demands, but instead helps to explain why duties of reform are required.

The concrete upshot of the foregoing analysis is not a simple taxonomy of permissible and impermissible cases, but the following organisational imperative.

> **Reasonable Reorganisation***:* Institutional actors bear duties to reorganise their selection practices so as to promote efficiency and widen access to opportunities up to the point at which further reorganisation would impose unreasonable, non-reciprocal costs on the normative core of the liberty interests that are constitutive of the institution's purpose.

Where openness or efficiency can be increased without undermining the conditions of occupational or associative authorship, egalitarian considerations press strongly in favour of duties to reform. Where doing so would negate the very activity or form of life at stake, liberty plausibly blocks such demands. The permissibility of nepotism, on this view, is not settled by scale alone, nor by liberty in isolation, but by the interaction of these interests under conditions of reciprocal respect.

To say this, however, is not yet to say what reasonable reorganisation requires of selectors in practice. At a minimum, it requires that institutions treat their selection criteria as answerable to the interests they predictably affect, rather than as morally insulated expressions of favouritism or tradition. In contexts where nepotistic selection does not engage the core of occupational or associative freedom, selectors are required to consider whether the qualifications they rely upon (including nepotistic reactions) are demonstrably connected to the institution's raison d'être, and whether that raison d'être itself can be specified or pursued in ways that better accommodate egalitarian interests in efficiency and opportunity. This may not only involve duties to avoid nepotism but requirements to subject senior appointments to open competition, formalise training and promotion pathways, and revise informal hiring norms that function as de facto barriers to entry. The aim is not to eradicate all relational considerations from the gamut of legitimate qualifications, but to ensure that they do not operate as blanket gatekeeping devices where their justificatory force is weak.

This way of framing the duty of reorganisation represents a distinct way of moralising qualifications as discussed above. If qualifications are to function as justifying reasons for distributing advantageous positions, they must be responsive not only to institutional efficiency, as crude meritocratic accounts demand, but to the full set of moral considerations that give the distribution of particular positions to particular people

their value. These include egalitarian interests in efficiency and opportunity, as well as liberty interests in occupational and associative self-authorship. Where relational proximity is offered as a qualifying reason in selection, its permissibility therefore depends on whether it is necessary to realise the institution's purposes in a way that engages the core of those liberty interests, or instead operates as an exclusionary criterion that cannot be justified to those denied access. Reasonable reorganisation requires selectors to revise, refine, or disaggregate qualifications when their operation predictably conflicts with egalitarian interests without protecting any constitutive form of occupational or associative authorship.

Whether such revision is required depends on whether openness or efficiency would merely regulate how an institution pursues its purposes, or would instead destroy those core-protecting purposes themselves. Where collaboration among particular individuals is constitutive of the activity, as in Band or Cafe, reorganisation may cease to be reasonable once it would dissolve the practice rather than reform it. Where it is not, continued reliance on exclusionary criteria or other organising practices stands in need of justification. This account of reasonable reorganisation is necessarily indeterminate at the margins, as any account which pays heed to the complexity of the moral landscape would be. Disagreement will persist about how far institutions must go in revising entrenched practices, about the legitimacy of partial exemptions for nepotistic practices that plausibly constitute an expression of the normative core of occupational or associative freedom, and about how to assess trade-offs between efficiency and opportunity in non-ideal conditions.

5.6 Objections

Perhaps one of the most pressing objections that could be levelled against the preceding argument is that the framework developed here is implausibly demanding. For if egalitarian reasons are always operative and liberty-based exemptions are narrowly circumscribed, the duty of reasonable reorganisation may appear to mandate near-continuous institutional reform, imposing burdens that some might regard as impossibly constraining. Depending on one's intuitions about the scope of egalitarian requirements in non-ideal societies, this objection may possess considerable force given the standing pressure of the egalitarian interests identified and how reciprocity narrows the range of cases in which liberty may block reform. That being said, I do not perceive either feature of the theory defended here to be defective, especially in light of the significant room for moral improvement within non-ideal societies marked by deep and persistent inequalities in which nepotism is prevalent. In such contexts, egalitarian improvement is

certainly not without any cost, but there is no magical, cost-free alternative that would enable any meaningful shift from the status quo to fairer institutional arrangements. As things stand, laissez-faire appeals to mere liberties as decisive moral reasons serve to maintain the status quo and postpone such improvement. Notice how this too is not without a cost of its own, but presumes that this cost may justifiably be borne by those who are disadvantaged by the relevant inefficiencies and opportunity-restrictions.

Importantly, I do not presuppose here that the imperative of reasonable reorganisation always applies or that egalitarian interests automatically override liberty. The idea that liberty-based exemptions must be justified in reciprocal terms of the protection of a core interest in self-authorship is instead much more modest than this framing. Where such a justification is unavailable, reasonable reorganisation then emerges as a requirement in response to exclusionary or inefficient practices. That this places sustained moral pressure on economic institutions is not an implausible implication, but a reflection of the moral significance of these institutions as sites in which access to a wide array of material and immaterial goods is structured. It should be stressed that this does not collapse into a teleological call for continuous optimisation. Reasonable reorganisation is constrained not only by liberty and reciprocity, but also by feasibility and the counterfactual likelihood that reforms would plausibly improve efficiency or opportunity relative to the status quo. The view therefore maintains a principled deference to liberty whilst avoiding an unbounded sensitivity to egalitarian considerations.

Finally, in response to the charge of demandingness, it is also worth making note of a broader point that may easily be overlooked. As I stated above, much egalitarian theory is dominated by discussions of the requirements that the ideal of equality generates for the regulation of shared schemes of cooperation without much thought as to what the relevant duties would look like within a moral world that is populated by countervailing considerations. Because, however, the charge of demandingness is comparative, it may be somewhat hollow as a consequence. If one rejects the egalitarian interests proposed here because they are entirely unsympathetic to the relevant complaints, then it trivially follows that the imperative of reasonable reorganisation would be implausibly demanding for such theorists but not uniquely so. If, however, one feels some sympathy to the egalitarian pressure raised but finds themselves tempted by the same charge, then explaining this charge in relation to some suitably demanding baseline becomes more difficult without engaging in the kind of reasoning undertaken here. This would, at the very least, vindicate the methodological contours of this thesis and invite further clarification of the baseline against which demandingness is being assessed.

Concerns about demandingness aside, a further objection instead targets the internal stability of the framework developed here. As I acknowledged in Section 5.2, although we might understand both egalitarian interests as pulling our evaluative judgements in the same direction whenever widening the competitive pool would result in the selection of candidates who better promote an institution's purpose, it is possible for these interests to produce some conflict. After all, many practices that enhance efficiency do so precisely by being less inclusive or more selective, whilst some opportunity-expanding reforms are liable to impose short-term efficiency costs. Given that I have not proposed a lexical ordering of these interests or a determinate metric for trade-offs between them, the notion of reasonable reorganisation may appear indeterminate or insufficiently action-guiding as a consequence.

Though this worry should be taken seriously, I do not believe that it undermines the approach developed. Firstly, the persistence of such divergence is a feature of all non-ideal moral reasoning and, insofar as it is, the problem it presents is not one unique to the idea of reasonable reorganisation. Any theory that takes seriously both productive efficiency and fair access in unequal societies will confront scenarios in which these values come apart. Undoubtedly, insisting on lexical priority would simplify adjudication, but only at the cost of distorting the moral landscape. Secondly, reasonable reorganisation does not require institutions to maximise either value in isolation. Rather, it is triggered where a reasonably available alternative would improve opportunity or efficiency without imposing non-reciprocal burdens on the core of the liberty interests that may be constitutive of the practice. In such cases, the burden shifts to defenders of the status quo to explain why reform would nevertheless be unreasonable. Many reforms that widen access—such as formalised recruitment, open competition, and diversified training pathways—are not merely opportunity-enhancing, but also tend to improve efficiency over time by expanding candidate pools and reducing reliance on informal networks. Where genuine trade-offs remain, the framework permits context-sensitive judgement whilst ruling out clearly unjustified exclusions. The fact that *some* indeterminacy may persist at the margins is therefore not a defect, but an unavoidable consequence of respecting multiple morally significant interests.

