



What's Wrong with Social Hierarchy? On Niko Kolodny's *The Pecking Order*

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Abstract

This review critically assesses Niko Kolodny's theory of social hierarchy and its importance as articulated in *The Pecking Order* (2023). After summarizing Kolodny's argument, I raise two critical challenges. First, I ask whether Kolodny leaves us without adequate account of why social hierarchies are, in themselves, objectionable. Second, I query whether Kolodny's defense of representative democracy is decisive, and suggest that egalitarians should be open to alternative ways of mitigating the threat of hierarchy posed by political rule.

Keywords Niko Kolodny · Social Hierarchy · Relational egalitarianism · Democracy

Niko Kolodny's *The Pecking Order: Social Hierarchy as a Philosophical Problem* argues for the provocative thesis that many of our deepest political convictions are, ultimately, based on a claim against standing 'below' another person in a social hierarchy. These claims against being subordinated to others are irreducible to the more familiar considerations invoked by political philosophers, such as claims that our situations be improved, that our rights not be violated, or that we not be dominated. They represent a *sui generis* moral consideration that figures among the basic claims we have against others, and which our social and political institutions must respect. In this review, I first offer a summary of Kolodny's argument, highlighting its structure, breadth, and significance (1). I then raise some critical questions about Kolodny's account of why we have claims against social hierarchy (2). Finally, I critically explore Kolodny's defense of representative democracy (3). In so doing,

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I highlight how social egalitarians might build on Kolodny's important insights in *The Pecking Order* to make further progress on the pressing questions it raises.

1 Kolodny's Argument

The Pecking Order is a densely argued book that touches on an impressive range of topics in moral and political philosophy. It, therefore, resists easy summary. Nevertheless, the book's central arguments share a common structure. Kolodny categorizes various 'received materials' with which political philosophers frequently work. *Claims to improvement* are noncomparative claims that others improve our situation in absolute terms when this would not unduly burden them. *Rights against invasion* are constraints on how others may treat us, (e.g.) that they must respect "the boundaries of our persons" (2).¹ Kolodny believes these categories cover, at a high level of abstraction, many of the considerations typically invoked by political philosophers.

Kolodny then introduces various *commonplace claims*—moral ideas that are prevalent in everyday political argument or widely shared among political philosophers. These include (e.g.): that discrimination is wrong, that corruption is objectionable, that the state ought to treat its subjects equally, that equality of opportunity matters, that the rule of law is significant. For each commonplace claim, Kolodny advances a *negative observation*—that the claim cannot be fully explained by the received materials—and a *positive conjecture*—that we need, in addition, to appeal to a distinct consideration, that of a *claim against inferiority* to fully justify it.

Claims against inferiority are claims that natural persons have against being set beneath other natural persons in a social hierarchy. Such hierarchies are constituted by *untempered* disparities in power, authority, and regard. The most dramatic instances are bondage and caste, but not all disparities of power, authority, and regard are as bad as bondage. Kolodny argues that this is because various *tempering factors* often "bound, contextualize, or transform these disparities so that they count less, or not at all, as objectionable relations of inferiority" (98). These tempering factors are of two main kinds. *Primary tempering factors*, such as that a disparity is limited in content, context, or can be costlessly avoided, typically limit the extent of the disparity. *Secondary tempering factors* address disparities that cannot (or ought not) be adequately so bounded. They come in two sub-varieties: "vertical" tempering factors ensure that, although we may be subject to the power and authority of the state, we do not stand in relations of inferiority to other individuals, while "horizontal" tempering factors seek to preserve equality between ourselves and other citizens (see below for further discussion).

