

**Designing Policies to Combat  
Joblessness**

by  
Philip Harvey\*

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\*Associate Professor of Law, Rutgers School of Law–Camden

In a recent article I argued that joblessness is a dual problem -- involving both a dimensional and a distributional aspect.<sup>1</sup> In other words, joblessness is a problem both because of an insufficiency in the number of jobs available in the economy relative to the number of persons seeking work (the dimensional aspect) and because the burdens of joblessness are disproportionately born by certain population groups (the distributional aspect). Given this dual character of the problem, it is important that discussions of public policy options for combating joblessness be clear about the goals the policies are presumed to be pursuing. What is it that these policies should strive to achieve? Should the goal be the reduction or elimination of joblessness or merely a redistribution of its burden? In answering that question, it is important to keep in mind the extent and nature of the harm caused by joblessness to both individuals and communities.

#### A. The Harm Joblessness Causes

Society suffers substantial harm as a result of joblessness. The economic costs that governments and individuals bear as a result of the problem are substantial. These costs include the foregone goods and services that jobless individuals would have produced (including the foregone taxes they would have paid) if they had been employed, the charitable gifts and transfer payments that individuals and government provide for the support of jobless individuals, and a plethora of indirect costs that individuals and governments incur as a result of the health and social problems caused or aggravated by the problem.<sup>2</sup> Joblessness also tears at the fabric of social life. It increases divisions in a population, feeds invidious resentment, and can threaten social order.<sup>3</sup>

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<sup>1</sup> Philip Harvey, *Combating Joblessness: An Analysis of the Principal Strategies that Have Influenced the Development of American Employment and Social Welfare Law During the 20<sup>th</sup> Century*, 21 BERKELEY JOURNAL OF EMPLOYMENT AND LABOR LAW (forthcoming Summer 2000).

<sup>2</sup> See Philip Harvey, *Paying for Full Employment: A Hard-Nosed Look at Finances*, Soc. Pol'y, Spring 1995, at 21.

<sup>3</sup> President Roosevelt observed in his 1944 State of the Union message to the Congress that “[p]eople who are hungry and out of a job are the stuff of which dictatorships are made.” [cite]. The importance of job availability in the maintenance of conditions conducive to world peace is recognized in the United Nations Charter, which expressly obligates member nations to take joint and separate action to promote

What is particularly distinctive about joblessness as an economic problem, however, is the focused harm it visits on particular individuals. Joblessness is a primary cause of both absolute and relative poverty in otherwise wealthy societies.<sup>4</sup> Low average earnings can cause mass poverty in poor societies, but joblessness can cause concentrated poverty even in rich societies. This poverty hurts because it involves real material deprivation, but it hurts even more because it is experienced in the midst of plenty.<sup>5</sup> For this reason, poverty caused by joblessness may be especially damaging to the persons who suffer it. This effect is even more pronounced in a society, such as ours, in which both social status and self-esteem depend heavily on the kind of work one does and how it is rewarded. In fact, being involuntarily unemployed is a deeply corrosive experience, even when it is not associated with significant material deprivation.<sup>6</sup> Among other problems, unemployment appears to cause increased rates of suicide and attempted suicide,<sup>7</sup> substantial adverse mental and physical health effects,<sup>8</sup> adverse social psychological effects,<sup>9</sup> adverse effects on family life and personal relationships,<sup>10</sup> and increased criminal

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full employment. U.N. Charter arts. 55 and 56.

<sup>4</sup> Isabel V. Sawhill, *Poverty in the U.S.: Why Is It So Persistent*, 26 *J. Econ. Lit.* 1073-1119 (1988); Catherine Hakim, *supra* note []. [Also cite to literature on relative poverty]

<sup>5</sup> [Cite to literature on the definition and measurement of poverty]

<sup>6</sup> See, e.g., Liliana Winkelman, et al., *Why Are the Unemployed So Unhappy? Evidence from Panel Data*, [] *Economica* [] ( []).

<sup>7</sup> See, e.g., Stephen Platt, *Unemployment and Suicidal Behavior: A Review of the Literature* 19 *Soc. Sci. & Med.* 93-115 (1984); Stephen Platt, *Recent Trends in Parasuicide ('Attempted Suicide') and Unemployment Among Men in Edinburgh*, in *The Experience of Unemployment 150-67* (Sheila Allen et al, eds. 1986).

<sup>8</sup> See, e.g., Harvey M. Brenner and Anne Mooney, *Unemployment and Health in the Context of Economic Change* 17 *Soc. Sci. & Med.* 1125-38 (1983); Susan Gore, *The Effect of Social Support in Moderating Health Consequences of Unemployment* 19 *J. Health & Soc. Behav.* 157-65 (1978); Catherine Hakim, *The Social Consequences of High Unemployment* 2 *J. Soc. Pol'y* 433-67 (1982); Ramsay Liem and Paula Rayman, *Health and Social Costs of Unemployment: Research and Policy Considerations*, 37 *Amer. Psychologist* 1116-23 (1982); Terry F. Buss, et al., *Mass Unemployment: Plant Closings and Community Mental Health* 27-42 (1983); Brenden Burchell, *The Effects of Labour Market Position, Job Insecurity, and Unemployment on Psychological Health*, in *Social Change and the Experience of Unemployment 188-212* (Duncan Gallie, et al., eds. 1994); Peter Warr, *Work, Unemployment and Mental Health* 194-209 (1987).

