

The Public Market

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Elizabeth Anderson. *Private Government. How Employers Rule Our Lives (and Why We Don't Talk About It)*. (Princeton, NJ: Princeton University Press, 2017).

In *Private Government*, the book of her Tanner Lectures in Human Values, the political philosopher Elizabeth Anderson speaks primarily to her liberal colleagues. A large sphere of human life which they designate as being *private* – employment – she argues is a site of arbitrary, unaccountable power. It is not only the state that is a threat to people's freedom. Bosses can be as domineering as bureaucrats. When Apple searches its staff's personal belongings (and doesn't pay them for time spent doing so) the issue is not just pay, but privacy. Employers' power, she argues, threatens the civil or human, not only social, rights of employees. There is no constitution protecting workers from employers in the way citizens are protected from the state.

Anderson also uses her Tanner Lectures to speak to her egalitarian colleagues. Although many are critics of the free market, there was a time she claims when 'the market' was their cause. Her first lecture evokes a pre-industrial England alive with the radical ideas of Locke, Paine, and Smith, and of what she considers the first egalitarian movement: the Levellers. This was a time she argues when, in thought at least, 'the market was left'. To define left, Anderson refers to her own particular definition of egalitarianism: commending and promoting social relations where people relate as equals, and opposing hierarchies of authority, esteem, and standing. It is significant, however, that most identify these thinkers, who all saw private property as a natural right, not as egalitarians, but as classical liberals.

If modern egalitarianism was born with the Levellers, it is surely of liberal lineage. Reaching prominence after the first English Civil War (1642-1651), the Levellers primarily sought to check the state's power. As well as suffrage, they sought

constitutional reform to limit the reach of the monarchy and disestablish the church. The Levellers are typically contrasted with the Diggers, a Protestant movement of the same period who called themselves the 'True Levellers.' The Diggers practiced and advocated for common ownership. The Levellers feared that common ownership was, as Hannah Arendt would say three centuries later of soviet communism, a contradiction in terms. Modern egalitarianism, which frequently sees the market as a threat, is perhaps better traced to the Diggers' commitment to work common land.

What Anderson does identify in this pre-industrial period is a time when the market was public. The market, including for labor, was not to be publicly owned, but it was a public sphere. For the Levellers, and the likes of Paine, a free market was imagined in opposition to feudalism, a society in which social, economic and political relations were all modeled on the private, patriarchal household: arbitrary, servile and asymmetric. The market alternative they envisaged was a public space: rational, mutual and democratic.

What happened? Anderson fast-forwards in her second lecture to examples of 'private government' in employment today. They beggar belief. Injuries sustained in under-ventilated Amazon warehouses are really not litigable. Poultry producers can deny their workers bathroom breaks. You can be fired on the spot for an off-duty political Facebook post. The 'at-will' employment contract – which applies to two-thirds of employees in the United States– does indeed mean employer's authority is 'not subject to notice, process or appeal'. But only in America.

For Anderson, industrialization is what happened. Its economies of scale meant it was not feasible to contract as before as with individual producers. But industrialism didn't happen by itself, after the English or the American Civil War. The modern market as economic sociologists starting with Polanyi have stressed, was the state's creation. The market for labor had to be created, through restricting income support for the poor, and internal migration. If the employer's power is as extensive and arbitrary as a dictator, the parallel that Anderson provocatively draws, it is because the state permits it.

The origins of American at-will employment are often traced to H.G. Wood's unsubtly titled 1877 treatise 'Master and Servant' which was soon reflected in American common law. But even in America, federal labor standards of collective bargaining, and

an independent National Labor Review Board, together with public sector employment, were established after mass strikes and the Great Depression. As a result, many think Anderson too readily dismisses union revival, with an expansion of public sector employment, as an answer to the problem of private government. It is no footnote that the New Deal labor rights excluded workers in domestic and agricultural sectors. It was argued at the time that employment of such workers, largely women and/or minorities, was a private matter.

