

# The Right to Work and Basic Income Guarantees: Competing or Complementary Goals?

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## *Abstract*

*During the past two decades a broad-based advocacy movement has coalesced around the proposal that all members of society should be guaranteed an unconditional basic income (BI) sufficient to support a modest but dignified existence. Grounded on a loss of faith in the ability of market societies to provide decent paid employment for everyone who needs it, BI advocates promote the BI idea as a more direct and environmentally friendly way of eradicating poverty and a more equitable and liberating way of ensuring everyone's right to pursue personally rewarding work. In this paper I argue that BI advocates have been too ready to reject the conventional definition of the right to work, too willing to embrace the assumption that it cannot be secured by reasonable means, and too quick to conclude that a BI guarantee would provide an adequate substitute for it. I do not, however, reject the BI idea. Rather than viewing it as a substitute for securing the right to work, I argue that it should be seen as a foundation for policies designed to secure what I refer to as the right to income support. Cast in this role, I argue that BI proposals not only have merit but would serve as a mutually reinforcing complement to proposals to secure the right to work.*

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## Introduction

During the past two decades a broad-based advocacy movement has coalesced around the proposal that all members of society should be guaranteed an unconditional basic income (BI) sufficient to support a modest but dignified existence.<sup>1</sup> Grounded on a loss of faith in the ability of market societies to provide decent paid employment for everyone who needs it, BI advocates promote the BI idea as a more direct and environmentally friendly way of eradicating poverty and a more equitable and liberating way of ensuring everyone's right to pursue personally rewarding work (Van Parijs, 1996; Standing, 2002a; Perez, 2003).

It is this latter claim that is the subject of this paper – the suggestion that a BI guarantee would provide an acceptable or possibly even superior means of securing what is normally referred to as the right to work.<sup>2</sup> BI advocates argue that conventional definitions of the right to work focus too narrowly on wage employment. Rather than thinking of the right to work as a right to a paying job, they propose that it should be conceived as a right to pursue an *occupation* of one's own choosing, whether or not that occupation involves wage employment (Standing, 2002a: 255-261). As Perez (2003) explains:

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.

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<sup>1</sup> Information about the BI advocacy movement (including links to the web sites of other BI advocacy organizations) can be found on the web site of the Basic Income European Network (BIEN). See <http://www.etes.ucl.ac.be/BIEN/Index.html> .

<sup>2</sup> A far from exhaustive list of international agreements and proclamations recognizing the right to work or its functional equivalent includes Articles 55 and 56 of the United Nations Charter, Article 23 of the Universal Declaration of Human Rights, Articles 6-8 of the International Covenant on Economic, Social and Cultural Rights; Articles 1-6 of the European Social Charter; Article 14 of the American Declaration of the Rights and Duties of Man; Article 15 of the African Charter on Human and Peoples' Rights, Articles 29-32 of the Arab Charter on Human Rights; and Conventions 71 and 122 of the International Labor Organization.

If the right to work were redefined in keeping with this broadened conception of work, BI advocates suggest, a BI guarantee would seem an ideal means of securing it.

In opposition to this suggestion, I will argue in this paper that BI advocates have been too ready to reject the conventional definition of the right to work, too willing to embrace the assumption that it cannot be secured by reasonable means, and too quick to conclude that a BI guarantee would provide an acceptable substitute for it. None of these beliefs is well founded, in my view, and the adversarial stance BI advocates have adopted towards right to work claims should be rejected.

This does not mean that I believe the BI idea should be rejected. To the contrary, I believe an unconditional BI guarantee would be an extremely desirable and useful social welfare benefit, and were it not for its cost, I would happily support the implementation of such a guarantee in the form most BI advocates favor – an unconditional grant paid to all members of society. However, because I believe society has a prior obligation to secure the economic and social rights recognized in documents like the Universal Declaration of Human Rights (including the right to work), and because I believe other discretionary social welfare benefits also deserve public support, I am hesitant to endorse a social welfare benefit as expensive as a universal BI grant. I feel no hesitation, though, in endorsing less expensive forms of the idea and will describe one type of BI guarantee in this paper that I believe has particular merit.

My main purpose in writing this paper, however, is not to argue for a particular type of BI guarantee. It is to defend the right to work from the criticism that has been leveled at it by BI advocates. I will begin this task by making clear the nature of the right I am defending and why there is no contradiction between securing that right and also providing a BI guarantee. I will then review and respond to a variety of criticisms that BI advocates have leveled at the right to work and/or at proposals to secure it. This discussion will comprise the core of the paper. I will then conclude by reiterating my suggestion that BI proposals and proposals to secure the right to work be viewed as complementary rather than competing social welfare entitlements

## **The Right to Work and the Right to Income Support**

The economic and social provisions of the Universal Declaration of Human Rights are contained in Articles 22-28 (see text box on following page).<sup>3</sup> All of these rights are designed to promote the “full development of the human personality,” a phrase that appears in slightly different form in three of the Declaration’s articles (Articles 22, 26 and 29), and whose spirit pervades the entire document. As Morsink (1999: 212) has noted, “the right to ‘the full development of the human personality’ was seen by most delegates to the committee that drafted

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<sup>3</sup> It should be noted that the gendered language of the Universal Declaration is not intended to limit the rights it recognizes based on gender or family structure. Article 2 makes clear that “[e]veryone 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.”

# Universal Declaration of Human Rights

*Adopted by the General Assembly of the United Nations by a vote of 48 to 0 with 8 abstentions on Dec. 10, 1948*

## Article 22

Everyone, as a member of society, has the right to social security and is entitled to realization, through national effort and international co-operation and in accordance with the organization and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality.

## Article 23

- (1) Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment.
- (2) Everyone, without any discrimination, has the right to equal pay for equal work.
- (3) 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.
- (4) Everyone has the right to form and to join trade unions for the protection of his interests.

## Article 24

Everyone has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay.

## Article 25

- (1) 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, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.
- (2) Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection.

## Article 26

- (1) Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.
- (2) Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace.
- (3) Parents have a prior right to choose the kind of education that shall be given to their children.

## Article 27

- (1) Everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits.
- (2) Everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.

## Article 28

Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized.

the Universal Declaration as a way of summarizing all the social, economic, and cultural right in the Declaration.” The role played by the economic and social provisions of the document in achieving this overarching goal is to ensure that all members of society are guaranteed access to the resources, opportunities and services they need to fully develop and express their own personhood within communities that accept the collective burdens of mutual support and respect.

These objectives are fully consistent with the ends BI advocates have endorsed and pursue through their promotion of the BI idea. Indeed, the goal of securing “real freedom for all,” which undergirds Van Parijs’s (1995) widely cited philosophical justification of the BI idea, can be characterized as simply a shorthand formulation of the Universal Declaration’s goals. BI advocates also share the Universal Declaration’s focus on the importance of providing income security for all persons as an essential requirement for securing their overall well being and their right to fully realize their personhood.

BI advocates part company with the Universal Declaration vision only as regards the means they propose for achieving income security. They propose a one-legged strategy for achieving this goal (a BI guarantee) whereas the Universal Declaration contemplates a two-legged strategy – a commitment to securing the right to work combined with a right to income support for those persons who are unable to earn their own livelihood (Harvey, 1989: 11-20; 2003).

As defined in Article 23, the Universal Declaration’s vision of the right to work has five key components. First, it is a right actually to be employed in a paying job, not just to compete on terms of equality for scarce jobs. Second, the jobs made available to secure the right must provide a just and favorable conditions of work and pay wages sufficient to support an existence worthy of human dignity. Third, the jobs must also be freely chosen rather than assigned. In other words, job seekers must be afforded a reasonable selection of employment opportunities and the right to refuse employment. Fourth, the right includes an entitlement to equal pay for equal work, which implies a lack of invidious discrimination among different population groups and also as between persons doing similar work in different occupations or for different employers in the same occupation. Finally, the right includes the right of workers to form and join trade unions for the protection of [their] interests,” thereby ensuring that workers will have the opportunity to share in the governance of their workplaces. Securing the right to work accordingly is viewed from the perspective of the Universal Declaration as a multi-faceted undertaking that addresses a variety of work-related problems in addition to involuntary unemployment. Nevertheless, the elimination of involuntary unemployment lies at the heart of this undertaking, and discussions of the right to work usually focus on this task.<sup>4</sup>

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<sup>4</sup> Securing the right to work is often equated with achieving full employment, but the two concepts are conceptually distinct. For a discussion of their relationship to one another, see Harvey (1999b).

A similar desire to solve the problem of mass unemployment inspired the contemporary BI movement. Van Parijs (1996), for example, has described his own gravitation to the idea in the following terms.

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 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.

The BI idea was perceived by Van Parijs and others as providing this solution while also serving a variety of other goals. As the Basic Income European Network (BIEN) (2004) website explains,

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.

Thus, while BI advocates rely on a cash income guarantee to achieve universal income security rather than the Universal Declaration's two-legged strategy, they do recognize the problem of mass unemployment as something requiring a solution and believe a BI guarantee would provide that solution. Indeed, although relatively few BI advocates have discussed the right to work, among those who have addressed the issue there is general agreement that a BI guarantee should be viewed as a satisfactory or even superior alternative to securing the right as it is conceived and defined in the Universal Declaration. We shall consider the adequacy of the BI alternative to securing the right to work below, but in order to properly address that issue it is important to also consider the relationship of BI proposals to the second leg of the Universal Declaration strategy for achieving income security – the right to income support.

While most criticism of the Universal Declaration strategy for achieving universal income security has focused on the difficulties involved in securing the right to work, there also are significant problems that have to be resolved in securing the second (income support) leg of the guarantee. First, how do you define the incapacity for work necessary to trigger society's obligation to provide income support, and how can you be certain in individual cases whether a person does or does not qualify for such assistance? Second, the strategy does not address equitable concerns arising from the fact that much necessary and useful work in market societies is unpaid. People who devote their time to maintaining a household, caring for family members, or performing community service on a volunteer basis are working in every sense of the term except for the fact that they're not paid for it. Are they, too, entitled to income support from society? As conventionally defined, the right to work and income support seems to relegate such persons to the status of beggars B dependent for their support on the earnings or income support received by other members of their households. Third, the conventional, two-legged guarantee also does not resolve the question of what society's obligation should be to people who are deemed able to work but either choose not to work or do not manage to keep a job. Do they have a right to income support protecting them (and their children, if they have any) from falling into poverty?

There is nothing about the right to work or the right to income support recognized in the Universal Declaration that dictates how these questions should be answered. The right to work promises that everyone who wants decent work can find it, but it does not impose a duty to work on anyone. Proposals to link the right to work to such an obligation were made and expressly rejected in drafting the Universal Declaration (Morsink, 1999: 157-190). In short, the right to work is fully compatible with a policy regime that also guarantees people the right not to work by providing them an unconditional BI guarantee. Similarly, the right to income support guarantees that anyone who is unable to take advantage of the right to work still will receive an adequate income, but it does not require that transfer benefits be limited to such persons. The right to income support recognized in the Universal Declaration sets minimum standards for the provision of income support, not maximum standards.

With this conceptual framework in mind, BI proposals can be conceived, and I believe are most appropriately conceived as a means of securing the right to income support rather than as a substitute for securing the right to work. In other words, rather than challenging conventional views as to how the right to work should be secured, I believe BI proposals are more appropriately viewed as challenging conventional views as to how the right to income support should be secured. BI advocates are arguing, in effect, that the best way to secure the right to income support would be to provide an unconditional BI to everyone. Such a policy would merely extend the logic most wealthy societies already have adopted in securing the right to income support for people whose capacity to work has been eroded or ended by advancing age. Instead of providing income support benefits only to older persons who can show they are unable to work, virtually all wealthy countries provide some sort of BI guarantee to all persons beyond a certain age. This cuts down dramatically on administrative expenses, largely

eliminates the problem of fraudulent benefit applications, and increases the value of the benefit to those who receive it by reducing or eliminating the stigma that formerly attached to public assistance programs for the elderly poor.

These arguments are familiar to BI advocates, but they have virtually nothing to do with the right to work.. What I am suggesting is that BI proposals should be viewed first and foremost as advocating a position as to the best way of securing the right to income support in market societies. Whether a BI guarantee would also provide a substitute for policies designed to secure the right to work is a separate question, the answer to which need not affect our judgement as to the merits of a BI guarantee as a means of securing the right to income support.

