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The Right to Work and the Promise of America

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This paper, based on remarks prepared for the Global Forum on Democratizing Work (October 6, 2021), makes three points. First, the notion of “jobs for all” who are willing and able to work is not new. Second, it’s also an idea that’s deeply conservative. And third, jobs for all—or what long ago was called “the right to work”—is vital to fulfilling the promise of America.¹

PUBLIC EMPLOYMENT FOR THE JOBLESS IS NOT NEW

Having government serve as an “employer of last resort”—that is, providing employment for the jobless—is not new. Of course, for most of the post-World War II era, the phrase “the right to work” has been used by anti-labor propagandists in promoting policies that hobble the ability of labor unions to represent workers. In fact, however, the “right to work” was originally a progressive aim that included the promise of public “jobs for all” who are seeking and unable to find other employment.

In the 1890s, John R. Commons, a founder of the institutional school of economics, framed the idea of a “right to work” not as a radical break from the past, but as a logical extension of the right to life and liberty. According to Commons (1893), a core American notion of the 19th century was that a worker should have the opportunity to become an independent producer—that is, the opportunity to start a business or run one’s own farm—rather than remain a wage laborer. But as the end of the 19th century approached, changes to the economy—including closing of the Western frontier, industrialization, and corporate concentration—put becoming an independent producer out of the reach of most employees. As a result, Commons (1893, 80-81) argued that workers were at an extreme disadvantage relative to their employers. Even worse, since the ability to claim a homestead was by then extremely limited, he expressed concern that the jobless had lost any meaningful right to life and liberty.

What Commons called the “right to work” was, in his view, an extension of the “bundle of rights” that secure and give meaning to individual liberty under the Constitution of the United States. Thus, the “right to work” was a solution, designed in response to changing economic conditions, that he called “the next great human right” (Commons 1893, 70-80).

At the center of Commons’ notion of the “right to work” was the idea that government would furnish work for the unemployed—in the form of public works, for example—especially in response to cyclical and structural unemployment. But what many today call government as “employer of last

¹ In revising this paper, I’ve benefitted from the constructive feedback of Pavlina Tcherneva, Kyle Mohr, and Linda Whalen.

resort” was only one aspect of this envisioned “bundle of rights” (Commons 1893, 81-84; 1899). In Commons’ view, the “right to work” would also include government-provided training and other assistance to people seeking to enter new lines of work as the economy continued to evolve. And it would include not only employment-relations systems (such as the civil service) and regulations to prevent unjust discharges, but also government-sponsored unemployment insurance to compensate jobless workers during short-term transitions.

The progressive notion of the “right to work” came into the national spotlight during the Great Depression. As a presidential candidate, Franklin Roosevelt (1932) echoed Commons’ call for the “right to work,” including his justification for it—in a speech written by Adolf Berle, a law professor with strong ties to the institutionalists.² Then, as president, Roosevelt (1941; 1944) incorporated the notion of “jobs for all” into his vision of “Four Freedoms” in 1941, and he explicitly mentioned “the right to a useful and remunerative job” as part of his “Second Bill of Rights” in 1944.³

In a watered-down form, the idea of the right to a job led to the Employment Act of 1946, and then to the Full Employment and Balanced Growth Act of 1978.⁴ While neither law included a job guarantee, both offered a commitment and tools relevant to preventing mass unemployment and providing public employment in response to economic downturns.⁵ In addition, following World War II the “right to work” was incorporated into the United Nations (1948) Universal Declaration of Human Rights, a proposal championed by Eleanor Roosevelt.

² For further discussion of Roosevelt’s speech in San Francisco as well as related speeches, see Sunstein (2004, 61-95).

