

# **BASIC INCOME IN THE DISCUSSION ABOUT HUMAN RIGHTS: RIGHT OR GUARANTEE?**

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**Abstract:** Although in the Declaration of Human Rights approved by the Assembly of United Nations in 1948 a right to an income does not appear, newer declarations of rights like the Emerging Human Rights of 2007 includes a right to a universal and unconditional basic income. In addition, some national laws have recognized Minimum Insertion Incomes as a subjective right. It seems that in the context of global capitalism it is more necessary to recognize a right to an income than a right to a job specially when there is not enough number of jobs to each citizen. However, the political discourse maintains the importance of jobs and cut the income benefits or Welfare State. In this paper, it will be analyzed three points or arguments: firstly, if it is necessary to include new rights in the Declaration of Human Rights. In this sense, a right to a basic income would be a right of a fourth generation or it would be a synthesis right because its content is already included in other social rights? It is necessary to distinguish between the right to an income and the right to a job? Secondly, it will be presented the difference between the concept of right and the concept of guarantee in order to discuss if basic income would work better as a right or as a guarantee of other social rights. Lastly, it will be exposed the role a basic income can play in the context of global capitalism and in its potentiality to transform the arguments for human rights that are used commonly.

## **1. THE CONTEXT OF THE DISCUSSION**

The Universal Declaration of Human Rights, approved by the Assembly of United Nations in 1948, does not include explicitly a right to an income. However, we can discover that some references to that income appear when article 23.3 says “everyone who works has the right to just and favorable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection” or when article 25 points out that “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”. Nevertheless, the logic under these two articles is that one of

conditionality. The first one proclaims that salaries might be enough to assure a life without deprivation. The second one is thinking in an income given only in the event of some circumstances like unemployment, old age, sickness or disability. In consequence, the Universal Declaration of Human Rights is considering an employment-centered society where people obtain incomes necessary to life from jobs and only in some cases they will receive those incomes without working. The right to income is conditioned to demonstrate that the beneficiary deserves that money, in accordance with the idea in 1948 that everybody might occupy a job.

The economic situation has changed a lot from 1948, especially in the last three decades. In resume, we have passed from a productive to a financial capitalism, where the wealth is created in speculative operations more than in the cycle of production-consumption-destruction of goods. In this context it makes sense talking about a right to an income; an independent right different from the right to a job or the right to other type of benefits that we have known in Welfare States. For example, the Universal Declaration of Emerging Human Rights, approved in Monterrey (Mexico) in 2007 includes a right to a basic and unconditional income in the article 1.3: “The right to basic income, which assures all individuals, independently of their age, sex, sexual orientation, civil status or employment status, the right to live under worthy material conditions. To such end, the right to an unconditional, regular, monetary income paid by the state and financed by fiscal reforms, is recognized as a right of citizenship, to each resident member of society, independently of their other sources of income, and being adequate to allow them to cover their basic needs”. This right is quite different from some previous included in national legislations.

For example, in France, Belgium or Spain from the late 80s there are Minimum Insertion Incomes for people who are excluded and have not access to any benefit. Although in the first years the Minimum Insertion Income was a program of the governments who have freedom to decide to offer them, from the middle of 2000 decade, these schemes were included in the regulation as a right, as a subjective right. In consequence, they were included in laws, some of them very fundamental, like Federal laws (Rey Pérez, 2007). Consequently, the conditionality of this income, although it did not disappear it was softer. It is true that the labor centered view was never abandoned, but the importance of maintaining a certain standard of living was seen as a demand that cannot be denied due to employment circumstances. Usually the Minimum Insertion Incomes came accompanied by some type of agreement in which the beneficiary

adopted the commitment to do something to achieve the inclusion in society. But, in the case the beneficiary could not enforce the agreement, the income was given to him. However, it is true that the income played a secondary role because it was subsidiary, only in the case a person cannot be employed, he will receive it. The more sophisticated programs of Minimum Insertion Incomes were closer to unconditionally although not to universality. For example, in Spain, the most developed program of Minimum Insertion Incomes was offered by the regional government of Basque Country; the purpose was to guarantee a certain level of incomes to everybody: although people were working, if their incomes do not achieve that minimum, they receive a certain quantity to achieve the desired level of incomes. In addition, this was completed with some specific benefits to pay, for example, the cost of housing or the cost of some health treatments. This means that, in some cases, a person could receive 1000 Euros per month as minimum insertion income that, in Spain, is an important quantity if we take into account that the minimum salary is nowadays 640 Euros.