That said, the presence of such trade-offs does not entail that reasonable reorganisation is incapable of yielding determinate guidance in the vast majority of cases. In many scenarios, further contextual evaluation of the case at hand provides reasons to privilege one interest over the other. Where modest or temporary losses in efficiency are necessary to secure meaningful improvements in access to opportunities, especially where existing arrangements systematically exclude, there are often decisive reasons to favour reform. Familiar cases include institutional changes that impose some cost in

order to widen access for those who would otherwise be excluded, such as the provision of wheelchair access in universities or workplaces. Conversely, where proposed expansions of access would impose costs that are not only significant from the standpoint of efficiency, but threaten to undermine the institution's capacity to generate or sustain the very opportunities at stake, there are corresponding reasons to resist such changes. Moreover, the framework not only permits context-sensitive judgement, but also explains why many apparent trade-offs fail to arise in the first place. Where nepotism is constitutive of a practice, it will often, though not necessarily, be commensurate with the interest in efficiency, and where it is not, liberty does independent work in protecting the practice. Moreover, in cases where efficiency is invoked to resist widening access, the costs at stake are frequently neither substantial nor self-defeating from the standpoint of opportunity, and thus do not provide decisive reasons against reform.

An additional problem concerns cases in which nepotistic-looking patterns arise not through favouritism within practices of the kind captured by the working definition, but through earlier expressions of partiality that shape individuals' qualifications prior to formal assessment. Indeed, one may easily observe how parents often intentionally raise their children to succeed them, equipping them with the skills, networks, and experience such that, when positions are eventually subject to open and impartial competition, their offspring emerge as the best-qualified candidates.[400] To illustrate this further, recall cases like Succession and Agency, but suppose that following a thorough and impartial search, members of the relevant networks simply are the best candidates available because of their distinctive formative experiences. In scenarios of this kind, nepotism in the strict institutional sense may be absent at the point of selection, and neither efficiency nor opportunity is directly undermined in the decision itself, even if broader concerns about background fairness and the transmission of advantage across generations remain.

In response, it is important to clarify that the framework developed here is not designed to regulate pre-institutional partiality as such. Its focus is deliberately institutional rather than familial in orientation, not because familial partiality is morally irrelevant, but because institutions constitute comparatively tractable sites of justification in which those affected by the relevant practices can plausibly press for reform. Attempts to regulate pre-institutional advantage by constraining parental decisions would potentially risk intrusive and more thoroughgoing perfectionist intervention into

[400] It is to these sorts of practices that self-confessed beneficiary of nepotism Adam Bellew often appeals in his polemical history and defence of nepotism, suggesting that society often benefits from nepotism for this very reason, gesturing at various points towards American political dynasties as salient (albeit dubious in my view) examples. See, Bellew, *In Praise of Nepotism*, 14-15, 20, 470-471.

associative life.[401] By contrast, institutional practices are already structured by rules governing access to significant material and immaterial goods that are subject to justification to those affected. This is not to deny that familial partiality contributes to unequal opportunity, but suggests that the appropriate tools for addressing such inequalities differ in kind from those required to regulate institutional gatekeeping. Reasonable reorganisation should not be understood as a panacea for all inequality-producing mechanisms but as a principle governing the justification of institutional practices where reform is feasible and normatively tractable. The persistence of background inequalities rooted in family life does not undermine the case for reforming institutions that continue to amplify or entrench those inequalities through exclusionary practices.

With these objections set aside, I now turn to consider a more philosophically challenging pressure point for the framework developed here. Whereas the preceding objections question the scope or internal coherence of the account, this line of reasoning acknowledges that I have identified genuine moral reasons in favour of reasonable reorganisation, but denies that these reasons ground duties of justice. On this view, the imperative to reorganise exclusionary or inefficient practices is better understood as supererogatory: a morally admirable form of institutional improvement for which individuals may deserve praise for undertaking, but not something for which they can be held accountable as a matter of justice. As I shall discuss the problems associated with assigning individual culpability for such failures within the following chapter, I delimit my response here to defusing the more pressing claim that I have mistaken plausible duties for supererogatory, equality-enhancing action.

The best way to respond to this concern, I believe, is by the way of an analogy. Consider a university whose buildings lack wheelchair access because they were constructed before accessibility standards were common. At an earlier time, retrofitting may have been prohibitively expensive and thus supererogatory. Suppose, however, that affordable and technically feasible modifications later become available, yet the

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[401] For example, Harry Brighouse and Adam Swift's proposal in "Legitimate Parental Partiality" addresses issues of this kind by constraining legitimate partiality within the family to expressions of partiality necessary for the realisation of familial goods. A view of this kind, however, must presuppose an account of which activities, shared projects, and pursuits are integral to the relational goods constitutive of parent–child relationships, and by extension, to the relational goods constitutive of any intimate relationship that undermines equality of opportunity. Whilst I am not unsympathetic to Brighouse and Swift's argument, and the concerns it raises about the role of familial partiality in generating unequal opportunity, one might question whether the most appropriate or effective site of intervention lies in regulating intimate associations themselves. Given the distinctive intrusiveness of such regulation, and prevalent normative expectations governing parental conduct, there are reasons to instead focus on how institutional practices are organised, and on how individuals within them respond to and sustain the effects of such advantages, especially where practices are already subject to norms of open competition and public justification.

institution declines to undertake them. It would be implausible to describe the installation of ramps in such circumstances as merely supererogatory. The wrong would not consist in failing to promote equality in the abstract, but in continuing to operate an exclusionary structure once a reasonable alternative exists. What changes here is not whether moral complaints are legible, but the availability of a feasible reform that renders the persistence of exclusion unjustifiable.

Moreover, the supererogation objection may draw strength from intuitions closely related to those animating the demandingness worry addressed above. Since the suggestion that reasonable reorganisation is admirable but not required may similarly rest on a judgement that justice cannot plausibly demand sustained institutional reform in non-ideal conditions. Yet this is not a conceptual claim about the distinction between duty and admirable behaviour, but a substantive judgement about the costs that justice may reasonably impose. Once framed in these terms, the dispute becomes comparative rather than categorical. Any egalitarian account that treats opportunity as morally significant must confront similar questions about how much institutional adjustment justice requires when feasible improvements are available. If alternative theories avoid this conclusion, it will typically be because they assign greater priority to liberty or ownership in cases where these interests conflict. That may be a defensible position. But it would represent a substantive recalibration of egalitarian commitments rather than a mere clarification of the boundary between duty and virtue. The disagreement, in other words, concerns the weight of equality in structuring access to various material and immaterial goods, not whether the distinction between justice and supererogation has been misapplied.

A final worry worth anticipating here before proceeding is whether the framework proposed insufficiently respects ownership rights and the authority they are typically taken to confer over decision-making within the relevant cases. Since the existing schedule of such rights in our actual societies presuppose such authority, it might be argued that decision-makers are entitled to exercise discretion over hiring and promotion even where doing so is objectionable from the perspective of efficiency or opportunity. On this view, practices which offend these interests may be regrettable in some respect but ultimately permissible, as they fall within the scope of such authority. Although this objection presses an important distinction, it ultimately misconstrues the target of the argument developed above. As I elucidate in the following chapter, the claim defended here is not that owners lack *de jure* authority to make the relevant decisions, but that the exercise of such authority is constrained by considerations of justice when it structures access to advantageous positions or predictably undermines efficiency in ways that others have reason to reject.

