

right to get access to a meaningful activity. What they dispute is that the best way to realise such a right consists in implementing a “duty to work”. Instead, they force us to think about the idea that there might be a (somewhat unexpected) connection between the right to work and the right to an income.

In this chapter, I did not explore the financial and political feasibility of basic income, although I am aware of the fact that these are key elements in the assessment of its potential from the perspective of welfare reform.³³ However, whatever the results of such exploration, I firmly believe that in the long-term a UBI indicates the direction into which developed welfare systems should evolve. But in the short-term, this proposal can – and should – inspire more modest reforms, that might prove more realistic in times of economic downturn; some potential advantages of a UBI can be incorporated into less radical policies, which might even include existing mainstream activation schemes. It could, for instance, inspire reforms aimed at facilitating transitions between the school system and the labour market, if it is implemented as a direct subsidy for students and apprentices.

In particular, one should pay attention to the possible drawbacks of a move towards increased selectivity, which is on the agenda in most European countries. Such move might be detrimental to the interests of the worst-off. On the contrary, as this brief discussion of the potential of a UBI shows, universalism is required in order to achieve a welfare reform that bridges concerns of justice with concerns of efficiency and sustainability.

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Securing the Right to Work and Income Security

Philip HARVEY

Introduction

For approximately three decades following the end of the Second World War progressive reformers believed they knew how to achieve full employment in developed market economies – a condition they originally equated with 2 per cent unemployment.¹ Recessions no longer scared them because of their confidence in Keynesian anti-cyclical policies. They were equally confident that these same policies could insure the availability of enough jobs to provide work for everyone who wanted it in a manner that supported rather than undermined efforts to improve job quality via labour market regulation and collective bargaining. The elevated unemployment rates suffered by disadvantaged population groups cast a cloud over this scenario, but progressives believed they could solve this problem with a combination of anti-discrimination legislation, offers of special labour market assistance, and the promotion of investment in the communities where disadvantaged workers lived. The achievement of full employment, or close to it, also supported the growth of the welfare state by reducing the number of people who needed government income assistance while simultaneously increasing the resources available to expand both targeted and universal social welfare benefits.

The overall success of this reform strategy depended on the success of its full employment leg – not because insuring adequate job availability was viewed as inherently more important than other elements of the reform agenda, but because of the functional role it played in facilitating the achievement of other progressive goals. As United States President Franklin D. Roosevelt commented in his last State of the Union Address,

¹ See J.M. Clark *et al.*, *National and International Measures for Full Employment*, report by a group of experts appointed by the Secretary General of the United Nations, New York, Lake Success, 1949, p. 14. William Beveridge’s often-cited 3 per cent estimate was not out of line with the consensus reported by Clark *et al.*, since he included not only frictional unemployment (which he estimated at 1%), but also seasonal unemployment and unemployment attributable to fluctuations in international trade in his estimate. See W. Beveridge, *Full Employment In A Free Society*, London, Allen and Unwin, 1944, pp. 127-129.

³³ On the potential of basic income in a changing welfare state, see for instance Y. Vanderborght and T. Yamamori (eds.), *Basic Income in Japan. Prospects for a Radical Idea in a Transforming Welfare State*, New York, Palgrave Macmillan, 2014.

the right to work is the “most fundamental” of all economic and social rights, because it is the “one on which the fulfilment of the others in large part depends”.²

That is why the entire progressive reform project suffered a crippling blow when the “stagflation” crisis of the 1970s shattered the confidence of progressives in the full employment leg of their overall strategy. Keynesian theory, which provided clear guidance for responding to recessions or weak economic growth at the bottom of the business cycle and to inflationary tendencies at the top of the business cycle, proved helpless in explaining how to respond to a recession or sluggish economic growth that was accompanied by persistently high rates of inflation.

Conservative economists were quick to seize the initiative with promises of a cure for inflation and a reinvigoration of the engines of economic growth. But the policies they favoured for achieving these goals required the abandonment of both the progressive full employment goal and further welfare state expansion. Progressives resisted but were not able to stem the conservative tide. They had no credible strategy for achieving full employment with price stability, and they were susceptible to claims that welfare state expansion, labour market regulation and trade union power actually aggravated the inflation problem in developed market economies by encouraging excessive deficit spending by governments and by encouraging resistance by workers to productivity-enhancing changes in business practices. Neo-liberalism became the new orthodoxy in market economies.

Over the next several decades, progressive thinking itself was influenced by this neo-liberal trend. The progressive reform agenda turned defensive, and progressive reformers came to accept certain tenets of the neo-liberal policy regime as unavoidable. Most importantly for the purposes of our inquiry, the pursuit of full employment was effectively abandoned.³ Rather than go back to the drawing boards and ask whether full employment could be achieved by means other than the now discredited Keynesian strategy, growing numbers of progressive economists reconciled themselves to the idea that full employment, as it was understood in the immediate post-Second World War era, simply could not be achieved. They were loath to admit, however, that they had no strategy for achieving full employment, so they instead began using

² Franklin D. Roosevelt, State of the Union Address, 6 January 1935, retrieved 19 September 2014 from <<http://www.presidency.ucsb.edu/ws/?pid=16595>>.

³ The evidence of this trend in the platforms of Democratic candidates for president in the United States is quite striking. See P. Harvey, “Is There a Progressive Alternative to Conservative Welfare Reform?”, *Georgetown Journal on Poverty Law and Policy*, Vol. 15, No. 2, 2008, p. 173, note 49.

the term in a different way. Rather than conceiving of full employment in terms of job availability – as a labour market condition in which the aggregate demand for labour equalled or exceeded the aggregate supply of labour – they began using the term to refer to the lowest rate of unemployment they considered achievable consistent with the maintenance of reasonable price stability.⁴ Unfortunately, they have done this without explaining to the people who rely on their advice that the “full employment” goal they aim to achieve is not the full employment goal that progressives promoted in the immediate post-Second World War era and which progressive activists still associate with the term.⁵

To bring clarity to a policy discourse whose goals have been obscured by this tendency, I have long argued that progressives should recognise the goal of securing the right to work as the basis of their definition of full employment or as a substitute for the full employment goal.⁶ For benchmarking purposes, I have described this right as having four dimensions. The *quantitative* dimension requires that enough suitable jobs be readily available to provide freely chosen, paid employment for everyone who wants it. The *qualitative* dimension requires that all of these jobs must satisfy certain conditions of decency. The *distributive* dimension requires that these employment opportunities be made available on an equal basis to all workers without regard to irrelevant personal characteristics. The *scope* of the right requires that persons engaged in non-waged work be accorded the same or equivalent rights as wage workers, even though the form in which those rights are secured may differ.⁷

⁴ For recent examples, see, e.g., P. Krugman, “Stimulus Arithmetic (Wonkish but Important)”, *Conscience of a Liberal*, New York Times Web Log Post, 9 January 2009, retrieved 31 July 2013 from <<http://krugman.blogs.nytimes.com/2009/01/06/stimulus-arithmetic-wonkish-but-important/?r=0>>; J. Bernstein, “Where Have All the Jobs Gone?”, *New York Times*, 3 May 2013, op-ed article, retrieved 31 July 2013 from <<http://www.nytimes.com/2013/05/04/opinion/where-have-all-the-jobs-gone.html>>; R. Pollin “A Debate on Back To Full Employment, Round Two,” *Back to Full Employment*, Web Log Post, 26 March 2013, retrieved 31 July 2013 from <http://backtofullemployment.org/2013/03/26/a-debate-on-back-to-full-employment-round-two-robert-pollin-and-phillip-harvey/?subscribe=success#blog_subscription-3>.

⁵ See G.S. Goldberg, P. Harvey and H.L. Ginsburg, “A Survey of Full Employment Advocates”, *Journal of Economic Issues*, Vol. 41, No. 4, 2007, pp. 1161-1168.

⁶ See P. Harvey, *Securing the Right to Employment. Social Welfare Policy and the Unemployed in the United States*, Princeton (N.J.), Princeton University Press, 1989, pp. 11-16; P. Harvey, “Why Is the Right to Work so Hard to Secure?”, in A. Minkler (ed.), *The State of Economic and Social Human Rights. A Global Overview*, New York, Cambridge University Press, 2013, pp. 168-170.

⁷ See P. Harvey, “Benchmarking the Right to Work”, in A. Minkler and S. Hartel (eds.), *Economic Rights. Conceptual, Measurement and Policy Issues*, New York, Cambridge University Press, 2007, pp. 123-124.