### **Criticism of the Right to Work by BI Advocates**

Advocates of the BI idea have tended to be critical of proposals to secure the right to work. (Van Parijs, 1995: 125-126; Widerquist and Lewis, 1997; Kildal, 1998; Alstott, 1999; Standing, 2002a: 247-255; Noguera and Raventos, 2002; Sheahan, 2002; Perez, 2003). Standing's critique is the most extended and forceful. He characterizes the right to work recognized in the Universal Declaration as so problematic that "at the outset of the twenty-first century it would not be put forward"(Standing, 2002a: 247). He questions whether the right can in fact be secured in a market society, criticizes the right for its alleged historical association with the use of labor to discipline the poor, challenges the theoretical defenses of the right offered by its advocates, argues that the right cannot be coherently defined, and condemns it for allegedly imposing a duty to work on people. In this section of the paper and the next I will summarize these criticisms and explain why I find them wanting.

*The Right to Work, Workfare, and the Duty to Work:* Most criticism of the right to work by BI advocates is premised on the assumption that there is an inherent conflict between the two entitlements and that defending the latter necessarily requires one to criticize the former. This assumption appears to be the product of two debates that have been central to the advocacy of the BI idea but which do not concern the right to work, at least not directly. The first is a debate between BI advocates and proponents of "workfare," a term used to describe means-tested public assistance programs that impose work requirements and other conditions on the receipt of benefits in order to induce the poor to seek and accept paid employment. The other debate involves critics of the BI idea who have argued that a BI guarantee would offend principles of reciprocity by allowing "freeloading."

These two debates have attracted a great deal of attention from BI advocates and rightly so, because they are both crucial to the goal of winning support for the BI idea. The mistake BI advocates have made, in my opinion, is to assume that these debates are about the right to work when they are actually about the right to income support. Neither addresses the issue of whether society has a duty to provide paid employment to everyone who wants it. Instead, they address questions relating to the proper design of income assistance programs – whether means-tested income assistance benefits should be conditioned on work and whether it is morally acceptable to



tax people who do work in order to finance income support benefits for people who could work but choose not to.

BI advocates assume that accepting the validity of right to work claims would dictate how these questions should be answered, and that those answers would contradict BI proposals. This linkage is illustrated by the following comment by Standing (2002a: 255) in which he sums up his opposition to the right to work (using the term labour to refer to paid employment and the term “work” in the last sentence to refer to unpaid as well as paid work).

The issue of obligation to work was discussed in assessing the powerful trend to *workfare*. The conclusion is that neither the right nor the obligation to work are easily demonstrated, and that in practice proponents of the right to work have actually had in mind the right to labour, and implicitly or explicitly the obligation to labour. For real freedom, the emphasis should be on how to enable people to escape from labourism, and on how to be able to work.

In a similar vein, Widerquist and Lewis (1997: 27) criticize public employment programs because “like workfare, a public jobs system would require able-bodied persons to work in return for assistance.” Noguera and Raventos (2002: 14) adopt the same perspective in criticizing right to work proposals for assuming that people have a duty to work and not only the right to work.” Kildal (1998: 69) explains the linkage in somewhat more detail.

If the state should guarantee work to every citizen and be ‘the employer of last resort’, the labour contract would not be a result of the individual’s own effort and free choice. If it is possible to choose not to accept the work offered by the state, the state would have to provide for subsistence means, and the right to basic income will trump the right to work. A necessary condition for a right to work guaranteed by the state is, then, that the individual will be *forced* to take the work offered, i.e., we get a form of compulsory work which sharply contrasts with the norm of independence.

In fact, as explained above, affirming the right to work does not dictate how income support programs complementing the right to work should be structured. Programs securing the right to work could be combined with either an unconditional BI guarantee or stringent forms of workfare without contradiction. Nor does advocacy of the right to work require one to adopt any particular view of the role or meaning of reciprocity in the design of income support programs. Right to work advocates could adopt either pro BI positions or anti BI positions in either or both of the debates described above.

In any event, securing the right to work would involve no imposition of a duty to work on anyone. It’s goal is to insure that everyone who wants paid employment is able to obtain it. Whether people who do not want paid employment should be offered income support, and with what conditions attached, is a question addressed in the design of income support programs. BI advocates should stop confusing the two.

*The Right to Work and the Poor Law Tradition:* The alleged association between advocacy of the right to work and the use of labor to discipline the poor projects the same confusion back in time. In so doing it fails to distinguish between two distinct and opposing historical traditions – the use of labor as a disciplinary device in the administration of “poor relief” systems, and the use of job creation initiatives to combat involuntary unemployment.

The use of labor as a disciplinary device has been characteristic of means-tested public assistance programs since their inception (Harvey, 1999a). What distinguishes this tradition is its grounding in the belief that jobless individuals are at fault for their own joblessness. Advocacy of the right to work is and always has been premised on the opposite assumption – that the reason jobless individuals lack work is because the economy has failed to make work available to them. Rather than supporting the use of labor as a disciplinary measure to put pressure on the poor to cure their own joblessness by reforming their attitudes and behavior, right to work advocates have argued that job creation initiatives are needed to remedy the failure of the market to create enough jobs to eliminate involuntary unemployment (Siegel, 1994: 23-71; Harvey, 1989, 1993, 2000a, 2000b, 2002; Quigley, 2003).

Thus, New Deal social welfare planners in the United States were both inveterate critics of the old poor law system and ardent advocates of the right to work, which they termed “employment assurance.” (Committee on Economic Security, 1935; Burns and Williams, 1941; National Resources Planning Board, 1943). This is the perspective that led President Franklin D. Roosevelt to call on Congress in early 1944 to enact legislation securing for all Americans “the right to a useful and remunerative job” (Roosevelt, 1944),<sup>5</sup> and it also guided the drafting of Article 23 of the Universal Declaration (Morsink, 1999: 157-190).

*Philosophical Underpinnings of Right to Work Claims – The Natural Rights Argument:* Standing also quarrels with the philosophical underpinnings of right to work claims which he groups under three headings – “the natural rights perspective, the legal positivist case, and the human development right perspective” (Standing, 2002a: 250).<sup>6</sup> Standing’s only comment on the natural rights perspective is a jibe at Siegel (1994) for suggesting that the natural rights case is strong because of the identity and reputation of those who have espoused it.

In fairness to Siegel, it should be noted that his argument is not an appeal to authority for the truth of natural rights justifications of the right to work but an observation that the stature of the people offering those justifications has bolstered the credibility of right to work claims in public debate while blunting ridicule directed at those claims by people who challenge their legitimacy while simultaneously accepting natural rights justifications of other human rights

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<sup>5</sup> Roosevelt’s appeal was answered by an effort to enact full employment legislation that ultimately failed with the enactment two years later of the watered down “Employment Act of 1946” (Bailey, 1950).

<sup>6</sup> For a more extensive discussion of philosophical justifications of the right to work, see Siegel (1994: 72-90); Harvey (2002: 390-401).

(Siegel, 1994: 78-79). In fact, Siegel offers no assessment of the validity of natural rights theory, but merely notes that those who espouse it have demonstrated that the right to work fits comfortably within the classical human rights tradition whose influence continues to be very strong in promoting respect for human rights in general. As for Standing's own view of natural rights justifications of the right to work we are left in the dark. He presumably finds them wanting, but he does not explain why, a fact that may illustrate Siegel's point. It is hard to attack natural rights justifications of the right to work because of their similarity to widely accepted justifications for other human rights.

*Philosophical Underpinnings of Right to Work Claims – The Legal Positivist Case:* Standing's response to the "legal positivist case" supporting right to work claims is similarly brief and dismissive. The legal positivist case is flawed, he suggests, because the trend in both international agreements and national legislation in recent years has been to protect individual rights to equal treatment and non-discrimination in employment rather than individual rights to employment *per se*. In other words, he suggests that affirmations of the right to work in documents like the Universal Declaration have been eroded by the failure of nation states or international organizations to enforce the right.

The problem with this argument is that it assumes the legal positivist case is based on a narrow definition of positive law as encompassing only those rights and obligations that governments are prepared to enforce. In the field of human rights law, however, aspirational obligations are often accorded formal recognition long before they are enforced. Nor is this a useless exercise. The formal recognition of a right can play a crucial role in facilitating the historical changes that ultimately lead to its enforcement. Indeed, the aspirational recognition of an unenforced right may be a necessary stage in its historical development.

The U.S. Declaration of Independence, which proclaims that "all men are created equal" was drafted and enacted by slave owners and those willing to tolerate slavery in order to achieve their goal of independence from England. It took 90 years and a civil war to end slavery in the United States, notwithstanding the equality principle so forcefully proclaimed in the nation's founding document. Does that mean the Declaration's recognition of the inherent equality of all persons was a meaningless gesture? I do not think so. The formal recognition accorded the principle in the Declaration provided both encouragement and support for the efforts of those who fought to end slavery – as it does the continuing efforts of those who carry on the fight for equality today.

Even the United States Bill of Rights, which we now think of as "hard" (i.e., fully enforceable) law, lay largely unenforced by the courts until more than a century after it was formally adopted (Kammen, 1986: 336-37). The Fourteenth Amendment to the U.S. Constitution lay similarly dormant as a means of protecting the rights of African Americans for the better part of a century after its adoption.

The Universal Declaration is still a young document, and given the institutional difficulties involved in enforcing internationally-recognized human rights, it probably will take

much longer for the rights it recognizes to win effective enforcement than rights recognized in national constitutions. In the meantime, those who argue that formal recognition of international human rights cannot be deemed authoritative until the rights are enforced do worse than ignore the normal historical process which leads to such enforcement. They offer support to those seeking to slow or reverse the process.

The positive law claim that access to work is a human right is based on the political legitimacy of the process that led to its recognition in documents like the Universal Declaration and the fact that the right has never been repudiated. To be sure, as positive law, the right is embryonic, an aspiration rather than an immediately enforceable entitlement. But that authority does count for something, and if the Universal Declaration recognized access to unconditional income grants as a universal human right, I'm sure BI advocates would be trumpeting the fact rather than calling the document's legitimacy into question, notwithstanding the trend in most nation states towards the imposition of more rather than less conditionality on the receipt of income assistance benefits.

*Philosophical Underpinnings of Right to Work Claims – The Human Development Rights Perspective:* Standing's criticisms of "human development rights theorists" who support the right to work can be grouped under two headings. The first comprise direct challenges of the linkage between individual development and paid employment. The second consist of a series of objections to the right to work that Standing believes development rights theorists must answer in order to make a "strong case" for recognizing a right to work.

Standing criticizes human development rights theories both for assuming that paid employment necessarily contributes to individual development and also for assuming that paid work is the only source of attaining these developmental benefits. His first point is that the "unequal power relations" between employers and employees and the demeaning and/or hazardous nature of many jobs makes the labor market a questionable place to seek the benefits that development rights theorists attribute to the right to work. "What sort of a right is it," he asks, "to be able to doff your cap and say, 'Sir'? No assessment of protective regulations can overcome such situations, although they may ameliorate them." Similarly, "what is so laudable in creating circumstances in which a man will work in a sewage plant for twenty years or risk life and limb crawling along a rock face" (Standing, 2002a: 252-253).

The problem with this criticism is that it relies on conditions that exist when the right to work has not been secured to call into question the benefits that could be achieved if the right to work were secured. It is like relying on mortality rates among people denied access to health care to call into question the benefits that would flow from securing the right to health care. Standing's criticism makes sense only if the right to work (encompassing both its quantitative and qualitative aspects) cannot be secured by reasonable means. It is the existence of involuntary unemployment that cause workers to "doff their caps" to employers rather than be solicited by employers. Similarly, if the qualitative aspects of the right to work are secured as well as its quantitative aspects (decent working conditions and fair wages as well as the achievement of full employment), there is no reason why coal mining or employment in a

sanitation plant (or a “sewage plant” if you prefer that term) should be any less conducive to personal development than other forms of socially useful labor.