³ Roosevelt’s “four essential human freedoms” included *freedom from want*, which “means economic understandings which will secure every nation a healthy peacetime life for its inhabitants.” Earlier in that speech, Roosevelt (1941) stated that “the basic things expected by our people of their political and economic systems...[include] jobs for those who can work....” In the same year, the Roosevelt administration’s National Resources Planning Board (1941) published *After Defense—What?* which was followed in January 1942 by *After the War—Full Employment*. No author is listed for the first report, but economist Alvin Hansen (1942), a former student of Commons, is listed as author of the second report. According to historian Karen McCally (2001, 257), Hansen’s report “was the closest statement by any notable economist since the 1890s of Commons’s...goal of a ‘right to work.’”

⁴ For the Employment Act, see Congress of the United States (1946); for the Full Employment and Balanced Growth Act, see Congress of the United States (1978).

⁵ The Employment Act of 1946 created the Council of Economic Advisers and mandated the annual Economic Report of the President. According to Bertram Gross (1975, 55), a Senate staffer who participated in drafting the legislation, “The essence of the 1946 legislation was its expression of a new commitment by the federal government never again to allow another mass depression.” The later legislation, the Full Employment and Balanced Growth Act of 1978, explicitly allowed for creation of “reservoirs of public employment and private nonprofit projects” and included the aim of reducing the jobless rate as far below 4 percent as possible while still keeping inflation in check.

It's also important to recognize that the notion of jobs for the unemployed has been more than a policy vision. While the United States has never had an official policy declaring government as “employer of last resort,” there have been three periods during which the federal government played a significant role in providing jobs for the unemployed: the Great Depression, the Great Stagflation of the 1970s, and the Great Recession of 2007 through 2009. In fact, public-service employment was a major research topic among labor economists in the 1970s. While time constraints prevented me from reviewing this policy history in my Global Forum remarks, I offer a brief discussion of each of those periods in Whalen (2019).

“JOBS FOR ALL” IS DEEPLY CONSERVATIVE

My second point is that “jobs for all” is not simply progressive; it's also, at least in some important respects, profoundly conservative—arguably even more conservative than the New Deal. In 1983, John Kenneth Galbraith, also an institutionalist, looked back at the New Deal and argued that the Roosevelt Revolution was conservative. According to Galbraith (1983), the New Deal was “intended to preserve the social tranquility and sense of belonging without which capitalism could not have survived—and still will not survive.” In my view, so it is today with “the right to work” as a progressive cause. In fact, today's challenge is not merely to foster social tranquility and a sense of belonging, but also to avert an irreversible ecological crisis.

A few years ago, *The New York Times* published an essay by columnist David Brooks (2018) on the economic insecurity experienced by American families, and its strain on society. In that essay, Brooks—long considered a conservative commentator—grapples with issues I believe are rooted largely in economic problems that have been a concern among progressive economists for decades.

Brooks's 2018 essay begins by citing survey research indicating that—despite what most conventional economists would call a robust macroeconomic expansion—almost two out of three Americans were dissatisfied and anxious “about their financial security, social relationships, sense of purpose, and connectedness to community.” Then Brooks points to the “gig economy” and the spread of other types of temporary and insecure jobs—and he links employment and financial insecurity to social unease and even the nation's declining life expectancy. He concludes that America faces a social crisis combined with widespread economic anxiety.

Of course, I'd argue that none of what Brooks found is new—except, perhaps that many highly educated Americans have increasingly felt the economic strains that countless less-educated Americans have experienced for decades. Writing in the 1990s, institutionalist Wallace Peterson (1994) argued that the U.S. economy had been in a “silent depression” since at least the mid 1970s—a depression characterized by widespread wage stagnation and massive middle-class job loss. According to Peterson, economic life had battered the middle class and polarized society for nearly a quarter of a century. In fact, the economic difficulties were so wrenching that Peterson (1994, 92) anxiously—and presciently—saw them as “the raw material for a bitter, divisive conflict in America.” And today, of course, we see consequences of that conflict all around us.