Defining full employment as the realisation of all four of these dimensions of the right to work highlights the unevenness of our efforts to achieve that goal. Labour law has been assigned the task of securing the qualitative and distributive aspects of the right to work, and considerable progress has been made in that effort despite the countervailing influence of our failure to secure the quantitative dimension of the right. Extending the rights associated with wage employment to non-wage workers is still in its rudimentary stages, but that too is a task largely assigned to labour law – mainly via the use of social welfare benefits to subsidise parenting and other care activities. In contrast, the only role played by the law in enforcing the quantitative dimension of the right to work operates at the collective level via mandates to policy makers that they strive to minimise unemployment rates and promote job creation in various contexts. And, as noted above, these mandates have little effect in a policy environment in which neither conservative or progressive economists believe it is possible to achieve genuine full employment, i.e., full employment conceived in the way it was when the goal was expressly embraced as a goal that all members of the United Nations had a duty to pursue under international law.⁸

When considering the legal nature of the right to work, though, and particularly the quantitative dimension of that right, I think it is important to recognise the aspirational character of human rights law.⁹ The historical road is a long one from the first articulation of a new human rights claim, through its formal recognition, and finally its routine enforcement; but that does not mean such claims acquire the status of law only when they are enforced or when a means of enforcing them is acknowledged to exist. As I have argued elsewhere,

Human rights are a form of aspirational law by means of which humans establish goals for themselves concerning the kinds of species they are committed to becoming (a species that respects these rights) and the kind of societies they are committed to creating (the kind of societies that secure and protect these rights).

To argue, as legal positivists might, that what the [South African] anti-apartheid movement did was force a change in the law, creating legal rights where only moral claims had existed before, is nothing but a linguistic shuffle. The reality is that non-white South Africans living under apartheid claimed that they possessed legal rights of a higher order than those granted by South African law; and when the South African government refused to recognize

⁸ This duty is articulated in Articles 55 and 56 of the United Nations Charter.

⁹ P. Harvey, "Aspirational Law", *Buffalo Law Review*, Vol. 52, No. 3, 2004, pp. 701-726.

those rights, they called upon supporters of their claims inside and outside South Africa to enforce their human rights by extra-judicial means. It took decades, but this "enforcement" action ultimately proved successful.

Language is a product of usage, and definitions (even in legal theory) should not ignore usage. People consistently use the term "human rights" in a way that connotes a special category of entitlements that is distinct from other moral claims and that may, under certain circumstances, be more authoritative than mere legal rights. Who are the positivists to say that this usage is mistaken? Was it simply a linguistic mistake to assert that apartheid violated the human rights of non-white South Africans or for Thomas Jefferson to assert that "all men are created equal"? I don't think so. The usage is too widespread and, more importantly, too consequential to be dismissed as confused. Something special and unique is going on when people assert or accept the existence of unenforced human rights that is not adequately captured in the positivist distinction between legal rights and moral claims.¹⁰

My purpose in this chapter is not to parse the enforceability of the four dimensions of the right to work identified above. It is to assert that all four dimensions share the same status as constituent elements of the right, and that public policy relating to the right should be judged based on its ability to secure all four dimensions.

Accordingly, unless the context indicates otherwise, when I use the term "full employment", or "genuine full employment" in this chapter, I will be referring to a labour market condition that fully secures the quantitative dimension of the right to work with jobs that also satisfy the other three dimension of the right. This is the traditional meaning of the term, the one ascribed to it in popular parlance, professional economic discourse and international law during the 1940s.¹¹

But if the achievement of full employment was viewed as more or less synonymous with securing the right to work, why didn't progressives emphasise that linkage in their advocacy of the full employment goal? Why in the post-Second World War era did they pursue a concerted campaign to achieve full employment while hardly ever mentioning the right to work – at least in their domestic policy discourse? I have puzzled over this question and still do. Nevertheless, I believe the failure of progressives to promote the achievement of full employment as a human rights struggle in the decades following the Second World War can be at least partly explained by practical political considerations.

¹⁰ *Ibid.*, pp. 723, 714 and 701-702.

¹¹ P. Harvey, "Why is the Right to Work so Hard to Secure?", *op. cit.*, pp. 156-160.

The rapidity and ease with which war-time spending lifted the U.S. economy out of the Great Depression was widely viewed as confirming both the truth of Keynesian economic theory and the practical ability of Keynesian macroeconomic policy to achieve full employment.¹² The post-Second World War experience of Western European countries in rebuilding their economies reinforced this view of the efficacy of Keynes's teaching. Since the full employment goal and the Keynesian strategy for achieving it were thus strongly associated with one another, it was natural for progressives in both the United States and Western Europe to view them as a package. In contrast, the goal of securing the right to work was not associated with any particular strategy for achieving the goal. Indeed, since the drafters of the Universal Declaration undertook to produce a document that could be deemed acceptable to all the world's cultures, they took pains not to presume or suggest the means by which the rights proclaimed in the document should be secured. Nor was the ability of rights-based claims to mobilise progressive social movements widely appreciated as of yet.

Of course progressives could have cited the right to work in promoting the Keynesian full employment strategy; but there were good reasons to regard the achievement of the latter goal to be an easier political "lift" if it was not associated with the former goal. Conservatives knew that full employment was a progressive Trojan horse, but it was a harder goal to oppose than the promotion of a "new" human right would have been. After all, the full employment goal aimed to achieve no more than what conservatives claimed the economy would achieve on its own if governments left it alone. This tended to shift the debate to a dispute over means rather than ends, and the perceived effectiveness of the Keynesian strategy gave progressives confidence that they could win that debate.

Progressives who were drawn to the claim that access to decent work was a human right could take solace in the fact that achieving full employment in conjunction with the rest of the progressive reform agenda, would secure the right in fact whether or not the goal was acknowledged. Why throw down the gauntlet with a highly-charged human rights claim

¹² John Kenneth Galbraith described the effect this experience had on Keynesian economists during World War II in the following terms. "One could not have had a better demonstration of the Keynesian ideas, and I think it's fair to say that as a young Keynesian in Washington, in touch with the other Keynesians there, we all saw that very clearly at the time." J.K. Galbraith, interview conducted 28 September 2000, originally broadcast on *Commanding Heights: The Battle for the World Economy* [television series, 2002], PDF transcript of interview retrieved 31 July 2013 from <http://www-tc.pbs.org/wgbh/commandingheights/shared/pdf/int_johnkennethgalbraith.pdf>, p. 6.

when there was good reason to believe the right to work could be secured more easily by not mentioning it?

Advocacy of the right to work accordingly played little role in the advocacy of full employment following the Second World War, and by the 1970s, the original association between the two goals was a receding memory. For the generation of progressives whose views were shaped by the social struggles of the 1960s, it was not even a memory.

The linkage between securing the right to work and achieving full employment was not even promoted by human rights advocates. What little attention they paid to economic and social human rights in the decades following the Second World War was devoted, at least in the United States, to philosophical debates over whether social welfare entitlements could properly be termed human rights at all. By the time mainstream human rights organisations began paying attention to the failure of governments to secure economic and social human rights – a trend I date to the 1990s in the United States – progressives had largely reconciled themselves to their inability to achieve full employment. Advocacy of the right to work by human rights organisations accordingly has tended to focus on the goal of securing rights *at* work (the qualitative and distributive dimensions of the right to work and to some degree its scope) rather than the right *to* work (the quantitative dimension of the right). Law reform efforts have also largely ignored the goal of securing the quantitative dimension of the right to work, leaving that task to economic policy makers.

What has this got to do with activation policies for the unemployed and basic income proposals? The answer is that both of these policy innovations owe their popularity, at least in part, to the failure of the Keynesian full employment strategy. Much of their attractiveness, at least to progressives, rests on the hope that they may provide a solution to the problem of unemployment that does not depend on the achievement of full employment.

In the balance of this chapter, I will consider whether these hopes are well founded. However, in keeping with my efforts to reaffirm the linkage between full employment and the right to work, I will frame my discussion as an inquiry into their ability to provide an acceptable substitute for securing the right to work rather than the achievement of full employment (I., II. and III.). Also, because it would serve little purpose to criticise these strategies for their inability to attain an unachievable goal, I will also describe an alternative response to the problem of unemployment that would not only secure the right to work, but also would provide stronger support for the rest of the progressive reform agenda than the achievement of full employment by Keynesian means ever did (IV.).

I. Activation Policies for the Unemployed in a Job Short Economy

It is clear that activation measures can help individual workers find work they otherwise would not have obtained. The more difficult question is whether such measures help secure the right to work of the labour force as a whole. They may not because of what I call the “musical chairs effect” – the fact that unemployed individuals who find work in a job short economy may simply displace other individuals who otherwise would have occupied the jobs in question.

For activation measures to reduce the level and rate of unemployment in an economy (as opposed to merely changing who is and who is not unemployed at a particular moment in time), the measures in question have to result in jobs being filled that otherwise would remain vacant.

This could happen, for example, if there were more vacant jobs requiring a particular set of qualifications than there were unemployed workers possessing the qualifications required to fill them. Economists describe unemployment caused by this phenomenon as *structural*. Activation measures can help eliminate structural unemployment by providing unemployed workers with the skills needed to fill these otherwise unfillable jobs.