This philosophy has recently changed in part due to the financial crisis of 2008. Firstly, we are seeing in all countries, and particularly in the European Union, that the public spend is being cut drastically. The traditional benefits programs of the Welfare institutions have been reduced and following this logic, the right to an income has been substituted again by the right to a job, understood more as a duty to occupy a job. The philosophy of *workfare*, that had been pressing the welfare institutions from the 80s, nowadays has imposed its discourse. And it has done in a context where the figures of unemployment have increased and where the need of some type of financial support for citizens is bigger than ever. This is in part due to the loss of some type of balance between work and capital. Nowadays the wealth is not in the productive activities of capitalism; it is in the speculation activities done in financial markets. This means that there are less work and for capital it is not relevant to worsen the conditions of labor because the benefit does not depend on the worker's capacity of consumption. This is the reason why we are seeing the progressive impoverishment of the majority of the population thanks to regulation made in favor of capital. The traditional ways to defend labor do not longer work. In the past, capital without work did not produce any additional wealth; it can only be produced mixing work and capital: societies of XIX and XXst century were societies of labor. In addition, as we were in the context of productive capitalism, the owners of capital also need consumption of products and services. In these circumstances, it was quite easy to achieve an agreement between labor

and capital, an agreement where capital had a dominant position but where the labor force had some power to negotiate. The Welfare State and its programs are the institutional realization of this idea. And this is the reason why social rights were seen as labor rights. In this context it was coherent that the organization of society was centered in labor.

As I said earlier, today this situation has changed. The capitalism is financial, speculative. The wealth that someone can earn one day with speculative activities is bigger and easier than the wealth that some productive capitalist could obtain in one year of hard work. Thanks to new technologies sometimes it is the computer the one that carries out the speculative action. In this context it is necessary to produce crisis, because in the context of a crisis is where there are some people who obtain big benefits. As Monereo argues “the normal operating mode of neoliberal globalization has been the creation and recreation of successive bubbles that exacerbated the crisis and where the previous created the conditions of the later” (Monereo, 2009: 36). Firstly was Asia in the 90s and now is Europe.

In consequence, the present situation is characterized by these circumstances: firstly, the wealth is mainly created in financial global operations made in front of a computer that destabilize the public debt of countries, value of the companies, the housing markets and so on. Although productive markets are still necessary their importance now plays a secondary role. This can be done thanks to a regulation made by States in favor of the interest of capitalists. Secondly, and as a consequence of the first point, the work has lost his value and his negotiation power. The salaries are being reduced and the labor rights are being reduced. Nowadays be employed is not synonymous of being not poor. The phenomenon of working poors of US has arrived to Europe. As Guy Standing argues today the labor force has become *precariat* (Standing, 2011). Thirdly, the ideology that is behind this situation is not interested in rights, neither interested in social rights nor in civil and political rights. The freedom is used just as a pretext to a regulation that benefits the interest of the owners of capital. We are seeing in Italy or in Greece how they can impose governments over democratic decisions.

Although this is well known, the politicians maintain a job-centered discourse that does not take into account the real and contemporary situation of economy and capitalism. The political discourse of our politicians says that the principal objective might be the creation of employment while, at the same time, they reduce labor rights

and put the workers in a extreme weak position. In this sense, work is not considered as a right but as a duty, a duty that everybody comply if they want to demand some type of help from the society or the political community. In resume, this discourse is the one of the *workfare* that we know from decades; however, nowadays, the discourse has imposed over politicians. Employment is a duty and it is not a right. In this context, it makes sense demand a right to an income?

From my point of view it makes sense, although a right to work and a right to an income are very related rights. In the next sections I will try to distinguish these two rights.