The central commonplace claim Kolodny considers in *The Pecking Order* is the widespread belief that there is some *complaint against the state*. It is alleged (by liberals and libertarians alike) that there is an objection to political power or 'rule' that must be 'answered' by (in the liberal variant) identifying some legitimating condition or (in the libertarian variant) by limiting state power. In Part I, Kolodny argues that this thought cannot be explained by appeal to the received materials. That it cannot be justified by appeal to claims to improvement is a familiar point: political liberals and libertarians agree that even a 'just' state may face a worry about its legitimacy. Typically, the source of the complaint is located in the

¹ Citations are to *The Pecking Order* unless otherwise indicated.

fact that the state exercises coercive political power. So, the complaint is thought to arise even against a just state that improves everyone's circumstances and distributes benefits and burdens fairly.² However, Kolodny also argues that the complaint against the state cannot be *wholly* about the state's using or threatening force. One reason is that he believes the *same* demand for justification would arise in an entirely *forceless* state (41–44; 74–5); a second reason is that he thinks that the standard complaints against state force can be answered via some more minimal ('sparer,' in his terminology) justification (79–80)—that is, without the kind of elaborate normative requirements libertarians and liberals commonly defend.

Kolodny concludes that liberals and libertarians have, therefore, misdiagnosed the complaint against the state: "The complaint has to do with the state's hierarchical structure: with the distribution of power and authority the state represents and the relations among people that involves.... It is not incidental to the complaint against the state that it is a state. The basic problem is that the state wields vastly superior, final and inescapable, power and authority over you. And yet the state is, when the robes and badges are stripped away, other people" (60). The problem of political rule is not about something the state incidentally does, that an individual, natural person might also do, like making threats or using force. Rather, the worry flows from the structure of the state itself, and concerns the hierarchy between persons that this structure threatens to produce.

If this is the right way to understand the complaint against the state—a big if, of course, but Kolodny's argument is intricate and, in my view, compelling—how might the complaint be answered and so the state justified? In Part II, Kolodny argues the complaint is to be answered by the secondary tempering factors (specifically, the vertical factors). These include (among others): '*Impersonal Justification*' (the hierarchy is justified by impersonal reasons), '*Least Discretion*' (officeholders have no more discretion than those reasons justify), and '*Equal Influence*' (those subjected to asymmetric power have an equal opportunity to shape its exercise). The presence of these factors "make[s] it the case that, in being subjected to the state, we are not, or at least less, subordinated to the superior power and authority of other individuals" (126).

In Part III, Kolodny demonstrates the power of this approach by applying it to a range of other commonplace claims. He covers considerable territory—Kolodny lucidly discusses (e.g.) corruption, discrimination, poverty, rule of law, and equality of opportunity. His varied arguments cannot be individually summarized, other than that they share the structure outlined above: there's a familiar claim that can't be explained other than by appeal to the badness of social hierarchy. In Part IV, Kolodny contrasts his notion of a complaint against inferiority with a variety of other adjacent notions, such as nondomination. He argues that concern about hierarchy is not reducible to these other considerations. If these arguments succeed, then Kolodny has shown that a surprising number of our most cherished political convictions bottom out in concern about social hierarchy.

In Part V, Kolodny builds on his account of the complaint against the state to offer a compelling defense of democracy. His argument largely depends on the tempering factor

² One might reasonably wonder whether there is *some* version of a claim to improvement model that can capture the core of the complaint against the state. For example, one natural suggestion would be a modified primary goods approach on which the various constituents of social hierarchy—power, authority, and regard that Kolodny identifies are reconceived as 'relational' resources. It is an open question whether Kolodny's view can be 'distributivized' in this way—and whether anything is gained by doing so. In any case, such a view would constitute a major departure from the familiar way the complaint against the state is commonly understood. I thank an anonymous reviewer for asking me to clarify this point.

‘Equal Influence.’ The problem of political rule is diminished when “any individual who is subject to superior untempered power and authority has as much opportunity as any other individual for informed, autonomous influence over decisions regarding how that power and authority is exercised” (137). Since in an (ideal) democracy no natural person enjoys unequal influence (or at least, this influence is most widely distributed), democracy helps answer the complaint against the state.

This line of argument is familiar from Kolodny’s previous work, but *The Pecking Order* refines it. One addition is Kolodny’s appeal to *Supersession* and *Downward Equalization* together with Equal Influence (330–333). Roughly, supersession holds that, if A (e.g., some decision-making body) controls B’s (e.g., officeholders in the state) exercise of power over C (e.g., some a natural person who is ultimately subject to political rule), then C is subordinated to A. If C then has equal influence in a decision-making body (in the case of democracy, “the People”), who ultimately controls one’s would-be subordinators, then C is to a lesser degree subordinate to B. When this is the case, ‘Downward Equalization’ obtains: equality at a “higher level in the decision-making hierarchy tempers inequality at a lower-level” (138).