Standing’s other direct challenge to development rights justifications of the right to work is directed at the assumption that paid employment is necessary to achieve these benefits. Responding to the “alleged link between the right to work and social inclusion or integration” he argues that “if this were true, it would imply that someone who is ‘self-employed’ or doing voluntary or domestic work is less in the ‘social sphere’ and has a diminished existence and identity compared with a wage labourer in a factory or on a construction site.” Standing suggests that “most people in employment . . . would be inclined to think they would be able to ‘belong to the public sphere’ more effectively outside their job. Imagine the woman hunched over the lathe, the man chiseling away at the rock face deep underground, and wonder at the idealisation of employment” (ibid.: 253).

Kildal (1998) develops this argument more systematically, identifying and discussing four common developmental claims advanced on behalf of paid employment – that it “imposes a structure on everyday life” and is a “source of social relations,” a “means to self-realization,” and “a basis of self-respect.” While conceding that “paid work can of course provide a number of non-pecuniary benefits,” she argues that these benefits can be attained “equally well” through other activities. The structure that work provides for everyday life can be provided by other activities, especially “in institutions of education and in the growing sphere of organized leisure activities.” Work is also becoming less important as a source of social relationships because of the “rapid growth of so-called ‘atypical work’” that provides a less stable social environment for workers. Similarly, while paid work may provide opportunities for self-realization, the same is true of “mountain-climbing, surfing or voluntary work.” Finally, while paid employment remains an important source of self-respect, the development of entitlement programs that are both universal and unconditional has eroded that linkage, while state-guaranteed work would likely stigmatize those who relied on it. The conclusion Kildal draws is that the benefits of paid work “cannot be said to be of *paramount importance*, that is, they are not sufficiently fundamental to justify a legally guaranteed right to work.” (Kildal, 1998: 65-70).

This argument proves too much. Kildal and Standing are correct that there are other ways of achieving the developmental benefits they both acknowledge paid employment can provide (Kildal, 1998: 67, 70; Standing, 2002a: 253). But the same could be said of the right to vote or of various non-discrimination rights. Voting allows people to express their political views, influence public policy, and participate in the selection of their government. It is at least arguable that each of these benefits can be secured more effectively by participating as a volunteer, financial contributor or publicist in an election campaign than by voting in the election. Does that mean the right to vote lacks proper justification on developmental rights grounds? Similarly, does the fact that the developmental benefits of paid employment can be attained by other ways mean that women or members of racial minority groups would suffer no violation of their human development rights if they were denied the right to work for pay? The benefits derivable from a particular activity are important in deciding whether the activity should be protected as a right, but surely it isn’t necessary to establish that the benefits are obtainable in

no other way in order to justify the right. The principle that access to particular benefits should be available to everyone or that no other fair distribution of the benefits is possible may be sufficient. This is the insight underlying the following observation by Nickel (1979: 161) which Standing (2002a: 250) cites but dismisses as inadequate.

The justification for a universal right to employment would lie, in this view, in the fact that because of class interests and various group prejudices any non-universal distribution of employment opportunities will be unfair to the disadvantaged classes and minorities. Hence the only fair distribution available is one that guarantees each person a job.

Kildal and Standing also may underestimate the full extent of the developmental benefits uniquely attainable through wage employment. Any society whose economy is built upon the institution of wage labor (as both capitalist and socialist economies are and would continue to be with a BI guarantee in place) is likely to develop a wide range of social and cultural institutions that both depend upon and affirm participation in the wage economy. It doesn't mean that participating in the wage economy is necessary to function or to develop one's full potential in such societies, but it does mean that a wide range of opportunities for such development are likely to be linked, and uniquely so, to wage employment. This is not to romanticize wage labor. It simply recognizes that in a wage based economy wage employment is bound to play a central role in the distribution of opportunities for individual development. The same analysis undoubtedly would apply to societies based on subsistence agriculture, hunting and gathering, or the communitarianism of deliberate communities. Denying a person access to work in the forms peculiar to those societies would similarly reduce an individual's ability to develop her capacities and function as a full and equal member of society.<sup>7</sup>

As explained above, Standing also questions the failure of development rights theorists to address a series of issues which he believes undermine the legitimacy of right to work claims. First, as we have noted, he questions whether it is possible to secure the right to work by reasonable means. I will address this issue in the next section of the paper. Standing's next objection concerns "the difficulty of defining the right to work." Should the qualifications or lack of qualifications that people bring to the labor market affect their entitlement? Is the right individually enforceable or merely an hortatory obligation directed at the state? If it is only the latter, in what sense is it a right? Does it impose a positive obligation on governments to guarantee the availability of work or merely a negative obligation not to adopt policies that reduce employment opportunities? Finally, does (or should) the right to work encompass a right not to work (ibid.: 251-52)?

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<sup>7</sup> It should be noted, in this context, that the language used to recognize the right to work in the Universal Declaration does not restrict the right to wage laborers. Even though it's most obvious application in modern economies is to wage employment, the language can encompass a right of access to other forms of work in other economic settings.

The mere affirmation of the right to work, without more, leaves many unanswered questions; but the same is true of all human rights. What is the operational meaning of the right to free speech, health care, or education? Answering *Standing*'s questions concerning the right to work are child's play compared to the difficulties involved in determining what speech is properly protected, what kind of health care people are entitled to receive, or how much and what type of educational opportunities they must be provided. If anything, the right to work is more precisely defined than most other rights (Harvey, 2002: 437-438).

Nor does the vagueness of the human rights pronouncements included in documents like the Universal Declaration (or the U.S. Bill of Rights) undermine their legitimacy. It merely reflects their aspirational character while allowing their operational content to evolve over time. Rather than expressing the rules we currently are willing to live by, human rights norms tend always to exceed our reach. They are a kind of law by means of which human societies set goals for themselves. By asserting that everyone has these rights, even when we are not prepared to honor them in practice, we challenge ourselves to live up to our own aspirations. That may not sound like law, but given the power of human rights claims to drive the historical process, it would be foolish to dismiss human rights proclamations as toothless or lacking in legitimacy simply because the struggle to enforce them has yet to be won.

Finally, *Standing* (2002a: 252) objects to the alleged failure of the right to work to recognize a right not to work.

The right to work should be analogous to other "rights", if it is a right. Consider the right to vote in a democracy. To most people, it means that not only do you have a right to vote for whom you wish but that if you do not like the available options, you can exercise the right not to vote. . . . A right to do something can only exist if there is the right not to do it.

From *Standing*'s perspective, society's failure to offer income support to people who choose not to work is tantamount to forcing them to accept wage employment. Even if the availability of such work were guaranteed, society's failure to offer income support to those who refused it would taint the right to work and distinguish it from other rights.

*Standing* is correct in identifying this source of compulsion, but he is wrong in suggesting that the right to work is unlike other rights in this regard. Similar compulsions arise, or can arise, whenever a person elects not to exercise a right whose exercise is designed to enable the person to obtain a benefit or forestall a harm. Such rights are guaranteed precisely because bad things may happen to people who are denied access to the guaranteed benefits or are not permitted to take action forestalling the avoidable harm. But people are protected by these rights only if they choose to exercise them. Otherwise, bad things will still happen to them.

People have the right to defend themselves in legal proceedings, but doing so tends to be both burdensome and unpleasant. Few people would do it for the fun of the exercise. Why then do people exercise their right to defend themselves? The answer is clear. It is because the law

does not protect them from adverse legal judgments if they don't exercise their right, and the threat of those judgments provides a strong incentive (often rising to the level of a compulsion) to exercise the right. Does that mean the right to defend oneself in legal proceedings fails to encompass the right to refuse to defend oneself? The same question can be asked about the right of physical self-defense or the right to vote. If we do not exercise our right to vote we may lose very substantial advantages or suffer very substantial impositions that could be avoided if we exercised our right. Should we therefore condemn the right to vote for failing to secure the right not to vote? If a recipient of a BI grant refused to cash her BI check, she might starve for lack of food. Should we therefore condemn BI proposals because they fail to protect the right of people to refuse such aid?

Standing's complaint that "[t]he right to work should be analogous to other 'rights'" is simply misplaced. It *is* analogous to other rights – including the right to vote which he uses to illustrate his argument. Perhaps an unconditional right to income support should be recognized, but it is no criticism of the right to work that it does not include such a right. As I have repeatedly emphasized, the proper target of Standing's complaints on this point consist of conventional interpretations of the right to income support rather than conventional interpretations of the right to work, since policies designed to secure the right to work are fully compatible with an unconditional BI guarantee.

### **Can the Right to Work Be Secured?**

In addition to their substantive criticisms of the right to work, BI advocates have also expressed doubt that the right can be secured by reasonable means. As Standing (2002a: 264, 272) puts it,

Labour market and employment security . . . cannot be offered equally or fairly in a globalising economy and could be attained only at the cost of sacrifice of more valuable forms of security. Labour market security cannot be envisaged with foreseeable economic policies, in which a NAIRU is either seen as necessary, so that governments deliberately maintain a pool of unemployed, or is lowered by means that impinge on the liberty and security of vulnerable groups.

\* \* \*

It can be done [only] at a cost, in terms of lower wages, less social protection, more stress, social illnesses and inequality.

\* \* \*

A focus on maximizing jobs and 'restoring full employment' would lead inexorably to pressure on people to accept subordinated flexibility – with calls on workers to make concessions in order to help to create more jobs.

Not all BI advocates are as pessimistic as Standing on this score. Kildal (1998: 70) endorses full employment as a political goal despite her rejection of the right to work as a legal



entitlement.

Opportunities *ought* to be made available in such a way that those who want to can obtain benefits and challenges through paid work. It is obvious that for many people, perhaps indeed most, work activity is the best activity for realizing their values. But to make work available is not the same thing as providing a legally guaranteed right to work.

But Kildal does not explain whether or how she thinks full employment could be attained, so her endorsement of the goal may simply reflect the view that unemployment rates should be reduced as much as possible without sacrificing labor standards, a position with which Standing would certainly agree.

Is this scepticism concerning the possibility of securing the right to work warranted? Does the Universal Declaration call on governments to do the impossible? In recent years a small but growing group of post-Keynesian economists, social welfare policy analysts, and human rights advocates have been exploring the feasibility of using direct job creation by government to close the economy's job gap (Bartik, 2002; Ellwood and Welty, 2000; Forstater, 1998; Gottschalk, 2000; Gordon, 1997; Harvey, 1989; Minsky, 1986; Mitchell and Watts, 1997; Mosler, 1997; Quigley, 2003; Reimer, 1988; Wray, 1998). This is not a new strategy. It has been used with a fair degree of regularity to reduce unemployment in periods of economic crises for centuries (Harvey, 1999a). But its ability to secure the right to work has never been tested, even though New Deal social welfare planners (Committee on Economic Security, 1935: 3-4) expressly proposed that it be used for that purpose.

The first objective in a program of economic security must be maximum employment.<sup>8</sup> As the major contribution of the Federal Government in providing a safeguard against unemployment we suggest employment assurance – the stimulation of private employment and the provision of public employment for those able-bodied workers whom industry cannot employ at a given time. Public-work programs are most necessary in periods of severe depression, but may be needed in normal times, as well, to help meet the problems of stranded communities and overmanned or declining industries.

This was not a proposal to create second-rate jobs but to provide public employment “as nearly like private employment as possible” (ibid: 6). It also was conceived as a permanent commitment rather than as one to be used only during recessions (ibid: 6-7).

In periods of depression public employment should be regarded as a principal line of defense. Even in prosperous times it may be necessary, on a smaller scale,

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<sup>8</sup> In this context, the term “maximum employment” meant what later came to be called “full employment.” The latter term had not yet come into popular currency in 1935.

when “pockets” develop in which there is much unemployment. Public employment is not the final answer to the problem of stranded communities, declining industries, and impoverished farm families, but it is [a] necessary supplement to more fundamental measures for the solution of such problems. And it must be remembered that a large part of the population will not be covered by unemployment compensation. While it will not always be necessary to have public employment projects to give employment assurance, it should be recognized as a permanent policy of the Government and not merely as an emergency measure.

BI advocates who have discussed this strategy have uniformly rejected it (Widerquist & Lewis, 1997 24-28; Noguera & Raventos, 2002; Sheahan, 2002, Perez, 2003; Kildal, 1998). In addition to the strategy’s presumed reliance on compulsion, a claim we already have discussed and dismissed, they object to the strategy’s cost, its administrative complexity, and its alleged inability to create decent jobs.