More fundamentally, as *Private Government* illuminates, the labor rights won mid-century were not political rights. They derived from collective productivity, rather than individual personhood. While they tipped the balance of power towards employees, they consolidated employment as a relationship of competing, private interests. Privatized employment is therefore not a matter of how many people are employed directly by the state, although that does influence labor conditions. Privatized employment sequesters the employer-employee relationship from political claims.

The claims Anderson makes about work are unapologetically political. Autonomy in work is described as a basic human need. Esteem felt at work is part of human dignity. These claims are not in a language that economic theory today understands. The response from the economist Tyler Cowen, included in the book, makes this clear. Anderson is well aware that the degree of competition the firm and the worker face will influence the scope of the employer's power. Cowen, however, reframes her question of employer's power as a 'trade-off' between economic productivity and individual autonomy. Adam Smith, Anderson reminds us, would have thought such a trade-off unnecessary – but also intolerable. Yet Cowen's answer to the political problem Anderson raises is little more than the shrug, 'the market will do what the market will do'.

Harvey Cox goes as far as to say that such appeals to 'market forces' echo the divine justification of power that the Levellers opposed.¹ There is an alternative intellectual history of the market to Anderson's that suggests it evolved rather than upended feudal ideas and socio-economic relations.² For Albert Hirschman, there was no faith in people creating their own social order through a rational public exchange of a

¹ Harvey Cox, *The Market as God* (Harvard University Press, 2016).

² Albert O. Hirschman, *The Passions and the Interests: Political Arguments for Capitalism before Its Triumph (Twentieth Anniversary Edition)* (Princeton University Press, 1997).

market. On the contrary, it was thought that only people's private economic interest could self-regulate their private passions. If Adam Smith despised selfishness, Hirschman emphasizes that his friend Hume sought to restrain the 'love of pleasure' with 'the love of gain'. On this revision, the market was always a space of private interest, with its goal to discipline rather than liberate. Intellectually, there is none of the discontinuity that Anderson sees between pre-industrial liberalism and a post-industrial *neoliberalism*.

Undoubtedly, one reason employers rule our lives – and we don't talk about it – is the designation of employment as being in the private sphere. Capital and elites have an obvious interest in this designation. Still, the ideal of the market as a public sphere continues to have a strong draw. For women, access to the labor market still promises freedom and equality. Even in feminist theory, employment is often synonymous with the public sphere. (It is disappointing given Anderson's usual attention to gender that she does not consider this.) The female employment rate, the statistics tell us, counts women's level of 'participation', or even their 'freedom'. Some women have undoubtedly enjoyed greater authority, status and esteem in employment than in unpaid, unregulated labors at home. It is also true other women have foregone caring relationships in the family only to find themselves patronized, bullied or sexually harassed at work.

At a time when many seek to return to, or extend, the industrial, and androcentric, employment model, Anderson's discussion of pre-industrial ideas about the organization of work is valuable. Anderson is not naïve enough to think that full self-employment of the kind envisaged by Locke or Lincoln is likely to replace mass employment. Historian Ann Hughes points out in her commentary that The Levellers optimism about the free market came from self-confidence more than the experience of oppression, and we could expect self-employment to liberate some more than others. But the ideal of self-employment challenges us to think about freedom in work, or as Anderson would put it, the point of equality. Perhaps the problem with platforms such as Uber is not that its workers are denied the legal status of employees. Perhaps it is that, because the company still holds the capital, monopolizes access to customers, controls their reputational data and so goodwill, and dictates the terms of work, they are not truly self-employed. To what extent can the perennial policy 'solutions' such as employee profit-sharing, address

relations within work, not just compensation for it? How could current proposals for full employment such as the Job Guarantee address employee voice as well as exit?

Applying political theory to employment as Anderson does is particularly important at a time when liberals and egalitarians are positioned as rivals. It challenges the liberal who leaves vital questions of human freedom at the workplace door. It also challenges the egalitarian who might sacrifice freedom in work for security of work. Anderson does not want to simply increase the bargaining power of employees versus employers. She wants power in employment to not be an economic bargain. Anderson's engaging, applied philosophy in *Private Government* helps us to remember the realities of the private labor market – and to reimagine the ideal of the public market.

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