In short, we have a long-simmering economic crisis, which has spawned a social crisis and a political crisis. But it also created a public-health crisis—as suggested by Brooks’s attention to falling life expectancy. As economists Anne Case and Angus Deaton (2020) write in their book *Deaths of Despair*, much of the growth of drug abuse, alcoholism, and suicide over the past several decades can be traced to the erosion of employment opportunities and economic conditions for workers—especially those with less than a college education. Public health experts agree that employment is one of the key social determinants of health. Meanwhile, the nation’s health crisis—and the strain on the public-health system—has only been exacerbated by the COVID-19 pandemic.

Of course, progressive economists have been trying to draw attention to this problem since at least the early 1980s, when Barry Bluestone and Bennett Harrison (1982) explored the economic and social toll associated with the erosion of U.S. manufacturing jobs, giving attention not just to job loss and community dislocation, but also to the physical and mental-health effects of economic distress on workers and their families. As with the economic crisis, the public-health crisis isn’t new—it’s just more widespread and more widely recognized.

The same is true of the global climate crisis. There have been ecological warning signs for decades, but policymakers have taken little action. Now we have reports from the U.S. government making it clear that the effects of climate change are here, costly, and slated to get worse. And the Intergovernmental Panel on Climate Change (2018; 2021)—organized by the United Nations—stresses that to avoid calamitous levels of planetary warming, nations have no time to lose in sharply reducing carbon emissions.

Taken together, these current challenges suggest that pursuing “jobs for all” is even more conservative than was the New Deal. We need jobs—lots of them—to address our economic, social, health, and climate challenges—thus avoiding the looming catastrophes that threaten not just industrial democracies, but all of humanity. And if we’re lucky, in the process of dealing with these challenges we’ll also ease the nation’s political crisis—which now undermines democratic governance—by fashioning “broadly-shared economic prosperity” and helping to foster social tranquility. All of this will cost money, require major institution building, and entail huge administrative challenges. But inaction is also costly, especially as temperatures worldwide continue to heat up, and as automation threatens more and more jobs.

So, the notion of “the right to work” is not new. And pursuing “jobs for all” can actually be viewed—at least in part—as deeply conservative. My final point is that establishing government as “employer of last resort” is vital to fulfilling the promise of America.

JOBS AND THE PROMISE OF AMERICA

During a commencement address in the late 1970s, American politician and educator Barbara Jordan (1977, 8) said that the people of the United States “want an America as good as its promise.”

But what is “the promise of America”? According to the keynote address that Representative Jordan delivered to the Democratic National Convention a year before her commencement address, it’s the fashioning of a national community in which all of us have equal standing in the public forum—where we’re all equal “under the law” and as “participants in shaping policy.” In that keynote, Jordan (1976) also said that delivering on “the promise of America” places upon government an obligation to act and innovate.

In a line reminiscent of both Roosevelt and Commons, Jordan argued that we must be “willing to adapt to changing circumstances” and that government must “seek to remove those obstacles which would block individual achievement, [including] obstacles emanating from race, sex, and economic condition.”

But where does “the promise of America” originate? In my view, the answer can be found in another of Jordan’s speeches, this one delivered in the summer of 1974, during a public hearing on the impeachment of President Richard Nixon. The source of “the promise of America” is the U.S. Constitution. As Jordan (1974) famously stated at that hearing, “My faith in the Constitution is whole; it is complete; it is total.” In particular, I’d argue that America’s promise is right there in the Preamble: A fundamental reason for establishment of our constitutional government is to “secure the blessings of [individual] liberty” for all—including “our posterity” (Constitution 1787). Combine that governmental obligation with the aim of promoting “the general welfare,” and it’s clear “the right to work” is vital to fulfilling the promise of America.

THE “RIGHT TO WORK:” COMING FULL CIRCLE

So, I’ve offered my remarks as three main points, but, of course, they’re all interrelated. In fact, Barbara Jordan’s notion of removing obstacles to “the promise of America” is fully in line with Commons’s notion of “an evolving web of rules” that give liberty its meaning. And in that sense we’ve come full circle on the need for “the right to work.” No doubt, it’s better late than never when it comes to reclaiming the “right to work” as a progressive cause; but, given the seriousness of our current problems, we’re running out of time.

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