Private Government: How the Deus Ex Machina Fallacy Fails Us (and Why the Language of Class Might Not)

Abstract:

In this essay, I seek to radicalize the argument presented by Elizabeth Anderson in *Private Government*. First, I indicate how her sufficient elaboration of the problem of private governance is not carried through to her ideology-critique and prescriptive solution; a great intractability of firm-based domination as part of the reciprocation of the political and economic is demonstrated, but not adequately addressed in the other portions of the text. Although Anderson affirms this reciprocation, her prescribed state-based solutions fail to address it. Her historical account for the ideological blindness towards private government is also insufficient for accounting for all but a subset of academics. Continuing her historical account, I suggest the language of “class” once achieved for ordinary people what Anderson seeks with the concept of “private government,” and thus propose class language to preserve her concept while expressing the more complicated ways in which freedom is abridged by the firm.
**Introduction**

Is the relationship between an employer and employee an appropriate object of political philosophizing? Certainly, one wants to say that that relationship ought to be an object for some discipline, but is political philosophy—a discipline ordinarily trained on questions of the state, the civil sphere, the coercive power of the legal system, and the structures of collective decision-making—the proper scholastic tradition for evaluating what happens within an economic firm? In her book *Private Government: How Employers Rule Our Lives (and Why We Don’t Talk about It),*\(^1\) Elizabeth Anderson answers these questions in the affirmative. The argument Anderson makes over the course of two lectures and a response to commentators can be summarized as three linked claims.

First, there is an existential claim that there is an exercise of a sort of “arbitrary, unaccountable power” by authorities over workers within the economic firm.\(^2\) Anderson believes that her concept of “private government” is a valid concept for capturing this fact, which goes relatively unacknowledged both popularly and within the field of political philosophy.\(^3\) If the features of a firm were embodied in a state, like unelected superiors, centralized state ownership of the means of production, a lack of due process, rigorous intrusion into personal lives and the

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\(^3\) As Wayne Norman importantly points out, there is in fact recent literature on the firm as a locus of something properly understood as governance. However, we can charitably read Anderson as only claiming that the absence of a wider appreciation of this phenomenon shows a negligence in the overall field, even if she herself does not seem to be aware of that literature. Norman, Wayne. Review of *Private Government: How Employers Rule Our Lives (and Why We Don’t Talk about It)* by Elizabeth Anderson et. al. *Notre Dame Philosophical Reviews* 43, no. 8 (August 2018). Accessed April 9, 2019. https://ndpr.nd.edu/news/private-government-how-employers-rule-our-lives-and-why-we-dont-talk-about-it/
exercise of free speech, and a high cost to extricating oneself from this arrangement, one would consider such a government a “communist dictatorship,” as Anderson suggests.\textsuperscript{4}

Anderson’s second claim is diagnostic: the reason why people generally do not have the same visceral reaction to firm-based private government\textsuperscript{5} that her analogy suggests is because of a set of ideological assumptions that have carried over from early modern liberal philosophies—from the Levelers up through Locke, Smith, and even Lincoln—which held market liberalization, freedom of contract, and self-employment as the bundle of policies that would ensure universal freedom and equality. With the Industrial Revolution and its demands of scale and a necessity for hierarchical organization, the self-employment component became unrealistic, yet claims of the attainment of utmost freedom were propagated, so long as state interference in the economy was minimized. An obsession with negative freedom, at the expense of accounting for positive and republican freedoms,\textsuperscript{6} led to an overall deficit of liberty.\textsuperscript{7} The benefit of the concept of private government, that firms are a site of governance and that liberty is currently being unduly constrained by authoritarian firms, is an awakening from a dogmatic slumber that does not recognize a problem.

The third claim is Anderson’s prescriptive list to relieve the liberty deficit caused by the undue domination of employees by employers: (1) lower the barriers for workers to exit firms; (2) establish regulations forcing the authority of managers and employers to adhere to a public, regular, egalitarian, and appealable process; (3) establish a list of rights outlawing the employer’s

\textsuperscript{4} Anderson et al., \textit{Private Government: How Employers Rule Our Lives (and Why We Don’t Talk about It)}, 37–41.
\textsuperscript{5} Anderson suggests this concept could be applied to other legal entities, like religious institutions, to explain similar situations of unaccountable exercises of power over a group. She just focuses on firms in this text. Ibid., 45.
\textsuperscript{6} As Anderson summarizes these terms: “If you have negative freedom, no one is interfering with your actions. If you have positive freedom, you have a rich menu of options effectively accessible to you, given your resources. If you have republican freedom, no one is dominating you—you are subject to no one’s arbitrary, unaccountable will.” Anderson sets them up as three distinct kinds of goods, which ought to be appropriately balanced, as opposed to accounts that hold up one of the three as actual freedom and disregards the other two. Ibid., 46.
\textsuperscript{7} Ibid., 47–48.
ability to restrict worker’s political rights or personal privacy; (4) and increase “worker’s voice in their [firm-based] government,” which could be realized in various ways, including increased union activity, union participation at industry-wide scale, or the integration of workers into the direct decision-making process of the firm, on the model of contemporary German firms.8 Although she claims that solutions are not her main goal, but that “my point is rather to expose a deep failure in current ways of thinking about how government fits into American’s lives,” it is my contention that it is precisely in the suggestions that Anderson provides that one can see the theoretical limitations of her mode of presenting the problem.9