*Cost and Administrative Complexity:* Criticism by BI advocates of the cost and administrative complexity of direct job creation programs is illustrated by Widerquist and Lewis’s (1997: 28) claim that using public employment to combat poverty would be “significantly more expensive” than a guaranteed income program because, “[i]n addition to the wage costs, the overhead costs would include supervisors, materials, transportation, and planning.” They also suggest (ibid, 29) that using public employment to achieve full employment would be “a logistical nightmare. Imagine all the resources the government would have to expend deciding what public employees would do and all of the political fights over what district would get which jobs and the output.” Noguera and Raventos (2002: 15) repeat these claims.

[T]he net economic and organizational costs of implementing such a [right to work] – for example, in Spain – would doubtless be much higher than those of the [basic income]. It makes anyone dizzy to think of the number of decent and socially useful jobs, which would have to be created . . . To provide all these jobs – with its entire wage, training, infrastructure and supervision costs – would be quite unthinkable without a social revolution or the implantation of an authoritarian regime (or both).

I have discussed the cost and administrative feasibility of using direct job creation to secure the right to work in detail elsewhere (Harvey, 1989, 1995b, 2000a, 2002). I also have compared the cost of such an initiative to the cost of a universal BI grant (Harvey, 2003).

BI advocates make three mistakes in comparing the cost of a BI guarantee to the cost of a program designed to secure the right to work. First, they overestimate the overhead costs of a job guarantee program by failing to appreciate that in a program designed to secure the right to work, jobs created to perform “overhead” functions within the program or to provide services and materials to the program would not add significantly to its overall size. If 100 jobs are

needed to close the economy's job gap, that's how many jobs the program would have to create, and within broad bounds it wouldn't matter how those jobs were distributed between supervisory and non-supervisory positions, between production and support functions (such as the provision of child-care), or between program jobs and private sector jobs created to supply the program with materials (Harvey, 1989: 39-43).

Second, BI advocates also fail to take into account that a job guarantee program's net cost would be reduced by the taxes program participants would pay on the wages they earned and by any revenue generated by selling the program's output – even if that output were sold at prices below its cost of production. The real per-person cost of creating the jobs needed to secure the right to work does not consist of the average total wages and benefits paid to program participants and to private sector employees hired to provide materials or services to the program. It consists of average after-tax wages minus average per-worker revenue generated by the sale of program output (Harvey, 1989: 21-50; 1995b). The program's net cost also would be reduced by savings in public assistance budgets, but BI advocates count on these savings in estimating the cost of a BI guarantee and presumably recognize that they would reduce the cost of a job guarantee program as well.

Third, and most importantly, BI advocates ignore the difference between the individual cost of providing either a job or BI grant to one person and the aggregate cost of providing either jobs or BI grants to everyone who would be eligible to receive the benefit. Even if the net cost of providing a person a job far exceeded the net cost of providing that same person a BI guarantee, the number of jobs that would have to be created would be limited to the size of the economy's job gap whereas BI grants, in the form preferred by most BI advocates, would have to be paid to all members of society. The arithmetic is simple. Involuntarily unemployed workers comprise a relatively small fraction of a society's total work force. Even in a deep recession the number of jobs needed to close the economy's job gap in developed market economies is unlikely to exceed 10% of the economy's labor force. In poorer countries the gap is often higher, but it usually does not exceed 25% of the labor force. If unemployment were measured as a percentage of total population rather than as a percentage of the active labor force, these percentages would be far smaller. Even if jobs paying wages several times as large as a BI guarantee were provided to all unemployed job seekers, the total cost of doing so would be tiny compared to the cost of providing BI grants to all members of society (Harvey, 2003).

In an earlier paper (Harvey, 2003) I estimate the relative cost of eliminating official poverty in the United States with a universal BI grant program compared to a program of direct job creation combined with an income guarantee for persons who were unable to work. The BI strategy would have cost \$1.7 trillion more than the right to work strategy in 1999. If funded by a flat tax on all income, the BI strategy, when combined with all other federal, state and local government spending, would have required a flat tax rate of about 49% compared to a flat tax rate of about 30% to implement the combined right to work/right to income support strategy.

The difference would not be as stark, of course, for other types of BI guarantees. A negative income tax with high effective marginal tax rates on other income might even cost less

than a job guarantee. It would depend on whether the benefit was calculated and paid on an individual or household basis. But for BI advocates who favor a system of universal, unconditional BI grants, the conclusion is inescapable that a BI guarantee would be far more expensive than a job guarantee combined with an income guarantee for persons who are unable to work.

The claim that “public employment would be a logistical nightmare” (Widerquist and Lewis, 1997: 29) or that only an “authoritarian regime” could secure the right to work (Noguera and Raventos, 2002: 15) substitutes hyperbole for reasoned argument. To require governments to assume the task of securing the right to work would involve a major expansion in their administrative responsibilities, but the dimensions of the task are no larger than other major social welfare functions already performed by governments, and the nature of the administrative tasks to be performed in hiring, training and supervising a large public workforce are well within their traditional competencies (Harvey, 1989: 79-98). Moreover, there is no reason these functions would have to be performed by government directly, since not-for-profit agencies or even profit-seeking businesses could administer the program or portions of it under contract if such an arrangement were preferred. If BI advocates believe the task is either too big or complicated for governments to perform, they need to be more specific in identifying the administrative difficulties they believe are beyond the capacity of governments to solve.

*Job Quality:* BI advocates also have questioned the quality of the jobs a program designed to secure the right to work could offer. We already have noted Kildal’s (1998: 69) argument that jobs created for this purpose would “have humiliating effects” because of their compulsory character, but she also argues that they would have lax performance standards because the right to work “implies that no one can be fired; or at least that they have the right to be automatically rehired.” This, in turn, would force the state to lower wages to “reduce the incentive” for workers to “leave regular work and enter the more protective public work program.” This, she concludes, would

imply a segmentation of the labour market, a systematic difference in pay and status that will defeat one of the main points of the program – to hinder degradation and humiliation of those persons who have no other alternative than these jobs. Rather than a protection of their self-respect, *social stigmatization* will be the result.

Echoing this claim, Noguera and Raventos (2002: 16-17) argue that jobs deliberately created by government to secure the right to work would fail to provide “social recognition and self-esteem.” Instead, such a program would create “a second tier of ‘artificial’ and ‘charity’ jobs” which would be “socially stigmatized,” thereby generating “frustration, disappointment and [a] lack of motivation” in the program’s workforce. They conclude that “maybe we should agree with Elster (1988) when he says that any [right to work] we may reasonably create would not be . . . worth having.” Perez (2003) similarly argues that the use of direct job creation to secure the right to work would result in either the gradual elimination of the private sector or the maintenance of a second rate labor force whose members would be both underpaid and

stigmatized.

This criticism of the quality of the jobs a program securing the right to work could provide is based in part on the already-discussed tendency of BI advocates to equate direct job creation with “workfare” and partly on an embrace of Elster’s (1988: 72-74) claim that any effort to achieve full employment through direct job creation would be destined to fail. Elster’s analysis is based on Shapiro and Stiglitz’s (1984: 433) suggestion that the failure of labor markets to clear may be explained by a natural tendency for employers to raise wages above the equilibrium level to reduce incentives for shirking.

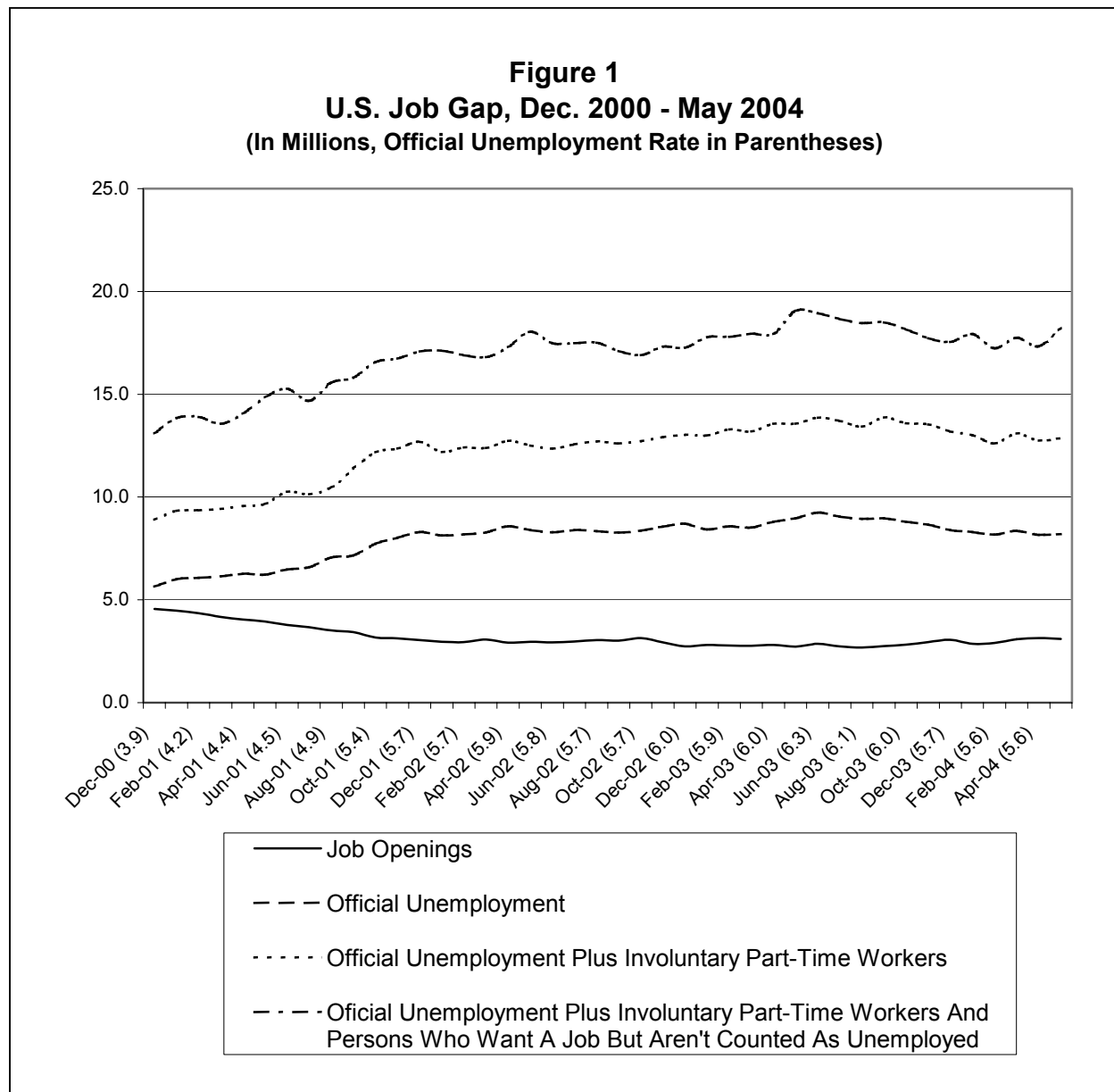
To induce its workers not to shirk, the firm attempts to pay more than the “going wage”; then, if a worker is caught shirking and is fired, he will pay a penalty. If it pays one firm to raise its wage, however, it will pay all firms to raise their wages. When they all raise their wages, the incentive not to shirk again disappears. But as all firms raise their wages, their demand for labor decreases, and unemployment results.

Elster (1988: 73-74) simply assumes the truth of this explanation of involuntary unemployment and argues, based on it, that the state could not achieve sustainable full-employment through direct job creation unless the jobs it created for that purpose were sufficiently unattractive to deter private sector workers from “shirking.”

If the establishment of a right to work led to effective full employment, the following problem would seem to arise. Private employers would feel it necessary to raise the wages of their workers, to reduce their incentive to shirk. This would have two consequences: on the one hand, the public-sector jobs would be a less desirable alternative, serving as a deterrent for workers; on the other hand, private employers would demand less labor, thus creating a need for more public-sector jobs. If the state employment agency raised the wages of public-sector jobs to avoid the stigma that would otherwise attach to them, private employers would have to follow suit, again raising wages and reducing the demand for labor. Theoretically, the process would go on until all private firms were driven out of business. In other words, it would seem that in a capitalist economy, full employment can only be achieved at the expense of creating a second-rate work force that is paid lower wages than private-sector workers performing the same tasks.

