



UNIVERSIDADE DE ÉVORA
DEPARTAMENTO DE ECONOMIA



DOCUMENTO DE TRABALHO Nº
May

2006/08

The Right to Work and the Political Economy of Human Rights

Manuel Couret Branco
Universidade de Évora, Departamento de Economia

UNIVERSIDADE DE ÉVORA
DEPARTAMENTO DE ECONOMIA
Largo dos Colegiais, 2 – 7000-803 Évora – Portugal
Tel. +351 266 740 894 Fax: +351 266 740 807
www.decon.uevora.pt wp.economia@uevora.pt

Resumo/Abstract:

The second part of the paper is dedicated to the presentation of arguments that attempt to legitimize the right to work. For those members of the international community that have signed and ratified the proclamations described above the process through which they were approved confers the right to work plenty enough legitimacy. But given the highly political nature of the process that led to their adoption it should not come as a surprise that, especially among economists, economic rights are considered just a legal ornament. Therefore, it may be useful to search for different sources of legitimacy for human rights, and economic rights in particular, other than political and philosophical if one intends to make economics take economic rights seriously.

The first argument is based on the inequality established in the capitalist system between the two contractors in the labour market, in this case freedom to work, in other words freedom to engage in contract, becomes meaningless without a right to work.

The second argument arises from a basic ethical principle of economics. In order to live, that is in economic terms to consume, in other words, to satisfy needs or to acquire utility, one has to consent in sacrifice of an equivalent amount of utility of a different kind. In our society the sacrifice demanded from individuals for the satisfaction of one's needs is the supply of a certain amount of work, or of a socially useful activity, except in cases of incapability resulting from misfortune. There is, therefore, an obligation to work. Now by definition, if work is an obligation in order to live, no one should be deprived of the access to it.

The third argument in favour of the right to work concerns the social utility of the existence of such a right.

The third part of the paper concerns the possibility of the existence of a competition between the right to work and the right to property. After concluding that this is not a problem I will focus on the conflict that seems more obvious, which is the conflict between the interests of capital and labour. There are two aspects of this conflict.

The microeconomic aspect of this conflict concerns the fact that for firms unemployment is useful to attain certain objectives. For a long time unemployment, and the spectrum of hunger, has been seen as some sort of menace to workers in order to make them work harder and stay in line.

At the macro economic level, unemployment appears to be an instrument in controlling inflation and full employment no longer a goal, regardless of the theory one professes, Philips curve or Natural Rate of Unemployment in any of its versions.

The fourth part of the paper concerns the responsibility for ensuring the right to work. Is it a state or a corporate responsibility? Generally it is admitted that in terms of human rights the responsibility is the State's. But this would also mean that firms would then externalise the social costs of their activity which is not coherent with the new wave of Corporate Social Responsibility.

Finally the last part of the paper will concern the policy implications of the right to work. Sustaining that ensuring the right to work means to promote full employment with decent jobs I will analyse the traditional instruments used to create jobs in the advanced countries and conclude that not all public action aiming to just creating jobs qualifies to right to work securing policy if it contributes to an erosion of the rights at work. In the end I will suggest that the only policy that seems to qualify in present economic circumstances is to share the asset work by substantially reduce the working hours.

Palavras-chave/Keyword:

Right to Work, Human Rights, Political Economy, Employment, Unemployment

Classificação JEL/JEL Classification: A10, A12, A13, J20, J23, K00

INTRODUCTION

Economic theory, usually, feels more comfortable dealing with needs rather than with rights. Within economic analysis satisfying needs implies the use of concepts like cost, benefit, and price, the matter being, here, capability, in other words purchasing power. With rights the matter is quite different; it is about qualification, about the reasons why one should qualify to enjoy rights and the consequences of the use of such criteria. Whilst dealing with needs, economics can take shelter in a positivist approach, dealing with rights pushes it to risk normative stands. When dealing with rights economics can basically take one of two, or three, approaches. Some take rights as an integral part of normative economics, and in this view exercising rights is just another manifestation of making a social choice. Those that define both the ends and the means of economic development in terms of human rights are amongst this group (see UNDP, 2002; Sen, 1999). The second option is to take rights as a constraint within which social choice is made (see Weikard, 2004, p 267). This rights-as-constraints view has been developed, for instance, into the so-called game form formulation of individual rights, where focus is on the analysis of social situations where rights are given (Weikard, 2004, 267). We could also add a third approach of the interaction of economics and rights, where economics can be seen as a constraint on rights. Indeed, in order to enjoy many rights, out of a wide palette, availability of means, economic means, is frequently a necessary condition (see Archer, 1995, p 16; Anderson, 2002, p 216).

This article will adopt the first approach mixed with the third, where deepening human rights is in itself a social choice. It is because the drafters of the Universal Declaration on Human Rights thought that availability of means was important that positive rights were to be proclaimed in this Declaration, and economic rights detailed later on. Although it has not been the object of a discussion such as its relevance would suggest, the right to work takes a prominent place amongst economic rights. In this article I will briefly describe the historical process that led to the proclamation of the right to work, present some the arguments within political economy that intend to legitimize it, discuss the possibility of the existence of competition amongst human rights, debate on the responsibility of securing the right to work and finally analyse its policy implications. The general purpose of studying the right to work, here, is to argue that although it may be possible for a consumer centred economy to thrive despite the exclusion of a large part of its members from the production of social utility; this will not be acceptable for a people centred economy. In doing so I intend to promote a political economy whose objective is the deepening of human rights.

THE RIGHT TO WORK

It is in the French Constitution of 1793 that the existence of such thing as a human right to work, that is to say the right of an individual to a freely chosen job allowing a dignified existence, is explicitly recognized (Harvey, 2002; Tanghe, 1989). Half a century later the discussions that accompanied the drafting of the French Constitution of 1848 are probably amongst the best documented debates on this matter, displaying passionate speeches of both the defenders and the detractors of the existence of a constitutional right to work (Garnier, 1848; Proudhon, 1938). Before that, rather than a human right, work would most probably be considered as an outrage. Indeed, for the ancient Greeks as well as for the Romans, labour, even paid labour, was considered

unfreedom (Godelier, 1986; Heilbrunner, 1988; Méda, 1995), and therefore the idea of ensuring every individual the access to a paying job would seem senseless in the least. In the middle-ages and until the industrial revolution this association of work and deprivation of freedom is not as explicit but the depreciating character of work persists. In the fifteenth century to be enrolled in public works was a punishment (Tanghe, 1989, p 109) and in the seventeenth century, in order to oblige some of the poor people to work, the state was forced to intern them in concentration factories (Polanyi, 1983). During a very large period of time, it seems, therefore, that society needed people to work more than people claimed society for a job.

Although there are several references to the right to work from 1848 (see Harvey, 2002) on, it was not until 1948 that, in the surge of the discussion about universal human rights by the recently created United Nations Organization, the right to work got explicit general recognition as a human right. In article 23 of the Universal Declaration of Human Rights (UDHR) it is proclaimed that:

1. Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment.
(...)
3. Everyone who works has the right to just and favourable remuneration ensuring himself and his family an existence worthy of human dignity, and supplemented if necessary by other means of social protection.

This proclamation clearly states not only that people have the right to a job but also to a decent job, and therefore that ensuring the right to work and favouring any kind of job does not have the same meaning. Furthermore, people have the right to protection against unemployment, which should be understood as a set of mechanisms protecting an individual from becoming unemployed and not only from the consequences of being unemployed, that is to say that not only he should have the right to a monetary compensation for being out of a job, for example, but also that he is entitled to some kind of job security.

Despite the legal weight that the Universal Declaration has assumed over the years it did not impose binding obligations on the governments of the signatory states. In order to afford individual countries to assume such obligations concerning human rights, two international treaties, the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR) were approved by the General Assembly of the United Nations in December 1966 after a discussion that lasted almost two decades. In 1976 both covenants came into force when they received the required minimum of thirty five ratifications.