In this essay, I seek to radicalize Anderson’s argument by indicating a sense in which her sufficient elaboration of the problem of private governance is not carried through to her diagnostic and prescriptive claims, thereby showing a greater intractability of firm-based domination than Anderson explicitly acknowledges. Although she points to the establishment of firm governance by state law in her explication of the titular concept, and points to the firm’s interfering with civil participation as one of its egregious harms, she does not follow through on the deeper intertwinements of the political and economic. Once a mutual causality of state and firm is made explicit, Anderson’s state-based solutions become like a deus ex machina, a solution from nowhere that belies the adequacy of the original account. In order to complement Anderson’s account of private government, I suggest that her diagnostic claim about ideological blindness is wholly insufficient. The historical account she offers does not explain ideological ignorance of the unwashed masses. Instead, following up where she left off (post-bellum United States), I suggest that the language of “class” once achieved for ordinary people something like what Anderson hopes the language of “private government” can do for contemporary political

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8 Ibid., 65–66.
9 Ibid., 70.
philosophers: a greater appreciation of the deep connection of the political and economic, in terms of governance, domination, and justice. I conclude by proposing the language of class as a way of preserving her concept while expressing the more complicated and nuanced ways in which civic republican freedom is jointly abridged by firm and state.

**The Hope for a Philosopher King**

“I have two fundamental objections to private government. First, it makes those subject to it vulnerable to unjustified and abusive forms of power—beyond whatever legitimate authority employers have. Second, private government subjects people to social relations of inequality.”

So in the abstract, according to Anderson, there are two bads that come with private government: the (presumably unnecessary) abridgement of republican freedom and the creation of (presumably unjust) inegalitarian social relations. In other words, private government produces domination and social inequality. But what are the specifics of this domination, and what are the relations that are made unequal? Though Anderson elaborates many injuries and injustices, I wish to highlight a particular class of these which I dub the *political dominations* by private government. Political dominations of workers by employers consist in the manipulation of a worker’s exercise of their civil rights, like voting or political speech, through the threat of unemployment or a lowered wage. Anderson notes workers being pressured to attend the political rallies of their boss’s favored political candidate, pressure to actually support those candidates, and the lack of legal protections for many Americans from employer censure for speech off-duty. If we are committed to saying that such vulnerabilities and exercises of firm-based unaccountable authority are problematic, it must be because we think that such actions and

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10 Ibid., 127.
11 Ibid., 53.
12 Ibid., xix.
13 Ibid., 40.
legal structures are effective in producing results—and not just a little bit, but significantly effective. The employer unduly manipulates politics through the worker. What is even more concerning is, if we hold to Anderson’s criterion of republican domination, then even if liberally-minded employers are not exercising their authority, there remains the potential that the employer could always change their mind. The worker, even if blessed with a non-arbitrary authority figure in their firm, still has no guarantees that political speech or the success of a disagreeable-to-the-boss political figure will not result in negative consequences. The worker qua worker remains in a state of domination, specifically in regards to their performance as a citizen, i.e. political domination.

This phenomenon of the political domination produced by the firm needs to be paired with how private governments are produced. As Anderson rightly notes, private governments are established by the civil state “through a complex system of laws—not only labor law, but laws regulating corporate governance, workplace safety, fringe benefits, discrimination, and other matters.”14 The constitution of the private governments which rule our lives are the products of the civil sphere, or to put it abstractly, the political causally establishes the economic. However, if we are to stick to the claim that one of the egregious wrongs perpetrated by private governments is political domination, then we seem to have a reciprocal relationship, with causality running in both directions. Political government creates the conditions for the exercise of arbitrary private government in the economic firm, and the firm, to a morally-significant degree, influences the process that constitutes those laws determining the firm’s constitution as a sphere of human activity capable of doing so. Thus, crucial to Anderson’s account of private government is this reciprocal relationship between the economic and the political.