Alternatively, job openings could remain vacant because it takes time and effort for qualified job seekers and employers with job openings to find one another and complete a hiring. Economists describe unemployment caused by this phenomenon as *frictional*. A certain amount of frictional unemployment is unavoidable, but to the extent it is caused by inadequate job search effort on the part of unemployed workers, activation measures may reduce it by helping or pressuring unemployed workers to look harder for suitable job openings.¹³

To assess the effectiveness of activation measures in reducing the level of unemployment in an economy, we accordingly must ask whether there is reason to believe that structural or frictional factors of the sort described above would cause a noticeable increase in the level of unemployment in the economy if the activation policies were terminated.

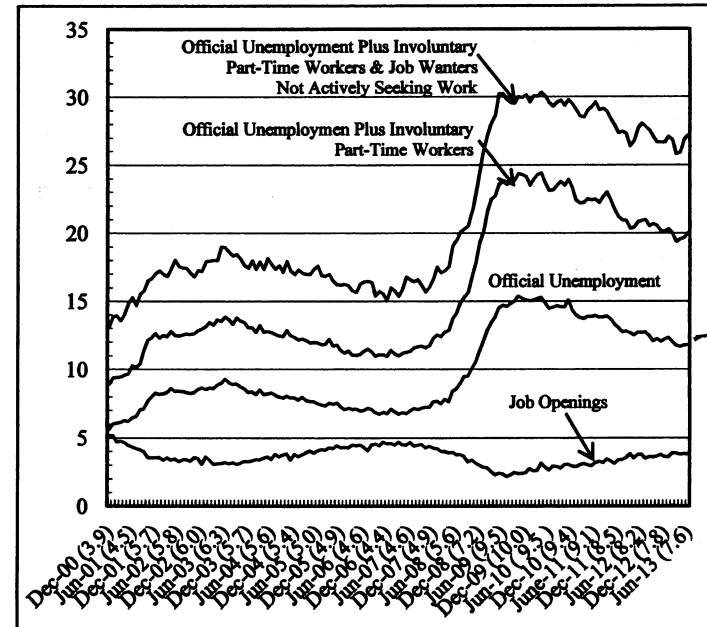
The first point that needs to be made in addressing this question is that neither structural nor frictional factors are likely to have much effect on the level of unemployment in an economy that is suffering from a

¹³ For a more extended discussion of the nature of “structural” and “frictional” unemployment, see P. Harvey, “Combating Joblessness: An Analysis of the Principal Strategies that Have Influenced the Development of American Employment and Social Welfare Law During the 20th Century”, *Berkeley Journal of Employment and Labor Law*, Vol. 21, No. 2, 2000, pp. 699-707.

significant job shortage or “job gap” – i.e., a deficit in the number of jobs relative to the number of job wanters in the economy. The reason is simple. When there are multiple job seekers competing for every available job, the chances diminish that there will be a lack of qualified candidates applying for available jobs.

Figure 1 portrays three different measures of the job gap in the U.S. economy. The bottom line in the figure (job openings) shows how many vacant jobs employers were seeking to fill on a monthly basis between December 2000 (when this data series was first reported) and May 2013. The line immediately above it (official unemployment) shows how many people were totally unemployed and actively looking for work over the same time period. The third line from the bottom adds to official unemployment the number of people who were working part-time but wanted full-time jobs (involuntary part-time workers). Finally, the top line adds to these two groups the number of people who said they wanted a job and were available to accept one even though they were not actively looking for work. I call these individuals “discouraged workers”, even though the U.S. Bureau of Labor Statistics uses that term more narrowly.

Figure 1: Job Wanters and Job Openings in the U.S. Dec. 2000–June 2013 (in millions, except unemployment rate in parentheses)



Source: Author's Calculations from BLS Data

As one would expect, Figure 1 shows that the U.S. economy's job gap mushroomed as a result of the so-called Great Recession. But it also shows that a persistent, if much smaller job gap existed before the recession. Indeed, a positive job gap was a permanent feature of the American labour market during this period, and the same is true of earlier periods for which job vacancy data is available.¹⁴ Jay Zagorsky, concludes that there were only five years between 1923 and 1994 when there were more job vacancies than unemployed individuals in the United States: 1923, 1926, and the last three years of the Second World War.¹⁵

It also is worth noting that the unemployment burden created by this job gap is not equally shared. Some population groups bear a much larger share of the burden than other groups. Table 1 illustrates this point by showing the comparative unemployment rates of various population cohorts and metropolitan areas in June 2013 when the overall official unemployment rate in the United States was 7.8 per cent. The disparities shown in this table are typical of those that exist at all times in the U.S. economy.

Table 1: Comparative Unemployment Rates in the United States: National Averages, June 2013

Overall Unemployment Rate	7.8
Metropolitan Areas	
Bismark, North Dakota	2.8
Washington, DC	6.0
New York City	8.2
Detroit, Michigan	10.3
Yuma, Arizona	31.8
Youths aged 16-19	
Black aged 16-19	43.6
White aged 16-19	20.4
All persons aged 16 & over	
Black or African American	13.7
Hispanic or Latino	9.1
White	6.6
All Persons aged 25 and Older	
Less than high school diploma	10.7
High School Graduates, No College	7.6
Some College or Associates Degree	6.4
Bachelor's Degree and Higher	3.9

Source: BLS

¹⁴ *Ibid.*, pp. 706-709.

¹⁵ J. Zagorsky, "Job Vacancies in the United States: 1923 to 1994", *Review of Economics and Statistics*, Vol. 80, No. 2, 1998, pp. 338-345.

I have not compiled similar data for Europe, but there is no reason to believe the facts are different there.¹⁶ Indeed, I posit that significant job shortages are the norm in market economies and that they always have been. In earlier centuries and in most of the world still, the existence of a job gap is effectively guaranteed by the latent supply of labour residing in rural areas where employment is both seasonal and intermittent. The number of workers migrating in search of steadier and higher paying work in urban areas always tends to exceed the demand for it. In modern economies where this latent labour supply has been substantially absorbed, the business cycle and the efforts of governments to control inflation by slowing economic growth continue to insure the existence of the kind of job gap shown in Figure 1.

This latter point is especially important. It means the governments of virtually all developed market economies pursue a *de facto* policy of preventing unemployment from falling anywhere near the full employment level – which probably still lies in the neighbourhood of 2 per cent as progressive economists assumed in the immediate post-Second World War period. How do we know that still constitutes the unavoidable frictional unemployment floor in market economies today? Because that is the level to which unemployment still consistently falls when, for brief periods of time, jobs truly are plentiful relative to the supply of labour in some momentarily lucky country or local labour market.

In the United States, for example, the national unemployment rate at the end of 2000 was 3.9 per cent – as Figure 1 shows. However, the unemployment rate that month in the Bridgeport-Norwalk-Stamford metropolitan area in the state of Connecticut was 1.6 per cent. When jobs are truly plentiful, that is the level to which unemployment rates tend to drop.¹⁷ Clearly this is not a phenomenon that can be attributed to unemployed workers suddenly acquiring the skills needed to fill vacant jobs. Nor can it be attributed to a sudden increase in the intensity of their job search efforts. What happens is that when employers have job openings they cannot otherwise fill, they lower their standards and engage workers whom they previously dismissed as unqualified. They may complain in these circumstances about unqualified job applicants and drag their heels

¹⁶ The European Union has inaugurated a project to establish a common methodology for the collection of job vacancy data suitable for comparison with U.S. data. Job vacancy data produced as a result of this initiative can be accessed at <http://epp.eurostat.ec.europa.eu/portal/page/portal/labour_market/introduction>. For a discussion of the statistical relationship between full employment and job vacancies, see P. Harvey, "Combating Joblessness", *op. cit.*, pp. 702-709.

¹⁷ Norway's unemployment rate was 2.3 per cent in April 2008, and since that was an average for the entire country there were almost certainly places where it was under 2.0 per cent.

in adjusting their standards; but their behaviour in finally hiring workers they previously viewed as “unqualified” demonstrates that the workers in question are good enough to earn their keep. No one forces employers in these circumstances to hire workers whose productivity is so low that it is unprofitable to employ them.

With unemployment rates as high as they have been in developed market economies over the past several decades, there is ample reason to doubt that structural and frictional factors account for any significant part of the problem. And that being the case, the effectiveness of activation policies in reducing the aggregate level and rate of unemployment also appears doubtful. At the very least this doubt should place a burden of proving otherwise on the shoulders of those who justify the activation strategy on these grounds.

Unfortunately, empirical evidence concerning the level of frictional or structural unemployment in an economy and the possible effectiveness of activation policies in reducing it is inherently difficult to collect. Evidence concerning the placement success of various activation measures is useless, because it cannot tell us whether the jobs in question would have remained vacant in the absence of the activation measures. What we need to settle the question is evidence of a causal relationship between the introduction of activation measures and a decline in aggregate levels of unemployment or, alternatively, between a cessation of activation measures and an increase in aggregate levels of unemployment. Regrettably, since so many factors can and do affect the level of unemployment in a particular labour market, it is hard to imagine how the requisite data could be collected other than by experimentally introducing or terminating activation measures in appropriately selected samples of local labour markets.