Concerning the right to work the ICESCR proclaims the following:

Article 6

1. The States Parties to the present Covenant recognize the right to work, which includes the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts, and will take appropriate steps to safeguard this right.

2. The steps to be taken by a State Party to the present Covenant to achieve the full realization of this right shall include technical and vocational guidance and training programmes, policies and techniques to achieve steady economic, social and cultural development and full and productive employment under conditions safeguarding fundamental political and economic freedoms to the individual.

Article 7

The State Parties to the present Covenant recognize the right to everyone to the enjoyment of just and favourable conditions of work which ensure, in particular:

- (a) Remuneration which provides all workers, as a minimum, with:
 - (...)
 - (ii) A decent living for themselves and their families in accordance with the provisions of the present Covenant.

There are two main dimensions to the right to work in both the UDHR and the ICESCR. The first one is quantitative and sustains that the right to work means the existence of sufficient jobs for everyone and not only the right to compete on terms of equality for scarce employment opportunities (Harvey, 2005, p 9; Canotilho, 1984, p 35). It is not incidentally that The United Nations Charter, drafted in 1945, proclaims in article 56 that the United Nations shall promote “Higher standards of living, full employment and conditions of economic and social progress and development”. Curiously, by the time the right to work was finally recognized along with the other economic, social and cultural rights, economic theory was in the process of abandoning the Keynesian distaste for involuntary unemployment, inflation becoming now the main threat to the economy, and unemployment some sort of variable manipulable to control inflation.

The second dimension of the right to work is qualitative and regards those criteria that determine whether a particular job qualifies as decent work. These criteria sum up what could also be called the rights of an individual at work and concern wages, working hours, working conditions, the right to join and form unions to protect their interests, and so on. Different policies are usually demanded to secure each of these dimensions, and although trade-offs between them could be expected, ensuring the right to work should not tolerate them. That is why some public action aiming to just creating jobs may not qualify to right to work securing policy if it contributes to erode the rights at work.

As with the former proclamations of the United Nations on human rights there is no schedule imposed on the countries to secure the right to work of their citizens. Indeed the obligations of State Parties regarding economic rights are subject to different interpretations. Some consider that they are only rights in manifesto sense and, therefore, are not justiciable (see Freeman, 2004) and cannot be treated as individual legal claims, in other words they do not constitute a duty for others (Donnelly, 2005; see Canotilho, 1984). In this sense the right to work can only be treated as a solemn statement of an important policy goal, implying at the most political responsibility only. For some others (see Canotilho, 1984; Queiroz, 2002, Freeman, 2004,) on the contrary, rights are always justiciable and, therefore, economic rights presuppose a duty for the community even if it is accepted that the realization of these rights could be restrained by the availability of means.

Indeed, the ICESCR states in article 2 that:

1. Each State Party to the present Covenant undertakes to take steps, individually and through international assistance and co-operation, especially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the present Covenant by all appropriate means, including particularly the adoption of legislative measures.

This characteristic of economic rights can shed some light over why, since the ICESCR was approved and even in countries that have ratified it, more than just a delusion, employment for all seems to have expired as a goal, but it does not matter much when it comes to the definition of the goal of securing the right to work. The key question, therefore, is not to determine the legal implications for signatory countries as much as to recognize what are the obligations of society, and, thus, of the economy, if it chooses to pursue the enhancement of human rights, and of economic rights in particular.

THE GROUNDS OF THE RIGHT TO WORK

For those members of the international community that have signed and ratified the proclamations described above the process through which they were approved confers the right to work plenty enough legitimacy. But given the highly political nature of the process that led to their adoption (see Harvey, 2002) it should not come as a surprise that, especially among economists, economic rights are considered just a legal ornament. Indeed, because many economists take work as a commodity and, therefore, as a variable submitted to the supposedly natural law of supply and demand, they tend to be suspicious of political processes, and often take them as illegitimate interferences with the economic realm. Therefore, it may be useful to search for different sources of legitimacy for human rights, and economic rights in particular, other than political and philosophical, if one intends to make economics take economic rights seriously. The starting point of this argumentation is the universal acceptance of the right to live, not only in terms of the legal protection from being murdered, but also in terms of the access to the goods necessary to support life, and the perception that we are living in a merchant society, in other words a society where the great majority of these goods are obtained through purchasing.

In a primitive society where there were no property rights and no division of labour, to have the right to live, that is to say to have access to the means necessary to support life, would mean the same as to have the right to hunt, to fish or to gather. Once social division of labour made its appearance, and therefore, the subsistence mode of production was substituted by the first merchant mode of production, the access to the means necessary to support life implies earning an income. In this situation it is of the utmost importance that one has access to means of production, namely land. History followed its course and the means of production were progressively subjected to private appropriation and accumulation in the hands of a few, leaving the great majority of the population with no other alternative to obtain an income than to sell their work force.

In its 1891 encyclical *Rerum Novarum*, Pope Leo XIII's reflects this position in a claim for a right to work:

The Preservation of life is the bounden duty of each and all, and to fail therein is a crime. It follows that each one has a right to procure what is required in order to live; and the poor can procure it in no other way than by work and wages (in Harvey, 2002, p 393).

Along with the recognition of the right to work as an interpretation of the right to live in an economy dominated by the capitalist mode of production, this citation also reflects the general view of the Catholic Church as far as the role of work is concerned. Work has always been glorified in the Christian tradition regardless of the Catholic versus Protestant fracture (Hénaff, 2000), partly because work fitted perfectly in the church's philosophy of submission regarding the poor, the humble attitude of the worker symbolizing the appropriate attitude for the servant of God (Heilbroner, 1988, p 88).

Thus, in so far as work in the capitalist mode of production has become the main means of acquiring an income, to recognize the right to live is equivalent to recognize the right to work (Méda, 1995, p 119). The right to work is nothing but the metamorphosis of the primitive rights of hunting, fishing and gathering (Tanghe, 1989, p 166) resulting from the advent of capitalism, the fatal and necessary consequence of property (Proudhon, 1938, p 422). In this view the right to work is sustained, not on some kind of absolute and universal legitimacy to which human rights cannot aspire (Bobbio, 1992, p 19), but on the historical conditions that characterize the capitalist mode of production, and namely the intrinsic inequality before the right to live of the individuals involved in the wage relation.

The wage relation, in theory, confronts two individuals that stand as equals, one expressing supply and the other, demand, in a market where labour is exchanged. In this commercial relation each of the parties is supposed to have the same need for each other in terms of asserting their right to live, each one being free to contract with the other. In reality, more than just a theoretical hypothesis, this is a myth. It is not difficult to understand that, as far as the struggle for life is concerned, one of the parties is strongly disadvantaged. A. Smith, himself, recognizes this fact in the *Wealth of Nations*.

A landlord, a farmer, a master manufacturer, a merchant, though they did not employ a single workman, could generally live a year or two upon the stocks which they have already acquired. Many workman could not subsist a week, few could subsist a month, and scarce any a year without employment. In the long run workman may be as necessary to his master as his master is to him; but the necessity is not so immediate (Smith, 1776).

In the eighteenth century, in many European countries, the main problem was not so much unemployment as a consequence of a shortness of jobs but much more as the result of corporations that limited the access to a job. Therefore the first claims for a right to work meant a demand for freedom to compete for jobs, and not so much a demand for the availability of jobs for all. Although they differ in substance, it seems to me that some of the arguments set forth are valid to legitimize both conceptions of the right to work. A liberal economist like Turgot, for example, criticising the corporative labour market, says that:

We owe to all our subjects the assurance of the full enjoyment of their rights; we owe this protection above all to this class of men who, having no property besides their work

and their industry, are all the more in need and in right of a work (...) since it is the only resource they have in order to subsist (in Tanghe, 1989).