14 Ibid., 53.
Once this reciprocation is made explicit, then the prescriptions that Anderson presents seem to be incongruous with the problem she has demonstrated. She recognizes that a firm must be organized in some fashion, so the ideal is to turn the private government of the firm into a public government of the firm, wherein the workers are included into the firm’s decision-making process. The four prescriptions for doing so are (1) easing the barriers to exit, (2) eliminating the arbitrary character of the firm’s authority, (3) a worker’s bill of rights, and (4) greater voice in the firm by workers. However, Anderson’s suggestions here really only constitute a series of negations of the bad properties of private government. How are such legal, state-based reforms enacted? The firms are establishing inegalitarian relations and dominating workers to such a significant degree that it negatively impacts them in roles other than as a worker—it serious intrudes on their private lives as friends and lovers, and affects their public lives as citizens. The authoritarianism of the firm infects the other spheres of life, most importantly that sphere which produces the conditions of the authoritarian firm’s possibility. If the reciprocal relationship of firm government and state government is as it was characterized above, then what Anderson is basically prescribing is a divine intervention which breaks up a cycle of firms structuring political participation through their control over the economic facet of our lives. If firms are likeminded enough, then the “communist dictatorships” ruling so many of our lives have a common objective in maintaining the laws such as they are, or changing the laws to further serve the interests of the firms’ dictators.\(^1\) When the firms wish to maintain the nonideal status-quo

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\(^1\) It ought to be noted that this implicit argument derived from Anderson is even more dire than that sketched by Thomas Christiano. In his article, he establishes how the mere existence of capitalist property rights, and the potential for negative economic fortunes for citizens via practices of capital flight, infringes upon the political equality central to democracy. Christiano thereby establishes how the unaccountable capitalist organization of firms negatively affects the outputs achievable by a democratic state’s decision-making process. Capitalist implicitly establish “conditions of feasibility” for the democracy, thereby exercising unequal influence. But with Anderson, we can discern how capitalist, authoritarian firms impact the inputs, via their function as private governments. So relative to Christiano, she helps establish the severity of the issue. Thomas Christiano, “The Uneasy Relationship between Democracy and Capital,” *Social Philosophy and Policy* 27, no. 1 (2010): 195–217.
and citizens are unable to change it without severe reprimand, then it seems like only God can save us from private government.

Anderson thus falls into a rather typical fallacy in political theorizing. She establishes the awfulness of some political issue with great philosophical depth, but when it comes to establishing what a potential solution would be (where a solution would necessarily be informed by the contours of the problem), all nuance dissipates. In her case specifically, she indicates the strong connection of the political and the economic, but when it comes to prescriptions, they are suddenly separate again, and the introduction of legislation by the state becomes the solution to the described ill. The state serves as a *deus ex machina* for the inequality pervading both the economic *and the political*. Of course, to abstract away nuances, to stick to just understanding private firm government separate from public state government is not the issue. The problem is when artificial, analytic distinctness is taken as a phenomenological separation that then admits of state interventionist solutions. On one hand, Anderson avoids the libertarian folly by recognizing domination has effects on people as citizens. On the other, she assumes something like a pristine state that is in the position to intervene to solve issues. In essence, she assumes philosopher-kings; the philosopher, although ridiculed and beaten by the inhabitants of the cave, *somehow* comes into the control of a polity to initiate the education program which can produce *Kallipolis*.

There are two responses that can be given to moderate this criticism of Anderson. The first is that at the close of her second lecture, she makes clear that she is not actually that interested in prescribing solutions to the problem of private government, but in the diagnosing of

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16 One can look at the mountain of literature produced on the inegalitarianism in American political representation, through institutions like the Electoral College or U.S. Senate, and the lack of any reflection in median voter preference with how their representatives vote, to see this phenomenon. Somehow, legislative reforms in the interest of representing the marginalized are always the solution for problems of a broken or unrepresentative that does not legislate in the interests of the marginalized!
the ideological blindness of workplace domination via private government. This exculpation would be fine if her prescriptions did not represent the problem of private government differently from her initial elaboration. The second response is that she clarifies that the first three prescriptions are alone insufficient, and that the fourth is always needed in some amount: “workers need some voice within the workplace to protect against employer abuses of power, and, more generally, to empower them to assert their standing, respectability, and autonomy interests in the workplace.” However, she punts on the question of how that voice is to be institutionalized. Both moderating retorts fail to address the fundamental issue that the prescriptions do not match the problem, viz. the political-economic reciprocation and political domination. And like her prescriptive claim, Anderson’s diagnostic claim turns out to be wholly inadequate on its own terms, ironically missing out on a complement to the theory of private government which might absolve her of the above concerns.