It may be, however, that supporters of activation policies are pursuing a different goal. Instead of reducing the level or rate of unemployment suffered by workers (i.e., trying to secure the quantitative aspect of the right to work), they may be attempting to equalise the unemployment burden workers are forced to bear by giving the least advantaged among the unemployed a leg up in their quest for work (thereby trying to secure the distributive aspect of the right to work). If the unemployment burden caused by a market economy’s job gap were equally distributed among all workers, it might impose a small enough burden that it would be deemed an acceptable alternative to securing the right to work.¹⁸ A 5 per cent unemployment rate, if equally shared, would require

¹⁸ For a more extended discussion of this possibility, see P. Harvey, “Human Rights and Economic Policy Discourse: Taking Economic and Social Rights Seriously”, *Columbia Human Rights Law Review*, Vol. 33, No. 2, 2002, pp. 438-445.

each member of the labour force to endure only about 2 ½ weeks of unemployment a year.

The problem is that activation policies are not well designed to ration unemployment in this way. Their immediate goal is to reduce the length of individual unemployment spells, and their target population does consist of disadvantaged job seekers. However, even if the activation measures deployed to assist these workers is 100 per cent effective in placing them in jobs, the individuals who lose those employment opportunities (via the musical chairs effect) will not be drawn from a cross section of the labour force. They will tend to be workers who suffer from the same or equivalent disadvantages as the assisted population – since they are the people most likely to lose out in the competition for available jobs when someone else in their circumstances moves closer to the front of hiring queues. The net result is likely to be an increase in the number of marginally qualified workers who experience unemployment, with that population experiencing more frequent but briefer spells of unemployment.

It is possible, of course, that this outcome will produce less harm in the aggregate than having a smaller number of workers experience less frequent but longer unemployment spells. Demonstrating that this is the case, however, requires more than a recital of data on the negative effects of long-term unemployment. The additional harm caused by the increased incidence and frequency of unemployment spells must be set off against the reduction in harm caused by the shortened duration of those unemployment spells. Unfortunately, such a calculation would require interpersonal comparisons of suffering, something that it is no more possible to do in practice than interpersonal comparisons of utility. Moreover, even if it were possible to show that activation policies reduce the net harm attributable to an economy’s job gap, it is highly unlikely that the limited spreading of the unemployment burden they may achieve is capable of generating enough of a reduction in the harmfulness of that burden to render the activation strategy an adequate substitute for securing the quantitative as well as the distributive aspect of the right to work.

There is one more way to rationalise the reliance market economies have placed on activation policies in recent decades. Rather than reducing the level or rate of unemployment, or spreading its burden more widely, perhaps their contribution lies in raising the employment rate – i.e., the proportion of the working age population that is employed. This could be achieved by successfully discouraging workers from withdrawing from the labour force – a common consequence of long-term unemployment. By itself, of course, discouraging labour market withdrawal would tend to increase the unemployment rate, but a higher rate of unemployment would allow for further economic expansion at the top of the business cycle before central bankers stepped in to slow the rate of economic

growth (to keep inflation in check). The result would then be a higher labour force participation rate and a higher level of employment, but without any reduction in the unemployment rate.¹⁹

The goal of raising the employment rate in Europe was famously embraced in the so-called Lisbon Agenda of 2000, but the role assigned to activation policies in that strategy was to increase labour productivity and reduce unemployment, not to create more leeway for macroeconomic expansion by increasing the pool of active job seekers.²⁰ Nevertheless, this may be the only way in which labour activation policies can be expected to reduce joblessness in a job short economy – not by reducing official unemployment but by reducing the number of people who may want jobs but are no longer actively seeking work, the group identified as discouraged workers in Figure 1. On the other hand, even if activation policies do have this effect (and it is an empirical question whether they do or not) the strategy cannot be said to provide a very good substitute for securing the quantitative aspect of the right to work. It would, at best, reduce the number of labour market dropouts.

Except for this last effect, activation policies are unlikely to reduce the unemployment problem in market economies. They certainly cannot be deemed an adequate substitute for securing the quantitative aspect of the right to work – no matter how effective they may be in assisting individual workers in finding jobs. This may be hard to accept, especially for people who provide this assistance for the best of reasons – to help people in need. But that is the hard lesson of the musical chairs effect in job short economies. Doctors may eradicate illness one patient at a time, because the help they provide is not subject to the musical chairs effect. Unfortunately, the problem of unemployment in a job short economy is different.

II. The Right to Work and to Income Security

Because a basic income (BI) guarantee can be understood as addressing the right to income security – either instead of or in addition to the right to work – it will be useful to preface our discussion of BI proposals with a brief review of the characteristics of the right to income security. As recognised in the Universal Declaration of Human Rights,²¹ it has two pillars or branches. One of these addresses the income security needs of workers and the other addresses the income security needs of persons who are unable to earn their own livelihood.

¹⁹ Assuming the rate of unemployment remained the same, the level of unemployment would grow proportionately as much as the labour force grew.

²⁰ Presidency Conclusions, Lisbon European Council, 23 and 24 March 2000, § 28-30.

²¹ Universal Declaration of Human Rights, G.A. Res. 217 (III), U.N. Doc. A/811, 1948.

The first of these pillars is set forth in Article 23, § 3 of the Declaration, which describes the right to income security that workers enjoy: “Everyone who works has the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection”.²²

In passing, we should note that the gendered language of this provision does not mean the right in question is limited to men. Article 2 of the Declaration makes that clear.²³ It also is important to note that the right is described in terms that are not limited to wage employment. It speaks of “remuneration” rather than “wages,” and similarly broad language is used to describe other aspects of the right to work. The drafters probably had non-waged, agricultural producers in mind when they chose this language, but it does raise the question of what other types of employment and what other types of remuneration are properly included within the right to work. This is why I describe the “scope” of the right to work as one of its four aspects or dimensions.

The substantive content of the “just and favourable remuneration” to which workers are entitled according to Article 23, § 3 is clarified by Articles 22 and 25, § 1. The first phrase of Article 25, § 1 describes the standard of living to which “everyone” is entitled, including workers and their families. I shall refer to this as the “adequacy standard”: “Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services”.²⁴ For a worker’s remuneration to be deemed “just and favourable”, it accordingly must satisfy this adequacy standard, and it must do so for both the worker and the worker’s family – with the caveat that achieving this goal may require that the worker’s remuneration be “supplemented [...] by other means of social protection.” This could include, for example, government-funded health care benefits, housing subsidies for larger families, or even cash wage supplements.

Article 22 further elucidates the meaning of both the “just and favourable” standard set forth in Article 23, § 3 and the adequacy standard

²² Universal Declaration, Art. 23, § 3.

²³ Article 2 states that

“Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty”.

²⁴ Universal Declaration, Art. 25, § 1.

set forth in Article 25, § 1 by making it clear that the economic and social rights recognised in the Universal Declaration are intended to do more than guarantee people a minimally adequate physical subsistence. Their purpose is to make it possible for “everyone” to live in “dignity” and to achieve the “free development of [their] personality”.²⁵

To satisfy this requirement, the standard of living guaranteed by Articles 23, § 3 and 25, § 1 must accordingly do more than secure the worker’s physical survival. It must be sufficient to permit the worker and each member of the worker’s family to live as full, equal and respected members of society possessing the practical capacity to develop, express and enjoy their own individuality within a framework of mutual respect for the universality of these rights.

The second pillar of the right to income security is the right of “everyone” to “security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.”²⁶ This clearly establishes the right of persons who are unable to earn their own livelihood to a level of income support consistent with the adequacy standard described in Article 22 and the first phrase of Article 25, § 1 as described above. At the same time, however, the right to “security” in this context may be interpreted as possessing an insurance connotation entitling people who lose their livelihood as a result of circumstances beyond their control to the maintenance, within reasonable bounds, of their prior standard of living, or at least to accommodate a gradual enough adjustment in their standard of living to preserve their dignity along with their physical and emotional well-being.

What about people who are capable of earning their own livelihood but would prefer not to have to? Are they entitled to societal support? It can be argued that they are based on the unqualified language of the first

²⁵ The inherent and equal dignity of all persons is referenced five times in the Universal Declaration – twice in the Preamble and three times in the Declaration’s substantive provisions, including Article 22. The recognition of everyone’s right to live a life consistent with this principle is a foundational principle underlying the entire Declaration.

The goal of facilitating the “free and full development of the human personality” is another foundational principal of the Declaration. It is mentioned three times in slightly different form in the economic and social provisions of the document, and as one commentator has noted, “the right to ‘the full development of the human personality’ was seen by most delegates to the committee that drafted the Universal Declaration as a way of summarizing all the social, economic, and cultural right in the Declaration” (J. Morsink, *The Universal Declaration of Human Rights. Origins, Drafting, and Intent*, Philadelphia, University of Pennsylvania Press, 1999, p. 212).