The differences in the origins of unemployment cannot hide the fact the problem for the worker is exactly the same, he cannot find a job. That it happens as a consequence of a shortness of jobs or as a consequence of overregulated job markets, is of little importance for him in his quest of subsistence. The socialists in the nineteenth century, for example, will also refer to this argument in order to justify their claim for a right to work, consisting now in the provision of jobs for all. In the discussions of the French constitution of 1848 Louis Blanc would state:

Is it true or not that all men have a right to live from the day they were born? Is it true or not that if a few end up seizing all the instruments of work, getting hold of the power of working, the others will be condemned (...) either to be slaves of the former or to die? (...) Is it fair that, if all men have the right to live from the moment they were born, the power of realizing this right should be concentrated in the hands of a few (...) (in Tanghe, 1989).

On account of the inequality established in the capitalist system between the two contractors in the labour market, freedom to work, in other words freedom to engage in contract, becomes meaningless without a right to work. This right to work stems not only from a natural right to live but also from the historical particularities of economic development, that is to say from the surge and consolidation of the capitalist system. This claim for a right to work makes all the more sense that the wage relation concerns, nowadays, more than three quarters of the active population in advanced countries, and that, to a certain extent, the economic system doesn't seem to aim the production of riches anymore, but plainly the creation of jobs (see Tanghe, 1989, p 223). The speeches of public servants announcing the captivation of large investments is very revealing. They seldom stress the satisfaction of consumers or the creation of wealth that will result from new activities, the emphasis is generally placed on the new jobs that will be supplied.

The next argument to legitimize the right to work can be found in the basic ethics of mainstream economic theory itself. Although one of the central aspects of mainstream positivist economics is the fact that it is supposed to separate the economic phenomena, belonging to the scientific realm, from those belonging to the moral realm, there is an intrinsic moral code underlying every exchange process. This moral code tells us that in order to satisfy human needs one has an obligation to produce some effort, to consent in sacrifice. In a commercial society where human needs are met through the intermediation of money, the counterpart that the economic moral code demands from individuals is a certain amount of work, or any other socially useful activity, except in cases of incapacity caused by obvious misfortune. Even in the so called primitive societies, the absence of merchant exchange does not imply that one meets his needs without any sort of counterpart (Mauss, 1983). B. Perret reminds, for example, that at the time of giving a child a monthly allowance, every parent knows instinctively that it is dangerous to dissociate money from effort (Perret, 1995, p 106).

There is, therefore, an obligation to work and by definition an obligation corresponds to a right. "As well as there is no father without a son, there is no right without an obligation and vice versa" says N. Bobbio (1992, p 80). The economic moral code presupposes, therefore, the existence of a right to work, in the same way that if

there is a compulsory period of schooling for children of a certain age, none of them can be refused to attend classes. If the argument that you cannot seat any more children in the classroom seems unacceptable to drive back a child, in the same way it would seem unconceivable to refuse a job to someone on the basis of the fact that there are no more jobs available. This right does not concern a particular job, with a particular firm, but a political economy that fails to allow the citizens to contribute to the commonwealth fails fundamentally (see Brockway, 1995, p 94).

Let me now slightly presume of the reader's patience to explain why I sustain the existence of the moral code described above. Mainstream economics is based on the assumption that every human being naturally responds more or less in the same way when facing decisions in the economic realm; its nature is built upon the utilitarian principle according to which human behaviour is directed to obtaining pleasure and avoiding pain. The construction of this principle didn't result from the systematic observation of human behaviour. It is most probable that it was developed through an effort of introspection (Brown, 1972) which constitutes the closest approach to the scientific method of psychology available in the eighteenth century.

Although this conception of man was built upon strong convictions rather than upon rigorous research, these principles are confirmed by modern neurology. A. Damásio says that pain and pleasure are the "handles needed by the body to make the instinctive and the acquired strategies act effectively (Damásio, 1995, p 266). He also stresses that pain acts to sound an alarm in order for the human being to be on its guards, urging him to avoid its origin and to correct its consequences, operating as a protection for his survival (Damásio, 1995, p 268). Human beings sometimes do it instinctively but they also have the ability to connect one idea to the other and, therefore, to act rationally.

In this manner human beings, when behaving in the economic realm, are supposed to look for the maximum of pleasure involving a minimum of pain. When the intensity of pain equals the pleasure received one has reached the maximum of satisfaction that is possible, as one additional unit of pleasure would have to be obtained through the endurance of a higher amount of pain. It is important to stress that, in economics, pain is always present; there is no such thing as a maximisation problem which does not involve pain. Therefore the search for utility, that is to say pleasure, in an exchange based society, implies for the individual giving up a socially equivalent amount of utility, in other words it implies an endurance of pain.

Economic theory considers legitimate, or moral, an exchange of pain with pleasure, but not an exchange involving pleasure only for the same individual. There is a line in the film "What's New Pussycat" that explains this problem better than any handbook in Economics. The character played by Woody Allen is sitting at the terrace of the Closerie des Lilas café in Paris and informs a friend that he has found a job dressing and undressing dancers at the famous night club Crazy Horse Saloon. Very happy for him, the friend asks "how much is it a month?", and Woody Allen replies let's say, "100 dollars a month". His friend looking astonished exclaims "that's not much!", and Woody Allen replies "that's all I can afford!". The moral utility, therefore, can only be obtained through some kind of sacrifice of utility of a different type, that is to say in exchange of a disutility.

Now, in mainstream economic theory, utility is obtained in the consumption sphere. Indeed, our needs and desires are satisfied through the destruction of the utility contained in the commodities we acquire. Logically, disutility should be endured in the opposite sphere, which is to say at work (Méda, 1995; Perret, 1995; Lane, 1994). This principle that considers work as a disutility and, therefore, as a counterpart of an utility, is very clearly stated in Genesis 3.19 when it announces that “you shall eat your bread in the sweat of your face” as much as in the modern accounting systems (Lane, 1994, p 26). The conclusion is that in order to enjoy the utility offered by the consumption of goods and services one is obliged to endure a disutility, which is to work. The moral code of mainstream economic theory presupposes, therefore, an obligation to work, thus recognizing implicitly a right to work.

The last argument in favour of the right to work is based on the social utility of the existence of such a right. There is a general agreement on the fact that unemployment is the cause of social harm in many aspects. Firstly, it is one of the major causes of poverty and it is associated with a wide range of psychological and physical affections (Harvey, 2002) which in common contribute to lessen the well being of many. Secondly it is believed to be at the origin of increased criminal activity and other anti-social behaviours (see Fougère et al., 2006; Harvey, 2002). This last argument was also put forward in the nineteenth century in France namely by utopian socialist Charles Fourier. According to him, if the proletariat doesn't manage to sell his work force he has no alternative but starving or engaging in wrongful mendicancy (in Tanghe, 1989, p 166); he also said that the first task of politics was to find a new social order that would make proletarians prefer work to idleness and brigandage (in Harvey, 2002, p 391).

Thus if society is concerned with its sustainability, in other words if it organizes itself in order to last, it should be worried not only about the well-being of its population but also about preventing this well-being from getting affected by anti social behaviours. These behaviours can come not only from isolated individual acts, such as crime, but also from mass movements that can provoke serious disruptions. The rise of fascism in Europe in the pre-second world war and some forms of terrorism certainly found a fertile soil in the social discontentment provoked by mass unemployment. That is also the essence of H. Hude's argument. For him the free liberal society in which we live demands the realization of three conditions, the right to live, that is to say the access to the means necessary to support life, the obligation to work, without which there is a risk of social irresponsibility, and the right to earn its living, in other words the right to work (Hude, 1994). Consequently, H. Hude sustains that acting against unemployment is a priority, as the stake is preserving the free society, and he adds that if it's impossible to respect this right to work in a given set of economic rules, then we should enrich this system and change its rules (Hude, 1994). In this view implementing the right to work is not only a duty for the community but also a necessity.