<sup>9</sup> Marie Jahoda, *Employment and Unemployment: A Social-Psychological Analysis* (1982); Peter Kelvin and Joanna E. Jarrett, *Unemployment: Its Social Psychological Effects* (1985); Gordon E. O'Brien, *Psychology of Work and Unemployment* (1986); David Fryer and Stephen McKenna, *The Laying Off of Hands -- Unemployment and the Experience of Time*, in *Unemployment: Personal and Social Consequences 47-73* (Stephen Fineman, ed. 1987); John T. Haworth and Stephen T. Evans, *Meaningful*

activity and rates of incarceration.<sup>11</sup> In recognition of the importance of employment in securing individual welfare, access to work (and not just income) has been recognized as a fundamental right in international human rights proclamations and agreements.<sup>12</sup>

## B. Policy Goals

The fact that the harms caused by joblessness are focused on particular individuals is important in defining the goals of public policy responses to the problem. A lagging rate of economic growth may be an important problem, but it doesn't raise the same kind of ethical questions as joblessness. If a majority of the members of a society manifest a willingness to trade a lower rate of economic growth in order to achieve some other goal -- shorter working hours, for example -- there is no reason to challenge the decision on moral grounds, because the sacrifices required as a result of the decision are likely to be more or less equally shared. On the other hand, a manifest willingness on the part of a majority of the members of a society to accept higher rates of unemployment as the price of some collective good -- a higher rate of economic growth, for example -- does raise moral questions, since the sacrifices required as a result of the decision are likely to be highly concentrated in their negative effects.<sup>13</sup>

This difficulty would exist even if the individuals selected to make the sacrifice were selected by lot, since exposure to such a severe risk might be viewed as requiring the consent of every individual exposed to it -- something that children (who suffer particularly severe harms when their guardians suffer joblessness) cannot be considered capable of giving. If the sacrifice is likely to be

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Activity and Unemployment, in *Unemployed People: Social and Psychological Perspectives* 241-67 (David Fryer and Philip Ullah, eds. 1987); Stephen Fineman, *Back to Employment: Wounds and Wisdoms*, in *Unemployed People: Social and Psychological Perspectives*, id., at 268-84; Sheila Allen and Alan Waton, *The Effects of Unemployment: Experience and Response*, in *The Experience of Unemployment* 1-16 (Sheila Allen, et al., eds 1986); Katharine Hooper Briar, *Social Work and the Unemployed* 1-23 (1988); Andrew Baum, et al., *Unemployment Stress: Loss of Control, Reactance and Learned Helplessness* 22 *Soc. Sci. & Med.* 409-16 (1986); Richard M. Cohn, *The Effect of Employment Status Change on Self-Attitudes*, 41 *Soc. Psychol.* 81-93 (1978).

<sup>10</sup> [Add citations]

<sup>11</sup> [Add citations]

<sup>12</sup> [cite to Universal Declaration and to other agreements] For a discussion of the right to employment, see Philip Harvey, *Employment as a Human Right*, in *Sociology and the Public Agenda* 353-55 (William J. Wilson, ed., 1993).

disproportionately imposed on members of disadvantaged population groups, the moral difficulty is even more severe, because the majority may be electing, in effect, to profit from harm they know will be visited on others.

In light of these considerations, public policy responses to joblessness presumably should aim either to eliminate involuntary joblessness or reduce its harmful effects to a level that can be considered innocuous. There are three ways these goals might be achieved.

First, involuntary unemployment could be eliminated if full employment were achieved -- the maintenance of conditions in which the number of available jobs equals or exceeds the number of job-seekers -- and if any structural barriers that prevented job-seekers from being hired in available jobs were also eliminated.

Second, the harmful effects of joblessness might be reduced if its burdens were distributed more equally or if needy job-seekers could be assured of finding work quickly. With an average unemployment rate of 5 percent, for example, an equal sharing of the burden of joblessness would imply that each member of the labor force would be out of work 5 percent of the time -- approximately 2 ½ weeks per year or about 5 weeks every other year. This could be viewed as equivalent to unpaid vacation time, in anticipation of which workers might reasonably be expected to take individual precautions. Alternatively, the policy goal might be to ensure that any individual who was experiencing financial or other difficulties as a result of involuntary unemployment could be assured of finding work quickly through diligent job search measures. In effect, this policy would move needy job-seekers to the front of hiring queues, thereby forcing job-seekers who can more easily bear the burdens of joblessness to endure more of it.

Third, the burdens of joblessness might also be rendered innocuous if transfer benefits sufficient to prevent financially-induced distress were provided to involuntarily unemployed individuals and adequate steps were taken to ensure that they were not demoralized by the experience. For example, special educational opportunities might be provided as a substitute for work.

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<sup>13</sup> [Cite to conflict between utilitarian and rights-based criteria for judging the justice of collective actions.]

Can any of these goals be achieved?

C. Can the Burden of Joblessness Be Redistributed To Reduce Its Harmful Effects?

To either equalize the burdens of joblessness or move needy job-seekers to the front of hiring queues would require some combination of the following -- the elimination of significant structural barriers to the hiring of less-advantaged job-seekers, (2) modifications in the way employers make hiring decisions, and/or (3) improvements in the intensity and quality of job-search activities by disadvantaged job-seekers. Advocates of structuralist explanations of joblessness could be expected to argue that the first two changes are the key ones. Advocates of behavioralist explanations of joblessness could be expected to argue that the last change is the key one.<sup>14</sup>

In either case, the nature of these changes makes them difficult to achieve. Efforts to reduce either structural or behavioral barriers to the employment of disadvantaged persons must overcome significant institutional and personal inertia. Aggregate unemployment rates can go up and down with dizzying speed compared to the institutional and personal changes required to make structuralist and behavioralist interventions work. Changes in aggregate labor market conditions exert a quick, certain and dramatic effect on levels of joblessness and public assistance reciprocity within disadvantaged population groups.<sup>15</sup> Reducing joblessness through structural and behavioral interventions requires a different kind of

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<sup>14</sup> I use the term “structuralist” to refer to explanations of joblessness that attribute the problem to factors that reduce the access of certain groups of job-seekers to available employment opportunities. These “structural” factors include employment discrimination against certain population groups, educations and skills deficits that prevent certain workers from qualifying for available jobs, and mismatches between the location of available jobs and the residences of unemployed individuals. I use the term “behavioralist” to refer to explanations of joblessness that attribute the problem to the behavior of jobless individuals themselves – principally their failure to seek work with adequate determination or their unwillingness to accept work on the terms dictated by market conditions. In an earlier article I argued that structuralist and behavioralist factors provide a good explanation of the distribution of joblessness among population groups but that the aggregate level of joblessness is largely determined by the size of the gap between the number of jobs employers are willing to fill compared to the number of persons seeking paid employment. I refer to this last explanation of joblessness as the “job shortage” view. See Harvey, *supra* note 2.