²⁶ Universal Declaration, Art. 25, § 1.

phrase of Article 25, § 1,²⁷ but that phrasing could also be interpreted as meaning that everyone has the right to obtain an adequate standard of living – either by exercising the right to work recognised in Article 23 or the right to income security recognised in the second half of Article 25, § 1. The most authoritative account we have of the drafters’ intent concludes that the latter was what they had in mind.²⁸

Accepting this interpretation of Article 25, § 1, however, does not mean it would be improper for a society to provide an income guarantee to persons who cannot claim it as a human right. The right to work recognised by the Universal Declaration is not accompanied by any duty to work. Proposals to recognise such a duty in the Declaration were considered and expressly rejected.²⁹ Moreover, virtually all developed market economies do provide unconditional income guarantees to certain population groups. Many elderly people and the vast majority of children in their teenage years would be capable of earning their own livelihood if society expected it of them, but most societies do not. There may be sound policy reasons for conferring such a benefit on the young and the old, but there may also be sound policy reasons for offering such a benefit more broadly. The point is that it is not improper for a society to do so, and that being the case, there is no impediment grounded on human rights doctrine that would prevent a society from granting an unconditional BI guarantee to all its members, as BI advocates propose.

III. The Basic Income Strategy as a Remedy for Unemployment

The connection between the failure of the Keynesian full employment strategy and the increased popularity of labour activation policies is fairly obvious. Its connection to the increased popularity of the BI idea may not be. Still, the link is readily recognised by proponents of the BI idea. Philippe Van Parijs, the BI movement’s most influential theoretician, has noted it in the following comment on the origins of the Basic Income European Network (BIEN) in the mid-1980s.³⁰

The first point of departure, and the most concrete one, is that it was becoming clear that we in Europe were beginning to experience a kind of mass

²⁷ See, e.g., G. Standing, “About Time: Basic Income Security as a Right”, in G. Standing (ed.), *Promoting Income Security as a Right: Europe and North America*, London, Anthem Press, 2005, p. 14.

²⁸ J. Morsink, *The Universal Declaration of Human Rights, op. cit.*, pp. 191-194.

²⁹ *Ibid.*, pp. 157-190.

³⁰ In response to the idea’s growing international popularity, BIEN was renamed the Basic Income Earth Network in 2004.

unemployment which could not be interpreted as conjunctural or cyclical in nature but which rather resulted from central features of our socio-economic system. The preferred remedy for unemployment at the time (and a number of years afterwards) was growth. But, along with a number of other more or less Green-oriented people on the left, I felt that this could not be the right solution. So the pro-growth consensus or grand coalition of the left and right had to be broken by providing a solution to the unemployment problem that would not rely on a mad dash for growth.³¹

The BIEN website similarly attributes much of the popularity of the BI idea to its promised effectiveness as a solution to the unemployment problem facing market economies.

Liberty and equality, efficiency and community, common ownership of the Earth and equal sharing in the benefits of technical progress, the flexibility of the labour market and the dignity of the poor, the fight against inhumane working conditions, against the desertification of the countryside and against interregional inequalities, the viability of cooperatives and the promotion of adult education, autonomy from bosses, husbands and bureaucrats, have all been invoked in its favour.

But it is the inability to tackle unemployment with conventional means that has led in the last decade or so to the idea being taken seriously throughout Europe by a growing number of scholars and organizations. Social policy and economic policy can no longer be conceived separately, and basic income is increasingly viewed as the only viable way of reconciling two of their respective central objectives: poverty relief and full employment.³²

Is the claim that a BI guarantee would solve the unemployment problem in market economies warranted? I think not, but I want to emphasise two points before setting forth my argument. The first is that my criticism is not based on any philosophical objection to providing all members of society an unconditional BI guarantee. I agree with BI advocates that such a guarantee would confer a significant benefit on the members of society, and I have already noted that there is no impediment based on international human rights law that would prevent a society from granting its members such a benefit. My criticism of BI proposals is based on more practical considerations.

The other preliminary point I want to make is that my criticism does not apply to all possible BI proposals. My criticism is directed at the universal grant and equivalent negative income tax proposals upon which BI advocates principally rely in their promotion of the BI strategy.

³¹ P. Van Parijs, "The Need for a Basic Income: An Interview with Philippe Van Parijs," *Imprints*, Vol. 1, No. 3, 1997, p. 5.

³² Basic Income Earth Network, "About Basic Income," Retrieved 31 July 2013 from <<http://www.basicincome.org/bien/aboutbasicincome.html>>.

I would have no objection to a BI guarantee configured in a manner that addressed my criticism, and I have described elsewhere how such a benefit could be included in the strategy I advocate for securing the right to work and income security.³³

According to BI advocates, an unconditional BI grant distributed individually to all members of society would secure the right to work by making it possible for people to choose the kind of life they want to live, including the kind of "work" they want to do, without having to rely on wage employment. Indeed, it would secure the right to work better than the achievement of full employment because it would allow people to choose from a more varied and personally satisfying set of occupations. As one commentator has noted,

To conceive of work only as those activities through which a monetary consideration is obtained is to have a very limited idea of what work means, and it is even worse to rely on the market to determine what is and what is not work. [...] It is necessary to distinguish between work and its commercial appraisal. Work can be defined as all those activities that combine creativity, conceptual and analytic thought and manual or physical use of aptitudes. It consists of every activity that human beings carry out in which they combine their intelligence with their force, their creativity with their aptitudes.³⁴

Conventional income transfer programmes do not allow for this because the provision of benefits to able-bodied adults is invariably linked to their continued pursuit of wage employment, and this expectation results in the imposition of behavioural requirements that are freedom restricting and demeaning. The consequent stigmatisation of the recipient population (who are perceived at best as "losers" and at worst as "shirkers") visits further harm on them.

Basic income advocates believe this problem would be eliminated if all members of society were provided an unconditional BI grant without any accompanying work obligation.³⁵ First, it is claimed that receipt of

³³ P. Harvey, "The Right to Work and Basic Income Guarantees: Competing or Complementary Goals?", *Rutgers Journal of Law and Public Policy*, Vol. 2, No. 1, 2005, pp. 55-58; P. Harvey, "Is There a Progressive Alternative to Conservative Welfare Reform?", *op. cit.*, pp. 196-197; P. Harvey, "More for Less: The Job Guarantee Strategy", *Basic Income Studies*, Vol. 7, No. 2, 2013, p. 13.

³⁴ J.L. Rey Perez, "El Derecho Al Trabajo, ¿Forma De Exclusión Social? Las Rentas Mínimas De Integración Y La Propuesta Del Ingreso Básico", *Revista Icade*, No. 62, 2004, pp. 247-248. See also P. Van Parijs, *Real Freedom for All. What (if anything) Can Justify Capitalism?*, Oxford, Oxford University Press, 1995, p. 126; G. Standing, *Beyond the New Paternalism: Basic Security As Equality*, London, Verso, 2002, pp. 255-261.

³⁵ In this analysis, I shall refer exclusive to universal BI grant proposals, but a negative income tax could be configured to achieve exactly the same effect. See P. Harvey,

the grant would allow people to create their own jobs, compensated by their BI grant. In other words, unemployed workers would no longer need waged employment to secure their right to work.³⁶ Second, it is argued that it would be easier for workers to find satisfying waged work if they had a BI guarantee, because they could accept lower wages in exchange for the opportunity to work in a more desirable job.³⁷ Third, it is argued that receipt of a BI guarantee would empower workers to reject substandard work and thereby force low-wage employers to improve the quality of the jobs they offer.³⁸

I believe all of these claims are unfounded – that even a generous BI guarantee would constitute an inadequate and unsatisfactory substitute for wage employment, that it would not make it easier for unemployed job-seekers to find satisfactory wage employment, and that it would not pressure low-wage employers to improve the quality of the jobs they offered. I shall explain each of these contentions in turn.

First, would a generous universal BI grant allow people to create their own jobs, compensated by their grant? Consider the following hypothetical. Jane and John Doe both live in a society that provides all its members an unconditional BI grant of 200 monetary units (MUs) per month, an amount sufficient to support a modest but acceptable standard of living. Then Jane is laid off and suffers involuntary unemployment while John does not. Does Jane's continued receipt of her BI grant compensate her for the job she has lost? I do not think so. Her income has been cut in half, and her BI grant does not replace a penny of her loss, because she already received the full value of the grant before she was laid off. Since Jane's BI grant gives her nothing at all that she did not already have before she was laid off, how can it compensate her for being laid off?

