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Talking About *Private Government*: A Review of the Economic Claims Made to Rebut Anderson's Analysis

Abstract: In *Private Government: How Employers Rule Our Lives (and Why We Don't Talk About It)*, Elizabeth Anderson argues that most people in the United States and other liberal societies spend their working lives under the kind of autocratic rule we would normally associate with communist dictatorships. They are forced to work in oppressive environments, deprived of many freedoms, and given practically no say over working conditions. Even in their nonworking lives workers are frequently subjected to employer scrutiny and sanction. And the legal framework and economic realities surrounding employment are such that exit is viable for only a small minority. Anderson's work has generated great interest and, along with it, several criticisms that take exception to her observations, economic assumptions, and conclusions. This paper delineates the various economic claims made against *Private Government* so as to facilitate further inquiry of these issues.

Keywords: private government; unequal power; Elizabeth Anderson; republican freedom; oppression; free markets; communist dictatorship

I. Introduction

In *Private Government: How Employers Rule Our Lives (and Why We Don't Talk About It)*, political philosopher Elizabeth Anderson advances a powerful critique of authoritarian workplaces and the disparate power relations between workers and their bosses. She argues that most people in the United States and other liberal societies spend their working lives under the kind of autocratic rule that we would normally associate with communist dictatorships. They are forced to work in oppressive environments, deprived of many freedoms, and given practically no say over working conditions. Even in their nonworking lives workers are frequently subjected to employer scrutiny and sanction. And the legal framework and economic realities surrounding employment are such that exit is viable for only a small minority. Anderson calls such employer rule "private government," by which she means "government that has arbitrary, unaccountable power over those it governs" (Anderson 2017).

Anderson's critical examination of the contemporary workplace, originally delivered in the form of two lectures and later compiled into the book (together with four critical responses and her reply), serves as a searing rebuke not only of the hegemony of monolithic firms over workers but also of the rhetoric of the free market as both a liberator and equalizer of workers' ability to control

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their economic lives. It aims to dispel the simplistic equation of the “state” with coercion and the “market” with freedom. She proposes several strategies for combating the problem of private government, some of which involve state regulations.

Anderson’s work has generated great interest and, along with it, several criticisms that take exception to her observations, economic assumptions, and conclusions. This paper delineates the various economic claims made against *Private Government* so as to facilitate further inquiry into these issues. The economic claims discussed are:

- *Doesn’t the gig economy offer a viable option for exiting oppressive work relationships?* Gig workers are able to choose when and how long they work, and they aren’t restricted to a particular employer. The emergence of this type of work is said to render the *Private Government* critique of employers less potent.
- *Can’t oppressed workers just quit?* The contention that workers are chained to their employers, critics claim, assumes a monopsonist (the traditional company town) model of firms that doesn’t hold true. And even if it did, big firms are still incentivized economically to give workers wide latitude because doing so allows the firm to pay lower wages.
- *Can’t the terms of employment simply be made clearer up front?* If the boundaries of employer control over workers were made clear from the start, workers could either consent or take a pass.
- *Are workers really so unhappy?* The critics dispute Anderson’s statistics about worker discontent, saying that most workers are happy with their workplace conditions or are willing to put up with some authoritarian control in exchange for higher wages and flexible schedules.
- *Won’t the proposed reforms to employer control distort the smooth operation of the economy?* Likely outcomes of fettering managers’ authority, the critics say, are greater inefficiencies in firm management, higher unemployment, a shift to black markets, and lower growth.
- *Don’t labor markets empower workers to exit undesirable employment relationships?* A majority of the criticisms of Anderson’s argument share a common feature: They assume away unemployment and take full employment as a given.

This analysis begins with an overview of Anderson’s criticisms of the present structure of employer–employee relations. The subsequent sections summarize distinct economic claims made to rebut Anderson’s arguments and briefly discuss the kinds of questions we would need to answer in order to empirically verify those claims. The last section discusses the crucial economic assumption about full employment that underlies several of these economic claims.

II. Anderson’s Argument in *Private Government*

Anderson delivers her critique of the contemporary workplace in two lectures. The first explains why we talk “as if workers are free at work, and that the only threats to individual liberty come from the state” (Anderson 2017, xxii). The second suggests how we can correct this way of talking about workers’ economic situation and the sources of oppression. Her overarching goal, she says, is ideology critique. By “ideology” she means a simplified picture that we use to comprehend and traverse our world. Anderson’s target is the *free market ideology*, which holds that the state is the source of coercion and oppression and that markets liberate us from it. For our purposes we will focus on Lecture 2, which offers, first, the updated version of this model, first established in the

pre-industrial period but outmoded since the Industrial Revolution, and, second, solutions to the problems identified by it.

Anderson starts Lecture 1 by sketching the history of free market thinking. The early champions of free markets, Anderson notes, were egalitarian liberals, not the libertarians and classical liberals who are the free market's most fervent defenders today. Anderson points out that Adam Smith saw the eventual liberalization of the market as crucial for securing freedom and security for all. As government-sanctioned workers' guilds gave way to self-employment as the primary mode of employment, many peasants and domestic workers moved to cities to take up craft and tradesmanship, a transition that enabled them to escape the dominion of their landlords. The liberating effect of such self-owned forms of work is what led Smith to endorse markets. This thinking contrasts with the mainstream view of Smith today as an advocate of markets because of their efficiency and conduciveness to economic growth.

However, once the Industrial Revolution came into full swing, the promise of markets and property rights vanished. Prior to the Industrial Revolution, independent contractors learned their trade by serving as apprentices, working alongside their masters, and performing the same work as their masters. By contrast, factories employing thousands separated workers from their bosses, an arrangement that led to harsher working conditions.

Anderson's second lecture supplies an alternative model to make sense of the effects of the market and property rights on workers' lives. She begins with an evocative thought experiment that asks us to imagine life under a communist government that had extensive control over our lives, that imposed severe restrictions on both the conditions of our work as well as our lives outside of it, and that was not accountable to our choices and interests in any way. Moreover, most people could not really exit the dictatorship because the only feasible alternative would be to enter another one. She asks if the reader would consider persons in this situation to be free. She then reveals this scenario to reflect the lives of most workers in the US. If we would reject life under communist dictatorship as unfree, then we must accept the same verdict about the modern American workplace. According to this model, most workers today are subject to "private government," that is, the arbitrary, unaccountable will of their bosses.

What makes such rule "private" is not that it functions in the private sector. Instead, Anderson uses public and private to distinguish between spheres that require accountability and those that do not. The private sphere is private because it is one in which we are not answerable to others. We can do as we wish. In the public sphere, however, our conduct can be held accountable to others. The state is traditionally viewed as public because state actors are accountable to the people—to those who are governed. However, in lording over their workers as they see fit without being answerable to them, most employers act as private governments that rule workers' lives.

Anderson focuses on arbitrary, unaccountable control because it restricts the kind of freedom with which she takes egalitarians to be primarily concerned: *republican freedom*. Such freedom can be distinguished from two other popular conceptions of freedom, namely, positive and negative freedom. Positive freedom consists in the freedom to choose from a range of options, whereas negative freedom consists in freedom from interference. Republican freedom, by contrast, consists in freedom from the arbitrary, unaccountable will of others (freedom as nondomination). All three forms of freedom are important, she notes. The private government regulating employees serves to restrict all three kinds of freedom, but more pertinently republican freedom. And just as we may impose restrictions on private property rights to ensure that the duties of noninterference (on third parties) that they entail do not impose too great a cost on employees' negative freedom, we might similarly impose restrictions on private governments (meaning large firms) by, say, providing legal

protections for workers so they cannot be fired on the basis of their sexual preferences. Such regulation would enhance all three freedoms.

What is the evidence that firms exercise control akin to a communist dictatorship? Anderson discusses several examples. In the early 20th century, Ford Motor Company paid its workers only on the condition that they kept their personal lives in order by complying with a variety of directives: “kept their homes clean, ate diets deemed healthy, abstained from drinking, used the bathtub appropriately, did not take in boarders, avoided spending too much on foreign relatives, and were assimilated to American cultural norms” (Anderson 2017, 49). Ford supervisors periodically visited workers’ homes unannounced to ensure compliance.