## **2. RIGHTS AND GUARANTEES. THE RIGHT TO WORK AND THE RIGHT TO AN INCOME**

In the theory of rights, it is always necessary to clarify what we understand when we talk about rights because there are many concepts of them. From my point of view, a right might has two components; firstly, a moral element because a right is a justified moral claim that tries to solidify the content of determined moral values, particularly, dignity, freedom, equality, security and solidarity. Obviously, the discourse of rights is a moral discourse. But a moral demand is not enough to talk about right in a legal sense. It is necessary that those moral claims can be included in a legal text, in a legal right. Rights also are valid norms that have been collected in legal texts. This concept of right in some contexts is known as a dualistic concept of human rights that is in the middle of the iusnaturalist contention of human rights and the positivist one (Asís, 2001). However, some authors add a third element based on the efficacy of the claim: in accordance with this theory it is not possible to talk about a right if we do not have, for example, resources to make this right real. Consequently, the recognition of rights depends on the social reality in which they appear and social factors render the justice and morality of rights conditional (Peces-Barba, 1995). I do not agree with this concept of right because it is an argument to deny, for example, social rights with the argument that we do not have enough resources to satisfy them. This argument is used nowadays to reduce benefits in Welfare States and to destroy the Welfare structures. But the argument of scarcity is not objective but ideological (Rodríguez Palop, 2011: 50).

Considerations of efficacy appropriately belong to an institution close to rights, but different from them: namely, guarantees. Guarantees comprise the different measures by means of which the content of rights and duties are made effective. We

recognize a right because if the strength of the moral values it tries to protect and because it is possible to include it in a legal rule that is consistent with other legal rules and, hence, contributes to the coherence of law. Considerations of efficacy are subordinate to these two elements. In other words, we should distinguish between the existence of a right and ways to make it effective. The latter are guarantees of the right rather than an element of the right itself, and efficacy is a primary element of those guarantees. This concept of guarantees implies that morality and the law are properly viewed as superior to the economy. The recognition of rights must not depend on economic considerations because, among other reasons, scarcity arguments are not objective. A right, when it has included in the Constitution, cannot be modified although we open a new constitutional moment and reform it, or we make a revolution to change the *statu quo*. Of course, the ways to make effective rights need to be adapted to the different contexts and situations, especially in XXIst century where the economic, social and political circumstances change very fast. Those are the guarantees, but guarantees might be inside the borders fixed by rights. In consequence, in the discourse of rights we have three levels (moral claim, legal right, guarantee) and correlatively also three levels of universality because while the moral claim is universal (moral values are universal), rights are not necessary universal (for example, we do not recognize some rights to non citizens) and guarantees present a lack of universality in many cases, especially when we examine guarantees to social rights that are in many cases selective and means tested.

It makes sense talk about a specific right to an income different from the right to work? Usually the right to work can be understood with different meanings. Firstly it can be interpreted as neoliberalism does, not as a right but as an obligation. This obligation is universal and the guarantee, the compulsory mechanisms to force you to work are selective because they are focused on those people who do actually need work to life. Secondly, it has been interpreted as the right to a job. In fact, during the development of the Welfare State, the right to work -understood as the right to a job- was identified with the political and economic goal of achieving full employment. With full employment the right to work seemed to be guaranteed.

However, from a legal point of view, there can be different ways of understanding the right to work defined as the right to a job. Following the classical distinction pointed out by Alexy (2001), among others, we can interpret the right to work as either a rule or as a principle. While principles are guidelines that force

governments to do their best to achieve the content of a right, taking into account available options, rules are immediate obligations. They may or may not be fulfilled, but they cannot be fulfilled gradually (Alexy, 2001). In consequence, the right to work defined as the right to a job can be interpreted as a principle or as a rule.

Viewed as a principle, the right to work is understood as a right to a certain level of effort on the part of the State to make jobs available (Montoya Melgar, 1979: 333; Sastre Ibarreche, 1996: 128). This means that governments have a duty to do their best to reduce unemployment and try to ensure that every citizen has a job. Viewed as a rule, the right to work is stronger, because it includes the possibility of going to court in case you do not have a job.