Now suppose that Jane, supported by her BI grant, decides to turn her back on the world of waged employment and instead devote her time to caring for her invalid mother or working as a volunteer for a local Oxfam project. Would her BI grant convert her service work into a form of self-directed employment? Once again, I do not think so. Jane's continued receipt of her BI grant makes it easier for her to follow her heart, but she

will receive absolutely nothing to replace the wage she lost when she was laid off from her paying job. Her BI grant does not compensate her for the work she is doing because she was receiving it before she lost her job.

If, alternatively, we view her BI grant as compensation for whatever she chooses to do with her time, then it is equally compensation for John's decision to keep his job, and the difference between a paying job and time spent in activities that do not pay remains exactly the same as it would in the absence of a BI guarantee. A paying job provides you with compensation in excess of whatever resources you may independently possess. Volunteer work does not. Jane's BI grant fails utterly to provide her the equivalent of a paying job. What she needs to secure her right to work is another paying job to substitute for the one she lost – not continued receipt of her BI grant.

The same problem undermines claims that a BI guarantee would empower workers to obtain desirable jobs in exchange for lower wages or win improvements in the quality of substandard jobs by refusing such employment. Both of these claims rest on the same assumption – that having a BI guarantee would empower workers to obtain better quality wage employment by allowing them to refuse undesirable work or trade a lower wage for better working conditions.

The circumstances in which John (Jane's former co-worker) finds himself illustrate the problem with this assumption. He retained his job. Jane took the layoff bullet. But suppose the reason he was kept on rather than Jane was because he loved the job and his BI guarantee made him feel able to accept a cut in wages from 200 MUs a month to 175 MUs, whereas Jane was unwilling to make that sacrifice because she did not find the job as desirable as John did. It is certainly true, in this circumstance that John's receipt of a BI guarantee has helped him secure his individual right to work (provided we ignore the question of whether his 175 MU salary qualifies as "just and favourable" remuneration), but has it helped secure the right to work in general or does it merely illustrate the musical chairs effect discussed above in reference to activation policies? Although clothed in the claim that a BI guarantee would empower workers to obtain more desirable jobs, the only way BI advocates can argue that accepting reduced wages in exchange for such employment will help secure the right to work is to embrace the neo-classical claim that reducing average wage levels will result in job growth.

Suppose alternatively that John's job offers substandard employment, and the reason Jane left was not because she was laid off but because their employer refused her reasonable demand for an increase in pay. Is this going to put pressure on the employer to raise John's wages for fear he too will quit? That depends, of course, on whether there are other job seekers willing to take Jane's place? If there are – and in a job short

³⁶ "The Relative Cost of a Universal Basic Income and A Negative Income Tax", *Basic Income Studies*, Vol. 2, No. 2, 2006, pp. 1-24.

³⁶ See, e.g., P. Van Parijs, *Real Freedom for All*, *op. cit.*, p. 126.

³⁷ See, e.g., P. Van Parijs, "The Need for a Basic Income: An Interview with Philippe Van Parijs," *Imprints*, Vol. 1, No. 3, March 1996), pp. 5-22, retrieved 19 September 2014 from <<http://eis.bris.ac.uk/~plcdib/imprints/vanparijsinterview.html>>.

³⁸ See, e.g., Guy Standing, *Beyond the New Paternalism: Basic Security as Equality*, London, Verso, 2002, p. 259.

economy there generally will be – Jane will be replaced and neither John nor Jane’s replacement will experience any improvement in the quality of their jobs. With a surplus of labour competing for available jobs, employers who offer substandard work are unlikely to have much trouble replacing dissatisfied employees. Indeed, that’s what permits them to offer substandard work in the first place. What John needs to secure the qualitative aspect of his right to work (i.e., improvements in the quality of his job) is not a BI guarantee. It is what full employment would give him – the ready availability of enough jobs to make it impossible for employers to find workers who have no choice but to accept unfavourable conditions of employment. The one caveat to this conclusion is that John’s receipt of a BI guarantee would make it easier for him to go on strike if his workplace was unionised and if his employer was unable to replace striking workers.

Isn’t it possible that the distribution of a universal BI grant would make workers in general more resistant to accepting sub-standard employment – that there would be enough Jane Does willing to quit substandard jobs that employers actually would be forced to improve job quality? The problem with this hypothesis in a job short economy is that it is just as possible that the BI grants would end up functioning as a wage subsidy for low wage employers. If the existence of a BI guarantee meant that low wage employers would no longer have to pay enough to satisfy even the minimum subsistence needs of their workers, the wages they paid could sink below the minimum subsistence level. It would all depend on the size of the economy’s job gap and the downward flexibility of wage standards.

This does not mean the BI grant Jane and John receive is worthless. It insures that their standard of living will not fall below whatever level the grant supports, whether or not they have a job. It makes it easier for them to survive unemployment spells without the qualifying conditions that limit the availability and duration of both unemployment insurance and means-tested social welfare benefits. It makes it easier for them to pursue non-waged work if they want to spend their time that way and are willing to adjust their standard of living accordingly. And, if they are unionised, it will strengthen their union’s bargaining power. What it cannot do is provide a satisfactory substitute for securing the right to work.

That is why I have suggested that a BI guarantee is more appropriately viewed as a strategy for securing the right to income security rather than the right to work.³⁹ That is its express purpose after all. Claims that it would secure or at least help to secure the right to work represent an understandable but nonetheless forced attempt to offer a solution to the

³⁹ P. Harvey, “The Right to Work and Basic Income Guarantees”, *op. cit.*, pp. 14-15.

problem of unemployment as well as that of poverty. Moreover, viewed as a strategy for securing the right to income security rather than the right to work, the BI idea has great appeal based on the widespread assumption (which advocates of the idea have done little to dispel) that a universal BI grant could guarantee all members of society an adequate standard of living.

In fact, sophisticated BI advocates recognise that it is unrealistic to expect a one-size-fits-all BI guarantee to achieve this goal because the needs of differently situated individuals vary too greatly. They also recognise that for either economic or political reasons a BI grant could be fixed below the level required to secure a decent standard of living. Accordingly, they acknowledge the need to retain “publicly organized social insurance and disability compensation schemes that would supplement the unconditional income while remaining subject to the usual conditions.”⁴⁰

The fact that different people have different needs is one of the reasons the Universal Declaration does not presume that the wages workers receive will necessarily cover all their needs. Instead, their right to “just and favourable remuneration” is accompanied by a right to have that remuneration “supplemented, if necessary, by other means of social protection”.⁴¹ The same recognition of differential needs is implicit in the partial list of essentials comprising the adequate standard of living recognised in Article 25, § 1. Moreover, as noted above, Article 25, § 1 may also mandate income support linked to a worker’s prior earnings following a loss of livelihood in circumstances beyond the worker’s control.

The inability of the BI strategy to adequately secure the right to income security all by itself would not matter if it were an inexpensive benefit to provide. Then it could be supplemented by other measures that would fill the gap, just as the Universal Declaration contemplates that wage income will require supplementation. The problem is that a universal BI grant is a very expensive benefit to provide, and any significant diversion of public revenues to fund such a benefit would not only diminish the pool of resources available to provide need-based supplementation; it could also leave the poor worse off.

The EU has adopted a poverty threshold equal to 60 per cent of median disposable income for purposes of measuring member states’ progress in eliminating poverty and social exclusion.⁴² According to the

⁴⁰ P. Van Parijs, “A Basic Income for All,” *Boston Review*, 1 October 2000, retrieved 19 September 2014 from <<http://bostonreview.net/forum/ubi-van-parijs>>.

⁴¹ Universal Declaration, Article 23, § 3.

⁴² See European Union Social Protection Committee, “Report on Indicators in the Field of Poverty and Social Exclusion”, 5 November 2001.

EU Social Protection Committee, this standard is based on a definition of the “poor” as “those individuals or households whose resources are so low as to exclude them from the minimum acceptable way of life in the country where they live.”⁴³ The concordance between this description of poverty and the Universal Declaration’s conception of what an “adequate” standard of living requires suggests that the 60-per cent standard can also be used as a rough measure of a nation’s success in securing the universal component of the right to income security.⁴⁴

I have not estimated what it would cost the EU to secure this right with a universal BI grant, but the price tag in the United States would have been about \$5.1 trillion in 2011⁴⁵ before counting the additional transfer benefits required to satisfy the special needs of persons for whom the BI guarantee alone would be insufficient to secure their right to an adequate income. Aggregate social welfare spending by all levels of government totalled only \$1.7 trillion in 2011, with more than half of that total consisting of old age pension benefits. Even if this entire \$ 1.7 trillion in social welfare spending was reallocated to fund a universal BI guarantee, the grant would provide only a third of the EU’s prescriptive poverty threshold – while leaving nothing at all to supplement anyone’s BI grant. The arithmetic is simple. Large numbers of elderly persons would be thrust into poverty and large numbers of the non-elderly poor would almost surely be left worse off than they are under the existing system – simply because a resource pool that previously had been devoted to their support was now being divided among all members of society. I am confident that BI advocates would never accept that outcome, but

⁴³ European Union Social Protection Committee, *The Social Dimension of the Europe 2020 Strategy. A Report of the Social Protection Committee*, Luxembourg, Publications Office of the European Union, 2011, p. 16.