Today, the Affordable Care Act permits employers to impose a 30% premium penalty on workers if they fail to abide by firm-mandated fitness programs. Penn State University threatened to increase workers’ health insurance premiums by \$100 per month if the workers did not complete a survey on sexual, marital, and reproductive choices. Or take the case of Amazon and its brutal treatment of warehouse workers, who are not allowed to take breaks, are expected to generate extremely unrealistic output numbers, are verbally abused and threatened on a regular basis, and are even forced to sign waivers absolving the company of work-related injuries. On top of all this, at least in nonunion environments, it is not uncommon for workers in today’s firms to be fired for being too attractive, for failing to show up at a political rally, or for engaging in certain social media activity. Only a minority are protected from such employer authority.

Anderson then discusses how our failure to update our assessment of the market economy and its relation to freedom has led to the creation of a legal framework that has ossified private government. For instance, the system of at-will employment means that no contract need be signed binding employers to particular terms. Such employer freedom may have made sense when most workers were self-employed farmers, craftspersons, and tradespersons and had a chance at a decent living. But in the current system of monolithic firm rule, employers are free to rule over workers as they please. Consequently, many employers require their workers to sign noncompete contracts, preventing them from working for a competitor firm in the same industry. Such agreements severely limit workers’ options if they wish to escape workplace dictatorship. Anderson also rebuts the suggestions from theorists of the firm that the wide latitude of control exercised over workers by employers is efficiency-enhancing by making three points: (1) that this claim does not justify the extent of authoritarian control that employers frequently exercise; (2) that it does not justify their oversight over workers’ nonwork lives; and (3) that Ronald Coase’s solution to the problem of private government, namely, the signing of a pre-work agreement clarifying and limiting employer control, does not obtain in actual employment contracts except in collective bargaining cases (which have declined greatly with the dismantling of unions in recent decades).

Anderson’s solution to the problem of private government is to make it *public*, that is, to render firms accountable to those over whom they rule. She proposes four different ways of doing so: (1) making exit a meaningfully viable option; (2) ensuring that the workplace is subject to the rule of law; (3) providing constitutional rights for workers; and (4) increasing worker voice through structures like a codetermination firm model. She is ultimately most partial to the last of these solutions, since the success of the first three ultimately depends on effective enforcement and, even if enforcement is effective, the changes only prevent employers from tyrannizing workers. They do not make employers accountable to workers.

The following sections will provide an overview of the claims made in opposition to Anderson’s critique of the contemporary market order. While this paper does not provide a complete assessment of these claims, it does briefly assess whether the analysis of and evidence offered for

them are persuasive or not, and it delineates the pertinent empirical questions that defenders of these claims need to answer. The goal is to set the stage for further investigation into the veracity of these claims, as accomplished in other contributions in this issue.

III. Economic Claims Made to Rebut Anderson's Argument

A. *Is the Gig Economy a Liberator from Workplace Oppression?*

The first criticism of Anderson's work focuses on the impact of the "gig economy" on workers' economic freedom. The gig economy refers broadly to a labor market where workers are self-employed and hired for short-term, task-specific jobs, often through a digital marketplace. Unlike regular employees, gig workers are able to contract with employers for specific tasks, such as driving a passenger through Uber's ridesharing services or completing a programming assignment for a tech company. They are not employed on a permanent basis or beholden to employment contracts. The nature of such employment is said to offer greater freedom to workers compared to more traditional employment forms, in which workers are hired on work schedules dictated by their employers; gig workers, at least in theory, are able to choose when and for how long they work. In addition, they are not restricted to any particular employer. Instead, they may freely choose to contract with any employer offering specific, short-term tasks. Flexibility in these areas is in stark contrast to the conditions that motivate Anderson's criticism of more traditional forms of labor.

Presumably, as Sandrine Blanc notes in her review of Anderson's book, the availability of gig work enables workers to choose something other than the exploitative form of employment Anderson identifies (Blanc 2018). Blanc points out that, in the present gig economy, working conditions seem "closer to preindustrial self-employment than employment in large firms" (Blanc 2018, 222). Blanc takes the emergence of the gig economy to problematize Anderson's criticism of the current market order.

How might we evaluate Blanc's claims? If the gig economy is to liberate people from the dictatorship that exists within monolithic firms, then certain things must hold. But before we examine what these things are, we first need to determine what exactly constitutes the gig economy, what kind of scale it has, and whether such work is free from exploitation.

The term "gig work" has been used to describe both a very specific, narrow group of workers—those working through online platforms such as ride-hailing transportation (Farrell, Greig, and Hamoudi 2018)—and anyone doing informal work, including and going beyond all self-employment. For our purposes we take Blanc's assertion to pertain to those self-employed working for online platforms, as typified by rideshare or food delivery drivers.

Regarding the scale of the gig economy, Dorinda Allard and Polivka (2018, 1) note that, contrary to the perception that self-employment now constitutes a sizable proportion of the entire workforce, "data from the Current Population Survey (CPS), the nation's monthly labor market household survey, show that the percentage of workers who are self-employed has actually trended down over the past two decades." In fact, a special Bureau of Labor Statistics survey designed to measure nonstandard work shows that in 2017, the self-employed (on their main job, including all self-employed, not just online platform workers) were just 6.9% of total employment, the same or lower share as in 2005 and 1995 (BLS 2018). To address the possibility that the questions used by the CPS to quantify self-employment are outdated and do not reflect how gig workers would classify themselves, Dorinda Allard and Polivka, examining data from the American Time Use

Survey, found that gig work has not increased relative to traditional forms of employment. Evidence from tax records confirms that overall self-employment has grown modestly; according to Collins et al. (2019, 3), the “share of earners participating in the 1099 workforce grew by 1.9 percentage points from 2000 to 2016, and now accounts for 11.8 percent of the workforce.” Moreover, the tax data show that “more than half of this increase occurred over 2013 to 2016 and can be attributed almost entirely to dramatic growth among gigs mediated through online labor platforms. We find that the rise in online platform work for labor is driven by earnings that are secondary and supplemental sources of income” (Collins et al., 2019, 3).

The scale of the online demand platform workforce in 2016 was fairly small, according to the tax data, as “the share of workers with labor OPE [online platform economy] income . . . was approximately 1 percentage point of the workforce” (ibid.). These data sources also indicate that the percentage of workers earning their main living through self-employment has not grown in several decades, and that the smaller group of online platform workers has been growing but remains far too small—less than 2% of employment—to provide a meaningful alternative to private government. This is especially so since most of the online demand workers are seeking income to supplement another job: “a majority of participants only derive small amounts of income from labor OPE—fewer than half earned more than \$2,500 in 2016” (Collins et al. 2019, 3–4). It seems unlikely that such work will soon become extensive enough to liberate workers.

But even if it constitutes only a small share of the economy, is gig work free from exploitation? Does it provide high-quality employment preferable to current employment opportunities? We have already seen that much of gig work is primarily part time and thus not an alternative to regular full-time work. And the analysis of tax data showed that there is no evidence that traditional work arrangements are being supplanted by independent contract arrangements reported in 1099s. An analysis of Uber driver earnings, taking into account the commissions Uber deducts, the extra payroll taxes that the self-employed must pay, auto and other driver expenses, and the need to supply one’s own pension, health, and worker compensation benefits, indicates that earnings are very low, less than \$10 an hour, an amount that “falls below the mandated minimum wage in the majority of major Uber urban markets” covered by the study (Mishel 2018, 2). Uber recognizes that it provides low-wage work; as it stated in its public offering, “[W]e aim to provide an earnings opportunity comparable to that available in retail, wholesale, or restaurant services”—all sectors that provide below-average wages. Finally, it is not certain that Uber and other gig employers provide independent contractor opportunities or rather just simply misclassify a W-2 employment situation (Mishel and McNicholas 2019).