In spite of the fact that the majority of economists will consider the argumentation above of heterodox extraction, I believe I have shown that the right to work also finds legitimacy in the liberal thought. Nevertheless, I consent that liberals most probably would find reasons for criticizing the right to work, and, therefore, I will present the essence of these critics. The first critic regards the fact that too much concern for rights could lead to the pursuit of policies that reduce rather than enhance human welfare, and in the particular case of unemployment, instead of creating jobs

would end up boosting unemployment. The argument is based on the perverse effects on welfare of pursuing notions of fairness (see Kaplow and Shavel, 2003).

Stating that strict adherence to principles such as the right to work would have a perverse effect on the ability of society in providing everyone with a job could possibly be demonstrated, but it does not question whatsoever the legitimacy of a right to work; only the principles that are supposed to shape a rights-based methodology to implement full employment. The present article is not the place to analyze this perversity argument in depth. Nevertheless, it constitutes an important pillar of what A. O. Hirschman (1991) called the rhetoric of reaction and for this reason calls for a general comment.

In relation to the quantitative aspect of the right to work, the debate on employment policies is very vivid and has not reached unanimous conclusions on which are the policies that have contributed to create jobs and which are those that have not. But with respect to the qualitative aspect of the right to work, the rights at work, the validity of the perversity argument means that legislative measures that, for many years, have been implemented in a great majority of countries in the world should have worsened the working conditions of the population. This argument seems simply preposterous. A. O. Hirschman reminds us that in the nineteenth century the universal suffrage, one of the pillars of modern political rights, was also accused by many of having a perverse effect on democracy (Hirschman, 1991).

The next essential argument concerns the intolerable intervention of the state in private affairs that would result from the recognition of the right to work. In the debates of the French constitution of 1848, the liberal L. Faucher says that:

To proclaim the right to work it's to constitute the state as the purveyor of every existence, the insurer of every fortune and the entrepreneur of all industries (in Garnier, 1848, p 345).

The right to work (...) is a seizure not only of what it is, but also of what might be, it is the community not only of the acquired wealth but also of the means that produce it (...) (in Garnier, 1848, p 346).

The fact that the right to work would be ensured by the state would also mean, for the liberals, the end of the freedom to work, that is of the freedom to choose where and for whom to work (see Méda, 1995, 122; Tanghe, 1989, p 45), which is contradictory with the right to work itself. It seems that, in the liberal's perspective, the right to work would compete with other rights, and Tocqueville adds that the right to work is also the denial of the right to property (in Tanghe, 1989, p 167), on which he is accompanied by the not so liberal Proudhon (1938, p 422). I will come back more thoroughly on this last subject in the next part of this article.

The criticism of the right to work does not come only from the liberal side of the political spectrum, some progressive criticism can also be accounted. A progressive critique of the right to work can be found in authors like P. Van Parijs (1995) or G. Standing (2005). For the former ensuring the right to work would mean to give an unjustified privilege to waged labour, discriminating other forms of activity, either self employment or unpaid work (Van Parijs, 1995, p 126). G. Standing criticizes the right to work because of its association with the use of labour to discipline the poor and the obligation to work that it conveys, and adds that Karl Marx himself was scathing about

it, dismissing the notion as a bourgeois dogma (Standing, 2005, p 93-94). He disbelieves that the right to work can guarantee decent jobs, stating that many jobs undermine the right to work not only because, according to him, they involve controls and discipline that are not freely chosen, but also because many jobs in society are degrading and poorly paid (Standing, 2005, 95-96). In this way it seems senseless to consider a right to something that not only does not promote the well being of the lower classes, but can also contribute to oppress them. Finally Standing criticizes the right to work on the same grounds as many liberals saying that this right can hardly be implemented as it would probably lock an economy into a rigid and ultimately stagnating mess, and would need a very complex evaluative and judgemental apparatus to impose on governments and employers some obligation to provide jobs (Standing, 2005, p 96).

The unworthy character of work and, as for the liberal critique, the improbable feasibility of a right to work, constitute, for Standing, a major obstacle to considering its legitimacy, then. In defence of the right to work one could reply that while claiming the availability of a job for everyone that wishes to work, one is not implying that everybody should be forced to work and that one wishes to protect the degrading jobs that still remain. In an ideal society people should probably work much less than today, or not work at all, and all the same be able to live in dignity. One of the reasons for the claim for a right to work is that we live in a capitalist society where a job is the major source of income, and therefore regardless of one's wish to live in a different system, it will be through giving a job to everyone that we will entitle the majority of the world's population with a decent life today. I personally believe that democracy should not be exhausted in the universal suffrage, and I also admit that many voting processes may have contributed to dissolve the democratic participation ideal, but should we, then, not protect the right to vote in our quest for a more profound democracy? I do not think so, and, for the same reason, believing that the ideal relation between income and work should be different from the one we have today should not prevent me from defending the right to work.

COMPETING RIGHTS AND THE CAPITAL VERSUS LABOUR CONFLICT

As we have seen above, in the nineteenth century the liberal critique sustained that accepting the right to work meant the denial of the right to property. The existence of a contradiction between the right to work and the right to property could explain not only why the legitimacy of a right to work has been often denied but also why the right to property seems to have been secured more effectively than the right to work. The first stage of the analysis of a possible competition between rights concerns the inquiry on the existence of such a thing as a recognized right to property. Indeed, the Universal Declaration of Human Rights proclaims the following in article 17:

1. Everyone has the right to own property alone as well as in association with others
2. No one shall be arbitrarily deprived of his property

The right to work and the right to property are both, therefore, recognized human rights, and as such considered as valuable. In this regard they should not be considered as competing rights. The 1993 Vienna Declaration on human rights proclaims in article 5 that:

All human rights are universal, indivisible and interdependent and interrelated. The international community must treat human rights globally in a fair and equal manner, on the same footing, and with the same emphasis (...).

This is not quite the opinion of N. Bobbio. He sustains that there are very few fundamental rights which do not compete with other fundamental rights, that one cannot assert a new right in favour of a group of individuals without suppressing some old right in detriment of another group of individuals (Bobbio, 1992, p 20). Therefore, according to Bobbio, in order to realize some human rights one is obliged to restrain the realization of other human rights (Bobbio, 1992, p 21). The question one should ask, then, is if work and property constitute a good example of competing rights.

In the proclamation of the human right to own property there is no specification on what is supposed to be owned, but when some sustain that there is a conflict between the right to work and the right to own property, it's the property of capital that it is being referred to. Therefore, in discussing the competition between the right to work and the right to property, we are in fact discussing the competition between the right to work and the right to own capital. What is, then, the nature of this alleged competition?

According to the liberals during the discussion of the French constitution of 1848, the state should be responsible for the eventual implementation of the right to work, and on account of the fact that the state doesn't have proper resources, the enforcement of the right to work would have to be done through taxation and inevitably the proprietors would end up paying it (Tanghe, 1989, p 167). In this view the right to work is considered an amputation of the entrepreneur's income, and Proudhon himself says that, if profit becomes null, proprietors loose their interest in property, and if property is discouraged, property vanishes (Proudhon, 1938, p 431).

The right to work would be an attempt on property, then, because it would diminish its profitability. If one accepts this argument in order to confront the right to work with the right to property one should consider many other attempts on the right to property. Taxation sustains many activities, such a public works, justice, national defence, and many others; should they also be considered attempts on the right to property? Furthermore, there are many other sources of profit corrosion in corporations, like domestic and international competition, volatile consumers, inflation, should they also be considered attempts on the right to property? In the nineteenth century the reduction of the working hours was attacked by N. Senior on the grounds that profit was obtained during the last hour of the working day and that, therefore, any reduction would end up suppressing profit (Marx, 1977). More recently, the employers' reaction to paid vacations also brought the argument of diminishing profitability, but economic history showed not only that general profitability did not suffer, with the reduction of the working hours and paid vacations but also that new forms of property were developed in result of increased leisure.