In this sense, the right to work is paradoxical from a legal point of view. If we interpret the right as a principle, it is a right that is always secured because governments always try to reduce unemployment<sup>1</sup>. The guarantees, in this aspect, have been selective like unemployment benefits or subsidies. If, on the other hand, we interpret the right to a job as a rule (Alarcón Caracuel, 1979: 20-21) it is a right that cannot be secured, because if we do not change something fundamental in our economies, there always will be some unemployed. In fact, the concept of full employment as used by economists, includes some level of unemployment. In consequence, as a principle the right to work makes no sense, because it is always obeyed, while as a rule it is impossible to realize, because the economy seems to need some level of unemployment.

However, some authors have interpreted the right to work (viewed as a right to a job) as a rule imposing a duty on the State to create and offer jobs to the unemployed, creating an universal guarantee to this right. As presented by these authors, this right would not contradict the freedom to trade and would not imply the full nationalization of the economy (Harvey, 1989; Gordon, 1997; Mitchell and Watts, 1997; Forstater, 1998; Quigley, 2003). From their perspective, the right to work “involves more than freedom from forced labor and an opportunity to compete for available jobs. It is a right actually to be employed” (Harvey, 2002: 380). This right would imply a duty on the part

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<sup>1</sup> Although governments sometimes pursue other goals in addition to reducing unemployment that may cause them to adopt policies that increase unemployment, it is very difficult to evaluate these policy tradeoffs from a legal perspective. We can examine the policy choices that governments make from a political or an economic point of view, but not from a legal one. If the consequence of some policy is an increase in unemployment, does it imply that the government can be sued for its policy choices? If we accept this idea, economic policy would be decided by courts and judges. Also, while governments do adopt policies that can cause an increase in unemployment in the short run, all governments try to reduce it in the long run. Governments do not voluntarily destroy employment, because, among other reasons, their re-election depends on that point.

of the State to create jobs directly for those people who do not get one in the labor market (Forstater, 1999: 481).

However, this contention has some problems. We could ask what type of jobs the State might create and if they are not fictitious ones, since, if they do not exist, they are not demanded in the market. Jobs created by the governments would involve care work. The idea, then, is to expand some activities that already are being performed and, in exchange for their performance, give people a salary. In consequence, the government would be creating jobs, but those jobs would not be real, because jobs are a commodity that exists depending on the market criteria. To effectuate the right to a job, supporters of direct job creation would not give jobs to everybody. They would create fictitious jobs in order to maintain this narrow concept of the right to work.

In addition, these jobs created directly by the State would be a last option for people who have not found a job in the labour market. In consequence, it would stigmatize them and “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 labour. Theoretically, the process would go until all private firms were driven out of business” (Elster, 1988: 74). In Elster’s opinion, the State only can assure the right to work by nationalizing the whole economy, violating other rights such as the freedom to trade, or by creating a second class labour force of stigmatized workers, thereby violating other rights and moral values such as autonomy.

In discussing these concerns, authors who support direct job creation have argued that Elster starts with two false suppositions: firstly, “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” (Harvey, 2004). Because of these two suppositions, Elster arrives at the wrong conclusions in the opinion of supporters of direct job creation. It could be possible to establish a system that creates jobs only if there were not enough vacancies in the private sector. In addition, wage levels in the guaranteed sector could be established just low enough to make workers indifferent between working in the private sector and working in the guaranteed sector. However, this answer does not reply to the argument



that those who occupy jobs in the guaranteed sector would be perceived as people the private market does not want, and this necessarily would stigmatise them. The idea behind direct job creation proposals is not only that work is a right but that it also as a duty. That is the reason why some authors have emphasized the possibility of imposing these jobs as a temporary duty.

Direct job creation presents some advantages over an understanding of the right to a job as a principle, because it really would provide a job to everybody and the program also might provide more favourable wages and working conditions than sub-standard jobs in the regular 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” (Harvey, 2004); so only people employed in sub-standard private sector jobs would migrate to guaranteed jobs, but not people with decent private sector jobs.

However, from my point of view, this argument, designed to solve the problem of interpreting of the right to work as a right to a job, changes the meaning and concept of jobs. Jobs are work activities that the market values and for which it gives money and recognition in exchange. Direct job creation supporters say that the government must offer jobs when there are not enough in the market, but then they offer something different, something that strictly does not consist of jobs. Instead they are something fictitious created simply to solve the problem created when the right to work is conceived as a right to a job. In my opinion, the proper way to respond to this problem is to broaden our conception of work and abandon the identification of work with wage labor as I will try to explain later.