It is far from clear that the gig economy, in which transportation and ridesharing are predominant, provides an alternative to the traditional labor market for middle-wage or high-wage workers. Nor does the gig economy yet seem to be a liberator for workers.

B. Is Exit a Deterrent to Workplace Dictatorship?

A second objection to Anderson focuses on her claim that the lack of power employees have in the workplace is in part due to their absence of viable exit options. Were it easier for workers to quit, they could leverage their right to exit to convince employers to improve working conditions. However, for most workers the alternative to leaving one “communist dictatorship,” she argues, is joining another, and so no alternative at all. Furthermore, contractual restrictions such as noncompete clauses, which prohibit employees from working with another employer within the same industry, make exiting not merely pointless but costly, since the only possible way to find alternative employment would be through significant retraining and a switch of career paths, both of which are infeasible for most workers. These two factors reduce the ability of workers to use

their exit rights to pressure employers to provide greater workplace freedoms. Cowen, in his response to Anderson, contends that this point is overblown because (1) the “monopsonistic” control that Anderson alleges large firms have over the labor market is empirically unsubstantiated, and (2) large firms have profit-related incentives to provide greater workplace freedom to employees even if they are monopsonies. Let’s look at each objection in turn.

In Cowen’s first objection, concerning the suggestion that workers are effectively unable to leave their firms, he understands Anderson to be painting a monopsonistic model of the labor market. A monopsony occurs when there are many sellers but only one buyer (it is the inverse of a monopoly). If a firm exercised a monopsony, then workers would have few alternatives regarding to whom they can sell their labor, and thus exiting their firm would not be a viable option. However, Cowen argues that Anderson provides insufficient evidence to show that the monopsony model holds.¹ For instance, he claims that, despite being the largest employer in the private sector, Walmart does not have monopsony power except in a few small regions of the US.² As a general matter, he suggests that “most economists assign [the monopsony model] only a secondary status in explaining labor markets” (Cowen 2017, 109) and supports this claim by citing a short book review (Kuhn 2004).

Yet even if large firms like Walmart functioned as monopsonies in the labor market, Cowen doubts that they would be incentivized to assert authoritarian control over workers. His justification is both theoretical and empirical. The theoretical claim concerns what firms *have reason to do* given their profit motive. It is in the financial interest of firms to provide workers with greater freedoms since doing so can allow the firms to lower wages.³ For instance, “an employer who would like to lure in more workers, but without bidding up wages for all workers, would be well-served . . . [by] . . . offering employees selective workplace freedoms” (Cowen 2017, 110). Even if large firms were monopsonies, it would be rational for them to increase rather than decrease workplace freedom (meaning firms would obtain lower wages in return), and so the existence of monopsonies is not a threat to greater workplace freedom.

Cowen thinks that this theoretical point against Anderson’s monopsony model is strengthened by the fact that it is backed up by empirical evidence. In reality, he contends, large firms *do* provide workers with more freedom, partly to protect the firm’s reputation among consumers. Many firms, like McDonalds, are willing to abstain from discriminating against historically oppressed groups to avoid bad publicity. This public relations aspect aside, granting greater workplace freedom is a way to “wage discriminate” when employing new staff; what we actually see, he suggests, is “employers catering to the job-quality preferences of the incumbents, rather than the marginal new hires, really quite often” (Cowen 2017, 110).

To be sure, Cowen does concede to Anderson that the cost of exit for most workers is very high. However, he views the cause of this problem to be “bad government decisions rather than . . . markets or the nature of the corporate employment relationship” (Cowen 2017, 111). In particular, he argues that legal reform decoupling employment from health insurance, retirement benefits, and one’s immigration status would help make exit less costly, freeing workers to leave if they desired. Large corporations and the structure of the labor market, in his view, do not impede the

¹ He says, “I am worried she, like others, doesn’t offer much evidence to back up her portrait, save for one footnote to an adequate but not very influential book” (Cowen 2017, 109).

² Cowen cites Bonanno and Lopez (2009). Cowen says this is “the best study I know” on monopsonies (Cowen 2017, 109).

³ As he states, “the monopsony model does not itself predict workers will enjoy less freedom or fewer perks in the workplace. This sounds counterintuitive, as we associate monopsony with lower bargaining power for workers and thus inferior working conditions. But rest assured, I am offering the correct reading of theory” (Cowen 2017, 110).

feasibility of exit and might even improve worker conditions, making the need for exit less important.

Cowen's defense of exit as a liberating force hinges on two claims: that monopsony does not exist, and that employers are incentivized to offer freedoms in the workplace because doing so allows them to pay lower wages. What would it take for these claims to hold true? First, Cowen adheres to a very specific notion of monopsony—the company town—that a wide range of economic writings have gone beyond, showing that firms have power over wages and workers in a wide array of circumstances constituting the norm. Monopsony power is a broader concept than the “labor concentration” model—few firms in a labor market—to which Cowen refers. Manning's important work, *Monopsony in Motion: Imperfect Competition in Labor Markets*, reestablished the broader view of monopsony and employer power (Manning 2003). Manning explains in the *Handbook of Labor Economics* that “from the worker perspective, it takes time and/or money to find another employer who is a perfect substitute for the current one and that, from an employer perspective, it is costly to find another worker who is a perfect substitute for the current one” (Manning 2011, 976). Therefore, dynamic monopsony can exist even where there is not labor concentration. Manning argues that “imperfect competition is pervasive in labour markets” (Manning 2011, 975), and he concludes that “one's views of the likely effects of labour market regulation should be substantially altered once one recognizes the existence of imperfect competition. All labor economists should take imperfect competition seriously” (Manning 2011, 1031). Similarly, a recent paper examining the economic literature on monopsonies concludes that “significant monopsony power can explain a number of empirical puzzles, such as bunching in wages . . . or wage dispersion” (Sokolova and Sorensen 2018, 2). The paper finds that “overall, the literature provides strong evidence for monopsonistic competition and implies sizable markdowns in wages”—meaning that employers obtain a share of workers' wages (Sokolova and Sorensen 2018, 31). Naidu and Carr (2022) in this issue provide a summary of evidence and new evidence showing that employer power is pervasive and the ability to quit is insufficient to prevent exploitation. David Card (2022) in his presidential address to the American Economic Association also presents evidence that employer power over wages is pervasive.

Cowen's second claim—that employers have every incentive to offer workers freedoms in the workplace because doing so allows them to pay lower wages—appears to rely on the assumption of a perfectly competitive market with equal employer and worker power and consequent compensating wage differentials: higher wages if job attributes were negative (workers are provided fewer freedoms) or lower wages if job attributes were positive. Cowen's contention essentially assumes away the problem of private government since, in his view, employers have no power, and they are incentivized to supply greater worker freedoms in order to obtain a lower-wage workforce. Critics have challenged whether compensating differentials observed in the labor market align with Cowen's theoretical assertions. Dorman and Boden (2021) demonstrate that the workers with the weakest bargaining power face the most risk for injury and fatality and receive the least compensating differentials—an observation confirmed by the experience of essential workers during the pandemic. A recent comprehensive examination of compensating differentials for workplace attributes indicates a more widespread failure of this theory: “While the theory on the relationship between job characteristics and wages is clear . . . the empirical literature documenting the existence and magnitude of such tradeoffs has lagged behind, often finding the opposite relationship that theory would predict” (Maestas et al. 2018).