It doesn't seem plausible, thus, to admit that the right to work and the right to property are competing rights. I believe that there is, indeed, a conflict but it does not concern these two human rights. It is true that economic orthodoxy has, somewhat successfully, conveyed the idea that labour rights clash with what has generally been called economic freedom, and that instead of a plain regulatory system, freedom of

market has been upgraded to a fundamental right by this same orthodoxy (Cunha, 1998). This approach is very contestable as this would suppose that the economy, or most often the markets, like individuals or the state, would have the right to be considered subjects of the law (Gauron, 1998). Furthermore, this kind of argument was in fact used quite commonly to contest many rights and sometimes even basic human rights as during the Pinochet dictatorship in Chile (see Branco, 2001).

There is certainly a conflict; however I believe that it occurs between capital and labour and not so much between the right to work and the right to property. The first aspect of this conflict concerns the contradiction between labour considered as a productive factor and labour taken as end or an asset. The second aspect of this conflict regards the microeconomic and the macroeconomic role played by unemployment. In the traditional economic system, labour is both a productive factor and an end. It is a productive factor that along with capital participates in the production of value and it is an end in the sense that in compliance to the moral code of economics one has an obligation to work. On the one hand, in order to maximise social utility through consumption, society should aim to supply the largest amount of jobs possible. On the other hand, firms in order to maximise their profit have to focus on minimising the use of productive factors, and, therefore, should aim to supply the smallest amount of jobs possible. There is, therefore, a conflict on what are the worker's and the firm's utilities.

The second aspect concerns the role that unemployment has been called to play in order to regulate microeconomic and macroeconomic variables. The microeconomic aspect of this conflict concerns the fact that for firms unemployment is useful to attain certain objectives. For a long time, unemployment, and the spectrum of hunger, has been seen as some sort of menace to workers in order to make them work harder and stay in line, (see Linhart, 2006; Méda, 1995; Kalecki, 1971). In this respect the more recent model trying to explain unemployment as a result of what has been called efficiency wages is nothing but a modern version of unemployment as an instrument to promote workers' discipline. In this case, involuntary unemployment may appear to be a nuisance for the workers, but for firms it may be considered, on the contrary, as a quite productive device (Borjas, 2005, p 503-504). Furthermore it appears that according to empirical studies the wage tends to be lower in regions where unemployment rate is high and vice versa, giving unemployment another important role in containing the firm's costs (Borjas, 2005, p 504).

In a sort of extrapolation of this last role, from the micro level to the macro level, the famous Philips curve argued that there was a long run trade-off between inflation and unemployment. Some economists like M. Friedman and E. Phelps contested that relation and considered that in the long run there seems to be an equilibrium unemployment rate, called Natural Rate of Unemployment (NRU), which persists regardless of the rate of inflation (Borjas, 2005). The more modern version of the NRU takes a slightly different stand, considering the NRU an economic equilibrium that if reached by the economy allows inflation to remain constant (Devine, 2004), or in other words a rate of unemployment where inflation does not accelerate, this being called Non Accelerating Inflation Rate of Unemployment (NAIRU). In one version or the other the principle is the same. Unemployment appears to be an instrument in controlling inflation and full employment is no longer a goal. The trade-off between unemployment and inflation embodies, therefore, the conflict between labour and capital. Workers are interested in the lowest rate of unemployment possible and

capitalists are, on the contrary, specially interested in the lowest rate of inflation possible. The Philips curve and the natural rate theory of unemployment, in any of its versions, becomes, then, a clear theoretical and practical manifestation of the capital versus labour goal conflict, and more precisely the conflict between labour and financial capital, as inflation is supposed to affect primarily financial interests (see Kalecki, 1971).

In this last example there is no case for talking about competing rights because there is no such thing as a human right to stable prices. It may be a strong preference, revealed eventually by a major part of the population, but it cannot aspire, whatsoever, to the same status as a recognized human right. The competing rights hypothesis can, therefore, be eliminated, leaving us with conflicting interests only. What is at stake, here, is, then, the weight of each of these claims in terms of public policy intervention. Writing about the funding of human rights, N. Bobbio says that the origin of the right to work and the right to property is historically determined by the nature of the power relations that characterized societies in the midst of which these claims were made. In a society where only the proprietors had active citizenship, it seemed obvious that the right to property should be taken as a fundamental right, and in the same way, as industrialization developed and the workers movements made their appearance, it became obvious that the right to work should be considered a fundamental right (Bobbio, 1992, p77).

If the fact that, after the great depression of the 1930s, and until the 1980s, priority was given to fighting unemployment could, partly, be the manifestation of a shift in democracy, from a democracy of the proprietors towards a democracy of the workers (Pinilla, 1989, 61), the fact that, on the contrary, fighting inflation appears nowadays to be more important in public policy (Harvey, 2002), suggests that the weighs of the scales have been inverted. In the conflict of interests between capital and labour, the former seems therefore, to have recovered the dominant position that it had temporarily lost with Keynesianism. In turn, the fact that economic literature has never talked about such a thing as a Non Accelerating Unemployment Rate of Inflation (NAURI) is also very revealing of which of the conflicting sides as captivated the more interest from economic research.

STATE OR CORPORATE RESPONSIBILITY

If one believes in the right to work, one should also believe that each individual has a claim on society concerning the availability of a job. If there are not enough jobs for everybody, and, therefore, the individual's right to work is not being secured, to whom should he turn? As far as human rights are concerned it is usually considered that society is embodied, here, by the state, and that there is a duty of the state in providing the institutional protection of the citizen's rights (Canotilho, 1984; Bobbio, 1992) even if, in the case of economic rights, it is weighed by a provision of the possibility (*Vorbehalt des Möglichen*) (Queiroz, 2002, p 150). This means that there is a positive obligation of the state to do everything within reach to realize fundamental rights, although there is no subjective right of the citizen in this respect (Queiroz, 2002, p 102). Therefore, the state is not forcibly legally responsible but can ultimately be politically responsible, in other words the state is accountable before the voters, not before the courts. What are, then, the actual obligations of the state in securing the right to work?

This is a crucial question, although not easy to answer. Indeed, according to N. Bobbio the problem about human rights today, and particularly economic and social rights, is not so much about its legitimacy, as it is usually easy to obtain general agreement on its proposition, but about the methods of its enforcement (Bobbio, 1992, p 24). In this respect a line must be drawn between the quantitative and the qualitative aspects of the right to work. Regarding the qualitative aspect of the right to work, the rights at work, the role of the state is facilitated as they are more easily justiciable. Equality in the access to work, for example, can be enforced through legislative measures and the prevaricators can be taken to court, for not respecting it, the same can happen if a firm is not paying a certain wage when laws determine the existence of minimum wages. It is much more complicated as far as the quantitative aspect of the right to work is concerned.

In this case, should securing the right to work mean the obligation of the state in purveying the amount of jobs equal to the difference between the number of jobs that the economy autonomously requires, at a certain moment in time, and the number of jobs necessary to employ every citizen capable and wishing to work? Should it just mean that the state, being given instruments of policy, should use them in order to promote the supply of sufficient jobs in the economy? Finally, should securing the right to work mean that the state could legally force the firms to create jobs against their will? In Portugal, for instance, in the aftermath of the revolution of April 25th 1974, some large farms in the southern part of the country were obliged to hire workers, based on the perception that according to technical criteria, such as the extent of the arable surface and factor productivity, it was economically possible for the farm to support a larger workforce (Branco, 1988). Therefore, it can be both legitimate and enforceable to oblige firms to hire extra workers in certain conditions, but it doesn't seem easy to determine the criteria sustaining the state's decision for every economic activity, which takes us to consider that this kind of policy to secure the right to work cannot be generalized. Direct job creation by the state, and various sorts of incentives to job creation by the private sector are the only policies left, then.