I thus maintain that ownership explains who has the standing to decide but not what counts as a just practice. Where the relevant practices function as gateways to the material and immaterial goods discussed in Chapters 3-4, their practices become answerable to impartial reasons grounded in the interests of those affected. To insist otherwise would be to treat ownership as morally exhaustive in contexts where it plainly is not. The remaining question, then, is not whether ownership confers decision-making authority, but how such authority should be exercised and regulated in cases covered by the integrity account of corruption and the idea of reasonable reorganisation. It is to this question that the next chapter turns.

6. Law, Policy, and Ethos

With a distinction between permissible and impermissible nepotism now in view, this chapter takes up the final task of this thesis by considering how we ought to respond to impermissible nepotism. The following discussion mirrors the structure of the preceding chapter insofar as it delineates appropriate responses to impermissible nepotism within institutions covered by the integrity account of corruption and those which are instead regulated by the imperative of reasonable reorganisation.

In the case of institutions that ought to be designed so as to satisfy legal claim-rights that individuals have to the relevant goods or services they provide, I argue that nepotism should be legally prohibited. The justification for such prohibition appeals not only to the significance of the underlying interests that ground these claim-rights, but also to the expressive function of law in shaping and sustaining norms governing institutional conduct. Even where existing legal doctrines may occasionally capture nepotistic wrongdoing, targeted regulation is warranted to address gaps in coverage and signal that such practices constitute a serious failure to respect the interests that these institutions exist to serve. In the case of institutions subject to reasonable reorganisation, however, the question of how to respond to impermissible nepotism is decidedly more complex. I argue that legal interference with such practices is likely to be undesirable for a number of reasons. Yet I suggest that this does not render the notion of reasonable reorganisation inert. Instead, I argue that it motivates the appeal to an egalitarian ethos, understood here as a set of dispositions and norms governing individual conduct and institutional practice, which agents should strive to adopt if they are to comply with what justice asks of them in the absence of coercive regulation.

Section 6.1 briefly makes the case for the institutionalisation of legal prohibitions on nepotism qua corruption in the class of cases covered by the integrity account. Here, I argue that legal prohibition in these contexts plays an important expressive role, helping to stabilise normative expectations, reinforce accountability, and influence norms governing selection across a wider range of institutional settings. Section 6.2 then elucidates the limits of such legal interference and drawbacks of extending prohibitions on nepotism far beyond the domain of corruption. Emphasising that many reasonable conceptions of justice are not exhausted by what is feasible or desirable to impose as a matter of law, I work from the uncontroversial claim that much injustice permeates beyond any reasonable coercive outline of society and so requirements of justice do not end where the imposition of further regulation would be undesirable. This motivates a reconsideration of the idea of an egalitarian ethos, familiar from Jerry Cohen's critique of Rawlsian incentive inequality, which is recast here in order to clarify the role that

reasonable reorganisation plays in societies marked by unjust background conditions and organisational practices. Rather than asking what justice would require of income-maximising individuals in a fully well-ordered society, I consider how justice should guide individuals acting in institutions that are situated within societies marked by persistent injustice, epistemic limitations, and reasonable constraints on legal enforcement. On my view, an egalitarian ethos does not compete with *institutional* principles of justice nor implausibly demand perpetual benevolence and self-sacrifice, but complements them by governing those domains in which justice cannot be secured through legal coercion alone. Once again, I conclude the chapter by anticipating and responding to various objections.

6.1 Law and Policy

This section considers how institutions ought to respond to impermissible nepotism in cases where such practices fall within the scope of the integrity account of corruption developed in Chapter 2. In these contexts, nepotism is wrong *simpliciter*, either because it directly violates legal claim-rights or because it constitutes a failure to discharge the second-order duties required to maintain the procedural or relational integrity of the institutional framework through which those rights are secured. Where institutions exist to provide goods or services to which citizens ought to have legal claim-rights, the case against nepotism therefore has immediate implications for policy and law. It is perhaps unsurprising then, that I contend that nepotism in such institutions ought to be legally prohibited. I should stress, however, that I do not arrive at this conclusion because I believe existing legal mechanisms to be wholly incapable of addressing nepotistic wrongdoing. On the contrary, impermissible nepotism in these institutions is often indirectly covered by regulation governing negligence, maladministration, abuse of office, or fraud.[402]

That being said, given the significance of the interests and the role these institutions play in securing them, there is a principled basis for treating nepotism as a

[402] Recent litigation concerning pandemic procurement in the UK provides a useful illustration of the ways in which nepotistic practices may be captured by existing legal doctrines. In some notable cases, contracts awarded to individuals or firms with personal or political connections were subsequently found to involve unlawful procurement, maladministration, or related wrongdoing, leading to significant recovery orders. Yet these outcomes typically depended on the availability of extensive forensic evidence of deception or misuse of funds. Where nepotistic corruption occurs without constituting another infringement, existing regulation may offer no direct remedy. This supports the case for treating nepotism within rights-securing institutions as a distinct form of institutional misconduct, warranting explicit legal prohibition rather than relying solely on indirect coverage through other offences. See, Good Law Project Ltd v Secretary of State for Health and Social Care 2022 EWHC 46 (TCC); and The King (on the application of Good Law Project Ltd) v Secretary of State for Health and Social Care and Abingdon Health Plc 2022 EWHC 2468 (TCC) for related procurement challenges.

distinct form of institutional misconduct that warrants legal proscription. Where legal claim-rights are at stake, role-occupants are under directed duties not only to contribute to satisfying the relevant claims, but also to organise and maintain institutional practices that recognise the underlying interests as authoritative constraints on deliberation in the formation of rules and conduct. Nepotistic corruption is incompatible with these duties because it substitutes considerations that are arbitrary from the standpoint of the institution's raison d'être for ones rationally related to the fulfilment of its publicly recognised ends. Even where no immediate rights violation occurs, such practices undermine the procedural and relational integrity of the institutional framework through which claim-rights are realised, and in doing so fail to accord the relevant interests the recognition they are due.

The legal prohibition of nepotistic corruption covered by the integrity account serves two functions. Firstly, it provides a mechanism, however imperfect, for safeguarding the relevant interests against nepotistic corruption whose harms are not always adequately captured by existing legal regulation. Here, different legal jurisdictions will of course differ in scope and application, but the general idea is that leaving nepotistic conduct entirely to discretionary oversight risks failing to take the public-facing role of these institutions seriously and evidence of such conduct is not always sufficient to trigger existing regulatory frameworks. Secondly, given the expressive function of the law, the formal proscription of nepotism within such institutions communicates that such practices are not merely suboptimal, but constitute a flagrant moral failure to respect the interests that underlie the institution's raison d'être and so may influence societal norms regarding nepotism's moral status beyond these domains.[403]

This expressive function should not be underplayed and its force does not wholly depend upon our ability to secure strict compliance in practice. Laws do not only regulate behaviour through punitive sanctions, but communicate moral condemnation and shape the normative environment in which institutional actors deliberate. Even where enforcement is imperfect, the legal prohibition of nepotism helps to stabilise normative expectations, hold role-occupants accountable, and signal that relational favouritism is not only incompatible with the public-facing obligations of these offices but may be of moral concern more generally. In this respect, the legal regulation of nepotistic corruption may contribute to the cultivation of norms governing selection and

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[403] I do not defend the expressive function of law here. For influential discussions of the law's role in articulating public standards of justification and signalling moral condemnation, see, Bicchieri, *Norms in the Wild*;, 144-147; Waldron, *Law and Disagreement*; Feinberg, "The Expressive Function of Punishment." For discussion of the norm-signalling and coordination effects of legal regulation, including in market contexts where enforcement is limited, see, Sunstein, "On the Expressive Function of Law." Cf. Jonker, "A Dilemma for Expressive Arguments Against Markets."

institutional design across a wider array of contexts. For it imprints in the moral imagination that nepotism is not only impermissible tout court in these contexts, but the idea that its occurrence may admit of further moral trepidation and assessment in other scenarios as well. In doing so, the law does not purport to govern the permissibility of nepotism in institutions which lie beyond the integrity account, but it does render concrete the idea that nepotistic selection can constitute a serious moral failure, and thereby invites agents to reflect on its legitimacy even in cases where legal regulation might be inappropriate.