Cowen also neglects to acknowledge the pervasiveness and insidious impact of noncompete agreements, which lower mobility and wages. A study surveying 11,505 respondents found “38.1% of the sample report agreeing to a noncompete at some point in their lives, while 18.1%, or roughly

28 million individuals, report currently working under one” (Starr, Prescott, and Bishara 2020, 5). More importantly, the authors also observe the following:

... 61% of individuals with noncompetes first learned they would be asked to agree to the provision before accepting their job offer while more than 30% first learned they would be asked to agree only after they had already accepted their offer (but not with a promotion or change in responsibilities). This late notice appears to matter to employees. In a follow-up question for those who received late notice, 26% report that if they had known about the noncompete upfront, they would have reconsidered accepting the offer in the first place. (Starr, Prescott, and Bishara 2020, 8)

Workers also generally do not get a say over whether to accept the noncompete agreements. A 2019 report found: “Roughly half, 49.4%, of responding establishments indicated that at least some employees in their establishment were required to enter into a noncompete agreement. Nearly a third, 31.8%, of responding establishments indicated that all employees in their establishment were required to enter into a noncompete agreement, regardless of pay or job duties” (Colvin and Shierholz 2019, 1).

C. Can Greater Transparency Help Workers Avoid Dictatorial Traps?

As mentioned, the problem of private government is the problem of arbitrary, unaccountable control that employers exercise over workers. A big reason why bosses are able to wield such arbitrary power is that workers’ terms of employment are drawn relatively vaguely and are, for the most part, difficult to specify in advance. What workers can be commanded to do is not precisely defined at the point of their employment, nor in their employment contracts (assuming they signed one). New instructions might be given after the fact and, worse, sanctions might be imposed for actions that were not mentioned in the terms of employment. Anderson details some of the most egregious of these sanctions, including punishments meted out for workers’ social media activity, choice of romantic partner, political affiliation, physical fitness levels, and consensual sexual activity in off-work hours.

To be sure, Anderson concedes that firm efficiency requires that employers wield *some* control over workers. The alternative to this system would be one in which firms contract with independent contractors to work on capital and with each other. Anderson writes that when factories in New England experimented with such a system in the second half of the 19th century, it turned out to be very inefficient, due to factors such as the hoarding of information by contractors, delayed innovations, insufficient coordination between different contractors, and greater wear and tear on machinery (Anderson 2017, 52). The hierarchical management structure of modern firms solves these problems through the open-ended authority granted to managers, who, as a result, are able to “redeploy workers’ efforts as needed to implement innovations, replace absentees, and deal with unforeseen difficulties” (Anderson 2017, 52). Despite this system’s benefits, what Anderson considers unacceptable is the extremely wide latitude of employer authority over workers in places like the United States. The hierarchical control that the theory of the firm justifies, she argues, is distinct from the private government that most employees are subject to.

In his video review and discussion with Anderson, Munger suggests that the problem of employers exercising such wide, arbitrary control over workers can be addressed by increasing transparency about working conditions prior to the start of employment (Public Square 2017). While he agrees with Anderson that the forms of control bosses exercise over workers are deeply problematic, he thinks that this stems from the fact that the boundaries of employers’ authority over workers is left unspecified. Had the boundaries been clearly defined at the start of the employer–employee

relationship, then workers would be able to decide for themselves if they wished to consent to those terms. The implication here is that greater transparency about one's working conditions would eliminate concerns about dictatorial practices, since workers would have consented to them: "[W]orkers have a lot of freedom," he says, "before they sign an employment contract and enter into an employment relationship" (Public Square 2017, n.p.). If greater transparency were introduced, then the imposition of any new rules not initially agreed to would constitute fraud.

Munger takes this solution to the problem of private government to be an extension of Anderson's own call for the application of due process when workers are treated wrongfully. As mentioned, one of Anderson's solutions to the problem of private government is better enforcement of the rule of law in the workplace to protect workers from unjust employer treatment. Munger does not elaborate on precisely how greater transparency would help secure due process, but a plausible interpretation is that, were employers required to make explicit the terms of employment, including the specific tasks required of workers, any later imposition of new work requirements would constitute a violation of the terms of the contract.

We may look to the work of Estlund to expand upon Munger's proposal here. Estlund focuses on whether the "general case for workplace transparency extends to information about wages and salaries" (Estlund 2014, 782). She concludes that "there is a fairly strong though not uncomplicated case to be made that mandatory disclosure of meaningful salary information would tend to produce less discrimination, less favoritism, and probably somewhat lower disparities overall" (Estlund 2014, 783). Along the way, she refutes claims to the contrary, namely, that increasing transparency in this area would (1) publicize vital trade secrets and proprietary information; (2) harm employee morale and productivity; (3) violate employees' own preference for pay secrecy; and (4) promote employer collusion.⁴

More transparency would certainly seem worthwhile and would make workplaces conform to the assumption in labor economics that both parties are completely and perfectly informed.

Unlike with other commodities, the inherent nature of the employment relationship means that many important matters will inevitably be left undefined. As Tomassetti (2020, 21-22) notes:

By definition, to form an at-will employment relationship, the parties need not reach any agreement that contract law would otherwise recognize as an *ex ante* bargain. Recall that employment is an agreement to work for another under the other's right of control. And to work is to exercise one's ability to take purposive action, or to make choices and act upon those choices. Thus, in agreeing to work under the employer's right of control, the employee agrees to subject her very ability to reach a bargain to the employer's command. The employer chooses the bargain—what the employee is to provide—by commanding the employee in her work as the relationship proceeds: what the employee does, how it is done, the effort exerted, the benefits the employee is to receive, and . . . even the employee's obligations after the relationship has ended. At-will employment is an "agreement to agree" to whatever the employer decides upon *ex post*.

The transaction over the nature, pace, and intensity of work will necessarily reflect the balance of power in the workplace, and the essential bargain cannot be specified in advance, suggesting that transparency cannot eliminate exploitation about these matters, at least not by itself.

⁴ For instance, in response to the first objection, she notes, "conventional economic analysis suggests that 'information disparities' between contracting parties—for example, between an employer and employee regarding salary patterns within the firm—are an impediment to efficient bargaining" (Estlund 2014, 787).

That said, transparency can address the “how much” question in work agreements, the terms of employment frequently described as wages, hours, and working conditions. However, it is worth considering why employees are so ill-informed of their terms of employment as well as their rights under the whole range of employment laws (Freeman and Rogers 2006). This lack of awareness, in fact, may reflect the lack of power workers face in both the workplace—where they are unable to adequately assert their preferred employment terms or form organizations such as unions—and in public life, where they are unable to pressure schools to educate everyone about their employment rights and their employers to make sufficiently transparent their employment rights.

It is noteworthy that conservatives, libertarians, and employer trade associations do not campaign to require transparency of employment terms at the time of hire. In fact, we see employers opposing transparency. A requirement by the National Labor Relations Board (NLRB) under the Obama administration that employee labor rights be clearly and visibly posted in the workplace (Labor-Management Standards Office 2010) was challenged by the National Association of Manufacturers, and the D.C. Court of Appeals ruled in 2013 that such postings violated the employer’s freedom of speech. *National Association of Manufacturers v. N.L.R.B.*, No. 12-5068, D.C. Cir. (2013). No outcry was heard from employers, conservatives, or libertarians. Oddly enough, the NLRB under President Trump in 2020 mandated that employers post information about NLRB procedures, and employers did not find this a constraint on their free speech. The mandated posting, however, served the employers’ interests, as it informed employees of their right to decertify—get rid of—a union. Specifically, the NLRB mandated a “voluntary recognition bar,” so that, when an employer voluntarily recognized a union (such as through a card check), “unit employees must receive notice that voluntary recognition has been granted and are given a 45-day open period within which to file an election petition” (NLRB 2020). This requirement was portrayed by the NLRB as an effort to “better protect employees’ statutory right of free choice on questions concerning representation.”

This contradictory adherence to transparency aside, Munger’s proposal is potentially tautological. If transparency is a remedy for worker disempowerment, then how can workers motivate their employers to provide it? The only two ways in which they can do this is by either directly pressuring their bosses or by pushing for legislative change. But their present lack of power undermines both prospects, and so we are back to asking how we can increase the power of workers relative to their employers.