**The Language of Class**

Put bluntly, the key failing of Anderson’s diagnostic claim about the source of the ideological blindness to the heretofore untheorized private governance of firms is that it is implicitly indexed to a certain subset of political philosophers, rather than the everyday worker. Yes, liberal Anglophone and libertarian philosophers, economists, and Locke scholars may be rightly diagnosed as having ingested too much classical liberalism and its “legacies” to recognize that firms are sites of authoritarian governance. These kinds of people might indeed have a kind of hemiagnosia, as Anderson says, wherein “they cannot perceive the half [of the economy] that takes place beyond the market, after the employment contract is accepted.” But her intellectual

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17 Anderson et al., *Private Government : How Employers Rule Our Lives (and Why We Don’t Talk about It)*, 70.
18 Ibid., 133–34.
19 Ibid., 132.
20 Ibid., 58.
history has a similar condition; she precisely ends at the point at which the United States begins to industrialize, as well as when the American worker enters the conditions she describes. And what language was used by the American public to describe this new society? The language of class—the differentiation of the have’s and the have-not’s, of an upper and lower class, of bourgeoisie and proletariat. By the mid-nineteenth century, workers and academics alike were concerned with the social problem: “It was the problem of the unequal distribution of wealth in general, or of Labor's relation to Capital in particular. As a phrase in German, French, or English, it appeared solely in the singular, with reference to that fundamental inequity thought to underlie all political, moral, and economic conflicts and conundrums.”\(^{21}\) Basically every sector of American society in the late nineteenth and early twentieth centuries articulated a social disharmony through this term. Many workers conceived of themselves as an oppressed class that needed to rise up, and the many elites conceived of themselves as a higher kind of citizen, whose maintenance as a class was threatened by the instability of their society agitating the prior class.\(^{22}\) A class-based social ontology was not just held by Marxist theoreticians, but wide swathes of society. For the workers, there was an identification of an exploiting class which exerted its influence both in the factory and in city hall, the state house, and Washington. Very often it was the National Guard, called upon by the state governor, which broke up strikes on the behalf of firms. At the time, anti-capitalists of various stripes debated the relative importance of focusing on firm-based organizing into unions (which got smashed by state-run militias and police) and electorally-pursued change as a political party (which was frustrated in voter intimidation, Republican-Democrat fusion tickets, and legal barriers to organizing). Today, with Anderson’s concept of private government and its reciprocal relationship with state government, the answer

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was obviously some combination of both. But this debate derived from the central premise that
the political and the economic were the same, inextricably connected, and inseparable.

This language of a society fundamentally riven by class is ruled by a Manichean logic. Instead of public/private as the fundamental division, which cuts the social into vertical slices, the language of class cuts horizontally, with a universal bottom and a universal top which pervades all particular spheres of society. The capitalist in the firm is in league with the capitalist in government, and it’s a zero-sum game. It’s all one political-economic government, marked by nuances and divisions and spill overs between this one fundamental divide, but generally consistent with one’s experience across different roles and spheres of life.

This language of class, I contend, is the missing piece to Anderson’s diagnostic claim. At the time of improvement of American democratic and economic institutions (Progressivism, “Sewer Socialism,” the New Deal) between the 1880s and 1930s, when it seems like the reciprocal relationship of firm authoritarianism and political inaction was broken, a language of class and class conflict proliferated, whereas now it does not. A social ontology of class conflict was how Anderson’s notion of private government was once understood, and the absence of it in the subsequent decades up to now helps explain the ideological misrecognition of free market societies as unqualified bastions of freedom for wage laborers. Her intellectual history explains some academics. I believe my account of the *hoi polloi*’s use, or lack thereof, of a language of class gets us a fair bit farther in explaining why the great mass of Americans do not revolt against their firm governments, both as we would expect them to against their public government and as their ancestors once did—the operation of a class relationship, maintained through the

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23 Additionally, it would go a ways in supporting the existential claim as well. Why is unemployment such a potent threat, if not for the near-consistent supply of other unemployed laborers which renders any one worker easily expendable? It seems like the grouping of people in classes is how the economy generally functions, in the respects Anderson is most concerned about. However, challenging and complementing the existential claim in any serious depth is beyond the scope of this paper.
uninterrupted domination between the economic and the political, explains the lack of revolt, the implausibility of Anderson’s prescriptions, and complements her account of private government with further detail.

**Conclusion**

The language of class, of some fundamental horizontal cut throughout society that is prior to even nationality, complements Anderson’s account of private government, not only because it more accurately approximates the true depths of the problem that does not admit of simplistic legislative solutions, but because it points at least vaguely towards what a solution would entail, viz. the proliferation of a worldview wherein “class” plays a prominent role. A benefit of this is that rearticulates Anderson’s true hurdle as the age-old problem of raising “class-consciousness,” a literature too large to introduce here. With such a historical continuity and basis in real historical practices of partially-rectifying firm-based domination and its perpetuation, there is at least the presentiment of an amelioration without a reliance upon the divine.
Bibliography