6.2 Ethos and Reasonable Reorganisation

The preceding section makes clear that nepotism should be legally prohibited in institutions tasked with securing access to goods or services which citizens have legal claim-rights to. Yet the integrity account of corruption does not exhaust the scope of impermissible nepotism. As I argued in the preceding chapter, many nepotistic practices unjustifiably frustrate egalitarian interests in efficiency or opportunity without constituting a kind of corruption that the integrity account regulates. In institutions covered by the imperative of reasonable reorganisation, the question of how we ought to respond to impermissible nepotism is thus less straightforward. In such cases, nepotism does not threaten to violate a determinate legal entitlement and is not categorically excluded as a matter of justice. Its impermissibility instead derives from the failure to justify inefficient or exclusionary practices on grounds that others could accept, given reciprocal liberty interests and the availability of less exclusionary or more efficient alternatives.

It is here that the limits of legal prohibition are apparent. Pragmatic concerns regarding legal specification and enforcement aside, there are other concerns associated with legally enforcing reasonable reorganisation which I now address. In Chapter 5, I suggested that interference with impermissible practices that lie beyond the scope of the integrity account is justified whenever egalitarian objections are present and alternative organisational arrangements do not threaten the normative core of our interests in associative or occupational authorship. I should stress once more, however, that this is not to state that the imperative of reasonable reorganisation is of no cost to liberty *whatsoever*, for such a requirement forecloses the justifiable exercise of the relevant liberties in scenarios where reasonable reorganisation is triggered. A remaining question then, is whether *legally* foreclosing these liberties is an appropriate mode of response.

To elucidate an answer, first consider that a morally unjustifiable exercise of liberty does not entail a morally justifiable exercise of coercive power in foreclosing that

liberty. It is, for example, morally objectionable for a parent to punitively devote disproportionate time and attention to some of their children so as to incentivise academic performance, yet state coercion which prohibited such parental practices would not only be ineffective, but intrusive and inappropriate beyond the threshold required for criminal negligence. Somewhat more analogously, consider a billionaire philanthropist who donates to more fashionable but lower-impact institutions that are willing to aggrandise his donations with named wings or buildings, despite knowing that vastly more effective alternatives exist. Such a choice may be morally criticisable in line with various egalitarian, prioritarian, or consequentialist views, and yet coercively mandating more effective altruism may itself be suspect.[404] In these cases, the exercise of the relevant liberty is not sufficient to justify the choice against the costs imposed, yet it does not straightforwardly follow that the state ought to legally prohibit such choices. Moral condemnation and calls for reform respond to these wrongs by engaging agents as the authors of these practices, prompting them to revise their dispositions and conduct in light of the moral reasons which count against them.[405] Coercive regulation, by contrast, responds by extinguishing the possibility of making these choices altogether via the threat of some punitive sanction.[406]

Formal prohibition thus weighs more heavily on liberty as a method of redress and imposes a set of distinct costs that must be accounted for as part of our assessment. Notably, effective coercive enforcement in these cases would require inducing compliance through forms of monitoring that intrude upon privacy and discretion in ways that moral criticism does not. Whilst moral condemnation may permissibly target unjustifiable exercises of associative or occupational liberty so long as their normative core is respected, coercive enforcement yields a different justificatory threshold. Consequently, even comparatively modest restrictions on liberty, when coupled with intrusions of privacy and the imposition of punitive sanctions, can be sufficient to render coercive prohibition inappropriate all things considered. Moral criticism, by contrast, leaves impermissible nepotism formally available whilst assigning responsibility for its cessation, thereby engaging agents as moral deliberators and calling for the

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[404] For further defence of the idea that individuals may bear duties in the sense described, see, Berkey, "Obligations of Productive Justice: Individual or Institutional?" Cf. Stancyzk, "Productive Justice." For a more demanding consequentialist argument, see, Singer, "Famine, Affluence, and Morality." I do not rely on any particular account here and only intend, for now, to illustrate a widely recognised distinction between moral criticism and coercive regulation. Though I return to consider why individuals may incur duties to abide by the requirement of reasonable reorganisation below.

[405] Here, moral condemnation should be understood as the negative evaluation of unjustifiable conduct and practices, rather than the attribution of blame or liability to sanction. In this sense, condemnation entails individual wrongdoing but not individual culpability.

[406] What I say here is therefore congruent with the thought that there is a right to do wrong. See, Waldron, "A Right to Do Wrong"; Otsuka, "Freedom of Occupational Choice," 449.

revision of dispositions and organisational arrangements in light of the interests at stake. This is not to deny that moral criticism may itself influence or shape agents' choices. But the role played by such criticism as part of an ethos is deliberative insofar as it presents reasons that agents are called upon to recognise, rather than imposing costs designed to compel compliance irrespective of their judgement.

Recognising these concerns is not a concession to the status quo or moral scepticism, but an acknowledgement of the fact that law is not always the appropriate vehicle for responding to objectionable inequality. Where trepidation about such legal interference rightly arises, egalitarian imperatives must instead be taken up through the adoption of norms and dispositions that render the relevant choices criticisable, even if they remain legally permitted. I hope that this conclusion will strike many as intuitive, insofar as many plausible egalitarian theories recognise a gap between what individuals may be coerced to do and what they nevertheless ought to do if injustice is to be addressed in non-ideal societies. This gap between the impermissibility of a given act and the appropriateness of coercive enforcement is particularly salient in cases where injustice persists not because the relevant principles are unknown or disputed, but because compliance cannot reasonably be secured through coercive regulation alone. It is in this space that the idea of an egalitarian ethos becomes salient.[407]

Even where the relevant institutions are formally governed by particular requirements—as is the case with discrimination on the basis of protected characteristics—the realisation of, say, racial or gender justice, still depends upon the uptake of shared norms, dispositions, and deliberative conduct that cannot be fully specified or appropriately regulated through enforceable legal rules alone. In such cases, and in the case of much impermissible nepotism, justice may continue to regulate conduct not by expanding the coercive outline of society, but by determining moral constraints and remedial duties which prohibit or require alleviating the injustice in question. This, I contend, is even more salient when our focus is a non-ideal society characterised by partial compliance and existing injustice, since individual duties which aim directly at the

[407] Observing the drawbacks of legal regulation in these cases is not tantamount to denying that the relevant institutions fall within the scope of other principles of justice which regulate the coercive outline of society. On the contrary, many of the economic organisations and selection practices in focus here plausibly form part of the basic structure of society, and are therefore subject to whatever requirements other principles of justice, including anti-discrimination law, mandate. My contention here is not that all egalitarian requirements cease to apply, but that the egalitarian interests in efficiency and opportunity developed in this thesis, specifically, do not always warrant coercive legal enforcement once their costs and the feasibility of imposing them are taken into account. This mirrors a structure already widely accepted elsewhere. Selection on the basis of merit is itself rarely the subject of any freestanding coercive legal mandate outside the specific context of anti-discrimination statutes, and yet formal equality of opportunity is uncontroversially treated as a requirement of justice that properly shapes our evaluation of institutions and individuals. The absence of comprehensive coercive enforcement for a given requirement of justice is therefore not unusual, nor does it indicate that the requirement lacks normative force.

promotion of the goals which just institutions are supposed to achieve may not only be less costly, but more effective in scenarios where the relevant injustice is endogenous to individuals' dispositions.[408]

My appeal to the idea of an egalitarian ethos will undoubtedly be familiar to many readers from Jerry Cohen's critique of Rawlsian incentive inequality and the substantial philosophical debate it generated.[409] Cohen famously argued that even in societies governed by a just basic structure, citizens act unjustly when their individual economic choices in the labour market generate otherwise avoidable inequalities of income and wealth.[410] I shall not, however, seek to adjudicate or contribute to this dispute here, since my argument proceeds from the view that requirements of justice are not exhausted by the basic structure or by what may be coercively enforced. Instead, I wish to consider how the imperative of reasonable reorganisation should guide individual conduct in non-ideal societies where impermissible nepotism persists, but where legal regulation of such nepotism remains inappropriate due to the aforementioned costs. This raises a further question about the role that such costs should play in our moral reasoning and, more specifically, whether costs arising from agents' dispositions or patterns of deliberation not only decide the case against coercive enforcement, but also bear on the appropriateness of moral criticism itself.