Another foundational issue concerns how Munger’s solution relates to the actual application of employment law. Currently, the law recognizes “contracts” formed between workers and their employers both prior to and after employment. But how do workers consent to new contracts formed after accepting a job? In the recent Supreme Court case *Epic Systems Corp. v. Lewis*, 138 S. Ct. 1612 (2018), which looked at whether forced arbitration provisions (in which employees are forced to submit claims to private arbitration and to do so as individuals, not as a class) violated the National Labor Relations Act, the majority opinion contended that the employees freely agreed to the arbitration terms in a market transaction. But in fact, as noted in Justice Ginsburg’s dissent, the employees were informed about the terms of the forced arbitration agreement after they were already employed:

Petitioner Epic Systems Corporation e-mailed its employees an arbitration agreement requiring resolution of wage and hours claims by individual arbitration. The agreement provided that if the employees “continue[d] to work at Epic,” they would “be deemed to have accepted th[e] Agreement.” . . . Young similarly e-mailed its employees an arbitration agreement, which stated that the employees’ continued employment would indicate their

assent to the agreement's terms Young's employees thus faced a Hobson's choice: accept arbitration on their employer's terms or give up their jobs. (*Epic Systems*, 138 S. Ct. at 1636.)

Essentially, then, showing up to work legally constitutes consenting to any change in the terms of employment made by one's employer. An agreement between employers and employees is treated as a spot market, continuously being renegotiated. Why should this be considered consent by workers in any meaningful sense? Further, how can pre-hire transparency requirements overcome the unilateral imposition of such terms once already employed? Interestingly, libertarian philosophers are loath to consider *tacit consent* as being a legitimate form of consent when it comes to state coercion.⁵ They often argue that the mere fact that we comply with laws should not be taken to mean that we have consented to them, for we might have little choice but to go along.⁶ Consistency would seem to require that libertarians also not consider cases like the one above as constituting employee consent. And if such cases don't, then it seems that legitimate consent to new employment contracts would require, as a precondition, that employees be meaningfully able to refuse them without significant cost to themselves (such as being fired or being forced to relocate after being employed). How would this be possible without first improving the worker's bargaining position relative to the employer's, say through better union representation, mandated legal requirements, or some of the measures that Anderson suggests? Thus, it seems that a plausible interpretation of Munger's proposal would *require* rather than replace Anderson's proposed solutions to the problem of private government.

D. *Is Worker Discontent Simply Overblown?*

In her argument, Anderson does not merely imply that workers wish to remedy their lack of freedom. Rather, she uses several statistics to demonstrate this point. Two in particular are important: (1) "25 percent of employees . . . understand that they are subject to dictatorship at work"; (2) "55 percent or so . . . are neither securely self-employed nor upper-level managers, nor the tiny elite tier of nonmanagerial stars (athletes, entertainers, superstar academics) who have the power to dictate employment contracts to their specification, nor even the ever-shrinking class of workers under ever-retrenching collective bargaining agreements" (Anderson 2017, 63). Members of the former group are aware of their oppressed conditions, whereas the latter are "only one arbitrary and oppressive managerial decision away from realizing what the 25 percent already know" (Anderson 2017, 63). The upshot of these two statistics is that the vast majority of workers are subject to the problem of private government and are either aware of it or likely to be so.

Cowen, Munger, and Ferretti object to this empirical claim about worker unhappiness. They contend that many workers are either happy with their working conditions or are willing to put up with the authoritarian control they are subjected to in exchange for higher wages. Either way, they argue, it seems unlikely that there is widespread unhappiness about workplace dictatorship.

⁵ "Tacit consent" here is to be contrasted with "explicit consent," which involves an overt action to signal one's willingness to accept a situation or set of terms offered.

⁶ It is generally accepted by philosophers and others that one cannot be said to consent if one could not have chosen to do otherwise. This makes sense of why obeying a robber threatening to kill us if we do not hand over our wallets does not constitute consent. In much the same way, citizens who are effectively unable to leave their state are not in a position to refuse the state's commands. Their continued residence within the state then cannot constitute their consent to its commands. Libertarian philosopher Robert Nozick famously contended that one cannot be bound through tacit consent since "tacit consent isn't worth the paper it's not written on" (Nozick 1977, 287). For a more developed libertarian refutation of the idea of tacit consent, see Huemer (2013, 22–8). Among other things, Huemer argues that tacit consent counts as a legitimate form of consent only if one has a reasonable way of opting out of a contract.

Ferretti and Munger expand on Cowen's comments presented above, arguing that, to the extent that workers are displeased with their working conditions, they are willing to put up with them given the benefits these conditions bring. For instance, tolerating workplace dictatorship might be preferable to some workers "in exchange for other benefits such as higher wages, more flexible schedules, less responsibility and less risk" (Ferretti 2018, 280). Similarly, Munger claims that many workers prefer to receive higher pay than greater workplace freedom so they can "create lives outside of work that have meaning . . . if workers value personal voice over pay, some firms would be working on that margin already" (Munger 2018, 629). Where Munger diverges from Anderson is in focusing on the meaning workers might find not within but outside of work. In Munger's view, Anderson errs by ignoring this fact and its impact on how workers weigh the concomitant effects of authoritarian employer rule. Nonetheless, Munger, like Cowen, takes Anderson's concern about worker dissatisfaction with such control to be overstated given the motivations and practices of many employers on the one hand and the preferences of workers on the other.

We have earlier examined the theoretical claim that employers have incentives to provide workplace freedoms that would yield lower wages, and we found that the "compensating differential" claims of such competitive, equal power, labor market speculations do not fit the facts on compensating differentials for risk or other major work attributes. How should we evaluate these claims about worker dissatisfaction (or the lack thereof)? Two questions immediately arise. First, how much bargaining power do workers have relative to their employers and how has it changed over time? If workers have no way of pushing for their demands with their employers, then employers have no reason to please workers in any way, whether by granting greater workplace freedoms or higher wages. Second, what alternatives do workers have to accepting the terms offered to them by their employers? If they have no viable alternatives, then they have no choice but to accept those terms. Regarding the first question, there is an accumulating literature that documents the erosion of worker power over the last few decades (Council of Economic Advisers 2016; Stansbury and Summers 2020; Mishel and Bivens 2021; Naidu and Carr 2022). Alan Krueger notes that forces that previously kept such power in check, such as union representation for workers, collective bargaining, and better minimum wage laws, have fallen by the wayside, leaving firms free to reduce wages as they please; this power shift seems to help explain why "only the highest earners have seen steady wage gains; for most workers, wage growth has been sluggish and has failed to keep pace with gains in productivity" (Krueger 2018, n.p.). The discipline of economics is increasingly focused on the deleterious effects of monopsonies and employer power on workers' wages (Smith 2019).

Freeman and Rogers' research notes the existence of "substantial gaps between the importance of rights to workers and employer performance, with wide variation among the categories covered in the survey" (Freeman and Rogers 2006, 9).⁷ Such evidence seems to undermine the idea that workers have much bargaining power relative to their employers and that worker satisfaction is widespread. It is instructive that both major political parties, since 2016, have highlighted wage stagnation as a serious problem.⁸

⁷ The authors used 2001 Hart poll survey results to arrive at this conclusion, and note that while "differences in questions make it hard to assess whether the Hart results show larger or smaller gaps than those in the WRPS [Worker Representation and Participation Survey] . . . the Hart survey finds large gaps, as did the WRPS" (Freeman and Rogers 2006, 9).

⁸ As the 2016 Republican Party platform asserts, "[O]ur economy has become unnecessarily weak with stagnant wages. People living paycheck to paycheck are struggling, sacrificing, and suffering" (Republican Party 2016, i). The 2016 Democratic Party platform, likewise, states that "too many Americans have been left out and left behind. They are working longer hours with less security. Wages have barely budged and the racial wealth gap remains wide, while the cost of everything from childcare to a college education has continued to rise" (Democratic Party 2016, 1).

