

Chapter 5

Help Wanted: Subordinates

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It's an honor to comment on Elizabeth Anderson's lectures—not least because I come to task already strongly influenced by the article that contains their seeds, "What Is the Point of Equality?"¹ When that article appeared, in 1999, philosophical discussion of equality was at a dead end. On the one hand, those philosophers who thought that equality mattered had sealed themselves into a seemingly increasingly sterile debate about what sort of *stuff* we should be equalizing. On the other hand, many other philosophers doubted that equality did matter. It might matter whether the poor got more, and giving them more might, as a kind of by-product, close the gap between them and the rich. But surely the gap in stuff didn't matter in itself. After all, if it did, then instead of closing the gap by taking from the rich and giving to the poor, we might as well close it by taking from the rich and tossing in the ocean.

1 In a way that is truly rare in philosophy, Anderson's paper
 2 reoriented the debate.² What fundamentally mattered, she ar-
 3 gued, were social *relations* of equality among people. If equal-
 4 izing *stuff* mattered, it was because of how inequalities of stuff
 5 might affect such social relations. And what mattered really
 6 was *equality* in those relations. It wasn't as though my wife and
 7 I, married that year, could reduce our unstated concern for
 8 an egalitarian marriage to a concern that each spouse inde-
 9 pendently have as much of something as possible, with greater
 10 weights assigned to the spouse with less, should opportunities
 11 for redistribution arise, which would tend, as a kind of by-
 12 product, to equalize this something. That simply wasn't the
 13 right way to think about a marriage of equals.

14 So Anderson's work wrought an important change at least
 15 in philosophers' thinking about equality. And heightened
 16 concern, since 1999, about long-term trends toward certain
 17 forms of economic inequality has made her work only more
 18 timely. Yet, while I think that Anderson is onto something in
 19 turning our focus to social relations of equality, I struggle, as a
 20 committed partisan, to get clear about what exactly it is she's
 21 onto. It's easy enough to call to mind images of domineering
 22 masters and groveling servants. And these images make us, or
 23 at least Anderson and me, uneasy. But what is it in these images
 24 that disquiets us? Discretion? Hierarchy? And what alternative
 25 social arrangements, even in principle, could put us at ease?
 26 Law? Democracy? Anderson's lectures raise these questions
 27 once more.

28 What is Anderson's objection to too much of what, in her
 29 view, goes on in the contemporary workplace? It's not how
 30 much people are paid, or whether the job comes with health
 31 insurance or child care. It's not how boring, dangerous, or un-
 32 comfortable the work is. It's not whether people can count on

keeping their job, or getting another one. Needless to say, she cares about these things. It's just that they're not her focus here.

Her focus is instead the quasi-political relations of "government" between employers and employees within the firm. Although she defines "government" in terms of the issuing and enforcing of commands, this is actually too narrow for her purposes. Your boss isn't issuing or enforcing commands when he fires you for being too attractive, or snoops in your inbox. While I'm not sure how to revise her definition, the rough idea is clear enough: The relations of employee to firm are somehow troublingly like the relations of subject to state, but without the liberal-democratic protections that might make the latter acceptable.

To throw Anderson's specific issue into relief, consider, as a kind of natural thought-experiment, the garment industry on the Lower East Side at the end of the nineteenth century. Some were employed in factories, while others (especially women, children, and those who refused to work on the Jewish Sabbath) did piecework from home.³ All the same, the conditions at home in the tenements were hot, dark, chokingly cramped; the work was numbing and relentless; and the livelihood of a pieceworker was anything but secure. Anderson's focus is, roughly, how things, as bad as they were in the tenements, might have gotten *worse* had they gone to work in the factories—if, six days a week, they had to cross back and forth over the border into some capitalist's shirtwaist Lichtenstein.

But how does "government" make things worse? No doubt, it can be irksome to have your boss, copy of Frederick Taylor's *The Principles of Scientific Management* in hand, peering over your shoulder.⁴ And it can be unpleasant to be restricted in the minutiae of when, where, and how you work—for example, not being free to put needle and thread down whenever

1 nature calls. However, monitoring and restriction takes place
 2 even in the absence of “government.” Even if you are a self-
 3 employed mime, or hairdresser, or hot-rivet-tosser, your every
 4 move will be carefully watched by your audience, or client,
 5 or hot-rivet-catcher. For that matter, even in the tenement,
 6 you may be tailed by a passive-aggressive, that’s-not-how-you-
 7 do-it-but-far-be-it-from-me-to-interfere father-in-law. And all
 8 kinds of labor can be spoiled, or otherwise made more costly
 9 or less productive, unless the laborer can hold it in until an
 10 appropriate time. Granted, the need to monitor and restrict
 11 a given worker often derives from a production process that
 12 requires coordination with other workers. And, granted, such
 13 coordination would often not be feasible, human nature being
 14 what it is, without the “government” of the firm. All the same,
 15 the blame for the obnoxious monitoring and restricting seems
 16 to rest not with the “government” of the firm, but instead with
 17 the nature of the production process itself.