Up until now, however, I have only offered some reasons to be suspicious of coercively enforcing reasonable reorganisation, but have stopped short of providing a positive defence of my appeal to an ethos and elucidating what it entails more precisely. To motivate the adoption of such an ethos and illuminate the role it plays here, consider the following analogy. In many well-stocked supermarkets, consumers are not only inundated with choice, but face a series of ethical decisions regarding the kinds of products they are willing to purchase and amount of money they are willing to exchange for them. Take, for example, the relationship between higher and lower-welfare eggs. Here, consumers are free to choose between paying more for higher-welfare eggs or paying less for eggs produced under conditions of significant animal suffering. It is relatively uncontroversial that a world in which such suffering is reduced is ethically

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[408] For an ardent defence of the efficacy of individual duties of justice in non-ideal societies, see, Murphy, "Institutions and the Demands of Justice."

[409] For a detailed outline of the contours of the debate and commentary on the 'uncompromising' nature of egalitarian justice, see, Estlund, "Debate: Liberalism, Equality, and Fraternity in Cohen's Critique of Rawls." For a distinct elucidation of an egalitarian ethos, see, Wolff, "Fairness, Respect and the Egalitarian Ethos" and "Fairness, Respect and the Egalitarian *Ethos* Revisited."

[410] Cohen, "Where the Action Is: On the Site of Distributive Justice"; *Rescuing Justice and Equality*, 69-74, 118-177. Cf. Williams, "Incentives, Inequality, and Publicity"; Lippert-Rasmussen, "Inequality, Incentives and the Interpersonal Test"; Arneson, "Justice is not Equality"; Casal, "Occupational Choice and The Egalitarian Ethos."

preferable, yet coercive regulation which mandates higher-welfare production is contested on grounds of feasibility, distributive impact, and regulatory overreach. Suppose, however, that at the mere press of a button, we could bring about a world in which all eggs were produced under higher-welfare conditions without increasing prices or adversely affecting anyone's socioeconomic position. Such a change should strike many as being a clear improvement in the impartial-reason-implying sense discussed in Chapter 3. No one would be made worse off and a significant harm would be reduced or ameliorated entirely. If such a transition were available, it is difficult to deny that our best ethical theory would require it.

Moving from this hypothetical scenario to our actual circumstances, it is unfortunately patent that no such costless transition is available, and that any move towards exclusively producing higher-welfare eggs would involve significant material and immaterial costs for consumers and producers. Notice, however, that many of these costs are not exhausted by negative economic externalities alone, but also partly depend upon consumer dispositions, demand, and deliberation. If indifference to animal welfare partly sustains the demand for cheaper production, then the persistence of higher prices and relative cost of more ethical consumption cannot be understood as a wholly unavoidable trade-off between production cost and animal suffering, but instead reflects, at least in part, collective motivational choices.

This matters, I contend, for how our assessment of the relevant costs function as part of our evaluation of the moral ledger. Costs that arise as a result of agents' unwillingness to revise their morally salient dispositions cannot be treated as fixed constraints on moral reasoning, since doing so would allow those very dispositions to immunise themselves from critique. More straightforwardly, some of the costs that are invoked in an attempt to defeat moral requirements or defend the status quo, may themselves be constituted by the very dispositions whose moral status is under evaluation.[411] Where this is so, appeals to such costs cannot straightforwardly defeat countervailing requirements to bring about impartial improvement. At the same time, the fact that these costs arise from, and are sustained by, individuals' dispositions helps explain why coercive legal mandates may nevertheless be inappropriate, ineffective, or overbearing. What morality plausibly requires in such cases is not immediate legal

[411] To take a crude but structurally analogous example, if part of the cost of combatting racial injustice arises from people's indifference to, or acquiescence with racist attitudes or practices, then these costs cannot straightforwardly be invoked to defeat duties which mandate a change in disposition, deliberation, or practice. My aim here is to illustrate this more general feature of moral reasoning. Where the persistence of an objectionable practice depends in part upon agents' dispositions, the costs generated by those dispositions cannot function as fixed constraints that decide the case against attempts to reform them.

compulsion, but a shift in the norms through which agents deliberate, justify their choices, and respond to morally salient harms.

Even in the absence of coercive enforcement, it is therefore morally appropriate to criticise indifference to animal suffering, treat welfare considerations as reasons that ought to figure in moral deliberation, and to regard reliance on cheaper but more harmful production methods as morally objectionable when reasonable alternatives are available. Delimiting the scope of legal interference does not delimit the scope of morality, but a change in the *mode* through which its demands are properly addressed. Where the costs appealed to in defence of a particular practice are sustained by agents' own dispositions and patterns of deliberation, they cannot straightforwardly be invoked to constrain moral requirements, even if they may constrain the permissibility of coercive enforcement.

Moving from the moral to the political, something similar may be said of the structure that characterises the range of impermissible nepotism discussed in Chapter 5. In both cases, the persistence of morally objectionable outcomes is sustained not merely by external constraints, but by patterns of deliberation and attachment that themselves fall within the scope of moral evaluation. In the case of nepotism, justice requires individuals to abide by reasonable reorganisation because existing practices unjustifiably frustrate egalitarian interests in efficiency or opportunity by treating relational proximity as decisive even where it is not a *sine qua non* of occupational or associative authorship. Here, as in the case above, the appropriate response is not further legal intervention, but the cultivation of an ethos that governs how individuals deliberate, organise institutions, and justify exclusionary or inefficient practices to others. The ethos invoked here does not dilute the demands of justice, but constitutes a way of registering their force beyond society's coercive outline, with sensitivity to the weight of the egalitarian interests at stake and the costs that coercive enforcement would impose. Once a duty of reasonable reorganisation applies, agents may therefore engage in individual wrongdoing whenever they sustain unjustifiable nepotism through their dispositions and actions, even though coercive regulation would be inappropriate. This need not entail the claim that such agents are culpable in a way that would justify the imposition of blame or sanction, but marks their conduct as falling short of what justice requires.

With this in view, however, one might wonder just what such an ethos would look like in practice. Following Cristina Bicchieri's work on social norms, it is helpful to understand the uptake of an ethos in terms of a shift in the empirical and normative expectations that structure individual conduct and collective action.[412] Norm change, on this picture, requires more than the recognition that a practice is objectionable. It also

[412] Bicchieri, *Norms in the Wild*, 106-141.

requires agents to believe that others are prepared to revise their behaviour, and that the old practice is no longer taken to be appropriate or beyond criticism. This is especially important in cases of interdependent conduct, where individuals may be reluctant to depart from an entrenched practice if they expect others to continue relying upon it. In the present context, an egalitarian ethos would therefore involve the gradual stabilisation of expectations that advantageous positions ought not to be distributed through practices that unjustifiably infringe egalitarian interests, together with the expectation that those who possess the relevant authority should adopt more open, transparent, and efficient practices where reasonable alternatives are available.