What about workers' alternatives to accepting the terms offered to them? Edwards (2022) notes the realities of workers' lives that make quitting a difficult choice: little wealth, needs for commuting and child/elder care, scarcity of job openings, locked-in health insurance options, and much else. Naidu and Carr (2022) note the limited power of the ability to quit. And even if workers stayed in their jobs, they have little choice but to accept their fates. Krueger notes how legal changes permitting mandatory arbitration have undermined workers' ability to file lawsuits against their bosses (Krueger 2018, 4). We have already noted how the decline of both unions and collective bargaining has weakened the ability of workers to shape their wages, hours, and working conditions. All this evidence combined suggests that workers' decisions to stay in their jobs may be due more to powerlessness than to job satisfaction.

Finally, what does empirical data say about current levels of worker happiness? The Gallup 2019 Great Jobs Survey concludes that:

. . . 40% of American workers are currently in “good jobs,” defined by high levels of satisfaction with the job characteristics workers care about most. Meanwhile, 16% of workers are in “bad jobs,” which are rated poorly across most key characteristics. The rest of the U.S. workforce—44% of employed Americans—are in “mediocre jobs,” which warrant satisfaction on some but not all dimensions. . . . [F]ewer than half of workers tell Gallup that they are completely satisfied with their jobs, and even fewer express complete satisfaction with such key dimensions as pay, health insurance and retirement benefits. (Rothwell and Crabtree 2019, 6, 10)⁹

The study also found that “the largest sources of job quality disappointment (the gap between satisfaction and importance) are in pay and benefits, factors commonly rated as important but for which satisfaction ratings are especially low. Just 54% of workers overall are satisfied with their current pay level” (Rothwell and Crabtree 2019, 3). Another recent paper, by Howell, finds a widespread decline in job quality: “[I]here has been an astonishing decline in the number of decent jobs generated per dollar of GDP [gross domestic product] since the 1980s, particularly for young workers without a college degree, but it also appears for those with at least a college degree” (Howell 2019, 49). Howell points to “major shifts in institutions, policies and employer human resource strategies that have undermined worker bargaining power” (Howell 2019, 2) as the cause.¹⁰ All in all, it seems clear that Cowen needs to provide better evidence to support his claims that workers are satisfied.

⁹ The authors differentiated “good,” “mediocre,” and “bad” jobs by having workers “rate the importance of 10 dimensions of job quality, including [level of pay, stable and predictable pay, stable and predictable hours, control over hours and/or location, job security, employee benefits, career advancement opportunities, enjoying your day-to-day work, having a sense of purpose and dignity in your work, having the power to change things about your job that you’re not satisfied with] [B]ased on those answers, workers are asked to rate their level of satisfaction with each dimension [A] good job has an importance-weighted average score of ‘4’ or above; a mediocre job has an importance-weighted score that is less than ‘4’ but above ‘3.’ A bad job has a score at or below ‘3’” (Rothwell and Crabtree 2019, 9).

¹⁰ Howell’s paper employs “Current Population Survey data to document changes in job quality for 1979-2017 with measures of decent-, low- and lousy-wage jobs for groups defined by age, gender, education, race and nativity. These indicators are defined by two wage thresholds chosen to reflect the wage a full-time worker would need for a basic-needs budget: 2/3 of the mean wage for full-time prime-age workers (\$17.50 in 2017), which marks the cutoff between decent- and low-wage jobs; and 2/3 of the median full-time wage (\$13.33), the boundary between lousy- and other low-wage jobs” (Howell 2019, 2).

E. *Won't the Proposed Solutions Have Distortionary Economic Effects?*

The final objection to Anderson's argument concerns the impact of her proposed solutions on the economy. A few of the aforementioned critics argue that the reforms she calls for, in particular the application of the rule of law at the workplace, greater constitutional protections, and greater voice for workers in firm decision-making, are likely to have distortionary effects on markets and generate bad economic outcomes. Specifically, reforms to liberate workers from workplace dictatorship, they argue, are likely to lead to (1) inefficiencies in the running of firms; (2) increased unemployment; (3) shifting of labor to unregulated black markets; and (4) reduced economic growth.

The first economic cost of Anderson's proposed reforms concerns efficiency. Cowen argues that "employer discretion" is needed to ensure the smooth running of firms. If employers are not able to dictate who gets fired and under what conditions, then they would not be able to address the effects of worker misconduct and noncompliance (Cowen 2017, 112). This powerlessness, in his view, is due to lack of legal or contractual means to delimit worker conduct in specific-enough ways. Employer discretion ensures that costly behavior on the part of workers does not harm others in the firm, including fellow workers. For instance, he points out that "a lot of workers put racist, sexist, or otherwise discomfoting comments and photos into their Facebook pages." When their bosses fire them, they might be doing it "to protect some notion of *the freedom of the other workers*" (Cowen 2017, 112). In their efforts to ensure the smooth running of the firm, employers often consider the overall preferences of workers, and might enforce such measures to preserve overall worker happiness. Anderson's proposals to protect workers from such arbitrary firings, however, would prevent employers from doing what is necessary to keep workers generally happy. In this sense, her solutions might end up *impairing* worker autonomy rather than enhancing it. On the whole, Cowen argues, giving employers discretion in firing matters is more beneficial for workers than costly, and so worth preserving.¹¹ Of course, this discretion might not be beneficial if employers misuse it, but, as we saw, Cowen rejects this suggestion. He contends that, while it is true "at the margins, that employer discretion leads to abuses . . . those abuses are relatively few in number, and *the gains for workers and customers from the firing discretion*—not just the gains for bosses—outweigh those costs" (Cowen 2017, 112–13).¹² Since employers generally do not abuse the wide latitude in control they have over workers, and workers receive a net benefit from such control, it is worth preserving.

Cowen's concerns about firm inefficiency feed into Levy's and Flanagan's (Levy 2019; Flanagan 2019) contention that Anderson's proposals are likely to lead to the second cost: higher unemployment. If firms suffer economic costs due to the new regulations, then they might be forced to fire workers to balance the books. Thus, Anderson's attempts to protect the vast majority of workers she argues are vulnerable to authoritarian control would lead to higher unemployment overall.

In his discussion with Anderson, Munger argues that prohibiting firms from exercising wide discretion over worker management is likely to lead to the third of the economic costs mentioned above: the creation of unregulated black markets (Public Square 2017). Though he raises this objection in a cursory manner, we can develop the line of thought here further. Consider the

¹¹ He also argues that "economists in fact have a pretty good but not perfect explanation of why employers often have so much discretionary authority over workers. The employers (often, not always) have a more unique contribution to the value of the capital goods, and thus they own the property rights to that capital Ultimately, most workers benefit from this arrangement, if only in their role as consumers; most people don't want their co-workers in charge of the ultimate disposition of the capital goods" (Cowen 2017, 113).

¹² The italics are Cowen's.

following possibility. Regulations of the form Anderson defends cause employers to hire fewer workers after the employers deem such regulations to be detrimental to their efficiency and, in turn, profit margins. However, since workers would rather be employed than not, they search for work in unregulated markets, namely, in the underground economy. Employment here might involve both more demeaning and dangerous work, for lower pay, and with no legal protections. Munger worries that Anderson's favored regulations are likely to push many workers into such a situation.

The final cost, highlighted by Flanigan and Levy, concerns the sum effect of the previous three. A reduction in firm efficiency ultimately reduces both the profitability of firms along with their ability to expand and innovate. Likewise, increased unemployment means lower tax revenue and reduced spending on goods and services.¹³ Relatedly, black markets reduce government revenue (since black markets aren't taxed) and are not reported in the national estimates on employment and the country's GDP.

The plethora of economic claims made by Anderson's critics here call for scrutiny on multiple fronts. First, we need to ascertain in precisely what way does limiting employers' unlimited managerial authority lead to increased inefficiency. Why must a manager wield *unlimited* authority over workers? To be sure, managers have uncontested control over a wide variety of firm decisions, including pricing, marketing strategies, and investment plans, that employment legislation and collective bargaining do not constrain whatsoever. None of these domains are the target of Anderson's criticism. Instead, she contests managers' unfettered ability to decide whom a firm hires and fires and for what reason and how workers are paid. Relatedly, the debate seems to focus on whether managers should be able to unilaterally dictate employee benefits, including wages, sick pay, and family leave. There is also the matter of working conditions, such as safety and health standards and scheduling practices, all of which impact a worker's overall well-being. These policies are central to ensuring worker freedom. Why should we think that managers need unconstrained authority in these realms?