For the mechanism Elster identifies to operate, of course, two conditions would have to be satisfied. First, the state would have to accommodate the migration of workers from the private to the public sector by offering work to anyone who asked for it, irrespective of the number of job vacancies that existed in the private sector. Second, the state also would have to be prepared to match any wage increases in private sector employment. Otherwise, private sector employers could stop the migration by offering marginally higher wages than the jobs program.

Neither Elster nor the BI advocates who have embraced his analysis explain why a commitment to secure the right to work requires either of these policies to be adopted, let alone both of them. The *number* of jobs needed to secure the right to work is known, or can be estimated by comparing data on job availability with data on the number of persons who are seeking work, or reasonably could be expected to seek it if jobs were readily available. Figure 1 shows such data for the U.S. economy from December 2000 (when the U.S. Bureau of Labor Statistics began reporting job vacancy data) through May 2004.



Four things are worth noting about this figure. First, it shows that even with unemployment below the 4% level, as it was in December 2000, the U.S. economy was still had a substantial job shortage. Second, as one would expect, that shortage grew as unemployment rates rose over the next several years. Third, the number of jobs needed to close the economy's job gap can be estimated from this data, and could be estimated even more precisely with data that distinguished between different types of job vacancies and different types of job seekers (for example, between full and part time jobs and full and part time job seekers). Fourth, Figure 1 reports average data for the entire country, but the size of the job gap can and does vary widely from region to region and even from neighborhood to neighborhood within the country.

To secure the right to work it would be necessary to create enough jobs to close the job gap shown in Figure 1. The relative size of the task would vary over time and from community to community within a country. It also would vary for different portions of the unemployed population based on their qualifications and work experience; but the overall dimensions of the task would be limited. Although it would be possible to structure a program that offered work to everyone who applied for it without regard to private sector job availability, it would not be necessary to do so; and if an open-ended job guarantee began to draw workers away from the private sector, as Elster predicts it would, the number of jobs made available through the job-creation initiative could be limited without reducing the wages paid in those jobs.

Alternatively, the wages paid in guaranteed jobs could be set marginally below their private sector counterparts. Elster's argument that this would be tantamount to creating second class employment is contradicted by the premise of his prediction – that workers would otherwise leave the private sector because they found the guaranteed jobs preferable. If wage levels in the guaranteed sector were set just low enough to make workers indifferent between working in the private sector and working in the guaranteed sector, presumably the two types of employment would be perceived as equivalent. In fact, a variety of possibilities exist for setting wage and benefit levels in a guaranteed job program. Some proponents of the idea have argued that the jobs should pay a fixed minimum wage (Wray, 1998, 2000; Mitchell and Watts, 1997; Mosler, 1997; Cowling, Mitchell and Watts, 2003); but I have argued that jobs created to secure the right to work should pay the going market rate for comparable employment, and that they also should satisfy all minimum quality standards relating to benefits and working conditions (Harvey, 1989: 30-43). This policy does imply that the program would provide more favorable wages and working conditions than sub-standard jobs in the regular labor market; but average wages paid would be on the low-end of the range paid in "decent" jobs, since unemployed workers tend to be less skilled than most regularly employed workers.

Would the policy I have advocated cause a migration of workers from the private sector? The answer is "yes" for persons employed in sub-standard private sector jobs but not for persons with decent private sector jobs. Would private sector employers who provide sub-standard employment be forced out of business, thereby increasing the unemployment rate? Some would, but we know from research on the effects of minimum wage legislation that forcing employers to pay their workers more does not necessarily lead to job loss, and even studies that do find a negative effect have estimated its size to be small relative to the income gains low-wage workers

collectively receive from a legislated wage increase (Card and Krueger, 1995). In other words, even if an increase in minimum standards did result in increased unemployment, that increase likely would be small enough that, in theory, replacement jobs for those who need them could be wholly financed by taxing the earnings of minimum wage workers and still leave them better off than they were before the increase in minimum standards. I am not suggesting that low-wage workers should be expected to pay for the additional jobs that would have to be created. I am only pointing out that the additional financing needed to secure the right to work would be small.

The ultimate source of Elster's prediction is the assumption that capitalism cannot tolerate full employment, because the threat of joblessness – a joblessness that “hurts” – is necessary to maintain worker discipline. If the threat of joblessness is not essential to the functioning of capitalism, Elster's argument falls apart. Although the achievement of sustained full employment would not be problem free, I see no reason to believe it is incompatible with the survival and continued dominance of the private sector as a source of employment. Employers don't decide as a group to maintain unemployment rates at some particular level and act accordingly. They respond to market forces. For Elster's downward spiral to materialize, employers would have to be driven into bankruptcy by either a progressive stagnation in aggregate demand or a progressive tendency for wage increases in the private sector to outstrip increases in productivity and prices (thereby forcing business into the red). It's not clear how a job program devoted to securing the right to work would produce either effect, although some increase in the inflation rate and a beneficial flattening of the wage structure is predictable (Harvey, 1989: 66-70). If those who embrace Elster's analysis disagree with this assessment, they need to explain why the measures I have described would be unable to stem the loss of private sector jobs he assumes would flow from the achievement of full employment by means of direct job creation.

Moreover, BI advocates have good reason to hope that I am right on this point, since Elster's criticism of efforts to secure the right to work would apply with equal force to BI proposals. If capitalists need unemployment to maintain worker discipline, and they need that unemployment to “hurt,” a BI guarantee which provided workers an alternative to private sector employment would be just as intolerable as a government jobs program that provided workers an alternative to private sector employment. In fact, BI advocates emphasize that a BI guarantee would empower low-wage workers to resist unjust demands by their employers. Standing (1992: 259) refers to this as a “drop dead” option – the practical ability to tell your boss to “drop dead” by opting out of wage employment. But this is precisely the kind of empowerment that Elster claims capitalism cannot tolerate because it would undermine worker discipline. If BI advocates truly believe that jobs created to secure the right to work would have to be less attractive than the poorest quality jobs available in the private sector to prevent a mass exodus of workers from the private sector, they need to explain why a BI guarantee that provided a reasonable alternative to low wage work would not produce a similar exodus.



## **Would A BI Guarantee Provide an Adequate Substitute for Securing the Right to Work?**

Even if we conclude that reasonable grounds exist for believing the right to work could be secured, BI advocates still might argue that doing so would be unnecessary if a generous BI guarantee were provided instead. This argument can be inferred from claims that a BI guarantee would provide an adequate and possibly even superior means of securing the benefits attributed to the right to work. After all, BI advocates have promoted the BI idea as a solution to the problem of unemployment in no uncertain terms. The issue raised by these claims can be posed as follows. If we assume a world in which an unconditional BI grant capable of supporting a dignified standard of living was provided to all members of society, would there be any reason also to secure the right to work, as that right is conventionally defined?

I believe BI advocates have greatly overstated the adequacy of a BI guarantee to serve as a substitute for securing the right to work. I think it can be easily shown that a BI guarantee of the type favored by most proponents of the idea (an unconditional grant at least equal to the poverty line distributed to all members of society without regard to their income or employment status) would not provide the benefits claimed for it in this regard. It would not compensate involuntarily unemployed workers for their lack of paid employment. Nor would it compensate people who preferred non-waged employment for the work they performed. It also would be unlikely to lead to any increase in the availability of paid employment for those people who want it. Finally, it could not be counted on to force an improvement in the quality of low wage work and might even cause it to decline.

This is not to suggest that a BI guarantee would be worthless. To the contrary, it would significantly increase individual freedom and well being by protecting people from falling into poverty, by making them less dependent on their earnings, and by enabling them to more easily withdraw from the paid labor force if they were so inclined. My argument is only that this increase in freedom and well being would be a function of a BI guarantee's contribution to securing a broad version of the right to income support rather than any contribution it would make to securing the right to work or its equivalent. If the only importance of paid employment consisted of its role in protecting people from falling into poverty, then a credible claim could be made that a generous BI guarantee would provide an adequate substitute for securing the right to work, but it will be clear from the discussion that follows that BI advocates are well aware that its importance extends well beyond this function. Nor am I referring to the non-pecuniary benefits of wage employment alone. The most immediate benefit of paid employment is the income it provides, and that benefit would continue to be important even if all members of society were provided an unconditional BI grant. Anyone who wanted an income greater than their BI grant would have to work for it. They would have to find a paying job, and that being the case, access to work would remain a vital source of economic opportunity and well-being.

*BI Guarantees and the Unemployed:* It should be obvious that a person who received an unconditional BI grant would experience more “real freedom” (Van Parijs, 1995) if they also were guaranteed access to decent paid employment. For people who wanted paid employment, a work guarantee would provide assured access to an income greater than their BI guarantee and to whatever non-pecuniary benefits paid employment provided. For people who did not want a paying job, a work guarantee would increase their life choices and give them the security of knowing that decent paid work would always be available both to them and to others whose access to paid work mattered to them.

It clearly would be deemed unjust for society to provide paid work for men but not for women or for whites but not for blacks, and that injustice clearly would not be remedied if all members of society, regardless of their race or gender, received a BI guarantee. The right to work recognized in the Universal Declaration is based on the principle that it also is unjust for only 95 percent of a society’s job seekers to be provided paid work; and the injustice suffered by the involuntary unemployed individuals selected by the market to remain jobless is no more remedied by a BI guarantee than it would be if they were selected on the basis of their race or gender. In a society with a BI guarantee, the right to earn more than the BI guarantee would be just as precious as the right to vote would be in a society that protects everyone’s freedom of speech.

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 and both are employed in a job that pays another 200 MUs per month after taxes. Then Jane is laid off and suffers involuntary unemployment while John does not. Does Jane’s continued receipt of her BI grant compensate for her loss of paid work? I don’t think so. She has suffered a severe blow to her welfare. Her income has been cut in half, and her BI grant doesn’t replace a penny of her loss, because she already received the full value of her BI grant before she was laid off. She is now seriously disadvantaged in her pursuit of real freedom compared to John. He receives the same BI grant that she does, but he also enjoys the income from his job along with any non-pecuniary benefits it provides him. 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? Even the opportunity to say “screw it” and live on her BI grant alone was a benefit that she enjoyed before she was laid off and that John still enjoys. John can choose between being employed and being voluntarily unemployed. She cannot. Nor would our assessment change if John and Jane were new entrants to the labor market rather than laid-off workers. If John found work but Jane did not, their respective positions would be identical to the scenario described above.

Jane’s BI grant does prevent her from falling into poverty, of course, and that obviously is worth a great deal – just as the availability of unemployment insurance benefits would. That’s precisely my point. A BI guarantee does provide a valuable benefit, but that benefit lies in its contribution to securing Jane’s right to income support, not her right to the benefits that having a paying job confers on those who have one or know they can obtain one if they choose to do so.

*A BI Guarantee as Compensation for Non-Market Work:* A more substantial challenge to my assessment of the value of Jane's BI guarantee consists of claims that its unconditional nature would, in fact, help her find a new job because it would make it possible for her to consider employment opportunities that paid less than her old job but which might provide more personal satisfaction. The limiting case would be a job that provided no monetary remuneration at all, such as caring for family members or performing volunteer community service. Wouldn't a BI grant convert such service into a form of self-directed employment by providing the monetary compensation that such work is denied in societies without a BI guarantee? Thus, rather than failing to provide a substitute for the right to work as it is conventionally defined, doesn't a BI guarantee actually expand that right – by incorporating into it otherwise uncompensated non-market work?

A number of BI advocates argue along these lines. We already have noted Perez's (2000) argument that work should be conceived more broadly than as consisting just of paid employment. From this he concludes (*ibid*) that:

The right to work cannot be synonymous with the right to employment or to an occupation with remuneration. In the past they were synonymous because in conditions of full employment, this was the way to achieve social integration. Today conditions have changed and the right should be redefined as the right to engage in a non-alienating activity that allows the person to develop and integrate in society regardless of whether or not the market values the activity.

As noted above, Standing (2002a: 275) suggests that this expanded entitlement be conceived as a right to "occupation or occupational security." He summarizes the vision underlying this conception in the following terms (Standing, 2002b: 4-5).