In many cases, the task may be less one of persuading agents that nepotism is morally concerning than of coordinating expectations about what that concern requires in practice, and of making visible that others are prepared to comply as well. In this respect, the expressive and signalling role of legal prohibition in the class of cases covered by the integrity account may matter beyond those institutions, whilst deliberation, publicity, and the gradual revision of hiring practices and justificatory habits may help dislodge the assumption that recourse to one's own network is the natural or default mode of selection. Social norms, as Bicchieri notes, are often embedded in 'scripts' and supported by shared expectations, so altering them involves not only changing what agents privately believe, but changing what they take others to expect and endorse.[413]

The imperative of reasonable reorganisation defended in this thesis is therefore neither merely evaluative nor merely aspirational, but plays a dual normative role in identifying objectionable selection practices and the remedial duties required to move towards a more just state of affairs. Where organisational practices could be reorganised so as to be more efficient or inclusive without offending the normative core of our reciprocal interests in associative or occupational authorship, the operation of such practices is impermissible in light of reasonable alternatives and should be subject to moral criticism. In these cases, relational proximity cannot serve as a decisive reason for selection, since it generates inequalities that others could reasonably reject. The idea of reasonable reorganisation, however, is not solely to be understood in negative terms as a constraint on permissible conduct, since it also generates forward-looking, remedial duties on the part of those who possess the authority to reform the relevant practices. These role-occupants are required to take reasonable steps to reform or abandon existing arrangements wherever doing so is technically feasible, non-self-defeating, and compatible with the reciprocal liberty interests at stake. Here, justice does not seek to maximise egalitarian outcomes, but instead mandates a diachronic tendency towards

[413] ibid., 132-141.

equality through the gradual and continual reorganisation of impermissible practices where less exclusionary or more efficient alternatives are available. With this in view, I now turn to consider several objections.

6.3 Objections

Firstly, one might worry whether reasonable reorganisation, as it is understood here as a requirement of ethos, lacks the means to secure determinate action-guidance in non-ideal societies. After all, if agents cannot determine in advance whether a particular practice is impermissible, or what justice requires them to do instead, then the account may appear to generate abstract moral criticism without offering any reliable means of guiding conduct.

I acknowledge that this objection has genuine force and that any sincere response must acknowledge part of its bite. An egalitarian ethos, as elucidated here, cannot guarantee convergence, compliance, or epistemic accessibility. Nor can it ensure that individuals will reliably recognise when their own practices fall short of what justice requires. As a corollary, this worry highlights a more general difficulty for theoretical proposals of the kind defended here. This limitation, however, is not an incidental defect of the framework defended, but reflects the kind of normative work that an ethos inherently performs. Where injustice is identified but legal enforcement is ruled out as undesirable or inappropriate, the remaining methods of redress inevitably rely on less determinate mechanisms, such as moral criticism and norm formation in order to produce the relevant changes in individual conduct. Given the generality of this problem, I do not take this objection to be decisive, but it does highlight a deeper puzzle for this kind of progressive egalitarian theorising in non-ideal circumstances. If egalitarian interests give rise to duties of reasonable reorganisation in certain cases, then there are only two broad routes by which those duties might be taken up: coercive regulation, or some form of non-coercive normative uptake. Given the costs associated with the former in the present context, the appeal to an ethos represents an attempt, albeit imperfect, to articulate the latter.

It is also worth emphasising once more the aim of this thesis in attending to an evaluative question which has hitherto been unaddressed in political philosophy. The structure of the project undertaken here, and space devoted to addressing this evaluative question, reflects the central task by which this thesis is titled. Throughout preceding chapters, this task directed my focus towards examining intuitive objections to nepotistic practices, and elucidating a distinction between permissible and impermissible nepotism.

The completion of this task, however, does not require us to address the lower-level question of *how* one might institute the relevant laws in the case of the integrity account or influence uptake of the relevant norms in the case of reasonable reorganisation. Although these questions are certainly of interest, they are beyond the scope of this thesis and present just as much of a puzzle for practice as they do for political philosophy. The normatively prior questions of what makes nepotism wrong when it is wrong, and how agents ought to respond to such wrongs are distinct, and it is these questions that this thesis aims to address as a matter of primacy. A fuller account of how egalitarian norms might permeate social practices in the face of non-ideal epistemic constraints and compliance is certainly an important task, but one that lies beyond the scope of the present inquiry.

Despite this, a related worry persists. For if agents engage in impermissible nepotism without recognising themselves as contributing to an injustice, one might doubt whether they actually do anything wrong as individuals. Following this reasoning, my characterisation of reasonable reorganisation might seem misleading, as the wrong would appear to lie with the structure itself and not the individuals who unwittingly sustain it.[414] If this is correct, it might be questioned whether reasonable reorganisation genuinely applies to individuals, or if it should instead be understood as an imperative that governs institutional design alone. This worry brings two questions into view which should be kept distinct: whether agents who do not recognise the injustice nevertheless act wrongfully, and whether such agents are appropriate targets of blame or other forms of moral disapprobation. By way of response, I should first stress that much of the argument developed here does not hinge on the aforementioned framing. One could insist that the wrong lies with an objectionable structure rather than individual agents, and much of my argument for reasonable reorganisation and ethos as a regulative mechanism would proceed unscathed. However, even if one presupposes that the wrong is exclusively structural, the question of who bears responsibility for remedying these structures would immediately reemerge, and any plausible response would inevitably prompt us to reconsider the role-occupants who possess the relevant institutional authority.

Notably, this response would assign some diffuse moral responsibility for the remedial, forward-looking duties which reasonable reorganisation generates, but would leave us without the resources to explain how unjust structures are reproduced over time,

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414 Though it is contestable whether such individuals would be wholly blind to the harms of nepotism, even if they are unaware of the more nuanced framework developed here. Even though the rationale for the prohibition of nepotistic corruption is distinct from the argument for reasonable reorganisation, I believe that such regulation could play some role in shifting norms and expectations around nepotistic conduct as I suggested in §6.1.

or to evaluate whether particular instances of individual conduct within those structures are wrongful. It is, as a result, somewhat unsatisfying, since it cannot render concrete evaluative judgements on individual acts which further injustice or explain who bears the relevant duties. Thankfully, a more direct reply is available which would allow us to retain both the claim that such individuals engage in wrongdoing when they contribute to sustaining unjust structures, and that they may bear remedial, forward-looking duties which they are required to discharge where they possess the relevant authority and reasonable alternatives are available.

As Andrea Sangiovanni convincingly shows, individuals may act wrongfully *qua individuals* when they participate in unjust structures without being culpable or blameworthy.[415] Indeed, we should accept that epistemic opacity modulates our reactive attitudes when the relevant practices are sustained by background norms, incentives, and forms of social organisation that obscure their harmful effects. Crucially, however, the absence of culpability does not entail the absence of wrongdoing, nor does it defuse the moral significance of individual conduct. This reflects a relatively uncontroversial distinction between the moral evaluation of individual conduct and the appropriateness of blame or other forms of moral disapprobation.[416] Structural injustice, on this view, is enacted and reproduced through individuals' wrongful conduct within unjust practices. This is sufficient to ground the judgement that such agents ought not to have acted as they did, as well as forward-looking duties to reform or withdraw from unjust practices, even where blame is inappropriate because the injustice was not reasonably visible to them.

With this in view, my framing of reasonable reorganisation as an imperative which applies to individuals stands without collapsing into an unreasonable kind of moralism. Individuals can wrong others by engaging in unjustifiable nepotism, even when the relevant practices are widely normalised and their injustice is partially obscured. To this extent, epistemic opacity may mitigate blame, but it does not extinguish the wrong altogether. Nor does it eliminate the forward-looking responsibilities that arise once the injustice is brought into view, especially for those who possess the authority to reform the relevant practices.