Although there is a consensus on the fact that regarding human rights the responsibility for its enforcement is given to the state, some objections can be made. Firstly, at the time where there are growing claims from society that the state should get

thinner, the budgetary consequences of the exclusivity of the state in enforcing the right to work are problematic. In 1848, P. J. Proudhon had already alerted for the fact that the enforcement of the right to work by the state only would probably lead to its ruin (Proudhon, 1938, 421). Secondly, it may be considered unfair that being unemployment some sort of social nuisance partly provoked by the logic pertaining to the market economy, that it should be at the expense of the state only that the right to work should be enforced. Some interventions, like direct job creation, wage subsidies, tax cuts, and other policies can also be understood as an intolerable externalisation of social costs by the private sector, in other words we would be facing an unfair socialization of prejudice and a privatization of profit as an excuse to fight against the lack of work, this being specially true when the tax burden weighs mainly on labour income (see Branco, 1998, Gorz, 1997). In France, for example, the amount of subsidies distributed to firms in the name of joblessness, has amounted to 24.5 billion euros in 2004, which means that it has been multiplied by 40 since 1973 (Lefresne, 2006).

In France, again, in 2004, some 8,5 million workers have seen their wages complemented by state subsidies, and far from reducing the unemployment rate, this measure has above all allowed firms to be exempted of paying decent wages (Lefresne, 2006). The famous Speenhamland edict of 1795 (see Polanyi, 1983), also granted English rural workers a wage complement that was justified by the need to secure the right to live of the poor by the state. This intervention had the same perverse effect seen above. Land owners seized the opportunity to reduce wages making undue profit as these cuts largely compensated the taxes they had to pay in order for the state to finance the grants (Tanghe, 1989, p 191) In addition the small farmers that did not hire workers also had to pay the tax but, unlike large farmers, could not find a compensation to higher costs on lower wages. Furthermore, very small farmers that used to work on wages for the large farmers to complement their income also had to pay the tax, but could not benefit of the grant because they owned land (Tanghe, 1989, 191). Thus, with the Speenhamland edict the bottom of the social scale in rural areas was charged more than the top and collected less benefits. This is a very good example on how the poor frequently end up paying for policies that are supposed to benefit them, and into the bargain contribute to raise the riches' profits.

Finally, how can one dismiss the firm from the responsibility of securing the right to work and at the same time promote what has been called Corporate Social Responsibility (CSR) as a new management paradigm (see Chauveau and Rosé, 2003). The introduction of the concept of stakeholders, that is to say individuals and communities affected by corporate decisions, operates a shift in the usual perception of the enforcement of economic rights in general (Hertel, 2003), and the right to work in particular. Considering workers, including the unemployed, as stakeholders, one cannot say, therefore, that firms remain accountable before the shareholders only. Therefore, acknowledging that the majority of jobs are supplied by firms, it doesn't seem proper to keep on sustaining that securing the right to work, or fighting unemployment, does not concern firms somehow.

It does not seem fair, thus, that economic rights, should be the exclusive responsibility of the state. One can reach the same conclusion when discussing this same issue through the efficiency point of view. As M. Freeman says, there was a widespread belief that the implementation of economic and social rights requires strong states that not only might be more likely to violate civil and political rights, but also that

historically have not done much to secure the right to work either (Freeman, 2004, p 165). Would markets alone do a better job? M. Freeman believes unregulated markets will almost certainly do not (Freeman, 2003, p 166).

If one agrees with M. Freeman on this and also on the fact that Non Governmental Organizations (NGOs), which could theoretically substitute both the state and the markets, have limited resources and problematic accountability (Freeman, 2003, p 166), securing the right to work, nowadays, demands, therefore, not only supporting a state apparatus of a certain dimension, which is contradictory with the liberal claims of a substantial reduction of public intervention, but also a deeper corporate involvement in the process. In the next chapter of this article we will analyze traditional job creating policies by the light of the right to work proclamations and propose a general draft of what should be a right to work securing policy stemming from this view of corporate and state co-responsibility.

ENSURING THE RIGHT TO WORK AND ECONOMIC POLICY

In order to propose policy solutions to secure the right to work one has to determine what is the extent of the damages to the right to work and what are the causes underlying those damages. We have seen that in different texts to secure the right to work means to ensure full employment. As full employment is different from zero unemployment, frictional unemployment having to be accepted because it is not prejudicial to society, quite on the contrary, a figure that apparently could raise some consensus on a definition of full employment is two percent of the active population unemployed (Harvey, 2002). An analysis of historical figures can only but show that, although unemployment rates have fluctuated understandably, they seldom got close enough to the figure of two percent, even during periods of rapid economic expansion. Today, half a decade into the 21st century, the standardised unemployment rate in the countries of the OECD for January of 2006 is 6,3% and in the Euro area this same rate is 8,3% (OECD, 2006).

What strikes the most after reviewing historical figures on unemployment is that despite the fact that unemployment has always been present, society didn't seem to suffer extremely, and the economy apparently continued on its prosperous path. It seems as if men have become superfluous (see Apter, 1987). Economics handbooks usually alert to the inconvenience of unemployment but the fact is that the sanity of the economy does not depend on fully employing all those willing and capable to work. If one adopts a paradigm within which economics should promote and deepen human rights, recognizing the ability of the economy to proceed prosperously, in spite of unemployment, should not mean, however, that one should find it desirable, and therefore comfortably ignore the right to work.

The next step to design right to work securing policies is to determine the causes of unemployment, taking for granted that if one attacks the source of unemployment one can solve the problem. Literature on labour economics displays an immense variety of causes of unemployment. The most often referred to are overregulated labour markets, characterized by rigid wages, weak mobility and excessive job protection legislation, overgenerous social protection schemes for the unemployed, mismatch of supply and demand and feeble economic growth rates (Borjas, 2005; Shackleton, 1998,

Symes, 1995). This palette of causes for unemployment most often require microeconomic interventions, devaluating the once all mighty macroeconomic policy inherited from the Keynesian tradition.

If securing the right to work means ensuring full employment, than action has to concentrate on creating sufficient jobs to satisfy the jobs for all purpose, in other words on filling a job gap, either by increasing the labour demand, that is to say the number of jobs supplied, or by reducing the labour supply, that is to say by reducing the willingness of individuals to work. If one consents in leaving the reduction in labour supply slightly in the background, ensuring the right to work means creating more jobs, therefore. Nevertheless, as we have warned in the beginning of this article not all job creation mechanisms qualify for right to work securing policies. What demands should such a policy meet, then? The first requirement is that it must contribute to fill the job gap, the second is that it should not jeopardize other requirements of the right to work, namely the rights at work, the third is that the jobs to be created should be productive and not just occupational and, finally, that the burden of securing the right to work should be equitably distributed among the members of society, in other words that there should be corporate and state co-responsibility.

Let us now review the traditional microeconomic job creating policies under the light of these demands of right to work securing policies, starting by labour market deregulation policies. Please keep in mind that the issue here will not be so much the effectiveness of these policies in creating jobs, as there is no consensus on the empirical findings concerning that subject, but mainly the ability of such policies in meeting the other demands of the right to work. Under the designation of deregulation of the labour market we can find many policies. Amongst the most important of them we can find the reduction of trade union influence, the introduction of wage flexibility, in most cases questioning the existence of minimum wages and the reduction of job protection mechanisms. Excessive job protection allegedly discourages job creation based on the assumption that creating a job in a relatively warm period of the economy can become a liability as the firm will no be able to suppress it when, on the contrary, the economy cools off. Wage rigidity is considered an obstacle to the adjustment of demand for labour, preventing firms to create jobs at a lower wage than the legal minimum. Trade unions, in turn, are supposed to be responsible for wage rigidity and excessive job protection.