Nevertheless, from my point of view the right to work can be conceived understanding work in a reproductive sense and not in a productive one (and this would be the fourth meaning of the right to work). In Welfare States citizenship was identified with labour status. To engage in labour was the main and prior requirement to be part of society, and it also was an important element in the construction of identity; it was what caused society to cohere as well as being a way to distribute wealth among citizens and control them (Méda, 1996: 637). Although full employment was not truly achieved, because there were some groups excluded of labour status such as women (whose status depended on their husbands having a job), full employment combined with the protections furnished by labour rights achieved cohesion within societies.

Today the right to work seems to have lost this capability. Rather than achieving social cohesion, labour markets divide society into different groups: *flexibility* and *availability* are the two main characteristics of the current labour market. They imply adaptation to market demands and a reduction in the content of labour rights. The precariousness that was an exception during the years of the development of Welfare State, today is the standard work relation (Standing, 2011).

Obviously, it is not true that full employment achieved social cohesion without any gaps during the years of the development of Welfare State. There were exceptions to full employment that resulted in the exclusion of some people from social recognition, perhaps the most significant case being that of women, who participated in society through the mediation of their husbands. We could point out other examples of groups that did not achieve recognition through the labour market, but in general, it is possible to support the argument that in the 50s and in the early 60s the system achieved a high level of social cohesion.

The evolution of the labour market in the last thirty years has been characterised by an increase in precariousness, the division of the population into different groups, and the growing vulnerability of economies to the forces of globalization. This makes it impossible for the labour market to be the instrument of social cohesion that it once was, because, among other reasons, a labour market with full employment was designed for a different model of society than the one we live now.

There are some authors who have denied the existence of a right to work based on the precariousness of employment today and the current situation of the labour market. These authors argue that the right to work cannot be a right because work cannot be distributed equally. Peces-Barba concludes, for example, that if work is considered a requirement for the achievement of moral autonomy, a great many human beings would be condemned to the impossibility of developing their moral independence and defending our own jobs could be regarded as immoral (Peces-Barba, 1990: 9). The right to work cannot be a genuine right because we cannot guarantee its efficacy. Elster, too, relies in part on an efficacy argument to reject the right to work when he suggests that if the right were recognized, we would have to nationalize the whole economy to secure it (Elster, 1988).

From my point of view, efficacy arguments cannot be used to deny the existence of the right to work. They are useful only to check whether one guarantee of the right works better than another. So to discover the meaning of the right to work, we have to

consider the two elements of human rights — the moral values it tries to protect and whether it is possible to include it in a legal rule without undermining the legal system. The efficacy of various means of securing the right is not relevant here; though it will be useful when we examine the possible ways of satisfying the right.

What are the moral values the right to work is trying to protect? To answer this question it is necessary to think about the meaning of *work*. Usually work is considered to consist of those activities the market rewards with a salary or some other type of consideration. Based on this concept, work depends on the market; but the market is not stable, so the concept of work would be unstable too. For example, a housewife cleaning her own house is not engaged in work, but if she does the same activity in another house, receiving money for it, that automatically qualifies as work, even though activity itself is the same in the two situations (Raventós, 1999). In consequence, this concept of work has no clear meaning. It depends on market criteria.

Standing distinguishes between *work* and *labour*, with the former having a broader meaning than the latter (Standing, 1999). Work consists of all activity where people combine their creativity with their physical strength, their intelligence with their capabilities; and it always implies interaction with other people (Rey Pérez, 2007). Labour consists of just some of these activities, those that the market values. In consequence, all labour is work but not all work is labour. The point is that when we talk about the right to work in the conventional sense we are talking about the right to labour.

It is necessary to reflect about the characteristics that make work something more than just labour. In this sense, Schwarzenbach distinguishes between a lockean concept of work, the object of which is production for the market and which encompasses all the activities required to make a product for sale, and a reproductive concept of work, the purpose of which is the establishment of a relationship through which someone can satisfy the needs of others, that is, the reproduction of human relations (Schwarzenbach, 2005).