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[415] Sangiovanni, "Structural Injustice and Individual Responsibility," 477-478. For Sangiovanni's defence of the distinction between wrongdoing and blameworthiness in cases of structural injustice, see his discussion of Parfit's "harmless torturer" thought experiment (ibid., 469-477), where agents act wrongly despite severely mitigating conditions for blame.

[416] Scanlon similarly distinguishes between permissibility as consisting in the rightness or wrongness of an action and blame as the significance of that action for the relationship between the agent and others. See, Scanlon, "Blame" in *Moral Dimensions*.

With this in mind, a final difficulty remains concerning whether the framework defended risks collapsing into a kind of purely expressive moral criticism. If much impermissible nepotism is widespread yet resistant to legal regulation, and if individual wrongdoing does not typically warrant blame or sanction, then it may be doubted whether the appeal to an egalitarian ethos amounts to more than symbolic disapproval. Following this reasoning, it might be objected that my account identifies injustices without supplying mechanisms capable of securing meaningful change.

In response to this worry, first note that the normative force of a requirement is not exhausted by its enforceability. Many familiar duties of justice constrain what agents may permissibly contribute to, even where compliance cannot be secured through sanction or where violations do not attract blame. The fact that a duty does not guarantee structural transformation does not reduce it to symbolic moral theatre. The framework defended here does more than register moral disapproval. It identifies conditions under which agents participate in and sustain practices that cannot be justified to those adversely affected once reasonable alternatives are available. That constraint on permissible contribution is substantive, even if it operates through normative uptake rather than legal enforcement. Moreover, the revision of justificatory standards is itself a mode of structural change. Entrenched practices are reproduced not merely through formal rules, but through the reasons agents treat as decisive. An egalitarian ethos therefore aims not at immediate institutional overhaul, but at reshaping the normative environment within which institutional decisions are made. In this respect, what changes under an egalitarian ethos is not merely how practices are described, but which reasons and ways of organising institutions are treated as acceptable within the relevant contexts. Much of the contemporary literature on the justice of selection practices limits itself to identifying impermissibility without addressing the mode of response. By broaching the question of uptake, the account developed here extends these debates beyond evaluation to the normative problem of how injustice ought to be confronted under non-ideal conditions.

7. Conclusion

This thesis set out to answer a seemingly simple question. As the preceding chapters have shown, however, developing a satisfactory account of what makes nepotism wrong when it is wrong proves far more complex than initial appearances suggest. The complexity of this task arises, in part, from the fact that we often have distinct moral reasons to object to its occurrence. As such, any convincing answer to the question that motivates this thesis must make sense of these intuitions and examine the relevant theories of justice with which they are associated. Although nepotistic practices are widely subject to criticism across both public and private institutions, existing philosophical theories capture only part of what appears morally troubling about them as a natural consequence of their delimited focus. As a result, they struggle not only to account for the full range of intuitive objections to nepotism, but also to explain how we should distinguish permissible from impermissible cases.

One of the central claims of this thesis has been that the evaluation of nepotism, or indeed selection practices writ large, cannot be captured by any single principle of justice. Instead, the relevant practices raise several distinct moral concerns which correspond to different features of our institutional practices, as well as the role these practices play in securing a particular distribution of material and immaterial goods. Across the preceding chapters I have argued that nepotism's wrong-making features can be understood in light of three distinct concerns. These concerns correspond to the principal ways in which such practices can be unjust: because they can constitute a form of institutional corruption, because they may generate morally significant inefficiencies, and because they can narrow access to socioeconomically and developmentally significant opportunities in ways that conflict with an egalitarian concern for how individuals stand in relation to one another as participants in social cooperation. Taken together, these considerations explain both why nepotism is often unjust when it is wrong and why, outside cases of corruption, it is not always impermissible.

Within the introductory chapter, I elucidated the object of the thesis and offered a definition of nepotism that remained neutral with respect to its wrong-making features, thereby creating normative space for the subsequent analysis. I then considered two intuitive ways of understanding the wrong of nepotism and suggested that, although each captures something of moral significance, neither offers a satisfactory account of its wrong-making features. First, I argued that characterising nepotism as a form of wrongful discrimination risks misconstruing the purpose of anti-discrimination norms by collapsing an important distinction between disadvantageous differential treatment arising from prejudice and that which stems from idiosyncratic preferences. Second, I

suggested that general appeals to impartiality and equal concern fail to illuminate the wrong of nepotism: a duty of impartial benevolence proves implausibly demanding and generates counterintuitive results, whilst the ideas of impartial application and impartial assessment, though persuasive in themselves, remain explanatorily inadequate.

In Chapter 2, I turned to examine the wrong of nepotism through the lens of corruption. Rather than analysing corruption primarily in terms of sufficiently harmful consequences or particular dialogical failings, I argued that the relevant wrong is best understood by reference to the morally significant interests that particular institutions and roles ought to secure. Building on this idea, I developed an integrity account of corruption grounded in the relationship between legal claim-rights, role-based duties, and the institutional frameworks through which those rights are realised.

On this account, where individuals ought to possess legal claim-rights to certain institutional goods or services, role-occupants bear first-order duties to fulfil the responsibilities that secure those rights, and second-order duties to uphold the procedural and relational integrity of the institutional framework through which those interests are protected. Nepotism therefore constitutes corruption when it involves a failure to discharge these duties—either through the direct violation of claim-rights or through conduct that jeopardises the institutional framework that secures them. This account explains why nepotistic practices can be wrong even when no individual entitlement is violated on a particular occasion, since failures to uphold the integrity of the relevant framework undermine the conditions under which the underlying interests are respected. In doing so, the integrity account captures what is normatively compelling about existing approaches to corruption whilst offering a more precise explanation of nepotistic corruption's wrongfulness.

Chapter 3 then examined a different class of objections to nepotism that appeal not to corruption but to distributive inefficiency. I began by considering whether such objections might be grounded in familiar egalitarian principles, including Rawls's Difference Principle and Scanlon's Beneficial Effects Principle. Although these principles capture an important concern with inefficient inequalities, attempts to specify them in ways capable of adjudicating particular cases of nepotism encounter significant difficulties, especially under non-ideal conditions where the relevant counterfactual comparisons and distributive metrics are difficult to determine. Rather than abandoning the underlying egalitarian insight that motivates these principles, I therefore suggested returning to the underlying rationale that makes inefficient inequalities morally troubling in the first place: that they undermine the productive arrangements through which many of the benefits of institutional life are realised.

Drawing on Scanlon's contractualist framework and Derek Parfit's notion of "better" in the impartial-reason-implying sense, I proposed what I call the egalitarian interest in efficiency. This interest reflects the shared moral stake individuals, qua equal participants in a social cooperation, have in living under institutional arrangements that are structured so as to promote competent and productively advantageous role allocation. Nepotism can therefore be objectionable not merely because it generates inequality, but because it violates this shared interest by sustaining selection practices that others have reason to reject where more efficiency-conducive alternatives are reasonably available. The purpose of this proposal is not to replace more fine-grained distributive principles, but to clarify the kind of reason we have to object to inefficient nepotism in societies as they are.

In Chapter 4, I turned to concerns about equality of opportunity, which are often taken to provide the most straightforward objection to nepotistic practices. After rejecting desert-based conceptions of merit, I examined Rawlsian approaches to fair equality of opportunity as well as Fishkin's opportunity pluralism. Although these frameworks capture important structural worries about the compounding effects of advantage and exclusion, each encounters difficulties in explaining how particular instances of selective closure should be evaluated. Rawlsian accounts struggle to accommodate cases in which access is shaped by relational or reaction qualifications that do not track the relevant competencies in a way that can be justified to others, whilst Fishkin's pluralist framework, though sensitive to the plurality of opportunity structures, leaves underdetermined the question of when any given selective gate is unjust rather than merely a feature of a complex opportunity structure. To address these difficulties, I argued that what is needed is a way of registering the standing complaint individuals have against competitions that are foreseeably and effectively closed to them through the institutionalisation of relational criteria that cannot be justified to those excluded.