<sup>15</sup> See Richard B. Freeman, *Employment and Earnings of Disadvantaged Young Men In a Labor Shortage Economy* in THE URBAN UNDERCLASS 103-21 (Christopher Jencks and Paul Peterson, eds., 1991); Paul Osterman, *Gains from Growth? The Impact of Full Employment* in *id.*, at 122-34; and

change -- a qualitative change in the way institutions function and in the way individuals behave rather than a mere quantitative change in the level of economic activity. Under conditions of less than full employment, these difficulties increase.

First, labor markets tend to reward success with more success and punish failure with more failure. Under conditions of full employment, this tends to sort workers among jobs, but under conditions of less than full employment, it creates special disadvantages for jobless individuals who are seeking work, even in the absence of structural or behavioral impediments to their employment. Analysts who acknowledge the existence of an aggregate job shortage sometimes describe unemployed workers as “queuing” for jobs,<sup>16</sup> but it is a hiring queue that functions differently from most other waiting lines. The distinguishing characteristic of most queues is that people move from the back to the front of the line as they wait. Special rules may allow certain people to join the line someplace other than at its end, but arrival time generally determines position, with those who join the line first occupying a position closer to the front of the line than those who join the line later. Among the unemployed, however, the hiring queue probably moves in the opposite direction. Among two otherwise identical candidates for employment, the one who joined the unemployment queue more recently is likely to be perceived by employers as a more desirable candidate for employment. In fact, job-applicants who are still working in their old jobs are probably the most attractive to employers. They are the ones at the front of the queue. This doesn’t mean that jobless individuals can’t find work, but it makes it harder for them.<sup>17</sup> Nor does this mean that efforts to help jobless individuals find work will fail when an aggregate job shortage exists, but such efforts are working against a natural tendency for markets to discriminate against such persons. The larger the

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Council of Economic Advisors, *supra* note .

<sup>16</sup> See, e.g., Holzer, What Employers Want, *supra* note [], at 29; Mead, The New Politics of Poverty, *supra* note [], at 86.

<sup>17</sup> The likelihood a job-seeker will have received a job offer necessarily increases with the length of time the individual has been unemployed. This is because the number of job applications increases with time, however, not because the job seeker’s “turn” has arrived. Even if your chances of winning a lottery declined each time you played (as an unemployed workers chances of being hired as a result of any particular job application probably decline over time) it still would be true that your chances of winning would increase the longer you played.

economy's aggregate job shortage, the longer the hiring queue will be, and the farther back in line unemployed job-seekers, especially disadvantaged job-seekers, will find themselves.

Second, efforts to help disadvantaged job seekers to find work may increase unemployment among workers who are only marginally better situated and who probably have very similar personal characteristics to the assisted population. The increased economic stress and associated problems likely to be experienced by these workers would call into question the efficacy of helping disadvantaged job-seekers to find work. A redistribution of the burdens of joblessness only at the lowest strata of the labor force wouldn't reduce the harms caused by joblessness very much.<sup>18</sup> The severity of this problem is also linked to the size of the economy's job gap, because that is what determines how intense the competition for available jobs among employed and unemployed workers is likely to be.

Third, efforts to increase the employment of disadvantaged individuals may also elicit a nullifying counter-response from more privileged workers. The counter-response might take benign forms, such as increased investment in education, or it might take less benign forms, such as growing resentment directed at disadvantaged groups and increased opposition to access-broadening initiatives. Opposition by white workers to the use of hiring preferences to increase the employment of non-white job-seekers illustrates this kind of reaction -- a reaction that is likely to be more intense when jobs are perceived to be scarce and competition for them is greater. Individual efforts by more privileged workers to "keep ahead" in the competition for jobs (by investing more in their own education and that of other family members, by manifesting a greater willingness to move where job opportunities are more plentiful, and by intensifying their own job search activities when unemployed) are also likely to be influenced by the size of the economy's job gap. Whatever form it takes, however, the defensive behavior of more privileged workers threatened with a reduction in their own job security is likely to frustrate efforts to increase the job security

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<sup>18</sup> Increased cycling on and off public assistance rolls may be one result of such a policy. This kind of cycling was already common in the Aid for Families with Dependant Children program before recent reforms were enacted in an effort to increase participant job-search activity. See Roberta Spalter-Roth, et al., *Welfare That Works: The Working Lives of AFDC Recipients* (Institute for Women's Policy Research 1995). (finding that in two-year period studied, 50 percent of AFDC recipients combined work and benefit receipt in one way or another and another 23 percent unsuccessful sought work).

of less advantaged workers.

Fourth, to the extent the distribution of joblessness is a product of discriminatory hiring practices, the existence of a significant job gap makes it much harder to alter employer practices. Surplus labor supply provides both a cover for discriminatory practices and an economic cushion that allows employers to indulge their biases. Proving discriminatory treatment is very difficult when large numbers of workers apply for a small number of jobs and are evaluated according to multiple, incommensurable objective and subjective hiring criteria. This may be one reason for the prevalence of discriminatory firing cases over discriminatory hiring cases in employment discrimination litigation.<sup>19</sup> The existence of labor surpluses also permits employers greater latitude in deciding where to locate their businesses, avoiding minority populations if they want, without fear of not being able to recruit adequate numbers of workers.<sup>20</sup> As the economy's job gap shrinks, the economic pressure on employers not to discriminate increases, and the deterrent effect of anti-discrimination law probably becomes more effective.

Finally, efforts to distribute the burden of joblessness more evenly among workers could aggravate the macroeconomic problems that make it difficult to achieve full employment in the first place. The principal impediment to achieving full employment by means of expansionary fiscal and monetary policies are the inflationary pressures such a policy would be likely to create.<sup>21</sup> Before full employment is achieved, wage and price increases caused by tightening factor and product markets are likely to cause inflation rates to accelerate to levels that result in either a spontaneous or induced contraction of economic

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<sup>19</sup> In the first few years after Title VII was enacted, more discriminatory hiring claims were filed under the act than discriminatory firing claims, and in the early 1970s, the number of hiring and firing claims brought were approximately equal. Since the mid 1970s, however, the number of discriminatory firing cases has grown dramatically, while the number of discriminatory hiring cases has remained constant or declined. See John J. Donohue III and Peter Siegelman, *The Changing Nature of Employment Discrimination Litigation* 43 *Stan. L. R.* []. The initial growth in discriminatory hiring cases brought in the 1960s and early 1970s may have reflected the relative ease of litigating cases involving obvious instances or patterns of discriminatory hiring. Once blatant practices were eliminated, however, the problems of proof in hiring discrimination cases involving large number of applicants for a small number of available jobs loomed larger. In firing cases, in contrast, the relevant comparison group for judging whether discriminatory treatment has occurred is much smaller, making proof of unlawful discrimination much easier.