18 So what new evils does the “government” of the firm re-
 19 ally add? Anderson’s lecture suggests, to my mind, two main
 20 answers.

21 The first might be labeled “abuse of power”—or, better, “use
 22 of an unjustified power.” Grant that there is a sound economic
 23 justification, of the kind pioneered by R. H. Coase, “The Nature
 24 of the Firm,” for having firms.⁵ At least when firms are comple-
 25 mented with other institutions, it works to everyone’s benefit
 26 to have them. And to have firms is, in part, to give certain peo-
 27 ple certain powers over others within the firm. The concern is
 28 that, unless care is taken, in giving those people those *justified*
 29 powers, we also give them *unjustified* powers.

30 Some of these unjustified powers have no economic ra-
 31 tionale at all, such as the power to monitor or restrict your
 32 employees in ways that don’t make them more productive, or

to fire them for not waxing your car. But I doubt that Anderson would leave it at that and concede that any power that improves the company's bottom line is thereby justified. Even powers that have an economic rationale can be unjustified if they are trumped by other values, which we are unwilling to compromise for economic gain. The powers may be degrading or inhumane, or may violate expectations that we associate with civil liberties, such as privacy or free speech. So, the trouble is that if we give the employer the justified power to fire a worker for slacking off, we risk also giving the employer the unjustified power to fire a worker for, say, not waxing his car. If we give employers the justified power to review work-related e-mail, we risk giving employers the unjustified power to review private e-mail stored in the same location. And so on.

The objection isn't simply to the package of work, compensation, and job security that is liable to result from the unjustified power. For example, the objection isn't merely that whereas in the tenement, you only had to sew on the buttons, now in factory, you have to sew on the buttons *and* wax some goy's horseless carriage—more work. The objection is also simply to being under the power of another person in a way that has no good justification. After all, particular abuses of power can be to the “victim's” benefit. Suppose your boss says: “Your slacking this morning was the last straw. The pink slip's in my outbox. But if you wax my car, I'll go and tear it up.” That's arguably better than: “Your slacking this morning was the last straw. You're fired, case closed.” At least the offer gives you the option to keep the job. (Compare when the blackmailer says, “You should thank me that I'm giving you the chance to hush this up, before I go to the press.” There is a sense in which you really *should* thank him.) The objection isn't that the exercise of the unjustified power necessarily makes things worse for you.

1 It's rather that, while it's OK for other people to have power
 2 over your fate as a necessary part of a system that works to ev-
 3 eryone's advantage, it's not OK for people to have power over
 4 your fate so that they, personally, can get their cars waxed.⁶

5 Suppose, however, that your boss wields only justified pow-
 6 ers over you, powers justified by the company's bottom line,
 7 as constrained by the Bill of Rights. Still—and perhaps this is
 8 the heart of the matter for Anderson—you are “governed” by
 9 another person. Your boss still, well, *bosses* you.

10 But what's wrong about being governed by other people?
 11 I mean, to cut to the chase, we're all governed by the state. It
 12 issues and enforces commands, and wields vast power over our
 13 lives. This would be true even of the social democratic utopia of
 14 the sort that Anderson and I would favor, with its free day care,
 15 publicly financed elections, and frolicking sprites and elves. If it
 16 wouldn't be objectionable to be governed by such a state, why
 17 should it be objectionable to be governed by the firm? What's
 18 the difference?

19 Is the trouble, as Anderson sometimes suggests, being
 20 under the boss's *whim or discretion*—for example, his all-about-
 21 the-bottom-line hunches about how to deploy his workforce—
 22 whereas the state's commands are a matter of *rules or law*? I
 23 doubt it. The rules that govern life behind the counter at your
 24 local McDonald's might well be, in terms of their *form*, ev-
 25 erything that Montesquieu, in *The Spirit of the Laws*, or Lon
 26 Fuller, in *The Morality of Law*, could wish for.⁷ And why should
 27 laws be better than whims, in any event? Predictability can't
 28 be the answer. The vicissitudes of the market, to which the
 29 tenement pieceworker is subject, are at least as unpredictable
 30 as the whims of a boss. Perhaps the appeal of law, as opposed
 31 to whim, is that law is impersonal. To be ruled by law is not to
 32 be ruled by men. But surely this is an illusion. You only need

to read the first three words of the U.S. Constitution to verify that it, no less than a McDonald's franchise agreement, was drawn up by people.