⁴⁴ By the “universal component of the right to income security”, I mean the right of “everyone” to an adequate standard of living that is clearly stated in the first phrase of Article 25, § 1 of the Universal Declaration. I distinguish this from what might be called the “insurance component” of the right to income security, which is arguably recognised in the second phrase of Article 25, § 1. Whereas the “universal component” of the right to income security guarantees at least a minimally adequate standard of living for everyone, the purview of the “insurance component” is narrower – a promise that individuals who have lost their livelihood through no fault of their own will not be forced to suffer a precipitous reduction in their standard of living.

⁴⁵ This estimate is based on the methodology reported in P. Harvey, “The Relative Cost of a Universal Basic Income and a Negative Income Tax”, *op. cit.* In that article, I estimated what it would cost to fund a universal BI grant providing everyone in the United States an income at least equal to the U.S. government’s official poverty thresholds. Since these thresholds are currently pegged at about 30 per cent of median income, a universal BI grant capable of guaranteeing people an income satisfying the 60-per cent-of-median-income standard would cost approximately twice as much.

given the obviousness of the problem, it is surprising how little attention they have devoted to explaining how they believe it should be addressed.

Brazil’s *Bolsa Familia* (family allowance) provides another example of this conundrum. Although the programme is widely praised by BI advocates as a model for introducing a BI guarantee in middle and low income countries,⁴⁶ its benefits are income-tested rather than universal, and I assume most BI advocates would agree that this arrangement is preferable to the distribution of the same pot of money in the form of a much smaller grant to all families in the country.⁴⁷

And that being the case, does the *Bolsa Familia* really demonstrate the superiority of the BI idea or is it simply an attractive model for providing targeted social welfare benefits in a resource-constrained society? This is not an issue that confronts only middle and low income countries. The cost of a universal BI grant capable of satisfying the adequacy standard of the right to income security is high enough that it cannot help but raise questions as to whether it is the best way of securing that right – in wealthy as well as poor countries. If alternative strategies do exist for securing the right – and they do – can the advantages of a universal BI grant possibly justify its relative cost measured in terms of the opportunities society would have to forgo to pay for it?

IV. The Direct Job Creation Strategy for Securing the Right to Work and Income Security

Progressives have been too willing to accept the assumption that the only way to secure the right to work is to somehow induce the private sector to close the economy’s endemic job gap. Progressives do not assume that market economies are capable of satisfying peoples’ needs for education, health care or income support without substantial government provision of the benefits in question. Why assume that market economies are capable of providing all the jobs people need without substantial government provision?

⁴⁶ See, e.g. E. Suplicy, “From the Family Scholarship Program towards the Citizen’s Basic Income in Brazil”, paper presented at the 12th International Congress of the Basic Income Earth Network, Dublin, Ireland, June 20–21, 2008, retrieved 20 September 2014 from <<http://www.basicincome.org/bien/pdf/dublin08/4bisuplicybibrazil.doc>>.

⁴⁷ At a BI conference in New York City in February 2011 I asked Eduardo Suplicy, the author of the paper cited in the immediately preceding footnote, what he would choose to do if a pot of money became available that could be used either to double the size of the *Bolsa Familia* grant (which is not currently adequate to lift a family out of poverty by itself) or establish a small universal BI grant for the entire Brazilian population. He immediately and unhesitatingly answered that he would double the size of the *Bolsa Familia* grant.

Instead of asking economists how to fix what ails market economies in the hope that their job gaps will then somehow disappear, we should instead be asking them how governments can close their economy's job gaps at least cost in terms of adverse side-effects. Accepting any other outcome should be viewed as unacceptable, just as it would be unacceptable to accept that we can provide an education for only 90 per cent of our children, or health care for only 90 per cent of our population, or income support for only 90 per cent of those people who are incapable of supporting themselves.

The means I advocate for achieving this goal is an updated version of a strategy conceived and implemented by New Deal social welfare planners before Keynes's *General Theory* was even published. This strategy consists of the following five elements.

- (1) Everyone (with appropriate limitations on the employment of children) would be given a legally enforceable right actually to be employed in a private or public sector job consistent with their qualifications and experience.
- (2) In order to secure this right, a publicly-funded direct job creation programme would be established to eliminate the job shortages that are a normal feature of market economies. This programme could administer job-creation projects itself, fund not-for-profit agencies to operate such projects, or place unemployed workers in temporary positions within existing public sector agencies. All three strategies would likely be included in a well-designed programme.
- (3) The employment provided or funded by the job creation programme would pay wages comparable to those paid similarly qualified workers performing comparable work in the private and regular public sectors of the economy. Everyone employed in the programme would also enjoy the same legal rights and protections as other workers, except that the tenure of their employment would be subject to the continued unavailability of suitable employment in the private or regular public sectors of the economy.
- (4) To the extent the hourly wages individual workers received were insufficient to support a standard of living satisfying the Universal Declaration's adequacy standard, they would be supplemented by cash and/or in-kind supplements furnished by the state; and the same supplementation would be provided to workers employed in the private and regular public sectors of the economy.
- (5) Persons who were either unable or not expected to be self-supporting would receive conventional transfer benefits guaranteeing them a similarly adequate standard of living.

Having discussed this strategy in detail elsewhere,⁴⁸ the only thing I will add to this five-point description is a brief explanation of the kind of jobs that could be created using the strategy, its cost, and why it would be capable of closing a market economy's job gap without the inflationary effects that doomed the Keynesian full employment strategy.

What Kind of Jobs Would the Programme Create? It is widely assumed that unemployed workers lack employable skills. People accordingly wonder what kind of jobs a programme like the one I advocate could provide.

This perception of unemployed workers is badly distorted. The groups portrayed in Figure 1 are not a fixed population. They have, on average, suffered far more than their fair share of unemployment, but they share that fate with a much larger pool of currently employed workers who cycle in and out of employment. The fact that unemployment rates drop below 2 per cent when jobs are truly plentiful shows that the vast majority of these individuals are fully capable of earning their keep when jobs are available.

This population also possess a broader range of skills than is commonly recognised. I have estimated that the last wage earned by the programme's workforce in non-programme employment would be only a couple of dollars per hour less than the mean earnings of all production and non-supervisory employees in the U.S. economy.⁴⁹ In short, it is a workforce that can be hired to do many things, and with training the possibilities are even greater.

Rather than asking what kind of jobs this workforce could reasonably be expected to take on, the proper way to approach the job planning question is to ask what goods and services we would like them to produce. What additional tasks would we assign to government agencies if they had larger staffs? What improvements in the services they provide would we like them to undertake? What free standing projects have we wanted but have not had the resources to fund? What additional services could the not-for-profit sector provide with a major influx of workers whose wages were paid by the jobs programme?

⁴⁸ See, e.g., P. Harvey, *Securing the Right to Employment, op. cit.*; P. Harvey, "Back To Work: A Public Jobs Proposal for Economic Recovery," Demos, March 2011, retrieved 31 July 2013 from <<http://www.demos.org/publication/back-work-public-jobs-proposal-economic-recovery>>; P. Harvey, "Securing the Right to Work at the State or Local Level with a Direct Job-Creation Program," Big Ideas for Jobs Initiative, Institute for Research on Labor and Employment, University of California at Berkeley, November 2011, retrieved 31 July 2013 from <<http://www.bigideasforjobs.org/wp-content/uploads/2011/09/Harvey-Full-Report-2-PDF.pdf>>.

⁴⁹ *Ibid.*

I have assumed in my cost estimates that 75 per cent of the programme's budget would be devoted to direct labour costs (wages and benefits) with the remaining 25 per cent reserved for non-labour costs (materials, supplies, transportation, etc.). This assumes that a strong preference would be shown for labour intensive over capital intensive projects, but the ratio would be an average, so projects with higher capital intensities could be undertaken. Supplemental funding could also be arranged for more capital-intensive projects (e.g., mortgage financing to support the construction of low-and moderate income housing). Naturally projects would be selected with an eye to how well their labour requirements matched the skills profile of the programme's workforce. Still, a wide range of projects could be undertaken.

There also might be special job-creation ideas or opportunities that shout out for implementation. One of my favourite ideas is to turn the U.S. Government's existing "Work-Study Program" into an entitlement programme available to any and all students. Government subsidised jobs created and supervised by post-secondary educational institutions are currently made available on a means-tested basis. Millions of jobs for otherwise unemployed or underemployed students could be created both during the school year and over vacation breaks by expanding the programme. Moreover, a similar programme could be established to provide work for university graduates who are unable to find employment.