Assuming a *veil of ignorance* (not knowing where they would be in the distribution of outcomes), what sort of society would we want to leave for our children? My own gist of the answer is that they should be living in a society celebrating a diversity of lifestyles, constrained only by the need to avoid doing harm to others, and living in circumstances in which a growing majority of people work on their enthusiasms, to pursue their own sense of *occupation* – combining their competencies, or "functionings," varying their work status, and possessing the means to be responsible to their family, neighbors and wider community. They are "in control" and able to pursue their "calling," their portfolio of activities. They live in an environment of *co-operative individualism*, in which individual freedom of action and reflection is backed by collective agency. This notion of development may be called *occupational security* – the security in which to develop capabilities and a working life in which one can combine forms of activity, including the stillness of contemplation.

According to Standing and Perez, providing all members of society an unconditional BI is crucial to securing this expanded right. What neither of them explains is why the realization of

this expanded right requires the repudiation of the right to work. Wouldn't the right to occupational security be enhanced if it included the assurance that paid work would always be available to those who wanted it?

More pointedly, in their enthusiasm for the BI idea, neither Standing nor Perez consider the shortcomings of a BI guarantee as a means of achieving their vision. Presumably, a society that wanted to secure the right to "occupation" would aspire, at the very least, to provide the same monetary and social rewards to people who perform socially useful non-market work (e.g., child care or community service) that it provides to people who perform similar work for wages. While a BI guarantee could help achieve that goal if it replaced the wage income people lose when they give up paid employment, an unconditional BI grant paid to all members of society without regard to their income or labor status would compensate non-market workers no better than it would the involuntary unemployed.

Recall our hypothetical involving Jane and John Doe. Suppose that after she loses her paying job, Jane decides to stay home and care for her invalid father. Has her right to occupation been secured because her BI grant makes it possible for her to elect this option rather than to search for a paying job? Does the BI guarantee she receives demonstrate a societal commitment to value non-market work on a par with market work?

Jane's actual position is portrayed in Figure 2. It shows the work performed and income received by John, Jane and Jane's invalid father. Respectively, they may be viewed as representing all paid workers, all persons performing non-market work for the intentional benefit of other people, and all other persons. I have assumed that both John and Jane devote 40 hours per week to the work they perform for others – John in his market job and Jane as an unpaid family care worker.

Figure 2

	Weekly Hours Worked for Others	Wages Received for Work	Basic Income Grant	Total Income
John ( <i>a wage laborer in a market job</i> )	40	200	200	400
Jane ( <i>an unpaid family care worker</i> )	40	0	200	200
Jane's Invalid Father ( <i>a non-worker</i> )	0	0	200	200

Figure 2 shows that any talk of Jane being compensated for her family care work is just that – talk. She does receive her BI grant, but so does John who may never perform a lick of work for anyone but himself outside his paying job, and so does Jane's invalid father, who

receives the same BI grant for receiving Jane's care as Jane does for providing it. Jane still suffers the same disadvantages relative to John that she did in our previous assessment. Moreover, we see that she also is disadvantaged relative to her father who receives the benefit of her 40 hours of work per week plus his BI grant without performing any work at all in exchange for it. When her circumstances are compared to those of either John or her father it is clear that Jane receives no monetary compensation whatsoever for the socially useful work she performs. And to the extent society signals its approval of the work people do by its willingness to pay for it, the message conveyed to her is essentially the same as the message conveyed by the market. Only wage labor has value. The BI grant she receives does increase her options – as do all income support benefits – but to claim that it secures her right to occupational security is empty rhetoric. It could be claimed with equal justice that getting married to someone willing to “support her” would secure Jane's right to occupation, since that too would permit her to stay home and care for her invalid father. Whatever injustice or moral imbalance is created by the market's failure to compensate non-market work would be left fully intact by a universal and unconditional BI guarantee.

As Noguera and Raventos (2003: 13) note, “when we talk about a right to work, we are talking about paid work: otherwise the idea would not make any sense, because we would be defending the right to work for free (which is absurd, and, in fact, does not seem necessary to defend at all.” Unfortunately, the right to work a BI guarantee would provide to unpaid family care workers and volunteer community service workers is of this type – a right to work for free. Governments provide many goods, services, and benefits for which a quid pro quo could be demanded but which are instead provided gratis. These include public roads and parks, police and fire protection, public education, health insurance in many countries, and various other universal benefits. We do not characterize these goods, services and benefits as compensation for the non-market work people perform, because their receipt is not conditioned on the performance of any work, and the same would be true of an unconditional BI guarantee. To describe BI grants as providing compensation for unpaid family care or community service work makes no more sense than to claim that public education or the provision of police services provides such compensation.

But maybe Standing's point is not that all forms of work – both waged and non-waged – should be equally valued and supported, but that all self-directed activities – including, as he says, “the stillness of contemplation” – should be affirmed and supported. According to this view, a BI guarantee should not be conceived as compensation for work or even as a means of enabling people to engage in non-market activities. It's role would be simply to demonstrate society's support for individual autonomy, no matter how it is exercised. John, Jane and Jane's father receive the same BI grant, on this view, not to compensate them for the different occupations they chose to pursue, but to support that part of their being that they alone control – the part that John owes only to himself rather than to his boss, the part that Jane owes to herself rather than to her father, and the part that Jane's father owes only to himself, despite his dependence on others. Perhaps an unconditional and universal BI grant could be justified on these grounds, but not as a replacement for securing the right to work, nor as a means of providing compensation to persons who engage in socially useful forms of non-market work.

*BI Guarantees and the Availability of Paid Employment:* Some BI advocates also argue that an unconditional BI guarantee would function as a substitute for securing the right to work because it would make it easier for job seekers to find paid employment. The reason for this is because the financial security provided by their BI grant would permit them to seek and accept lower-paid employment. As Van Parijs (1995: 126) explains,

the higher the grant, the easier it is to create one's own job by becoming self-employed, to work part-time or to accept a lower wage *in order to* get a job that has a non-pecuniary feature (including training opportunities that improve future pecuniary prospects) to which one attaches particular importance. The involuntary unemployment that is countenanced by the application of our principle is therefore most unlikely to take the form of forced inactivity. With a high basic income, it can safely be predicted that all those who wish to perform paid work will actually do so (abstracting from search periods), whether as waged or self-employed workers.

The first thing that should be noted concerning this claim is that it is important not to confuse the redistribution of existing jobs with the creation of new jobs. If Jane's receipt of a BI grant causes her to go into business for herself or to seek and accept a lower-paying job than she otherwise would have considered, what happens to the person who, but for Jane's competition, would have filled that job or earned a living from their own self-employment. Shifting Jane's involuntary unemployment to the shoulders of another involuntarily unemployed person may satisfy Jane's desire for a paying job, but it does nothing to secure the right to work.

Economists refer to the minimum wage a job seeker is willing to accept as their "reservation wage." For Jane's reduced "reservation wage" to help secure the right to work, it is not enough that it may help her find work. It has to result in a net increase in the number of jobs employers are willing to fill and/or the number of opportunities for self-employment that exist in the economy. One possible route to this result, of course, is the neo-classical path to full employment that Standing rejects as unacceptable because of its "cost, in terms of lower wages, less social protection, more stress, social illnesses and inequality."<sup>9</sup> Reliance on this mechanism

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9 As noted earlier in this paper, there also is good reason to doubt that the neo-classical strategy would work. The claim that wage reductions will lead to increased employment is perfectly plausible at the level of the individual business firm, but at the macroeconomic level it is theoretically incoherent and lacks empirical support (Harvey, 2000b: 709-730). Aggregate employment is a function of aggregate demand, and all other things remaining equal, falling wages will cause aggregate demand and employment levels to decrease rather than increase. This is why virtually no one proposes wage cuts as a way out of recessions. It also is why progressive versions of the neo-classical strategy argue that the role of increased labor market "flexibility" is not to move the economy down an imagined pair of aggregate supply and demand curves towards a market clearing equilibrium point, but to reduce the supply bottlenecks and consequent inflationary tendencies associated with tightening labor markets and thereby create more "room" for expansionary macro-economic policies to stimulate aggregate demand (International Labor Office, Undated). The effect of a BI guarantee on labor market "flexibility" in this latter sense is ambiguous, because it is not clear whether BI grant recipients would be more or less resistant to the kind of changes employers

also is inconsistent with the argument that a BI guarantee would cause improvements in the quality of low wage jobs by giving low wage workers the opportunity to refuse sub-standard employment – the “drop dead option” that Standing (2002a: 259) highlights.

Van Parijs (1996) embraces both the claim that a BI guarantee would cause improvements in the quality of low-wage jobs and the claim that it also would allow job seekers to lower their reservation wage for particularly attractive jobs .

It is essential to understand that the impact [of a BI guarantee] on pay levels will not be unambiguously to lower pay. For one should bear in mind that basic income is given unconditionally, so that it won't work simply as an employment subsidy to lower labour [costs] for the employer. It can be used that way by the beneficiaries of basic income, who are enabled to accept jobs which pay less than those that are currently available; but they will do so only on condition that these jobs are sufficiently attractive to them, compared to the alternatives on offer. They may be more attractive because of some intrinsic feature, or because of the training they provide. For other jobs that are unattractive and provide little training, the long-term impact will be to raise the amount of money that employers need to pay.

Van Parijs's prediction, therefore, is not that Jane's reservation wage would fall for all jobs, but only for more attractive jobs. For less attractive jobs, he predicts that her reservation wage would increase. Would this help her find paying work? More importantly, if Jane's behavior were typical, would it cause employers to create more jobs? Jane's increased willingness to accept attractive low wage employment would tend to increase the number of job vacancies for which she could apply, but her increased resistance to less attractive jobs would have the opposite effect. The overall effect of these two tendencies on Jane's individual employment prospects would be indeterminate. Only an unqualified reduction in her reservation wage would clearly improve her individual employment prospects, but that's not what Van Parijs predicts. Moreover, it's precisely the path to full employment which Standing rejects because of its negative effect on labor standards. Van Parijs needs to further explain his analysis on this point.

*BI Guarantees and the Quality of Low Wage Work:* We have seen that BI advocates argue that a BI guarantee would force improvements in the quality of low-wage jobs by empowering low-wage workers to refuse sub standard employment. The greater the number of low-wage workers who would exercise this “drop dead” option, the greater would be the number of sub-standard jobs that would be either eliminated or upgraded to attract willing workers. If true, this would help secure the qualitative aspect of the right to work; but how strong would this effect be?

A BI guarantee would remove the whip of absolute necessity that currently forces low-wage workers to accept sub-standard jobs, but that does not mean they would feel free to refuse

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initiate to control costs in tightening labor markets.

them. As noted above, BI advocates accept that anyone who wants more than a subsistence income should have to work for it. Notwithstanding their receipt of a BI guarantee, middle class worker with bills to pay and life-style expectations to maintain would be likely to feel a strong compulsion to seek and accept wage employment to protect both their financial solvency and their lifestyle. Why would low wage workers feel any less compulsion? They, too, would be likely to have bills to pay and lifestyle expectations to maintain, and precisely because their income would be lower, they would likely feel more hard-pressed in their efforts to maintain their financial balance than their middle class counterparts. To exercise their “drop dead option” low-wage workers who are usually employed would have to accept a dramatic cut in income, and even irregularly employed low-wage workers might be hesitant to give up a “lousy” job that lifted their income above the minimum provided by their BI grant.

Indeed, rather than eliminating “bad” jobs, a BI guarantee might subsidize them, allowing employers to lower wages rather than raise them, since low-wage workers would need less wage income to survive but still might feel a strong compulsion to work in order to earn an income (including their BI grant) above the poverty level. Recall Van Parijs’s argument. He asserts that a BI guarantee would permit unemployed workers to accept lower wages in order to obtain an attractive jobs, but the same would apply if the low-paid job was unattractive – a “bad” job in every sense of the term – provided the low-wage worker aspired to more than a BI and there was a shortage of “good” jobs available. What low-wage workers need in order to put pressure on employers to eliminate “bad” jobs isn’t a BI guarantee. What they need is ready access to decent work, the strategy proposed by right to work advocates (Harvey, 2003).