Part VI explores the institutional implications of this defense of democracy. Kolodny argues that his view suggests a conception of democracy that is formally permissive—it permits a wider range of formal voting and representation procedures—but informally demanding—it requires substantive limits to wealth inequality, since wealth is convertible into influence. Kolodny uses this account of democracy’s value to diagnose some pathologies of (contemporary American) democracy.

The Pecking Order is a remarkable achievement. It is densely argued and wide-ranging, at once systematic and synthetic. Even those who are entirely unsympathetic to the idea of a complaint against inferiority will benefit from engaging with its numerous critical arguments. I confine myself below to some critical remarks about the two parts of Kolodny’s book I suspect will generate the most discussion: his account of social hierarchy and his defense of democracy.

2 Why Care About Social Hierarchy?

In approaching Kolodny’s view of why social hierarchy matters, let me introduce a distinction between two different ways of thinking about what is problematic about hierarchy. On what I’ll call an *instrumentalist view*, social hierarchies are objectionable because of their consequences, broadly construed. They produce oppression, constrain freedom, and impair self-worth. On what I’ll call a *non-instrumentalist view*, social hierarchies are, in addition to their negative consequences, intrinsically objectionable. Kolodny, on my reading at least, endorses a non-instrumentalist position. On his view, complaints against inferiority are among the most basic claims we can make on one another. Indeed, Kolodny’s arguments turn on his non-instrumentalism. This is because, for instrumentalists, demonstrating the untempered hierarchical character of a relationship is not yet to identify an objection to it. Given that the effects of hierarchies vary depending on the context, more needs to be said to complete the argument.

What can be said in favor of Kolodny’s noninstrumentalist view that untempered asymmetries in power, authority and regard are intrinsically objectionable? Kolodny’s central

argument is that, if we reject this view, we must give up some of our most basic political convictions. This is a powerful argument. Still, Kolodny seems aware that it is not wholly conclusive. He recognizes that, rather than accept that hierarchies matter noninstrumentally, one might instead endorse a “more confident skepticism” about the commonplace claims from which his argument begins (8). This response may tempt some because Kolodny does not provide a deeper justification of *why* we have claims against inferiority in the first place. I suspect he thinks that this cannot be done because claims against inferiority are basic. Surely, justification must come to an end somewhere. But must it come to an end *here*?

Even if one endorses non-instrumentalism, there are two reasons to think not. First, Kolodny's story about claims against inferiority is at odds with his story about claims to improvement. The latter are grounded in recognized interests, such as (e.g.) one's interest in leading a flourishing life. These kinds of interests are a sufficiently familiar feature of our moral thought that seems appropriate to take as bedrock, on which the relevant claim to improvement can be confidently based. Yet, Kolodny does not offer a comparable story about claims against inferiority. In what interests are they grounded? This question is not answered, and this seems a peculiar asymmetry between the two kinds of claims. Second, claims against inferiority have a highly intricate structure. They unite different kinds of social disparities: (e.g.), being in a position such that one receives lesser regard *than* others and being subject to greater power *over* others. Why think that one has a basic, irreducible complaint against *both* these things? Why believe that these two kinds of ill belong to a common higher-order category? And why should we be confident that complaints against both can be answered through the same factors? Answering these questions likely requires some deeper grounding of claims against inferiority—or at least some further explanation of why they have the structure they have. Without such grounding, I suspect that, although few will directly embrace skepticism about the commonplaces Kolodny identifies, many will remain unconvinced that their convictions are explained by the non-instrumental badness of social hierarchy.