Other examples of possible projects in the United States might include a major expansion in the number of child-care slots made available to working parents; a commitment to renovate the nation's stock of low-income housing and to build new low-rise housing; a concerted campaign to rehabilitate and enhance the ambiance and safety of outdoor spaces in low-income neighbourhoods; a special initiative directed at giving the nation's parks and recreational areas the kind of attention they received from the New Deal era Civilian Conservation Corps. Cultural projects and special green projects also could be supported. Environmental research and monitoring activities could be expanded. Community gardens and local food distribution systems could be subsidised. School buildings could be renovated, expanded and redecorated. School support staff could be augmented. Educational and recreational programming could be added to the school day, and school year.

What Would It Cost: I have estimated the cost of using the strategy outlined above to reduce unemployment in the United States from its July 2011 level of 9.1 per cent to its pre-recession level of 4.5 per cent and, alternatively, to the full employment level of 2 per cent.⁵⁰ I estimated the first year cost of achieving genuine full employment at \$753 billion.

⁵⁰ *Ibid.*

However, after taking into account a partial list of the additional revenues and savings the job programme would have generated, that estimate fell to \$389 billion.⁵¹ Also, since the U.S. economy was already experiencing a modest recovery at the time (with the unemployment rate falling 0.8 per cent over the course of the year) the true net cost of the initiative would have been even lower than this estimate.

Because securing the right to work would reduce both the number of people needing transfer benefits and the average level of their need, only about \$70 billion in added funding would be required to secure the right to income security using conventional transfer benefits.⁵² Hence, the total cost of securing the right to work and income security using the strategy outlined above would have added something in the neighbourhood of \$459 billion to total government expenditures between July 2011 and June 2012. That is only one tenth the cost of a universal BI grant pegged at the 60-per cent-of-median-income level.

Because the fiscal stimulus provided by this additional spending would have accelerated the economy's recovery, the second year cost of the strategy would have been significantly smaller than its first year cost, but its precise level is hard to predict because it would have depended on how quickly consumer borrowing and private sector investment would have recovered from their previously depressed levels.

In the long run, I have estimated the baseline cost of securing the right to work and income security using this strategy at under \$200 billion per year over and above current levels of government expenditure. Moreover, a fuller accounting of the savings generated by the job creation programme could very well show that it would actually save taxpayers money.⁵³ In short, the cost advantage of the direct job creation strategy over the BI strategy is overwhelming.

⁵¹ The additional revenues and savings counted for this purpose included (1) the income and payroll taxes that programme workers would pay on their programme wages, (2) the unemployment insurance benefits that programme workers would forfeit because of their employment in the jobs programme, (3) the means-tested health insurance benefits that programme workers would not need because of their receipt of employer-provided health insurance benefits through the jobs programme, and (4) the revenues the jobs programme would collect from the sale of at least some of the goods and services it produced (a figure I estimated conservatively at 10 per cent the value of programme output).

⁵² P. Harvey, "Is There A Progressive Alternative to Conservative Welfare Reform?", *op. cit.*, p. 191; P. Harvey, "More for Less", *op. cit.*, p. 7.

⁵³ P. Harvey, "Securing the Right to Work at the State or Local Level with a Direct Job Creation Program", *op. cit.*, p. 11.

Wouldn't It Be Inflationary? There are three reasons why the direct job creation strategy would not be subject to the same inflationary tendencies that prevent the Keynesian full employment strategy from achieving genuine full employment.⁵⁴ First, unlike the Keynesian strategy, it is capable of closing the economy's job gap at the top of the business cycle without increasing either aggregate demand or private sector labour demand – thereby inhibiting the emergence of demand pull inflation as full employment is approached. This is due to the strategy's low net cost and the wide range of options that exist for funding it. Indeed, a direct job creation programme could be implemented in a manner that was fiscally deflationary and still achieve full employment.

Second, there is a natural tendency for spending on the direct job-creation strategy to be concentrated in communities where unemployment rates are highest. This is in marked contrast to market driven (including multiplier driven) economic growth, which tends to cause disproportionate expansion in "hot" economic sectors and regions while leaving unemployment to fester in depressed economic sectors and communities. This unbalanced expansion of the economy is one reason inflationary tendencies tend to emerge in expanding market economies before full employment is reached. A direct job creation programme configured to achieve full employment by securing the right to work would mitigate this problem by automatically limiting programme expenditures to places where surplus labour supplies existed.

Third, a well-designed direct job creation programme could also perform a price-stabilising, "buffer-stock" function. By remaining available for private sector employment, programme workers would restrain wage and price inflation the same way a "reserve army" of unemployed workers would – but without requiring anyone to actually suffer unemployment.

Conclusion: Providing for the Full and Free Development of the Human Personality

The focus of this chapter has been on the progressive quest for a solution to the problem of unemployment, but our attention has been drawn as well to the closely related task of eliminating poverty and income insecurity. I have argued that the assessment and design of policies directed at achieving these goals should be premised on an affirmation of the duty to secure the right to work and income security

⁵⁴ For a more extended discussion of this point, see P. Harvey, "Funding a Job Guarantee", *International Journal of the Environment, Workplace and Employment*, Vol. 2, No. 1, 2006, pp. 114-132.

recognised in the Universal Declaration of Human Rights. I have further argued that a strategy of direct job creation combined with conventional transfer benefits could succeed in securing these rights whereas the Keynesian strategy, activation policies and BI proposals all lack the capacity to do so. There is, however, one facet of the Universal Declaration's conception of the right to work and income security that we have not expressly addressed in our analysis – how well the policies we have considered would serve the goal articulated in Article 22 of the Universal Declaration of providing support for the "free development of the human personality."

Since providing support to individuals in furtherance of this purpose is one of the goals of both BI proposals and progressive versions of activation policies, I will conclude this chapter with an account of how the direct job creation strategy described above would help achieve this goal. First, it would remove the profound impediment that unemployment and poverty themselves pose to the achievement of the goal. Second, by providing an effective means of eliminating substandard employment it would make it possible for all workers to enjoy the opportunities for personal development that "good jobs" furnish. Third, it would enhance both the effectiveness and attractiveness of vocational training and retraining programmes by promising actual jobs to successful graduates. Fourth, it would guarantee everyone easy re-entry to the labour force when they wanted or needed paid employment, thereby reducing the risk and anxiety associated with withdrawing from the labour force to pursue other interests on either an intermittent or regular basis. Fifth, it would provide an easy means of expanding the availability of personally fulfilling work opportunities in a wage range of community service endeavours. Sixth, because persons with disabilities have the same right to work as other individuals, they could waive their right to a disability pension if they would prefer to have their right to work accommodated – even if it would cost society more to provide them a job with accommodations than it would to send them their disability pension. This would be liberating for many people with disabilities. Finally, the income support component of the strategy would also guarantee a standard of living capable of supporting the individual development rights of those persons who chose to rely on their entitlement to such benefits for their livelihood.

I believe that these features of the direct job creation strategy would provide substantially greater opportunities for the "free and full development of the human personality" than either the receipt of a universal BI guarantee or the operation of a well-functioning set of activation policies in a job short economy. My last claim, therefore, is that the direct job creation strategy would not only solve the problem

of unemployment and income insecurity better than these alternative strategies; it also would do more to enhance the real freedom of people to develop and live lives of their own choosing within communities that accept the mutual burden of ensuring that everyone enjoys a similar right.⁵⁵

⁵⁵ See Universal Declaration, Art. 29, § 1, which declares that "Everyone has duties to the community in which alone the free and full development of his personality is possible".

CONCLUSION

Activation Policies for the Unemployed: Redefining a Human Rights Response

Olivier DE SCHUTTER

The activation of employment policies that has developed in a wide range of OECD countries since the mid-nineties consists in coupling unemployment benefits and social assistance with certain services or requirements to improve one's "employability" by going through training, requalification, or work experience. Elise Dermine and Daniel Dumont, the editors of this volume, chose to frame the debate on the thus understood spread of activation by putting forward three theses. First, they note, activation *per se* is not necessarily to be denounced as a "recommodification" of work or social protection. In modern societies, work is not simply a constraint imposed upon individuals to achieve a decent standard of living; as Fernand Tanghe reminds us in his contribution, it is also, and simultaneously, a means of social integration and of personal fulfilment. Therefore, insofar as activation policies seek to strengthen individuals' abilities to join the employment market and access decent work, they may be seen potentially as progress towards the full realisation of the right to work.

Second, however, whether or not activation represents a step forward or a step backward in the fulfilment of the right to work and the freedom to choose employment depends on which balance each regime strikes between the conflicting values at stake. On the one hand, activation may result in an expanded set of opportunities for individuals, whose quest for a decent job may be supported by social services (including in particular placement services), by access to vocational training throughout the life-cycle to reduce the risks of skills depletion associated with globalisation and technological change, and by individualised counselling. On the other hand, activation is not without its own dangers, when it results in reduced levels of social protection as an incentive to return to employment, in the introduction of stronger forms of control to assess whether the jobseeker is actively searching for work, or in the imposition of a duty to take up employment that is not suitable. It is because activation policies have this dual character that they cannot be unambiguously either condemned or