Under the light of right to work policies these kind of measures are strikingly menacing of the qualitative aspects of the right to work, and therefore, cannot qualify as right to work securing policies. Wage flexibility is partly responsible for the importance of the working poor phenomenon, which is to say people that despite being employed do not manage to enjoy a decent life standard. This status concerns about 6 to 8% of the workers in the European Union of 15 members, and 10 % in the United States (Lefresne, 2006; see also Krugman, 1994). Job protection softening is responsible for what has been called job precariousness (see Lefresne, 2006; Boltanski and Chiapello, 1999) that prevents many workers from enjoying regular working rights and benefits, such as the right to go on strike or to get paid vacations (see articles 7 d) and 8 d) of the ICESCR), and are at the origin of a dangerous dualization of the labour market (see Branco, 1998).

The progressive irrelevancy of the modern work contract is particularly alarming in this sense. Before the existence of a work contract it was the task rather than work that was being paid, which placed the worker in a weaker position in the bargaining process; the work contract, on the contrary, introduced two fundamental elements in a rights at work securing vision; it introduces rights and duties and, thus promotes equality of the intervenient parts in the labour transaction, and it brings true recognition of the entity of the worker and, therefore, the recognition of the worker as the central character in modern society (Méda, 1999). At last, reducing trade union influence is clearly contrary to the text of the ICESCR, that specifically recognizes in its article 8 a) the “right to form trade unions and join the trade union of his choice”. In conclusion, to create jobs under these circumstances can hardly qualify to right to work securing policies.

Attached to labour market deregulation policies one can find very often reforms in the unemployment benefits system as a set of measures supposed to favour employment. It is said that overgenerous benefits, like high replacement ratios and long duration of the benefits, can reduce both the intensity of job search and geographical mobility, and, thus, be a cause of unemployment (Borjas 2005; Shackleton, 1998). Reducing these benefits would, then, stimulate unemployed workers to accept more easily jobs that otherwise they would refuse. The first comment that these policies suggest is that it seems very clear that they do not aim to fill the job gap. These measures tend to push unemployed workers to accept the jobs that are available, but do not to stimulate the availability of more jobs. The second comment concerns the philosophy underlying these measures. By concentrating the efforts on reducing unemployment benefits what society is telling the unemployed is that, on the one hand they are the main responsible for their situation (see Forrester, 1996) and that, on the other hand, the only solution to force them to work is by threatening them with misery, a pre-industrial workfare scheme revisited. Now, this is exactly what was aimed to be avoided in the right to work proclamations when stating “the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts”. Is someone acting freely when taking a job because his unemployment benefits have been withdrawn?

Reducing the labour supply is one very obvious way of filling the job gap; it does not mean more jobs available but less people willing to work. At first view it does not seem to attempt to the right to work ideal. Distributing subsidies to convince people to withdraw from the job market either temporarily or definitively has many positive aspects. It allows people to concentrate on activities they would not otherwise have been able to do and to which they attach great value, such as bringing up children or taking care of the elderly, for example. One should be cautious of eventual perverse effects that may surge, though. Early retirement incentives may put excessive pressure on eligible workers that nevertheless prefer to stay in the labour market, and contributes to the development of an age stigma. Temporary retirement with the intention of favouring families that have young children, for example, can also be transformed in an instrument of gender discrimination, as it may preferably push women out of the labour market.

One policy that can be very effective in delivering more jobs and has been used throughout history to alleviate poverty and reduce unemployment in many circumstances is the so called state as the employer of last resource (Méda, 1995,

Tanghe 1989, Harvey 1999), in other words the state being directly responsible for closing the job gap. In spite of the presumable effectiveness of this policy one cannot deduce that it is a right to work securing policy in the sense that it doesn't meet some of the demands that have been considered above. First of all it would place the burden of the right to work exclusively on the state, with all the budgetary and inequity consequences that we have already seen in the previous chapter. The second objection concerns the type of jobs the state would create. If these jobs are created in order to deliver public goods, one should ask why they haven't been supplied before based on the need for these goods, and not just on the need to create jobs. If these jobs are situated out of the public goods sphere and are supposed to meet the needs of the consumers of private goods, one should question the reasons for not having seen them supplied by private economic agents, and therefore, should also question the nature of an economic system that leaves unsatisfied an important fraction of the populations needs. If these jobs do not correspond to any of the profiles, if they do not add utility, then one should ask why people should loose any time doing useless work. Let's remind that in the right to work proclamations it is stated that in order to ensure the right to work the States Parties should "achieve steady economic, social and cultural development and full and productive employment", not considering what could be called just occupational jobs.

Another set of policies often proposed, although only implemented in a sort of positive discriminative fashion, in alternative or as complements, is the use of wage subsidies and tax cuts to reward each new job created. Once again what seems to be a good idea might not be. On the one hand, there are some doubts concerning the effectiveness of these measures on account of the frequent substitution effects that have been noticed, in other words some firms in order to benefit from those subsidies or tax cuts, hire workers in substitution of other workers previously laid off (Le Goff, 1996). On the other hand, it is another step of social cost externalization by firms, in the sense that they benefit from subsidies or tax cuts for jobs that they had to create anyway, thus receiving an unjustified bonus. Indeed, this set of policies can produce a windfall effect allowing firms to transform social costs into private profits and thus, unduly overcharge the public treasury.

I will stay longer on the last of the policies to be scrutinized in this paper, work sharing or better said work time redistribution. The starting point of the proposal for work sharing as a means to fill the job gap and secure the right to work is the observation that for quite some time now it seems that there are not enough jobs available to satisfy everyone's right to work. By saying this I am not putting forward the argument of the lump of labour, in other words the belief that there is only a fixed amount of work to be done and that, therefore, there would be no other way to fill the job gap than by sharing this allegedly fixed amount of work amongst all the work force. This is considered to a fallacy and has been pointed out by many economists (see Walker, 2000). By this I mean that, despite the fact that there is no fixed amount of work to be done, jobs have, nevertheless, become a scarce asset. The argument that sustains the inexistence of this lump of labour concerns the fact that economic growth can increase the amount of work to be done. The problem about economic growth is that not only there are doubts about the sustainability of growth in the long run (see Daly, 1997; Goodland, 1997), but also that economic growth has not even been a reliable instrument for increasing the amount of work to be done, that is to say for creating new jobs. The fact that in France, between 1970 and 1992, there was a 70%

increase in total output and only 6% in employment (European Commission, 1994, p 149) is a good example of this divorce between growth and jobs. Redistributing work time by reducing work hours could, then, seem the only instrument available to reduce the job gap. French economist R. Passet (2000, p 249) states that, since the end of the nineteenth century, job creation, in France, is the outcome of working time reduction, not of economic growth.

The concept of job sharing needs to be specified in order to avoid some objections due to misunderstandings. Job sharing cannot concern a mechanism within which employed workers come to share their meagre wage with the unemployed through the implementation of involuntary part time jobs, which constitutes a softer version of technical unemployment, that frequently several firms use in order to reduce the global wage burden. Work redistribution has to be understood in terms of a broader redistribution of wealth, and this should concern the whole of society. The former way of understanding work sharing means that the redistribution of wealth would be done among wages only, and that is contrary to the idea that the burden of right to work securing policies should be equitably distributed. Work sharing experiences that have been implemented within this philosophy resulted mainly in lower wages and job precariousness (Collin, 1997, p 96-98), not qualifying, though, to right to work securing policies even if the job gap has apparently been reduced.

Work sharing that meets the demands for right to work securing policies imply a reduction of working hours without a reduction in wages, which means that income redistribution is not done within wages only but within global income, including income from capital, therefore. In doing so, work sharing meets its major obstacle, which is the capital versus labour conflict around the distribution of income, or in other words the conflict between wages and rents. As I sustained before, the concept of a Natural Rate of Unemployment in itself was a manifestation of this conflict. In this view the NRU, or the NAIRU, could also be interpreted as the level of unemployment resulting from the status quo on income distribution. Any change in the level of unemployment would suppose changes in the distribution of income, either through the reduction of working hours without the correspondent reduction in wages, or through the acceleration of inflation, both representing an erosion in the real level of rents.