In response, I developed what I call the egalitarian interest in opportunity: a standing moral interest grounded in persons' equal status as participants in social cooperation in living under socioeconomic conditions that preserve and expand meaningful access to opportunities for education, work, and self-development across a diverse range of advantageous positions. This interest generates pro tanto reasons to resist selective narrowing in the allocation of advantageous positions whenever such narrowing imposes temporal, socioeconomic, developmental, and expressive costs. Importantly, the interest does not render all forms of exclusion impermissible. Rather, it identifies the egalitarian cost associated with opportunity-restricting practices and explains why individuals retain a moral complaint against arrangements that foreseeably

narrow their prospects for advancement, development, or participation, even where access remains formally open but substantively costly to attain.

Chapter 5 then brought these strands of argument together in order to address the question of when nepotism is impermissible all things considered. Having shown that nepotistic practices may be objectionable for several distinct reasons—because they may constitute corruption, generate morally significant inefficiencies, or narrow access to opportunities—the task of this chapter was to explain how these considerations should guide the evaluation of particular practices when they arise within institutional contexts structured by competing rights and interests. To this end, I suggested adopting a rights-and-interests framework which reflects the underlying architecture of the thesis. Whilst the preceding chapters identify distinct moral reasons to object to nepotism, the permissibility of particular practices ultimately depends on how those reasons interact with the liberty interests and the purposes that structure the relevant institutional roles. Importantly, the analysis also clarified why nepotism falling within the scope of the integrity account of corruption developed in Chapter 2 is always impermissible, insofar as such practices either violate claim-rights directly or undermine the institutional frameworks through which those rights are secured.

Beyond these cases, however, the evaluation of nepotistic practices requires a further principle capable of guiding institutional reform. I therefore introduced the principle of reasonable reorganisation, which holds that organisational practices must be revised where reasonably available alternatives exist that would better promote egalitarian interests in efficiency and opportunity without undermining the normative core of the reciprocal liberty interests that are constitutive of an institution's purpose. In this way, the imperative of reasonable reorganisation functions as a mechanism through which the qualifications governing access to advantageous positions are themselves subject to moral evaluation, ensuring that exclusionary criteria cannot be justified merely by reference to existing norms and institutional conventions when more inclusive or productive alternatives are available.

Finally, Chapter 6 considered how we ought to respond to impermissible nepotism once it has been identified. I argued that the appropriate mode of response varies depending on the source of the wrong and, more generally, that there is an important distinction between the scope of egalitarian principles and the mechanisms through which compliance with them should be secured. In cases falling under the integrity account, where nepotistic conduct corrupts institutions that ought to secure legal claim-rights, the appropriate response is institutional and legal regulation, both because such practices violate or jeopardise duties correlative to those rights and because legal prohibition performs an important expressive function.

By contrast, many cases of impermissible nepotism governed by reasonable reorganisation arise in domains where coercive legal enforcement is either infeasible or normatively undesirable, even though the relevant practices remain subject to requirements of justice. In these cases, I argued that justice instead calls for the cultivation of an ethos that governs how individuals deliberate about organisational practices and justify exclusionary or inefficient dispositions to others. The appeal to ethos here does not retreat from egalitarian demands, nor does it treat the motivational or dispositional costs associated with reform as decisive. On the contrary, part of the chapter's point is that costs which are endogenous to the injustice in question cannot be treated as fixed constraints on moral reasoning, since doing so would allow objectionable dispositions to insulate themselves from critique. The appeal to ethos therefore functions as a form of non-coercive guidance in which justice continues to govern conduct even where law cannot, or should not, do all of the work.

Taken together, the arguments developed across these chapters suggest that the moral significance of nepotism lies not in any single defect, but in the way it engages distinct concerns about institutional integrity, productive organisation, and the distribution of opportunities within systems of social cooperation. The framework developed here therefore has implications that extend beyond the particular case of nepotism itself.

The integrity account developed in Chapter 2, for example, provides a more general way of understanding corruption as a culpable failure by role-occupants to discharge the reasonably dischargeable duties required to sustain institutional frameworks that ought to secure legal claim-rights. Although the thesis has focused on nepotism as a paradigmatic illustration, the structure of the integrity account applies equally to other familiar forms of corruption such as bribery, embezzlement, state capture, and abuses of authority, where role-occupants fail to uphold the relevant first or second-order duties. At the same time, the framework also clarifies how institutional failures may arise in the absence of individual culpability. Where the integrity conditions required to secure the relevant interests cannot be sustained because of structural constraints, underfunding, or background injustice such that no agent is in a position to discharge the corresponding duties, the resulting wrongdoing is better understood not as corruption but as a form of institutional corrosion. In such cases, the failure reflects a broader pattern of structural injustice rather than a breach of duty by identifiable agents. In this way, the integrity account provides a unified framework for distinguishing between culpable failures of institutional integrity and systemic failures for which no individual role-occupant may be properly blameworthy.

Moreover, the architecture developed in Chapter 5 provides a general framework for evaluating institutional practices that structure access to advantageous positions. The egalitarian interests in efficiency and opportunity articulated in Chapters 3 and 4 identify grounds on which individuals may object to institutional arrangements that allocate roles or opportunities in ways that others have reason to reject. The principle of reasonable reorganisation developed in Chapter 5 then specifies how such objections should guide institutional reform. Rather than treating existing organisational practices or qualification structures as fixed constraints, the principle requires institutions to examine whether reasonably available alternatives exist that would better promote egalitarian interests in efficiency and opportunity without undermining the normative core of the reciprocal liberty interests constitutive of the institution's purpose. In this respect, the framework offers a general method for evaluating a wide range of contested selection practices.

Worries concerning reaction qualifications, for example, often arise where decision-makers appeal to the preferences or expectations of others in order to justify exclusionary criteria. The framework developed here shifts the focus from the moral status of those reactions themselves to the normative authority of institutions to organise access to advantageous positions around them. Where such criteria structure access to positions that are socioeconomically or developmentally salient, the egalitarian pressure to reorganise institutional practices becomes correspondingly stronger unless the qualification can plausibly be shown to be constitutive of the shared activity in question. Similar considerations arise in cases involving religious institutions, where liberty interests in associative or occupational authorship, and in this case conscience, may plausibly be invoked in defence of exclusionary practices. In such cases, the framework does not simply treat egalitarian interests as lexically prior, but instead evaluates whether the relevant practices remain justifiable once reasonably available alternatives and the reciprocal liberty interests of those affected are taken into account. Finally, the principle of reasonable reorganisation and the appeal to an egalitarian ethos together offer a way of thinking about how justice should guide institutional reform and individual conduct in societies marred by significant inequalities and where coercive regulation cannot fully realise egalitarian commitments.

Although this thesis has focused on nepotism as its central case study, the broader lesson is methodological. Many controversies surrounding selection practices cannot be adequately understood through the lens of a single principle of justice. Instead, they require a pluralistic framework capable of registering the different moral reasons that arise when institutional practices shape the distribution of opportunities, authority, and advantage. The account developed in this thesis shows how these reasons can be systematically identified and evaluated by attending to the integrity of institutional

roles, the egalitarian interests individuals share in efficiency and opportunity, and the conditions under which organisational practices must be subject to reasonable reorganisation. Seen in this light, the wrong of nepotism is not merely a defect in individual decision-making, but a window onto the broader problem of how institutional practices that allocate advantageous positions ought to be justified to those whose lives they structure.

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