This question aside, what evidence is there to suggest that limiting such authority, even partially, would lead to inefficiency? Evidence in this issue suggests that restrictions on management's authority to determine wages (Zipperer 2022) or on management's complete "flexibility" in determining employment levels (Evans and Spriggs 2022) have not necessarily led to adverse economic performance, nor has the adoption of employee codetermination arrangements (Schoefer, Jager, and Noy 2022). Nations, in fact, have a number of choices, and choosing paths with less inequality, more employee rights, and more security does not lead to economic ruin or even harm (Mishel 2022a).

It is worth emphasizing that we *already* limit employers' ability to discriminate according to race, gender, sexuality, disability, age, and other factors. Firms are still able to run very efficiently in spite of these restrictions. There has been extensive research on the impact of job-flexibility limitations, higher minimum wages, family leave, and sick pay, and their impact on economic performance such as unemployment and productivity levels.¹⁴ These claims cannot be settled based on assertions about the presumed need for unlimited managerial authority.

¹³ As Flanigan says, "like many libertarians, I suspect that Cowen is skeptical because he thinks that to the extent that any feasible policies would curb workplace dictatorship, they also threaten economic growth or cause unemployment, and the costs associated with forgone growth and employment aren't worth the costs of workers' empowerment" (Flanigan 2019).

¹⁴ For instance, see Dube (2019); OECD (2006).

IV. Assuming Away Unemployment

The majority of the criticisms of Anderson discussed above share a common feature: They assume a certain *idealized* picture of labor market conditions and their impact on workers. For instance, the idea that employees possess equal bargaining power because of their ability to quit assumes that alternative sources of employment are readily available to them. In other words, it assumes that we are operating under *full employment*. Conversely, if unemployment rates are high, then many workers have fewer opportunities to avoid oppressive conditions at work. That they do not complain about their situation does not then imply that they are content with it or that they consider the workplace to be a source of dignity and fulfillment.

The first assumption, as mentioned, is that we are operating under conditions of full employment. While economists disagree about how we should define full employment, a simple definition that suffices for the present discussion is the following: *the situation in which anyone who wants to work is able to find work*. The bottom line in the context of our discussion is whether the presumed situation is as competitive labor market theory assumes, that it is as easy for an employer to replace a worker as it is for a worker to quit and find a comparable or better job.

Mishel, examining the persistence of excessive unemployment and the consequences for workers and employers, notes, “[T]he economy is rarely at full employment, and even on the rare occasions that it is large segments of the workforce still face substantial unemployment and difficulty finding quality jobs. Blacks, Hispanics, and those without college degrees endure a permanent recession” (Mishel 2022b, n.p.).

These circumstances are policy choices, and the US for the last several decades has chosen monetary and fiscal policies that tolerated, or propelled, excessive unemployment (Bivens and Zipperer 2018). We also know that the failure to maintain full employment has suppressed wage growth for workers, with low-wage and minority workers most adversely affected and middle-wage workers impacted more than high-wage workers.¹⁵

To add to all this, we also know that when unemployment is high it is costly for workers: Employees are less likely to quit; the duration of unemployment and the share of the unemployed who were long-term unemployed increases; and workers’ ability and willingness to switch employers is weakened (Mishel 2022b). Likewise, high unemployment assists employers in meeting their needs: Employers are able to fill job vacancies more quickly and with less effort; their recruitment activities—choice of methods, expenditures on help-wanted ads, screening of job applicants—shrink as unemployment rises; employers more readily find qualified workers; and employers opportunistically raise the expected credentials for new hires.

In light of all this evidence, it is simply not reasonable to discuss workplace freedoms and power without taking the prevalence of excessive unemployment and underemployment (such as involuntarily working a part-time job when full-time work is desired) into account.

¹⁵ Likewise, a report on the economic impact of COVID-19 on minority workers finds that “on every indicator of economic wellbeing, racial and ethnic minorities have larger-than-average responses to overall indicators; this means that indicators of labor-market slack (like unemployment or employment rates) deteriorate faster and further for people of color and, depending on the strength of the recovery, can take longer to make up lost ground” (Bernstein and Jones 2020, 1).

V. Conclusion

Ultimately, Anderson's work serves as a call for a comprehensive reevaluation of the way we view work today in the United States and beyond, and it shines a spotlight on the subjugation of workers under a system that paradoxically views them as equal members in the economic bargain with their employers. *Private Government* highlights the myriad ways in which the market oppresses in much the same ways the state did. The various criticisms discussed in this essay only serve to reinforce the need for a deeper study into the current market order and how that order might be reformed. Relatedly, the assumptions that seem to underlie many of these criticisms mandate going beyond mere theoretical assertions to engage in deeper economic analysis of the actual economic circumstances facing workers.

REFERENCES

- Anderson, Elizabeth. 2017. *Private Government: How Employers Rule Our Lives (and Why We Don't Talk about It)*. Reprint edition. Princeton University Press.
- Bernstein, Jared, and Janelle Jones. 2020. *The Impact of the COVID-19 Recession on the Jobs and Incomes of Persons of Color*. Center on Budget and Policy Priorities.
- Bivens, Josh, and Ben Zipperer. 2018. "The Importance of Locking in Full Employment for the Long Haul." Economic Policy Institute, August 21, 2018. <https://www.epi.org/publication/the-importance-of-locking-in-full-employment-for-the-long-haul>.
- Blanc, Sandrine. 2018. Review of *Private Government. How Employers Rule Our Lives (and Why We Don't Talk about It)*." 28 *Business Ethics Quarterly* 219.
- BLS (Bureau of Labor Statistics). 2018. *Contingent and Alternative Employment Arrangements*. <https://www.bls.gov/news.release/conemp.toc.htm>.
- Bonanno, Alessandro, and Rigoberto A. Lopez. 2009. "Is Wal-Mart a Monopsony? Evidence from Local Labor Markets." Paper presented at the International Association of Agricultural Economists conference, Beijing, China, August 16-22.
- Card, David. 2022. "Who Set *Your* Wage?" Presentation to the American Economic Association Annual Meeting (virtual), January 2-9, 2022.
- Collins, Brett, Andrew Garin, Emilie Jackson, Dmitri Koustas, and Mark Payne. 2019. "Is Gig Work Replacing Traditional Employment? Evidence from Two Decades of Tax Returns." Unpublished paper, IRS SOI Joint Statistical Research Program.
- Colvin, Alexander J.S., and Heidi Shierholz. 2019. "Noncompete Agreements." Economic Policy Institute, December 10, 2019. <https://www.epi.org/publication/noncompete-agreements>.
- Council of Economic Advisers. 2016. *Labor Market Monopsony: Trends, Consequences, and Policy Responses*. https://obamawhitehouse.archives.gov/sites/default/files/page/files/20161025_monopsony_labor_mrkt_cea.pdf.

Cowen, Tyler. 2017. "Work Isn't So Bad After All." In Elizabeth Anderson, *Private Government: How Employers Rule Our Lives (and Why We Don't Talk about It)*, 108. Reprint edition. Princeton University Press.

Democratic Party. 2016. *2016 Democratic Party Platform*. Democratic National Committee. <https://www.presidency.ucsb.edu/documents/2016-democratic-party-platform>.

Dorinda Allard, Mary, and Anne E. Polivka. 2018. "Measuring Labor Market Activity Today: Are the Words Work and Job Too Limiting for Surveys?" *12 Monthly Labor Review* 1.

Dorman, Peter, and Les Boden. 2021. "Risk without Reward: The Myth of Wage Compensation for Hazardous Work." Economic Policy Institute, April 19, 2021. <https://www.epi.org/unequalpower/publications/risk-without-reward-the-myth-of-wage-compensation-for-hazardous-work>.