I confess, with some embarrassment, that I do not know what exactly such a further justificatory story would look like. Perhaps matters bottom out in some objections to the negative consequences hierarchies inevitably have on agency and flourishing, or to the sort of respect appropriately owed to agents. Kolodny doubts that such “reductive gambits” (117) succeed. Again, however, one might draw a different conclusion: that we may need to revise our convictions in light of the best foundational justification we can offer of them. Indeed, *if* there is such justification to be had, I suspect that many of Kolodny's arguments may need to be modified in light of it. This is one place where those sympathetic to Kolodny's project, and interested in developing it further, might reasonably focus their attention.

3 Reconciling Equality and Political Rule

Central to Kolodny's project is an attempt to reconcile political rule with social equality. Mostly, this project is pursued at an abstract level without detailed discussions of particular social institutions. A notable exception is Kolodny's exploration of what kind of democracy we ought to have. Broadly, Kolodny argues for a representative, electoral democracy that mitigates wealth inequality. His resulting picture of democracy is, in many ways, appealing.

However, some democratic theorists question whether representative democracy is the only way or even the best to realize our egalitarian ideals.

Strictly, Kolodny agrees. He admits that a direct democracy might slightly fare better than a representative one—at least with regard to equality. Nevertheless, he maintains a representative democracy can nevertheless be “sufficiently tempered” such that “our relations with officials do not constitute relations of inferiority” (335-6), and we may, all things considered, prefer representative democracy for instrumental reasons. But should we be confident that, in converging on the representative democracy, modern liberal-democratic states have already incidentally converged around the best practicable institutional form for reconciling equality and rule?

One source of skepticism about Kolodny’s argument is that Kolodny seems to place too much weight on Equal Influence. The fact that I may, together with one million of my fellow bondsmen, select our next master does little to “temper” my servitude. Nor would I stand as a social equal to an *elected* absolute Monarch. The objection is a powerful one; however, I suspect it rests in part on an oversimplification of Kolodny’s rather complex position. Kolodny’s view, I take it, is that equal influence is neither usually *sufficient* to temper hierarchy *nor* that Equal Influence is the whole story of how democracy reconciles equality with rule (336). On the one hand, Kolodny’s discussion of equal influence shows that it only functions to temper hierarchy when certain conditions are met: that equal influence is an *ongoing* feature of one’s relationship to political power, and thus that elections are regular (381-2) and that ‘the People’ sit *atop* the decision-making hierarchy. On the other hand, Kolodny’s argument for democracy implicitly appeals to other *secondary tempering factors* (323–343). Representatives must see themselves as bound to execute the will of the people, the relevant offices, including the office ‘representative’, must have some *impersonal justification*, and office-holders exercise no more discretion than is justified by the impersonal reasons that justify their office. It is only *in conjunction with* these other secondary tempering factors and assumptions that representative democracy might plausibly sufficiently temper hierarchy.

This reply, however, opens up a wider set of potential challenges for defending representative democracy as the unique institutional form for reconciling political rule with equality. For example, one might dispute whether there really is, in any moderately realistic representative democracy, a ‘decision hierarchy’ such that the People unequivocally sit atop it (334). It seems more sociologically accurate to see representatives and voters as reciprocally exercising power with no clear ‘top’ of the hierarchy. Indeed, who really sits at the top is often quite politically contested. To be sure, Kolodny claims ‘the People’ sit atop the hierarchy only when certain conditions are met, and he is interested in defending an ‘ideal’ democracy rather than actually existing democracies. Still, Kolodny’s conditions (338) strike me as at once too weak to substantiate these claims (the fact that candidates revise their platforms to appeal to voters hardly means the voters sit atop the hierarchy) *and* too strong to be plausibly realistic (voters forming autonomous policy opinions and voting on their basis, given how representative democracies actually function, seems an ideal that is unlikely to be fully realized). It is thus unclear whether representative democracy, *in practice*, is what we should aim for, if it is not ever likely to sufficiently mitigate the threat of hierarchy.