Following this latter idea we can identify work with all activity that purports to add value to the society in which it is completed, whether or not it is recognized by the market. Through work people obtain a position in society. Labour is only a part of work. I am arguing for a broad conception of work. Some authors accept this conception but criticize it as excluding the narrower concept identified with labour, that is, with paid work. In my opinion the broad conception does not exclude paid work; it

includes this type of work but also other types. As Ben-Israel has pointed out, “work cannot be considered only in relation to its market value” (Ben-Israel, 2001: 4). Other authors have defended a narrow concept of work but have pointed out the importance of other activities involving such things as culture, friendship or education. According to this view, these activities should not be included in the concept of work although they are important elements of social integration (Méda, 1996). I agree with what Brian Barry proclaimed in his last book: “if we want social justice, we have to reduce the importance of having paid employment” (Barry, 2005: 208)

If we understand work in a broad sense, the right to work cannot be the right to labour, the right to a job; it must imply something else. If we understand work in a broad sense then the right to work means the right to carry out an activity in which people can utilize their creativity, their physical and psychological capabilities and through which they can establish relations with other people. The moral value that is realized by the exercise of this right is social cohesion and recognition, the opportunity to participate in society. In consequence, the right to work means the right not to be excluded, the right to be recognised as a full member of society. Belonging to a society is one of the main values of social justice (Perret, 1995: 250). The purpose of the right to work is to realize this value of social integration and belonging. In a modern and complex society, individuals must have a place in the social system, and they get that place through the activities they develop (Gorz, 1994)<sup>2</sup>.

During the years of development of the Welfare State the right to work and the right to a job were synonymous, because the labour market with full employment was the way people achieved social insertion. The guarantee of the right to social insertion was the labour market, although we have seen that it had some problems and deficits. Anyway, thanks to a job with high social protection, almost everybody achieved social recognition. Nowadays this guarantee does not work. The labour market has the opposite effect, creating social exclusion. Social exclusion does not only mean the absence of economic resources, but also the loss of opportunities to participate in social activities, in the life of the community (Darity Jr., 1999; Añón, 2002).

The scarcity of paid employment only demonstrates that it is not a good guarantee of that right today. So we will have to look for new guarantees.

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<sup>2</sup> Offe points out that “the key question remains whether and how we can structure this situation so as to minimise its negative social and political impact by combining the contractual and market patterns governing the social situation and status of labour with institutional patterns based on the principles of citizenship and community”, (C. Offe, 1997, p. 93).

In my opinion, those who identify the right to work with the right to a job are confusing the right with its guarantees. Having a job is not a moral value by itself. It is a means of obtaining recognition within society, but jobs are not the only way to achieve that end, to obtain social insertion. When the labour market cannot achieve this objective, we have to look for new ways to do it. From my point of view, proclaiming a right to a job makes no sense because jobs lack the moral quality to be a right. Furthermore, understanding the right to work as a right to social insertion does not mean understanding it as a “right to have rights”. It means a right to be in a position to exercise other rights. That is what social insertion means and what the labour market made real during the years of development of the Welfare State when citizenship was the same as being a worker, as having the labour status.

In consequence, can we say that there are some differences between the right to work and the right to an income? I think there are, although both of them, as social rights, have many aspects in common. If the right to work is looking forward the social cohesion and integration of all citizens and, in this sense, it is a republican right, the right to an income is more connected with the subsistence, with a right to exist, to life, to have satisfied the basic needs. Therefore, following the distinction between right and guarantee, is the right to an income a right or a guarantee?

It is reasonable that if the object and the moral value that is under the right to income is the value of dignity and equality, the right that anyone has to be his needs satisfied independently of market criteria, incomes appear to be more a guarantee than a right, because the object of this right could be guaranteed with other means different from a quantity of money, for example, giving food, water and clothes to every citizen. In this case, income is a guarantee and it has not the structure of a right. However, although I have said earlier that the guarantees are the institutions that change in order to adapt to the social and historical changes, while the rights are more stable, we have to recognize that rights are legal institutions, and they appear in the history when some human need appears. For example, it makes no sense talk about the freedom of the press, before the invention of the printing. In consequence, nowadays, where the economic processes are so complex and Governments probably cannot give goods (apart from education, health or other type of assistance to handicapped) because that is a way to satisfy the right very complex and probably not very efficient in an economic sense, it makes sense talking about a right to an income. Under this contention is the moral value of freedom or autonomy. If we good, for example, food to everybody

probably we are not considering the moral value of freedom. This is the argument of real freedom developed by Van Parijs (1995). And it is in this point where we have to locate the discussion about basic income.