Dube, Arindrajit. 2019. "Impacts of Minimum Wages: Review of the International Evidence." HM Treasury. https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/844350/impacts_of_minimum_wages_review_of_the_international_evidence_Arindrajit_Dube_web.pdf.

Edwards, Kathryn. 2022. "Worker Mobility in Practice: Is Quitting a Right, or a Luxury?" *3 Journal of Political Economy* 104.

Estlund, Cynthia. 2014. "Extending the Case for Workplace Transparency to Information About Pay." *4 UC Irvine Law Review* 781.

Evans, John, and William Spriggs. 2022. "The Great Reversal." Economic Policy Institute, February 11, 2022. <https://www.epi.org/unequalpower/publications/workers-and-economists-oecd>.

Farrell, Diana, Fiona Greig, and Amar Hamoudi. 2018. *The Online Platform Economy in 2018: Drivers, Workers, Sellers, and Lessors*. JPMorgan Chase Institute.

Ferretti, Thomas. 2018. Review of *Private Government: How Employers Rule Our Lives (and Why We Don't Talk About It)*." *34 Economics and Philosophy* 275.

Flanigan, Jessica. 2019. "Author Meets Critics: Elizabeth Anderson's 'Private Government.'" Presentation at the American Philosophical Association Eastern Division Meeting, New York, NY, January 8, 2019.

Freeman, Richard B., and Joel Rogers. 2006. *What Workers Want*. ILR Press Book Samples.

Howell, David R. 2019. *From Decent to Lousy Jobs: New Evidence on the Decline in American Job Quality, 1979–2017*. Washington Center for Equitable Growth. <https://equitablegrowth.org/working-papers/from-decent-to-lousy-jobs-new-evidence-on-the-decline-in-american-job-quality-1979-2017>.

Huemer, Michael. 2013. *The Problem of Political Authority: An Examination of the Right to Coerce and the Duty to Obey*. Palgrave Macmillan.

Jäger, Simon, Shakked Noy, and Benjamin Schoefer. 2022. "Codetermination and Power in the

Workplace.” Economic Policy Institute, March 23, 2022.

<https://www.epi.org/unequalpower/publications/codetermination-and-power-in-the-workplace>.

Krueger, Alan B. 2018. “Luncheon Address: Reflections on Dwindling Worker Bargaining Power and Monetary Policy.” Proceedings of the Jackson Hole Economic Policy Symposium, “Changing Market Structures and Implications for Monetary Policy,” Jackson Hole, Wyoming, August 23-25, 2018. https://www.kansascityfed.org/documents/6984/Lunch_JH2018.pdf.

Kuhn, Peter. 2004. “Is Monopsony the Right Way to Model Labor Markets? A Review of Alan Manning’s *Monopsony in Motion*.” 11 *International Journal of the Economics of Business* 369.

Labor-Management Standards Office. 2010. “Notification of Employee Rights Under Federal Labor Laws.” 75 *Federal Register* 28367.

Levy, Jacob. 2019. “Author Meets Critics: Elizabeth Anderson, *Private Government: How Employers Rule Our Lives (And Why We Don’t Talk About It)*.” Presentation at the American Philosophical Association Eastern Division Meeting, New York, N.Y., January 8.

Maestas, Nicole, Kathleen Mullen, David Powell, Till Von Wachter, and Jeffrey B. Wenger. 2018. “The Value of Working Conditions in the United States and Implications for the Structure of Wages.” Working Paper No. w25204. National Bureau of Economic Research.

Manning, Alan. 2003. *Monopsony in Motion: Imperfect Competition in Labor Markets*. Princeton University Press.

Manning, Alan. 2011. “Imperfect Competition in the Labor Market.” In *Handbook of Labor Economics*, vol. 4B, edited by David Card and Orley Ashenfelter, 973. Elsevier.

Mishel, Lawrence. 2018. “Uber and the Labor Market.” Economic Policy Institute, May 15, 2018. <https://www.epi.org/publication/uber-and-the-labor-market-uber-drivers-compensation-wages-and-the-scale-of-uber-and-the-gig-economy>.

Mishel, Lawrence. 2022a. “Introduction—The Goliath in the Room: How the False Assumption of Equal Worker–Employer Power Undercuts Workplace Protections .” 3 *Journal of Political Economy*.

Mishel, Lawrence. 2022b. *The Legal “Freedom of Contract” Framework Is Flawed because It Ignores the Persistent Absence of Full Employment*. Economic Policy Institute, February 3, 2022. <https://www.epi.org/unequalpower/publications/legal-freedom-of-contract-framework-is-flawed>.

Mishel, Lawrence, and Josh Bivens. 2021. “Identifying the Policy Levers Generating Wage Suppression and Wage Inequality.” Economic Policy Institute, May 13, 2021. <https://www.epi.org/unequalpower/publications/wage-suppression-inequality>.

Mishel, Lawrence, and Celine McNicholas. 2019. “Uber Drivers Are Not Entrepreneurs: NLRB General Counsel Ignores the Realities of Driving for Uber.” Economic Policy Institute, September 20, 2019. <https://www.epi.org/publication/uber-drivers-are-not-entrepreneurs-nlr-general-counsel-ignores-the-realities-of-driving-for-uber>.

Munger, Michael. 2018. Review of *Private Government: How Employers Rule Our Lives (and Why We Don’t Talk About It)*.” 22 *Independent Review* 627.

Naidu, Suresh, and Michael Carr. 2022. "If You Don't Like Your Job, Can You Always Quit? Pervasive Monopsony Power and Freedom in the Labor Market." 3 *Journal of Law and Political Economy* 131.

NLRB (National Labor Relations Board). 2020. "Representation-Case Procedures: Election Bars; Proof of Majority Support in Construction-Industry Collective-Bargaining Relationships." 85 *Federal Register* 18366.

Nozick, Robert. 1977. *Anarchy, State, and Utopia*. Basic Books.

OECD (Organization for Economic Cooperation and Development). 2006. *Boosting Jobs and Incomes: Policy Lessons from Reassessing the OECD Jobs Strategy*.
<https://www.oecd.org/els/emp/boostingjobsandincomestheoecdjobsstrategy.htm>.

Public Square. 2017. "Private Government: How Employers Rule Our Lives (and Why We Don't Talk About It)." YouTube. https://www.youtube.com/watch?v=EyYjKeW_qyk.

Republican Party. 2016. *The 2016 Republican Party Platform*. Republican National Committee. <https://www.presidency.ucsb.edu/documents/2016-republican-party-platform>.

Rothwell, Jonathan, and Steve Crabtree. 2019. *Not Just a Job: New Evidence on the Quality of Work in the United States*. Gallup. <https://www.gallup.com/education/267650/great-jobs-lumina-gates-omidyar-gallup-quality-download-report-2019.aspx>.

Smith, Noah. 2019. "Economists Get Serious About the Harm from Monopolies." *Bloomberg Opinion*, January 11, 2019. <https://www.bnnbloomberg.ca/economists-get-serious-about-the-harm-from-monopolies-1.1197161>.

Sokolova, Anna, and Todd Sorensen. 2018. *Monopsony in Labor Markets: A Meta-Analysis*. Institute of Labor Economics.

Stansbury, Anna, and Lawrence H. Summers. 2020. "Declining Worker Power and American Economic Performance." *Brookings Papers on Economic Activity*.

Starr, Evan, J.J. Prescott, and Norman Bishara. 2020. "Noncompetes in the U.S. Labor Force." *Journal of Law and Economics* 2021. <https://doi.org/10.2139/ssrn.2625714>.

Tomassetti, Julia. 2020. "Power in the Employment Relationship: Why Contract Law Should Not Govern At-Will Employment." Economic Policy Institute, November 29, 2020. <https://www.epi.org/unequalpower/publications/the-legal-understanding-and-treatment-of-an-employment-relationship-versus-a-contract>.

Zipperer, Ben. 2022. "Turnover, Prices, and Reallocation: Why Minimum Wages Raise the Incomes of Low-Wage Workers." 3 *Journal of Political Economy* 161.