*BI Guarantees and the Right to Work:* The fact that a BI guarantee would not be a very good substitute for securing the right to work is not surprising, nor should it be viewed as a condemnation of the BI idea. Recall that my basic point is that a BI guarantee should be viewed as a means of securing the right to income support rather than as a replacement for securing the right to work. Viewed in that light, the fact that a BI guarantee would not provide a satisfactory substitute for securing the right to work is no more surprising than the fact that it would not provide a satisfactory substitute for securing the right to education or health care. All of the goals BI advocates pursue and all of the criticism they direct at workfare – or more broadly at what Standing (2002a: 7-9) refers to as “labourism” – are untouched by this conclusion. All that is required is that they recognize that access to decent paying work is as important a right as access to quality education, quality health care, and adequate income support, and that policies suited to the achievement of each of these goals are worthy of their support, including the use of direct job creation or some other equally effective policy to secure the right to work.

### **Van Parijs’s Rejection of the Joint Policy**

I have emphasized that there is no reason in principle why a BI guarantee could not be combined with the use of direct job creation to secure the right to work. Van Parijs is the only BI advocate I know who has commented on this possibility. We have seen that like other BI advocates, he argues that a generous BI guarantee would provide an adequate substitute for securing the right to work, but he also concedes (Van Parijs, 1995: 126) that the right could be



better secured by other means, including direct job creation.

By asserting that the basic income strategy caters adequately for the right to work, I do not mean to imply that there is no better way of looking after this dimension of freedom. One could devise policies that provide jobs with good pay and comfortable working conditions to anyone wishing to perform paid work.

He rejects this option, though, on the grounds that it would reduce the size of the maximum BI grant a society could provide, and thereby unfairly redistribute resources properly claimable by all to those who have an “expensive taste” for paid labor. “It would amount to giving a liberally unjustified privilege to those who have a stronger preference for waged labor” than for other activities (ibid). In other words, by using public resources to create jobs for involuntarily unemployed individuals, the preferences of those members of society who want paying work would be unfairly favored over the preferences of those members of society who would prefer to pursue other activities supported by a larger BI guarantee. Since, as we have noted, Van Parijs believes a BI guarantee could be used to subsidize the acquisition of paid employment as well as other activities, he does not believe this position involves any slighting of the right to work (ibid).

The approach presented here, therefore, does not require that the right to work should be swapped for a right to income, nor that priorities should be shifted from the former to the latter. All it requires is that no special privilege be given to one dimension of freedom over another, or that people with different tastes should not be treated in discriminatory fashion.

Before assessing this particular argument, it is important to note two things concerning its relationship to Van Parijs’s overall philosophical argument. First, Van Parijs’s advocacy of neutrality between different “dimensions” of freedom should not be misconstrued as an endorsement of the idea that state action should strive for neutrality in general. Rather, he subscribes to a version of the “maximin” standard (maximizing the minimum) popularized by John Rawls (1971). For purposes of promoting “real freedom” (the possession of both the right and the means to live the life one chooses) Van Parijs (1995: 5) defines the applicable maximin standard as follows.

Institutions must be designed so as to offer the greatest possible real opportunities to those with least opportunities, subject to everyone’s formal freedom being respected.

It is Van Parijs’s contention that the best way to achieve maximin real freedom would be to provide all members of society an unconditional BI grant pegged at the highest level that can be durably maintained and then leave each individual free to decide how to utilize their grant. In other words, Van Parijs’s position is that government should distribute the financial resources necessary to achieve real freedom in maximin fashion, thereby favoring the least advantaged members of society, while adopting a position of strict neutrality with respect to how those

resources are used, thereby favoring real freedom over other possible policy goals.

The second thing that should be noted about Van Parijs's overall philosophical argument is its embrace of a single policy goal – the achievement of maximin real freedom. Stated differently, he *privileges* real freedom over all other public policy goals in his analysis, equating the achievement of maximin real freedom with the achievement of social justice. He allows that a “good society” legitimately might sacrifice some real freedom to pursue other goals, such as making “social relations more fraternal,” but he views these other goals as entailing properties other than “justice.” In his view the pursuit of social justice is synonymous with the pursuit of maximin real freedom (ibid: 27).

The reason this is important for our discussion of the right to work is that Van Parijs's position accords a priori stature only to those human rights which protect formal freedom. In his view these consist of a well-enforced structure of rights that guarantees all individuals strict legal protection of their ownership of themselves (ibid: 20-25). Van Parijs's support for economic and social rights (e.g., the right to work, income support, education or health care) is subsumed by his support for the BI idea. We see this, of course, in Van Parijs's willingness to reject efforts to secure the right to work because it would reduce the size of the BI guarantee a society otherwise could afford to pay, but it also is apparent in his discussion of other economic and social entitlements, such as the right to education, health care, and income support.

I have serious quarrels with the exclusivity of Van Parijs's embrace of real freedom as a policy goal, as I do with all efforts to reduce the multiple objectives human societies legitimately pursue to a single dimension – whether that dimension is wealth, utility, real freedom, or even the promotion of human rights (Harvey, 2002). It is beyond the scope of this paper, though, to discuss possible shortcomings in the real freedom standard. In evaluating Van Parijs's rejection of direct job creation as a means of securing the right to work, I propose only to assess the consistency of his reasoning with his own stated goals, not the ultimate merits of his position. In other words, is Van Parijs true to his own values in rejecting the use of direct job creation as a means of achieving maximin real freedom?

There are three problems, from this perspective, with Van Parijs's argument that using direct job creation to secure the right to work would “amount to awarding a privilege to people with an expensive taste for a scarce asset” (ibid: 109). First, I think Van Parijs's argument is inconsistent with his discussion of education and health care financing. Second, it assumes without proper warrant, in my view, that securing the right to work would necessarily reduce the size of the maximum sustainable BI guarantee a society could afford to pay. Third, it assumes, also without proper warrant in my opinion, that reducing the size of a society's maximum sustainable BI guarantee to pay for policies designed to secure the right to work would necessarily reduce maximin real freedom.

*The Right to Work and the Right to Health Care and Education:* Van Parijs (Forthcoming: 22) argues that “stressing the case for an unconditional cash floor for all should not make one neglect the prior importance of providing every child with quality basic education

and every person with quality basic health care.” He offers no rationale, however, for this prioritization, and given his treatment of health care and education in *Real Freedom for All* (Van Parijs, 1995) it is not clear whether he thinks access to health care and education is an *a priori* right, directly constitutive of real freedom, or whether he thinks public provision of health and education benefits is justified only as a means of maximizing the cash and in-kind BI guarantee a society can afford to provide its members.

In *Real Freedom for All* Van Parijs appears to endorse the latter position. First (ibid: 43), he argues that some public funding of education and health care can be justified because receipt of these benefits provides positive externalities that are likely to increase the size of the net cash and in-kind BI guarantee a society can afford to pay. Second, he argues that such funding also is justified because (1) any person in their right mind would choose to use part of their BI grant to purchase these items, and (2) providing them collectively and universally is likely to result in considerable cost savings over a market-based system, thereby once again increasing the size of the maximum sustainable cash and in-kind BI guarantee a society can afford to provide (ibid: 43-45). Third, after noting that the maximin principle requires that extra compensation be provided to at least some severely handicapped individuals (ibid: 58-84), Van Parijs observes that this provides an additional rationale for providing certain health and education benefits at public expense (ibid.: 84, n. 45). His point is not that people have a right to these benefits but that the provision of generous health and education benefits could reduce the incidence and negative effects of handicapping conditions, thereby permitting society to allocate funds to its BI guarantee that otherwise would have to be paid as special compensation to the handicapped.

None of these arguments recognize access to education or health care as a right. They simply observe that providing some level of education and health care benefits at public expense would tend to increase the overall size of the cash and in-kind BI grant a society could afford to provide. Would any of these arguments similarly justify the use of public funds to secure the right to work? I think they all would.

First, it is well documented that involuntary unemployment has substantial negative effects on physical health, mental health, family stability, crime rates, the opportunities parents are able to provide their children, and the employment prospects of its victims (Harvey, 2000b: 679-681; 2002: 398-401, 439-440). Nor is there any reason to believe that a BI guarantee would eliminate these effects, given our analysis of the limited ability of such a benefit to compensate the unemployed for their lack of paid work. That being the case, it would be easy to argue, as Van Parijs does with reference to health care and education, that securing the right to work would generate productivity-enhancing externalities that could increase the size of the net cash and in-kind BI grant a society could afford to provide.

Second, understanding the personal costs of involuntary unemployment, is there anyone in their “right mind” (as defined by Van Parijs) who would not choose to devote a portion of their BI guarantee to insuring themselves and others against it? Moreover, the argument for having government provide this benefit rather than the market is far stronger than in the case of health insurance and education, since there is no private market equivalent of a government job

guarantee. For people to enjoy guaranteed access to decent work, a BI guarantee would have to be supplemented by a government commitment to securing the right to work.

Third, since handicapped individuals are likely to be disproportionately represented among the involuntary unemployed, the same rationale Van Parijs uses to justify the provision of special education and health care benefits to the handicapped would also apply to the establishment of special employment programs to guarantee handicapped individuals access to work. By mitigating the negative employment effects of their handicaps, a society would reduce the amount of special compensation owed such person, thereby increasing the size of the BI guarantee a society could afford to provide.

Finally, although Van Parijs's analysis of education and health care benefits in *Real Freedom for All* seems to be based entirely on their contribution to increasing the size of the BI guarantee a society could afford to pay, he does suggest that other considerations also may apply (ibid: 73, n. 21). In particular, he appears to endorse Rakowski's (1991: 97) suggestion that access to health care may be a *right* in and of itself. If Van Parijs does view access to health care and education as fundamental rights, justified by egalitarian and not just maximin considerations, it would explain his more recent suggestion, quoted above, that funding education and health care benefits has a "prior importance" to the establishment of a BI guarantee. But if that is the case, he needs to explain why he doesn't accord a similar status to the right to work.

*The Effect of Government Job Creation on the Funding of a BI Guarantee:* Like most policy analysts, Van Parijs adopts markedly different positions towards the cyclical joblessness that market economies experience during recessions and the endemic joblessness they experience even at the top of the business cycle. He recognizes that cyclical unemployment "obviously constitutes a waste of resources" (Van Parijs, 1995: 204) and thereby diminishes the size of the maximum sustainable BI guarantee a society could afford to pay (ibid: 205). Consistent with this view, he endorses a broad array of policies designed to eliminate cyclical unemployment, including Keynesian demand management, incomes policies, the replacement of fixed wages with Weitzman's (1984) proposed wage share system, and even Jay's (1977) proposal to transform all large business firms into worker-owned cooperatives (Van Parijs, 1995: 204-210).

In contrast to this bold attack on cyclical unemployment, Van Parijs does not advocate any policies for eliminating the endemic unemployment market economies endure across the business cycle – beyond his previously discussed argument that a BI guarantee would reduce involuntary unemployment by allowing individuals to "buy[] themselves into a job" (Van Parijs, 1996). Moreover, he expressly criticizes work-sharing and wage subsidy proposals on the grounds that they would reduce the size of the maximum sustainable BI guarantee a society could afford to provide and/or unfairly favor the work-keen over those who would prefer not to work (Van Parijs, 1995: 110-111). In arguing the latter point, though, he assumes that society would have to choose between a BI guarantee and either work-sharing or employment subsidies. If these policies contributed to aggregate output, as he concedes they might, the benefits they provide involuntary unemployed individuals would not diminish the size of the BI guarantee a

society could provide. It would increase it. On maximin grounds, therefore, Van Parijs should offer his qualified support for such policies even if they would favor the work keen, as long as they also increased the tax base supporting a BI guarantee.

Van Parijs's rejection of the direct job creation strategy for eliminating involuntary unemployment is not as fully argued as his rejection of work sharing and wage subsidy schemes, but in discussing direct job creation he adopts some of the same arguments by reference (ibid: 126). As noted above, the claim that using public resources to secure the right to work would be unfair to those who prefer not to engage in wage labor presupposes that it would reduce rather than increase the tax base supporting a BI guarantee. Otherwise the maximin standard would require that the BI guarantee be supplemented by the job creation effort, even if it did favor the "work keen." The question we must ask, therefore, is whether Van Parijs is correct in assuming that direct job creation by government would reduce the tax base supporting a BI guarantee.