<sup>20</sup> See Holzer, *What Employers Want*, *supra* note [], at 131.

activity. Higher levels of unemployment restrain these inflationary pressures because they reduce aggregate demand and weaken the bargaining power of labor. For the restraining influence of unemployment to operate on wage levels, however, unemployment has to be perceived as a threat. In other words, it has to hurt. Efforts to reduce the pain of unemployment by distributing its burden more evenly could diminish its *in terrorem* effect, thereby reducing its effectiveness as a check on inflation. If this were to happen, the level of unemployment consistent with reasonable price stability could increase, thereby increasing the burden on public policies designed to redistribute the burdens of joblessness.

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<sup>21</sup> See Harvey, *supra* note XX.

For all of these reasons, it may be unrealistic to expect dramatic results from either structuralist or behaviorist attempts to reduce the relative amount of joblessness experienced by disadvantaged population groups in a job short economy. The history of efforts to reduce poverty and its attendant ills by means of behaviorist and structuralist strategies certainly provide no cause for optimism that the goal is achievable without closing the economy's job gap. Behaviorist policies dominated efforts to combat joblessness in the United States prior to the 1930s without much visible impact on the problem.<sup>22</sup> The failure of these policies was a principal reason for their repudiation during the New Deal era.<sup>23</sup> The recent resurgence in support for behaviorist policies for combating joblessness, reflected most clearly in federal welfare reform legislation enacted in 1996,<sup>24</sup> ignores this earlier record of failure.<sup>25</sup> Structuralist policies also have produced disappointing results. It is disheartening, for example, that unemployment rates for blacks continue at roughly twice the rate for whites over thirty years after the enactment of the Civil Rights Act of 1964. Expressing faith in the adequacy of the structuralist strategy, the legislative history accompanying the Act asserted that

[a] nation need not and should not be converted into a welfare state to reduce poverty, lessen crime, cut down unemployment, or overcome shortages of skilled occupational categories. All that is needed is the institution of proper training programs and the elimination of discrimination in employment practices.<sup>26</sup>

That optimism now seems naive.

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<sup>22</sup> See Philip Harvey, *Joblessness and the Law Before the New Deal* 6 Geo. J. Pov. L. & Pol'y 1 (1999).

<sup>23</sup> See Harvey, *supra* note xx.

<sup>24</sup> [Cite]

<sup>25</sup> Studies of the labor-market experience of persons induced to leave welfare as a result of behaviorist policies embodied in the new legislation show that they are continuing to experience disproportionate levels of joblessness. One such study found that only 61 percent of persons who left AFDC/TANF rolls in 1996 and 1997 were employed at the time they were surveyed. Fourteen percent were not working but had an employed spouse or partner. Twenty-five percent were not working and either had no spouse/partner or their spouse/partner was also not employed. Pamela Loprest, *Families Who Left Welfare: Who Are They and How Are They Doing*, 9-10 (Urban Institute Discussion Paper 99-02, 1999). Given these facts, it is not surprising that the poorest cohorts of single-mother families have grown still poorer as a result of welfare reforms designed to force public assistance recipients to rely more on paid employment for their support. See Wendell Primus, et al., *The Initial Impacts of Welfare Reform on the Incomes of Single-Mother Families* (Center on Budget and Policies Priorities, 1999).

<sup>26</sup> U.S. Code Cong. & Admin. News, 88th Cong., 2d Sess. (1964), at 2515.

I am not arguing that these policies are totally ineffective. There is good evidence that anti-discrimination legislation has improved the economic position of blacks in the United States,<sup>27</sup> and behavioralist welfare reform policies certainly have succeeded in inducing some welfare recipients to find jobs.<sup>28</sup> But the benefits traceable to structuralist and behavioralist interventions such as these have not come close to equalizing the burdens of joblessness nor provided a reliable means of moving needy workers into jobs. Joblessness is still very unequally distributed, and it still causes substantial harm to its victims.

As explained above, however, there is good reason to believe that both structuralist and behavioralist policies might be more effective if pursued in the context of full employment. The problem may not be with the policies, but in the assumption that they can work against the countervailing forces that a significant shortage of jobs set in motion. In fact, the faith expressed in structuralist and behavioralist policies by their proponents may be predicated on the assumption that job availability is not a significant constraint. We see this in public debate over welfare reform. Behavioralists tend to assume that low-wage jobs are plentiful, and that public assistance recipients can and should be expected to find and accept them.<sup>29</sup> Structuralists tend *not* to contest the claim that low-wage jobs are available in adequate numbers, but they argue that these jobs do not provide adequate levels of support and that public assistance recipients accordingly should be provided with additional education and job training so they can qualify for better jobs.<sup>30</sup> The implication of the structuralist position, of course, is that adequate numbers of “better” jobs would be found to exist if public assistance recipients could qualify for them. What is not clear is whether these favorable presumptions concerning job availability are based on the assumption that the demand for labor is sufficient to provide employment for all job seekers or merely that labor turnover rates are high enough that diligent job-seekers need not wait too long for a turn at being employed, even though there may not be enough work to provide employment for all job-seekers at the same time.<sup>31</sup>

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<sup>27</sup> See John J. Donohue III and James Heckman, Continuous Versus Episodic Change: The Impact of Civil Rights Policy on the Economic Status of Blacks, 29 J. Econ. Lit. [] (1991).

<sup>28</sup> [Cite CEA study]

<sup>29</sup> See, e.g., Mead, supra note [].