A related issue concerns how this reading of Kolodny’s argument impacts Kolodny’s defense of representative democracy. Given that Equal Influence is only part of Kolodny’s defense of democracy, it seems one might want to use *other* democratic mechanisms in

conjunction to temper hierarchy. These might include rotation (which reduces the duration in which one is subject to a particular person's power (138–140), sortition (337–339), and referendums (which themselves seem to better satisfy equal influence than representation). Kolodny seems, to this reader at least, too dismissive of these other mechanisms as having a potential role to play in mitigating hierarchy—if not instead of representational democracy, then at least alongside it. Thus, I was left wondering whether Kolodny's brief arguments against alternative models of democracy, such as Landemore's (2020) open democracy model, which relies more heavily on rotation, sortition, and mini-publics (cf. 334), are decisive, if Equal Influence is indeed only part of the egalitarian justification of democracy.

Of course, the more fundamental issue is whether democracy is really necessary to temper hierarchy at all. Kolodny, in a striking departure from his earlier work (Kolodny 2014), entertains the possibility that it might not be (144). He leaves open whether a non-hierarchical society must be a representative democracy—perhaps the other tempering factors may jointly suffice to reconcile hierarchy with political rule. This issue merits a much fuller discussion than I can provide here, given its importance for theories of democracy. Indeed, if Kolodny's negative arguments are correct and that democracy cannot be fully justified except by appeal to his noninstrumentalist view of social hierarchy, the issue becomes even more urgent.

More generally, it seems to me that much more could be done to explore how, institutionally, social hierarchy and political rule might be reconciled beyond establishing a democracy characterized by rough parity in wealth. Nevertheless, Kolodny's theory seems to contain a range of interesting resources for further exploring this question, which might be developed in ways that go beyond those that Kolodny explicitly considers in *The Pecking Order*. First, given that the complaint against political rule is a complaint against subjection to the greater power and authority of other 'natural persons', it seems that one way to reduce the complaint against political rule is to disperse it widely across a range of natural persons by dividing powers among offices. Each of the resulting actors would then have less power. Since Kolodny believes hierarchy comes in degrees (91) and that less extensive hierarchies are less bad, a wide distribution or separation of state's powers seems an obvious consequence of his view. Something like this approach can be found in defenders of subsidiarity and competitive federalism.

Second, one might seek to limit the state's power. Kolodny largely eschews this approach (325–6). This may be due in part to his trenchant critique of libertarianism. Kolodny is, in my view, correct that equality does not require a 'minimal state' of the sort Nozick envisions. Still, it seems true that one way to make the state's power less objectionable would be to reduce the amount of power that the state possesses. Specifically, it seems to follow from Kolodny's view that the state should have no more power than it requires to (1) fairly satisfy people's improvement claims, (2) protect their natural rights, and (3) effectively constrain other power and status hierarchies. This would, of course, leave one with far more than a Nozickian 'minimal state.' Therefore, I see no reason for Kolodny to reject the suggestion. Indeed, this conclusion seems to be entailed by a natural application of the tempering factors "Content Limitation" (100) and "Impersonal Justification" (131).

Finally, Kolodny emphasizes the importance of "Escapability", which states that individual power asymmetries are made less bad to the extent that those subject to them can escape subjection to the superior's power easily and without significant cost (100). Kolodny uses the *absence* of this factor to explain what's distinctive about political rule. However, as

I have suggested elsewhere (Sharp 2023), Kolodny downplays the fact that to what extent a particular person's political power is escapable is in part a matter of *institutional design*. A world that allowed greater mobility, including across state borders, would clearly be one that rendered subjection to particular natural persons more escapable. The inescapability of the state is partially a matter of the particular state system in which we live. Of course, in a world of states, it is impossible to avoid subjection to *some* state, but this hardly renders the ability to escape subjection to our particular political rulers normatively inert.

4 Conclusion

The Pecking Order is an astounding achievement. It aptly illustrates that foundational philosophical rigor may have important pay-offs for how we regard our institutional and social world. The questions it poses—why does social hierarchy matter, and how can we realize a world we relate not as superiors and inferiors, but as equals—are of crucial importance. Kolodny's answers to these questions are plausible and compelling, but they are neither immune to further development, nor are they the only possible answers that might be given. There is thus ample room for philosophers to make further progress on both counts. However, Kolodny's impressive book will undoubtedly help steer conversations about these crucial issues for years to come.

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