Van Parijs does not address this issue directly, but there are two points worth repeating here from our earlier discussion of claim that a job guarantee would be more expensive than a BI guarantee. First, it is easy to overestimate the overhead costs of a job guarantee program by failing to appreciate that jobs created to perform overhead functions within the program and jobs created in the private sector to supply materials for the program would add nothing to its overall cost. A created job is a created job, so with minor exceptions, the cost per person employed under an initiative to secure the right to work would consist entirely of the wage and benefit costs of the created jobs (including jobs performing overhead functions or providing services and supplies to the program). Second, in a government job creation program, the net cost per created job would consist of these wage and benefit costs less the taxes program participants would pay on their program wages and any revenue generated by sales of program output. Thus, for the government to "break even," it is only necessary for the program to generate revenue in excess of the after-tax wage and benefit costs of all the persons employed directly by the program and of the additional workers hired by private firms to provide goods and services to the program.

We cannot say a priori whether a direct job creation program operated by government would "break even" in this sense, but the possibility cannot be ruled out. The "break even" point for private firms in deciding whether or not to create additional jobs is substantially higher. The additional workers hired by private firms must be able to produce revenue in excess of the pre-tax (rather than after-tax) wages and benefits they are paid, plus the purchase price of supplies and materials required to productively employ the workers hired and the average rate of profit on the capital investment required to finance the entire undertaking. The fact that private firms do not find it profitable to hire everyone who wants to work does not mean that a direct job creation program designed to secure the right to work could not "break even." Indeed, one of the advantages of using direct job creation to secure the right to work is that such a program could "break even" without achieving the same level of productivity as a private firm. If such a program did break even in the sense I have described, it would have no effect on the size of the BI guarantee a society could afford to provide and therefore should be endorsed on maximin grounds.

*The Components of Maximin Real Freedom:* As we have noted, Van Parijs’s support for the BI idea is based on his belief that it is the best means of achieving maximin real freedom; but he also concedes that creating decent jobs to secure the right to work would enhance the real freedom of involuntary unemployed persons more than receipt of a somewhat higher BI grant alone. He rejects that option, however, based on the assumption that it would reduce the real freedom of the least advantaged members of society – whom he tacitly assumes would consist of people who would not benefit either directly or indirectly from having the right to work secured. We have just called into question Van Parijs’s express assumption that securing the right to work would reduce the size of the BI guarantee a society could afford to pay, but assuming he is right on that point, his position still depends on the truth of his tacit assumption that the least advantaged members of society would benefit more from receiving a somewhat higher BI grant than from having their own right to work secured along with that of everyone else.

How can we determine which arrangement will achieve maximin real freedom? Van Parijs assumes, in effect, that all external resources capable of assisting people in their pursuit of the life they want to lead – including paying jobs – can be purchased. In other words, he assumes that a BI grant of given size provides all persons who receive it the same access to the external resources they need to live the life they want to lead – be it a plot of land to grow vegetables, a surfboard, a course in Etruscan art, or a paying job. If all these resources are fungibly exchangeable for money in perfectly competitive markets, then maximizing the size of the BI grant a society provides would necessarily maximize the access of the least advantaged members of society to the resources they need to maximize their own real freedom. This is the true importance of Van Parijs’s (1996) already discussed claim that a BI grant would enable involuntary unemployed job seekers to “buy[] themselves into a job,” since only then would a paying job be fungible with other external resources purchasable with a BI grant.

Would a BI grant provide unbiased access to all external resources relevant to the pursuit of real freedom? I do not think so. A BI recipient who wanted a plot of land, a surfboard, or a course in Etruscan art to live the life she wanted would need nothing but money to obtain those resources. And if we assume that the prices established in perfectly competitive markets fairly allocate scarcity, then a BI grant would provide everyone equal access to those resources.

But what if the “resource” a BI recipient wanted to live her chosen life was a paying job? Would her BI grant provide her fungible access to that resource? No, it would not. Jobs are different from other resources in this regard because they cannot be purchased with money. Job seekers do not enter the labor market as buyers but as sellers. Except in corrupt markets they cannot buy a job. They can only sell their own labor – and the amount of money they have in their pocket has no direct effect on either the value of the labor they have to sell or whether an employer will be willing to purchase it.

A BI recipient could use her grant to improve the quality of her labor (by taking a course), to enhance her access to potential employers (by hiring an agent), or to polish the appearance of her labor (by buying a new interview suit); but her ultimate success in finding a

job that suited her would depend mainly on factors over which marginal variations in the size of her BI grant would have little or no effect. In other words, just as a \$10,000 BI grant would *not* provide every BI recipient the same access to paid work, there is no reason to believe it would provide BI recipients in general the same access to paid work that it would to external resources that are purchasable with money. This means a BI grant cannot be presumed to provide all persons the same baseline access to the resources they need to maximize their own real freedom. To achieve that goal, access to paid work would have to be redistributed separately from access to purchasable resources, perhaps by providing all members of society a “basic job guarantee” in addition to a “basic income guarantee.”

Combining the use of direct job creation to secure the right to work with a BI guarantee would clearly increase the real freedom of everyone who wanted paid work, everyone who depended for support on someone who wanted paid work, and everyone who had an interest in the welfare of someone who wanted paid work. It also would increase the real freedom of everyone who might want paid work at some point in their lives, because of the immediate security provided by the certain knowledge that decent work would be available for them if and when they ever wanted it. In other words, securing the right to work would increase the choices available to all members of society, even if all members of society did not elect to accept paid work. And while a job guarantee combined with a BI guarantee could not be presumed to provide all persons the same access to the external resources they want to live the lives they choose, pretending that jobs are fungible with external resources purchasable with money doesn't get us any closer to that goal. The proper solution to this dilemma, in my view, would be for Van Parijs to treat economic, social and cultural rights the same way he treats political and civil rights – as universal entitlements that must be fully secured for all persons independent of the benefits provided by a universal unconditional BI grant. He may already be moving in that direction in his treatment of the right to education and health care. He could simply add the right to work to that list.

### **BI Guarantees As A Means of Securing the Right to Income Support**

I have argued that a BI guarantee should be viewed as a means of securing the right to income support rather than as a substitute for the right to work. From that perspective, the main advantage of the BI mechanism is its administrative simplicity. As noted above, the Universal Declaration imposes a two-legged social welfare mandate on governments as a means of guaranteeing the income security of all persons. On the one hand, governments have a duty to strive to secure the right to work. On the other hand, they have a similar duty to secure the right to income support for everyone who is unable to earn their livelihood from work. In principal securing these two rights would guarantee all members of society a dignified standard of living, but implementing the model would require both the setting of standards and factual determinations as to who would and who would not be deemed capable of self support. The two legged model also leaves unanswered the question of whether society has an obligation to provide income support to persons who could be self-supporting but would prefer to engage in other activities such as family care work, volunteer community service, or just loafing on the beach.

Providing all members of society an unconditional BI guarantee in addition to guaranteeing their right to work would at least partially eliminate these difficulties. I say partially because a BI guarantee would not satisfy society's obligation to provide equal opportunity to the disadvantaged. Nor would it solve the problem of deciding whether and how the Universal Declaration's "equal pay for equal work" mandate should be applied to uncompensated family care and community service work. Finally, it would not determine what level and kinds of income support beyond a BI guarantee should be provided to particular groups of people – the elderly, persons whose ability to work is interrupted by accident or illness, persons with permanent disabilities, and so forth. Thus, the need to set and administer eligibility criteria for income support benefits would still remain even with a BI guarantee, but the consequences that would flow from the way in which these eligibility determinations were made would be lessened. Rather than deciding whether a particular individual was entitled to any income assistance at all, the question would be whether they were entitled to income assistance in addition to their BI guarantee.

I understand that this view of the role a BI guarantee would play in securing the economic and social rights recognized in the Universal Declaration is more modest than the vision promoted by BI advocates. As Van Parijs (1995: 232, n.75) has noted, a BI guarantee "would of course be far less important if we lived in a world . . . in which every able-bodied person could reasonably expect to find, after some affordable training, a job that paid enough to feed a family." Nevertheless, there still would be a roll for a BI guarantee to play in such a world, and I believe it is up to BI advocates to make the case that it is an important enough role to justify their proposals.

The major difficulty I would anticipate in this regard involves the issue of cost. As we have noted, a BI guarantee provided in the form of a universal unconditional grant would be very expensive. It may be that the "value added" by a universal BI grant to policies that secured the right to work and income support as those rights are conventionally conceived would not justify its cost (Harvey, 2003). But less expensive mechanisms for providing a BI guarantee do exist, such as a negative income tax or a public assistance benefit that is means-tested but not work-tested.

Handler (2004: 272-278) has argued, for example, that a BI guarantee would empower people who are dependent on public support for the subsistence. Noting the unequal bargaining power between public assistance recipients and the officials who control their benefits, Handler criticizes as illusory the currently popular notion that social welfare clients can be empowered by giving them the right to enter "contracts" in which they promise to undertake certain activities in exchange for their benefits. Call them what you will, these "contracts" are inherently demeaning and coercive, in Handler's view, because social welfare clients lack the real freedom to reject their terms, the essential feature of all true contracts. What social welfare clients need, he argues, is an "exit option" permitting them to reject the services and obligations that social service agencies now require their clients to accept in exchange for the income assistance they receive. Handler fully accepts that most public assistance recipients need social services and not



just money. His argument is that they should be afforded the dignity of deciding what social services they need, just as social welfare clients with money do, and that this will actually enhance the likelihood that the services they receive will be effective in achieving their.

For Handler, the value of a BI guarantee is that it would provide public assistance recipients this “exit option.” Securing the right to work would also help, by providing an “exit option” to those public assistance recipients who are able to work (Harvey, 1995a), but that option would be insufficient for people whose capacity to hold a paying job is uncertain or who have problems to overcome before they will be able to do so.

I find Handler’s argument persuasive, but the kind of BI guarantee required to satisfy his concerns need not be provided in the form of an unconditional grant paid to all members of society. A negative income tax would provide the same “exit option” and so would a means-tested public assistance benefit provided without attaching other conditions to its receipt. The latter type of public assistance benefit is not unknown. Indeed it is quite common. But it has never been offered in a context where the right to work was secured for all members of society and where adequate provision of social services to help people overcome their disabilities and disadvantages also was secured. Claims that unconditional public assistance benefits discourage work effort and promote dependency have never been put to the test in an environment where it was in fact possible for everyone who wanted paid work to find it and where everyone who needed social services to enhance their employability actually could obtain them. In such an environment one would expect the work disincentive effects of an unconditional means-tested public assistance benefit to be smaller, and to the extent they persisted, the choices made by people who elected not to work could be justified as freedom enhancing.

Providing a BI benefit in this form also would provide a way of judging the adequacy of efforts to secure the right to work while at the same time providing a testing ground for the effects of a BI guarantee. Any increase in the take-up rate of the BI benefit on the part of persons who want jobs would suggest a failure in society’s job creation effort, while the experience of persons who elected to receive the benefit because they did not want a paying job would test the effects of providing such an option. If BI advocates are correct, the positive effects of granting people this form of real freedom should build support for broader types of BI guarantee.

A final advantage of this BI strategy is that it would not conflict with efforts to expand other income assistance benefits that also promote real freedom – such as paid family leave, disability insurance, sabbatical grants, and community service allowances. These initiatives are all consistent with the goals BI advocates pursue and with the human rights mandates recognized in documents like the Universal Declaration. We already have noted that the right to work recognized in the Universal Declaration includes the right to equal pay for equal work. This right could, and I believe should, be interpreted broadly enough to encompass socially useful non-market work. The Universal Declaration also recognizes that everyone has a right to paid leisure and limitations to their working time (Universal Declaration, Art. 24). The reference in this provision to “holidays with pay,” has been much derided by critics of the Universal

Declaration, but the point it awkwardly strives to articulate is that only if leisure time is paid will everyone be able to enjoy a fair share of it. Forced leisure – i.e., involuntary unemployment – is worthless for this purpose.

In the end, I see no conflict between the values BI advocates promote and a vigorous and complete enforcement of *all* the human rights recognized in the Universal Declaration. In particular, proposals to secure the right to work neither contradict nor conflict with proposals to provide all members of society with a BI guarantee. And while cost considerations may argue against the adoption of a BI guarantee in the form preferred by most BI advocates, it would not bar such a policy. And there are less costly versions of the idea which would be just as generous, or even more generous to the poor. In short, there is no good reason for BI advocates to look askance at proposals to secure the right to work. The two policies are properly viewed as complements rather than competitors.

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