<sup>30</sup> [cite to Burtless and Blanc]

<sup>31</sup> See Harvey, supra note xx.

Since this latter distinction is rarely emphasized in policy discussions, it probably is safe to assume that neither the advocates of behavioralist strategies nor their structuralist counterparts have thought much about it. That the distinction, if recognized, might be important in shaping their views is suggested by the fact that during recessions, the focus of public policy tends to shift away from efforts to redistribute the burdens of joblessness, concentrating instead on measures designed to increase aggregate job availability. This policy shift implicitly acknowledges that when an aggregate job shortage is recognized to exist, efforts to address the problem of joblessness exclusively with behavioralist and structuralist strategies are deemed inadequate. Why shouldn't the same conclusion be drawn during non-recessionary periods, if it is true that substantial job shortages also exist during such periods?<sup>32</sup>

Whatever may be the limitations of structuralist and behavioralist policies in reducing the negative effects of joblessness, it is abundantly clear that changes in aggregate demand have a quick and powerful effect on the problem. For example, declining rates of unemployment have been found to have a far more powerful effect on AFDC caseloads than changes in program requirements.<sup>33</sup> For this reason, it may be that the most effective way to reduce welfare dependency would be to increase job availability. Such a strategy would not eliminate all joblessness or resolve all of the personal and social problems associated with it, but the size of the economy's job gap is likely to be more important in determining the fortunes of needy job-seekers than any effects likely to flow from either structuralist or behavioralist reforms of social welfare law. Structuralist and behavioralist measures may be important in combating the negative effects of joblessness, but it seems unwise to concentrate exclusively on such measures unless nothing can be done to increase job availability.

#### D. Can Transfer Benefits Substitute for Jobs

If structuralist and behavioralist policies cannot redistribute the burdens of joblessness in a

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<sup>32</sup> Id.

<sup>33</sup> See supra note []. The effects found in the CEA study were particularly dramatic, but public assistance caseloads and unemployment rates have generally been found highly correlated. See Employment and Training Institute, University of Wisconsin-Milwaukee, [complete cite].

way that renders the experience relatively innocuous, then offering transfer benefits to some portion of the labor force would appear to be the only way of dramatically reducing the personal and social costs of joblessness without achieving full employment.

The policy of using transfer benefits to reduce the negative effects of joblessness has been pursued in the United States, although not to the same extent as in Europe.<sup>34</sup> Even radical behavioralists like Charles Murray recognize a role for such a policy.<sup>35</sup> Criticism of such programs focuses on their negative effect on the work incentives of recipients,<sup>36</sup> but to the extent the quantity of joblessness is determined by the level of aggregate demand rather than by the job search behavior of unemployed workers, the behavioral effects of transfer benefit programs affect only the distribution of joblessness and not its aggregate level. Under those circumstances, recipients of such benefits are likely to experience more joblessness than persons who do not receive such benefits, but the total amount of joblessness generated in the economy would be unchanged.

This is a bad thing, of course, only if we think that the recipients of such benefits should be working. The New Deal's funding of Old Age Assistance benefits for the elderly poor undoubtedly reduced the work effort of the recipient population, but that was not perceived to be a problem, because one of the goals of the program was to reduce the number of people competing for scarce jobs. When the ADC program -- predecessor to AFDC -- was established in the same legislation, the likely effect of the program on recipient work effort was not a cause for concern, because one intent of the program (like Old Age Assistance) was to facilitate the withdrawal of recipients from the labor force.<sup>37</sup> Only when expectations changed with respect to the labor force participation of AFDC recipients did the program's disincentive effect on work effort come to be perceived as problematic.

The New Dealers preferred to provide income assistance to persons who were expected to work in the form of a job -- in work relief programs like the Civilian Conservation Corps (CCC) or the

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<sup>34</sup> [Cite to UI as well as to the provision of means-tested benefits for the able-bodied poor]

<sup>35</sup> Murray, *supra* note [], at 230 (endorsing unemployment insurance).

<sup>36</sup> [citations]

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Works Progress Administration (WPA). The only exception to this rule was Unemployment Insurance (UI), but UI benefits were made available for only a short period of time (20 weeks in the original legislation), were limited to workers with an established work history who were laid off from their jobs, and were structured to resemble an earned benefit rather than means-tested public assistance. This type of benefit might be considered a reasonable way to reduce individual economic stress associated with frictional unemployment, even in an economy operating at full employment. It was not designed to offer gratuitous transfer benefits as a substitute for a job.

When covered workers exhausted their UI benefits, New Deal social welfare planners assumed that continued public aid should be provided in the form of work relief, in contrast to the general practice in Europe of offering reduced, means-tested direct relief benefits to unemployed workers who had exhausted their unemployment insurance benefits.<sup>38</sup> The latter practice is still the predominant one in Europe, but some countries, like Sweden, offer continued aid only in exchange for work or as a stipend for participation in an intensive training program.<sup>39</sup> In countries that offer long-term gratuitous income assistance to jobless workers, average unemployment spells are much longer than in countries like the United States (which offers little or no long-term assistance to jobless workers) or Sweden (which offers long-term assistance only in conjunction with work or training).<sup>40</sup> This means that in the typical European country today, fewer individuals experience joblessness at a given rate of unemployment than in the United States, but those who do experience it endure longer spells (while receiving income supplements that are very generous by American standards).

The problem with the American strategy of denying or severely limiting income assistance benefits for able-bodied individuals has the undesirable consequence of visiting intense harm on job-seekers who do not manage to find employment quickly; but there also are problems with the majority European strategy of providing long-term income assistance benefits to jobless individuals. First, even if the strategy secures recipients from material deprivation, it does not protect them from the non-pecuniary harms of

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<sup>38</sup> Report of the Committee on Economic Security, *supra* note [], at 11.

<sup>39</sup> Leyard, *supra* note [], at 101-04.

joblessness which, as noted above, can be substantial. Second, by fostering long-term joblessness, it makes it more difficult for recipients to reenter the active labor force when economic conditions improve. As the length of their spell of unemployment lengthens, they long-term unemployed are likely to become progressively less attractive to potential employers. Third, as the long-term unemployed become steadily less competitive in the struggle for available jobs, their presence in the labor market may lose its anti-inflationary effect. To the extent that inflationary tendencies associated with low rates of unemployment are a function of the relative bargaining power of employers and employees at different levels of unemployment, the presence in the labor market of job-seekers who lack credibility as alternative candidates for employment are not going to affect the relevant balance of power.