This takes us to what I think is the real issue, if there is one here: namely, *who* is responsible for the laws. The difference, as Anderson at other times suggests, is that at least our idealized state's laws are democratic, whereas McDonald's laws are oligarchic. First, at least to the extent that the state is realizing the aspirations of democracy, each of us has, at some fundamental level, an equal opportunity to determine what the state's laws are, or who will make them, whereas only a few of us get to approve the textbooks for Hamburger University. Second, although some will surely go on to have greater opportunity to make further determinations about the law, its application, and its enforcement, they do so as our delegates or agents. It's no easy thing to say what this relation of delegation requires. But presumably it requires, at least, that our delegates be accountable to us—something that Anderson stresses is rarely the case in the firm. The underlying concern, in other words, is that when the few, who aren't delegates, issue and enforce commands, or wield powers, to which the rest of us are subject, that seems incompatible with relations of equality between them and us—the sorts of relations of equality highlighted in Anderson's watershed 1999 article.

Some may think that this only pushes the problem back: "If there's a problem about being under an alien *will*, then why isn't there a problem about being under the *democratic will*?" This complaint seems appropriate if you see the problem as one of individual freedom; if the ideal is a kind of personal insulation from any "alien will." But it makes less sense if you see the problem rather as one about *equality*: your symmetrical standing with others. Granted, simply in virtue of being subject

to the state's decisions, you're still exposed to a will that—no matter what Jean-Jacques Rousseau, in the *Social Contract*, might have told you—is not really your own.⁸ But if the state is realizing the democratic aspiration, then you're not, simply in virtue of being subject to its decisions, subordinated to any other individual. There's no one in society to whom you can point and say, "Because she had more opportunity to influence the decision than I have, I am, merely in being subjected to the decision, subordinated to her." To be sure, this is no guarantee the decisions will treat you well. But there's no guarantee the monsoon winds, or the market for piecework, will treat you well either. Our question, again, is what's especially problematic about being under the governance of another person, after we have controlled for things that you can suffer even without that yoke.

So, I've tried to tease out two main suggestions about why the "government" that the firm involves might be distinctively objectionable. There's a worry about some wielding powers over others that lack an economic rationale, or an economic rationale sufficient to trump the basic rights at stake. There's a worry about being subordinated, or put in relations of inferiority, to other individuals. But how worrying are these worries about the firm?

The rhetorical tendency of Anderson's lecture is to equate the situation of the employee with the situation of the political subject, and so to demand for the employee everything that we would demand for the subject. But surely she thinks that the situation of the employee is different, and that the firm gets a pass on some things a state wouldn't. I doubt that she would insist on workplace democracy, as she would for state democracy. It scarcely seems possible for the firm to respect all of our civil rights. Just take free choice of occupation itself. I shouldn't


lose U.S. citizenship if I choose to be a dog walker rather than a mouse impersonator, but surely Chuck E. Cheese's can exile me for that choice.


So, what puts the brakes on the rhetorical momentum toward full equivalence? What makes acceptable from the firm what would be unacceptable from the state: including oligarchy and economically productive violations of what would otherwise be civil liberties? Is it that the worst that Chuck E. Cheese's can do is exile me? That exile from Chuck E. Cheese's isn't, after all, as costly? That I consented to the terms of employment in a way in which I didn't consent to U.S. citizenship? That the firm itself is regulated by a legal order that I have equal opportunity to influence: that whatever hierarchy the firm involves is ultimately controlled from a standpoint of equality? At one point or another in the lecture, Anderson minimizes each of these differences.⁹ My consent to *this* firm matters little, for example, given that—as would be true even in our utopia—I must consent to *some* firm. Yet ultimately, she must fall back on some or all of these differences. Once we do stress these differences, once we do apply these brakes, how close to the state does the firm end up? And how seriously should we then be troubled that our rights as employees are not like our rights as citizens?

I'm not sure what the answers are. But I am sure that we're in Anderson's debt for spurring us to ask the questions.