### **3. BASIC INCOME AS A GUARANTEE.**

A right to an income can be guaranteed through conditional or unconditional benefits or incomes. Basic income supporters have argued the advantages of unconditionally and universality compared to the welfare benefits that traditionally have been conditionally and means tested. Traditionally there has been an asymmetry in the guarantees of civil and political rights and the guarantees of social rights. The first ones were universal while the second ones were conditional. From my point of view is a good thing reducing the gap between the universality of rights and the conditionality of guarantees, among other reasons, because the asymmetry has not to be in the side of the guarantees but in the side of the ways to obtain resources to maintain them, that is, in the tax policy and the tax system. Building universal guarantees reduces the stigmatization the traditional benefits of Welfare states have had and makes more coherent the universal discourse about human rights.

If we accept that there are two different rights, the right to work and the right to an income, the ways to guarantee them can follow universal or means tested mechanisms. From my point of view, the problem with conditional guarantees is that they reduce the potential and the force of rights. The force of the discourse of rights rests in their universality. Consequently, the universality of rights is in the moral claims they content, in the Kantian idea that everybody must be treated as an end and not as a mere instrument. Universality is the basic morality of rights more than the rights themselves because although they do not change as quickly as guarantees do, obviously new rights appear to offer solution to new problems (Rey Pérez, 2011). The right to an income is a new right that offer a solution to the problem of structural unemployment and structural inequality that exist in our societies making real a decent life to everybody. In addition, there is not only one way to guarantee this right. A system of conditional guarantees introduces some contradictory element in the core of rights. The guarantee in that context become more than a duty derived from a right, a help given by the generosity of governments, an element of charity. Some social rights, at least in some western countries, have had universal guarantees, like the right to education and the right to health. Unfortunately, with the financial crisis of 2008, many governments

are introducing elements of conditionality in these rights. Basic income goes in the opposite direction: it tries to expand the logic of universality to a right that it does not appear in the Declarations, the right to an income, but it is the reformulation of the right to existence. Probably nowadays it is one of the most important social rights, like the right to work was in the 50s and 60s.

In addition, basic income can work as a guarantee of the right to work too if we understand it in the way I have tried to argue for. Because giving an income to each citizen is, apart from covering their basic needs, also a way to offer a recognition. The right to work understood in this sense, as a right to be an active member of the community and recognised by it, is a necessary social right in a Republican State that tries to make real the participation of citizens in the process of decision-making. Giving an unconditional income to everybody would be a good way to guarantee the recognition of all the members of a society, now when the labour market cannot perform that function. In addition, basic income would achieve one of the objectives of social rights, because it would end society's reliance on the market to satisfy the most basic and fundamental needs of its members, something that is necessary for the exercise of citizenship. Basic income would give recognition to all citizens, independent from the market. It would guarantee the right to work, interpreted as the right to social inclusion, because it would permit people to develop and engage in activities whether or not the market values them. Some institutions can work as guarantees of different rights and this is one of the advantages of basic income if we examine it from an institutional and legal point of view.

For people who are worried about human rights, one of the most important things we have to argue for are universal guarantees. Basic income is one of these type of guarantees that can help to reform the traditional discourse of rights.

## LEVELS

- a) Moral claim – Universal
- b) Rights – Not universal: citizenship
- c) Guarantees - Selective

	RIGHTS	GUARANTEES
<b>RIGHT TO WORK</b>	Duty to work	Workfare (selective)
	As a principle	Selective guarantees: unemployment benefits
	As a rule	Universal Guarantee: direct job creation
	Social recognition	Universal Guarantee: Basic Income
<b>RIGHT TO AN INCOME</b>		Selective: Minimum insertion Incomes
		<b>Universal: Basic Income</b>

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