The Swedish strategy of providing extended income assistance to jobless workers in conjunction with intensive job-training is a structuralist strategy that has worked well in Sweden because it is exceptionally well organized and because, until recently, unemployment rates in the country have been kept at or close to the full-employment level.<sup>41</sup> Our earlier discussion of the challenges faced by structuralist efforts to redistribute joblessness under conditions of less than full employment suggest that the Swedish strategy might not be equally successful here. The Swedish practice of providing long-term income assistance in the form of reasonably attractive work relief is really a job creation strategy that reduces the effective unemployment rate. This strategy will be discussed in the next subsection of the article which focuses on the goal of achieving full employment. The use of transfer benefits to encourage certain categories of workers to withdraw from the labor force will also be discussed in that context.

#### E. Is Full Employment Achievable?

All of the goals of both structuralist and behavioralist strategies for reducing the harmful effects of joblessness would be easier to achieve if there were more jobs than job seekers in the economy. It also would ease the fiscal burden of providing income assistance benefits to jobless individuals while making it easier to design programs addressing the needs of persons suffering significant personal

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<sup>40</sup> Id.

<sup>41</sup> See Layard, *supra* note [].

impediments to employment. But can full employment, or its functional equivalent, be achieved? Is there a way around the macroeconomic difficulties centering on the problem of inflation that hobble the government's capacity to drive unemployment rates below a level where the number of job seekers still exceeds the number of available jobs by a wide margin. Let us consider several possible policy responses.

*Macroeconomic Policy:* Macroeconomic policy obviously has an important role to play in combating joblessness, but there are at least two limitations on the effectiveness of macroeconomic policy that cast doubt on its adequacy as a total response to joblessness attributable to a shortage of jobs. First, as noted earlier, the ability of macroeconomic policy to achieve full employment is limited by inflationary pressures. It should be emphasized, however, that this limit is discretionary. Inflationary tendencies do not prevent further economic expansion. They merely diminish the attractions of continued expansion due to the negative effects of rising inflation rates. These negative effects might cause changes in economic behavior that would spontaneously stall or reverse the economic growth process, but if the public were willing to live with higher rates of inflation, or accept the constraints and negative economic side effects of strictly enforced incomes policies, unemployment rates could be driven or permitted to fall lower. The limit inflation imposes on the achievement of full employment through higher rates of economic growth is therefore best conceived as a discretionary limit.

This raises the question of whether inflationary tendencies *ought* to be accepted as a bar to further economic expansion. The negative effects of Inflation tend to be much more broadly felt than those of unemployment, but they are rarely as intense. The public's preference for price stability over lower rates of unemployment therefore is understandable, but the moral grounding of the preference is suspect. Involuntarily unemployed workers can be viewed as a minority forced to endure severe harm so that a majority of the population can avoid suffering a less severe harm. Viewed in this way, the preferences of a majority of the population for price stability is a form of income redistribution for the majority's benefit at the expense of the least well-off members of society.

Sensitivity to this point may contribute to the attractiveness of both behavioralist and

structuralist policy responses to joblessness. Behavioralist policies imply that jobless individuals suffer their harm voluntarily, and structuralist policies imply a commitment to ensuring that the risks of joblessness are more or less equally shared. Among economists, sensitivity to this point may contribute to the tendency to equate the level of unemployment consistent with the maintenance of price stability with full employment.

In fact, acceptance of the public's desire for price stability as a policy limit can be characterized as a commitment to the maintenance of involuntary unemployment despite the fact that existing policies cannot prevent that joblessness from visiting severe harm on its victims, nor ensure that the harm will be equally shared by all population groups. Unless effective policies can be devised to meet the needs of persons who are left jobless, society's acceptance of the need to maintain unemployment above the full-employment level in order to combat inflation should be viewed as morally objectionable.

A second reason macroeconomic policy, by itself, cannot be considered an adequate response to joblessness attributable to a shortage of jobs is that it doesn't work quickly enough. Macroeconomic policy can reduce joblessness levels, but it cannot do so instantaneously, and while it is working, the needs of persons who are jobless because there is a shortage of jobs would appear to have the same claims to attention that they do during recessions when unemployment rates are increasing.

For these reasons, macroeconomic policy appears inadequate as a complete response to joblessness caused by a shortage of jobs. It may be the most powerful tool available for combating joblessness, but it can't do the whole job by itself. If full employment or its functional equivalent are to be achieved, other policies are also needed.

*Policies Aimed at Reducing the Number of People Seeking Work:* Joblessness attributable to a shortage of jobs can be reduced not only by increasing the number of available jobs, but also by reducing the number of people who are seeking jobs. When this policy is pursued by providing transfer benefits to persons who are expected to work, the strategy conflicts with the goal of encouraging such persons to maintain their self-sufficiency; but transfer benefits may also be used to encourage certain people to withdraw from the labor force, either permanently or temporarily. As noted earlier, this

consideration was one of the factors underlying the dramatic increase in public funding for old age pension benefits that occurred during the New Deal period as well as the restructuring of public assistance benefits for single parents with dependent children.

Early retirement schemes provide one means of achieving similar goals today. In the Netherlands, for example, the government has subsidized early retirement pensions for older workers on the condition that the jobs the retiree vacate are filled by unemployed younger workers.<sup>42</sup> The program has been found effective in reducing unemployment in the target population, and its cost is limited because the alternative to paying early retirement benefits to the older worker is the payment of unemployment or public assistance benefits to the younger worker (in addition to any payments that may be required to deal with social problems caused or worsened by the younger worker's joblessness).

Other groups, of course, could be targeted for the receipt of subsidies. For example, it might be considered a desirable public policy goal to make it possible for parents to spend more time with their children when the children are young. A program modeled on the Dutch example might be created which provided government funding for family care leaves to certain categories of workers in exchange for commitments from their employers to hire a certain number of unemployed workers to replace the absent workers.