Chapter 5

1. Elizabeth Anderson, "What Is the Point of Equality?" *Ethics* 109 (1999): 287–337.
2. With the aid of other work, in a similar vein, that appeared around the same time. Most notably, Samuel Scheffler, "What Is Egalitarianism?" *Philosophy and Public Affairs* 31 (2003): 5–39.
3. Of course, to the extent that the patriarchal family was itself a little firm, or to the extent that the operation was just a sweatshop in what was also a place of residence, there was government even in the tenements. For the required contrast, we have to imagine that piecework, perhaps contrary to fact, wasn't like this. This makes the thought experiment no longer so "natural."
4. Frederick Winslow Taylor, *The Principles of Scientific Management* (New York and London: Harper & Brothers, 1911).
5. R. H. Coase, "The Nature of the Firm," *Economica* 4 (1937): 386–405.
6. Granted, this worry may not be limited to the firm. A monopolist might threaten to refuse to do business with an independent artisan, unless he votes for his candidate. But, at very least, the worry is not a worry about compensation, conditions, or security. It's a worry instead about the relations of power between laborers and those buying the labor, or its fruits.
7. Charles de Secondat, Baron de Montesquieu, *The Spirit of the Laws*, translated and edited by Anne M. Cohler, Basia C. Miller, and Harold S. Stone (Cambridge: Cambridge University Press, 1989); Lon Fuller, *The Morality of Law* (New Haven, CT: Yale University Press, 1964).

8. Jean-Jacques Rousseau, *The Social Contract and Other Later Political Writings*, translated and edited by Victor Gourevitch (Cambridge: Cambridge University Press, 1997).
9. Minimizing the low costs of exile: “Exile . . . can have severe collateral consequences. The vast majority have no realistic option but to try to immigrate to another communist dictatorship” (XXX). “Alternatively, their claim might be that where the only sanctions for disobedience are exile, or a civil suit, authority does not exist. That would come as a surprise to those subject to the innumerable state regulations that are backed only by civil sanctions. Nor would a state regulation lack authority if the only sanction for violating it were to force one out of one’s job. Finally, managers have numerous other sanctions at their disposal besides firing and suing: they can and often do demote employees; cut their pay; assign them inconvenient hours or too many or too few hours; assign them more dangerous, dirty, menial, or grueling tasks; increase their pace of work; set them up to fail; and, within very broad limits, humiliate and harass them” (XXX). “Laissez-faire liberals, touting the freedom of the free market, told workers: choose your Leviathan. That is like telling the citizens of the Communist bloc of Eastern Europe that their freedom could be secured by a right to emigrate to any country—as long as they stayed behind the Iron Curtain” (XXX). “Freedom of entry and exit from any employment relation is not sufficient to justify the outcome” (XXX). Minimizing consent: “Perhaps the thought is that where consent mediates the relationship between the parties, the relationship cannot be one of subordination to authority.”  (X). Minimizing the regulation of employment by democratically enacted

law: “What, then, determines the scope and limits of the employer’s authority, if it is not a meeting of minds of the parties? The state does so, through a complex system of laws. . . . The *state* has established the constitution of the government of the workplace: it is a form of private government” .

Chapter 6

1. For two looks at monopsony, see William M. Boal and Michael R. Ransom, “Monopsony in the Labor Market,” *Journal of Economic Literature* 35, no. 1 (1997): 86–112 and Orley C. Ashenfelter, Henry Farber, and Michael R. Ransom, “Modern Models of Monopsony in Labor Markets,” IZA Discussion Paper No. 4915 (2010). On Walmart, see Alessandro Bonnano and Rigoberto A. Lopez, “Is Wal-Mart a Monopsony? Evidence from Local Labor Markets,” Working paper (2009). For a look at why the monopsony model has not won over most economists, most of all as an explanation of medium- to long-run phenomena, see Peter Kuhn, “Is Monopsony the Right Way to Model Labor Markets? A Review of Alan Manning’s *Monopsony in Motion*,” *International Journal of the Economics of Business* 11, no. 3 (2004): 369–78.
2. On the wage premium from larger firms, see Brianna Cardiff-Hicks, Francine Lafontaine, and Kathryn Shaw, “Do Large Modern Retailers Pay Premium Wages?” National Bureau of Economic Research Working Paper 20313 (2014).
3. For analyses of some related scenarios under monopsony, see Kip Viscusi, “Union, Labor Market Structure, and the Welfare Implications of the Quality of Work,” *Journal of*