If unemployment rates were above an inflation inducing level, such policies could be pursued on a temporary basis to open up job opportunities for persons whom society wanted to encourage to work, without fear that the policies would cause inflation. Subsidized educational opportunities (or "sabbatical" leave programs) could be funded for the same purpose. Educational programs designed with structural unemployment in mind invariably target disadvantaged workers. The goal of such programs is to qualify such persons for available jobs. If the problem to be addressed is a shortage of jobs, however, educational subsidies targeting workers who are neither unemployed nor likely to become unemployed could prove just as effective. The goal of such programs would be to make currently occupied jobs available to other workers while raising the overall skill level of the labor force (and possibly rejuvenating regularly

employed workers through a break in their employment).

If the economy were already operating with unemployment rates close to an inflation-inducing level, the possible inflationary effects of such a strategy would also have to be considered. The question to be addressed is whether a reduction in unemployment rates achieved by encouraging certain persons to withdraw from the labor force would carry the same potential inflationary effects as a similar reduction in unemployment rates caused by additional economic growth. That would probably depend on whether the subsidy program at issue provided a net fiscal stimulus to the economy and whether the new hiring it caused could be concentrated in those sectors of the economy where labor surpluses were greatest.

In the normal course of events, falling unemployment rates are a product of rising levels of aggregate demand. If demand were not exceeding available supplies, employers would have no reason to expand output and engage more workers. These conditions might lead to price increases even in the absence of rising wages (demand-pull inflation), and they make it easier for producers to pass along any increased costs that accompany their expansion of output (cost-push inflation). These increased costs of production are likely to include rising prices not only for labor, but for other factors of production as well. In other words, there are multiple possible sources of increased inflationary pressure when unemployment rates fall as a result of rising levels of aggregate demand.

If labor markets tightened without an accompanying increase in aggregate demand -- as a result, for example, of declining labor force participation -- wages might rise, but the other sources of inflationary pressure that normally accompany wage increases would be absent. We don't have much experience with inflation produced under such circumstances, but there seem to be good reasons to doubt that it would be as intense as inflation produced by the combination of factors that normally operate when unemployment rates fall.

It is also true that when unemployment rates fall as a result of rising levels of aggregate demand, inflationary pressures are likely to be felt in some industries or regions of the country before they

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<sup>42</sup> [Cite to Freeman paper]

are felt in others. Economic growth does not produce inflationary pressures in all product and factor markets simultaneously. At any point in time, some industries will be operating closer to their non-inflationary capacity than others, and some labor markets will be tighter than others. These are the industries and labor markets from which inflationary pressures are likely to emanate when growth rates accelerate. If a subsidy program could be designed that would not affect labor markets in these inflation-prone sectors of the economy, aggregate unemployment rates presumably could fall without triggering increased inflation.

This analysis suggests that prudently financed and carefully targeted programs designed to encourage certain individuals or categories of workers to withdraw from the labor force in order to free up jobs for other workers might be capable of pushing joblessness rates below the level where inflationary pressures would accelerate if the decline in joblessness had been caused by an increase in aggregate demand. Since such programs are even less likely to cause problems when unemployment rates are above an inflation-inducing level, this type of initiative probably deserves strong consideration as a means of reducing joblessness attributable to a shortage of jobs. Further analysis of possible targeting mechanisms, program costs and financing options would be needed to better assess the strategy's possible inflationary effects when unemployment rates are low, but during other phases of the business cycle, such policies could be pursued with less concern.

*Shortening Normal Working Hours:* Efforts to shorten normal working hours have a long history as a proposed response to job shortages.<sup>43</sup> The overtime provisions of the Fair Labor Standards Act effectuate this policy in American law.<sup>44</sup> The statute does not attempt to regulate hours directly, but creates financial incentives for employers not to employ their covered workers more than 40 hours per week.<sup>45</sup>

The effectiveness of these incentives have eroded over the years for two reasons. First, the overtime premium that employers are required to pay for work in excess of 40 hours per week does not

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<sup>43</sup> See supra note [].

<sup>44</sup> [cite to act].

apply to fringe benefits. In 1929, these non wage benefits accounted for less than 3 percent of total compensation costs, but by 1992, they accounted for more than 28 percent of such costs. That means the time and a half premium the FLSA requires employers to pay for overtime hours amounted to a surcharge of about 46 percent of total employee compensation calculated on an hourly basis in the 1930s, but only about 17 percent of total employee compensation calculated on an hourly basis in the 1990s.

Second, certain categories of employees excluded from coverage under the act have grown in importance in the labor force over time. The overtime provisions of the act do not apply to “executive, administrative and professional” employees<sup>46</sup> -- a group whose relative importance in the labor force has grown substantially since the 1930s.<sup>47</sup>

Ample means exist for increasing the incentives that exist under the Fair Labor Standards Act for shortening normal working hours. The most obvious steps would be to increase the overtime premium that employers are required to pay and narrow the exclusions from coverage currently allowed under the act.

As a response to joblessness, this strategy raises similar economic concerns as policies designed to shrink the labor force. By reducing unemployment rates below an inflation-inducing level, reducing normal working hours might trigger inflationary pressures. Unfortunately, this would probably be a bigger problem with hours reduction schemes than with labor force reduction schemes. Neither strategy would increase aggregate demand in product markets, but the hours reduction strategy would be harder to target on sectors of the economy where unemployment rates were above average. In fact, if overheated sectors of the economy were more likely to require overtime work, they would be more effected by the strategy, possibly causing labor markets to tighten and prices to rise more rapidly in those sectors as aggregate unemployment rates fell. Given this difficulty, the hours reduction strategy may not offer much as a means of avoiding inflationary pressures.

*Direct Job Creation:* Macroeconomic stimulation of the economy create jobs indirectly.

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<sup>45</sup> [explain provisions in more detail]

<sup>46</sup> [cite]

It is possible, of course, to do the same directly. This can be achieved through public works (or public services) contracting with private firms, the establishment of special employment programs like the New Deal era WPA, or by expanding regular public sector hiring. The problem with this strategy is the same one discussed above in reference to efforts to reduce the job gap by shrinking the labor force. Pushing unemployment lower may trigger inflation.

There are several reasons, however, why this policy option is well-suited for avoiding that problem. First, there is good reason to believe such a policy could be fiscally neutral. Research I have reported elsewhere suggests that reductions in transfer payments to jobless individuals and increased income tax receipts from their earnings would pay the great bulk of all program costs for an expansive direct job creation program -- one that offered work at market wages to all jobless individuals.<sup>48</sup> There is good reason to believe that indirect savings attributable to such a program would pay any remaining program deficit; but the possibility also exists to ensure fiscal neutrality by charging fees for some portions of the program's output. Since these fees would have to cover only a small fraction of total production costs, they could be set with the program budget rather than market conditions in mind.<sup>49</sup>

Second, direct job creation programs can be targeted with great specificity on labor markets with higher than average rates of unemployment, minimizing their impact on inflation-prone sectors of the economy. This would not eliminate all inflationary pressures likely to emanate from tightening labor markets, but it would tend to minimize them.

Third, an expansive policy of direct job creation would increase the effectiveness of structuralist and behavioralist policies for combating joblessness. The goal of equalizing employment opportunities is an important one in its own right, and at very low levels of unemployment, structural and behavioral problems are likely to function as a barrier to the achievement of full employment even if their effect at higher levels of unemployment is purely distributional.

So-called "active" labor market policies designed to improve the work habits and/or skill

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<sup>47</sup> [Provide data]

<sup>48</sup> See Harvey, *Securing the Right to Employment*, *supra* note [], at 21-50.

level of disadvantaged job-seekers could be positively reinforced with assured offers of employment to persons who successfully completed training programs and/or conformed to reasonable employer performance expectations. Employment programs could also be structured to include as much job training as was thought desirable. Special employment programs with some or all of the characteristics of “sheltered workshops” could be established for categories of workers with special problems; and enrollees in such programs could be guaranteed jobs in non-sheltered settings if and as their problems lessened. Efforts to attract employers to regions or communities suffering high unemployment could be coordinated with jobs and training programs designed to ensure the availability of a pool of potential employees with work experience and appropriate training. For reasons discussed above, employment discrimination would probably be easier to prove (and therefore deter) if job shortages were reduced. Also, the availability of assured employment in public sector jobs would provide compensating relief to the victims of even undetectable discrimination. Finally, the behaviorist goal that public assistance be conditioned on work could be adopted without giving rise to structuralist fears that needy job-seekers would be unable to find work.<sup>50</sup>

For all of these reasons, direct job creation initiatives may be the most effective means of reducing joblessness when inflationary pressures are a source of concern. This was a key reason why the then Chairman of the Federal Reserve Board threw his support behind the expansion of CETA as a response to the recession of 1973-75.<sup>51</sup> Serious flaws in the design of that program reduced its net job-creation effect and caused other problems leading to a collapse of public support for the initiative,<sup>52</sup> but New Deal programs illustrate that better designs for such programs are available.<sup>53</sup>

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<sup>49</sup> See Harvey, *Paying for Full Employment*, supra note [].

<sup>50</sup> It is not often noted in current policy debates that New Deal social welfare planners adopted a modified “behavioralist” stance in their design of public assistance programs for persons deemed capable of working. People like Harry Hopkins were strongly critical of the demoralizing effects of direct relief as a means of providing public aid to persons who were capable of working and strongly preferred that such persons be offered assistance in the form of non-stigmatizing and reasonably well-paying jobs.

<sup>51</sup> [Cite to Mucciaroni and/or Weir]

<sup>52</sup> See supra, at [].

<sup>53</sup> See supra, at [].

In addition to its attractiveness as an inflation-minimizing strategy for reducing joblessness, direct job creation has other advantages. First, it attacks poverty and other social problems not only by reducing joblessness, but also by increasing the provision of public goods and services. For example, a direct job creation program that focused on the rehabilitation of abandoned and substandard housing in poor communities would reduce poverty not only by increasing employment, but also by increasing the quantity and quality of low-cost housing in such communities. A program that provided recreational activities for children would have a similarly dual effect on poverty, as would a program that provided services to the elderly poor.

Second, as these examples illustrate, direct job creation programs actually increase national wealth. The policy therefore represents a wealth-enhancing response to joblessness, a strategy that would permit the economy to expand output above the level where inflationary tendencies normally are thought to create a barrier to further economic growth. This additional wealth could be devoted to the expansion of poverty-reducing goods and services, as suggested above, but it could also be devoted to other public purposes, such as the improvement and beautification of public spaces. In either case, society in general would benefit.

Third, a large-scale direct job creation program could serve as a powerful automatic stabilizer. Unemployment Insurance (UI) functions in a similar fashion; but its coverage limitations and limited wage replacement policy diminish its counter cyclical effects. A jobs program that automatically expanded as unemployment rates rose could have a stronger impact, and, in any case, it would enhance the counter-cyclical effects of UI.

Finally, direct job creation is the most immediate and effective means of securing the right to employment recognized in international human rights agreements. As noted above, efforts to ensure that all persons have reasonably equal and reasonably certain access to paid employment have not produced very satisfying results over the past several decades, and even the achievement of full employment would

not guarantee work to all individual job seekers.<sup>54</sup> If the right to employment is to be paid more than lip service, advocates of the existing policy regime need to explain their rationale for rejecting measures like direct job creation that promise reasonably certain results.

This is not to say direct job creation programs would be problem free. They pose gargantuan administrative problems, and undoubtedly would be accompanied by a range of undesirable side effects, ranging from the inflationary effects to problems of fiscal substitution and corruption.<sup>55</sup> The appropriate question to ask, however, is whether these problems are more serious and less remediable than the many personal and social problems attributable to joblessness. We do not have the choice of living in a policy nirvana free of problems. We can only choose which set of problems we think it is best to live with. In balance, the many advantages of direct job creation as a means of achieving full employment suggest that it should be high on the list of desirable public policy responses to joblessness.

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<sup>54</sup> [Cite to JEI article]

<sup>55</sup> See Harvey, *Securing the Right to Employment*, supra note [], at [].