It doesn't seem probable that this distribution of income will be accepted without significant transformations in the political and economical systems; therefore, securing the right to work through work sharing within the prevalent system, or at least respecting its essence, will not be easy to implement without some kind of agreement between the state and the corporate sector. If subsidizing wages by the state means an unbearable socialization of costs for the community, reducing the work hours without reducing wages will also be an unbearable burden for the corporate sector. In this sense the much proclaimed Universal Basic Income (see Van Parijs, 1995; Revue du MAUSS, 1996; Standing, 2005; Howard, 2005) can come as a solution; not as a substitute for wages because that would mean nothing more than leaving the work cost unchanged for firms, but as a complement, with the purpose of distributing more equitably the burden of reducing work hours. This aim of equity would also mean that taxation would have to reflect this redistribution principle too, but this issue shall not be treated here as this article is not the best place to discuss equity in taxation.

CONCLUSION

Economic literature is abundant with respect to the role of human rights, many scholars having reached the conclusion that economic development, for example, benefits enormously of the care for human rights. The point of view of this article was, somewhat, inverted, as its purpose was to discuss the importance of Political Economy in the promotion of human rights. Indeed, deepening human rights is not only a political and institutional process that influences the economy but also the outcome of an economic process, not just because there are recognized economic rights but because deepening human rights in general may require transformations within the economic system. In this article I intended to contribute to the approach according to which one defines both the ends and the means of economic development in terms of human rights.

The main goal of economics as a science is told to be the search for efficiency in the allocation of resources, but if one really cares about human rights, if one chooses to pursue the goal of human rights, this implies some changes in the economics paradigm. I believe that one should not expect the right to work to be secured through decentralized decisions by the market only, by the arts of some trickle down effect. Economic rights, unlike rights of freedom, require state intervention (Bobbio, 1992, p 72) but implementing right to work securing policies will be useless without the conscience of the need to secure simultaneously the two main aspects of the right to work, the quantitative and the qualitative. Most of the traditional state instruments that are displayed to create jobs tend to systematically minimize the qualitative aspect of the right to work and miss the point when dealing with the quantitative aspect. Plus, they tend to place the burden of securing the right to work exclusively on the state, which maybe considered unfair. The promotion of human rights has a cost and this charge should be as equitably distributed as possible, as human rights are supposed to benefit all. In the last part of the article I made a strong case for work sharing, as part of a much broader process of income redistribution, in order to secure the right to work. I should add, now, that this shouldn't be seen only as job creating mechanism. It should be taken also, and perhaps mainly, as a means for a deeper transformation in the economic system, a step not only to secure the right to work but to fulfil the dream of catching the inaccessible star, which is liberation from work.

REFERENCES

Anderson, T. (2002) "The Political Economy of Human Rights", *The Journal of Australian Political Economy*, (50): 200-227.

Apter, D. (1987) *Rethinking Development: modernization, dependency and postmodern politics*, Newbury Park: Sage Publications.

Archer, R. (1995) *Economic Democracy: the politics of feasible socialism*, Oxford: Clarendon Press.

Bobbio, N. (1992) *A Era dos Direitos*, Rio de Janeiro: Editora Campus.

Boltanski, L., Chiapello, E. (1999) *Le Nouvel Esprit du Capitalisme*, Paris: Gallimard.

- Borjas, G. (2005) *Labor Economics*, New York: McGraw-Hill, 3rd edition.
- Branco, M. (2001) “A Globalização Económica e a Erosão da Ideia Democrática”, *Economia e Sociologia*, nº 72: 105-135.
- Branco, M. (1998) “Desemprego Persistente e Dualização Social: Contribuição para a Definição dum Conceito de Desenvolvimento Socialmente Sustentável”, *Estudos de Economia*, 18 (3): 307-329.
- Branco, M. (1988) *La Transformation des Structures Agraires et le Développement Économique: la réforme agraire au Portugal*, Phd. Thesis in Economics, Paris: École des Hautes Études en Sciences Sociales, unpublished.
- Brockway, G. P. (1995) *The End of the Economic Man*, New York: Norton, 3rd edition.
- Brown E. P. (1972) “The Underdevelopment of Economics”, *The Economic Journal*, March.
- Canotilho, J. G. (1984) “Tomemos a Sério os Direitos Económicos, Sociais e Culturais”, número especial do *Boletim da Faculdade de Direito de Coimbra*, *Estudos em Homenagem ao Prof. António de Arruda Ferrer Correia*.
- Chaveau, A., Rosé, J. J. (2003) *L'Entreprise Responsable*, Paris: Editions d'Organisation.
- Collin, D. (1997) *La Fin du Travail et la Mondialisation*, Paris: L'Harmattan,
- Cunha, S. R. (1998) “Sobre os Direitos Humanos: Questões e contra-questões em torno de uma promessa desencantada”, *Economia e Sociologia*, nº 66: 59-107.
- Daly, H. (1997) “Sustainable Growth No Thank You”, in Mander, J. and Goldsmith, E. (eds) *The Case Against the Global Economy*, San Francisco: Sierra Club Books, pp 192-197.
- Damásio A. (1995) *O Erro de Descartes, Emoção, Razão, Cérebro Humano*, Lisboa: Publicações Europa América.
- Devine, J. (2004) “The Natural Rate of Unemployment”, in Fulbrook, E. (ed) *A Guide to What's Wrong with Economics*, London: Anthem Press, pp 126-132.
- Donnelly, J. (2005) “Economic and Social Rights: The Myth of Western Opposition”, paper presented at the University of Connecticut Human Rights Institute Conference on Economic Rights, October 27-29, 26 p, unpublished available at
- European Commission (1994) *White Paper on Growth, Competitiveness and Employment*, Luxemburg: Office for Official Publications of the European Communities.
- Forrester, V. (1996) *L'Horreur Économique*, Paris: Fayard.

Fougère, D., Kramartz, F., Pouget, J. (2006) “Youth Unemployment and Crime in France”, Discussion Paper Series, n° 5600, London: Centre for Economic Policy Research.

Freeman, M. (2004) *Human Rights*, Cambridge UK: Polity.

Garnier, J. (ed) *Le Droit au Travail à l'Assemblée Nationale: Recueil complet de tous les discours prononcés dans cette mémorable discussion*, Paris: Guillaumin.

Gauron, A. (1998) “Dictature de la Concurrence“, *Le Monde Diplomatique*, Mai.

Godelier, M. (1986) “O Trabalho“, in R. Romano (ed) *Enciclopédia, vol. 7 (Modo de Produção, Desenvolvimento/Subdesenvolvimento)*, pp. 11-63. Lisbon: Enaudi, Imprensa Nacional Casa da Moeda.

Goodland, R. (1997) “Growth has Reached its Limits”, in Mander, J. and Goldsmith, E. (eds) *The Case Against the Global Economy*, San Francisco: Sierra Club Books, pp 207-218.

Gorz, A. (1997) *Misères du Présent, Richesses du Possible*, Paris: Galilée.

Harvey, Ph. (2005) “Benchmarking the Right to Work”, paper presented at the University of Connecticut Human Rights Institute Conference on Economic Rights, October 27-29, 23p, unpublished available at

Harvey, Ph. (2005) “The Right to Work and Basic Income Guarantees: Competing or Complementary Goals?” *Rutgers Journal of Law and Urban Policy*, 2 (1): 8-59.

Harvey, Ph. (2002) “Human Rights and Economic Policy Discourse: Taking Economic and Social Rights Seriously”, *Columbia Human Rights Law Review* 33 (2): 363-471.

Harvey, P. (1999) “Joblessness and the Law Before the New Deal” *Georgetown Journal of Poverty Law and Policy* 6: 1-41.

Heilbroner, R. (1988) *Behind the Veil of Economics*, New York: Norton.

Hénaff, M. (2000) “L'éthique catholique et l'esprit de non capitalisme”, *Revue du MAUSS*, n° 15: 35-67.

Hertel, S. (2003) “The Private Side of Global Governance”, *Journal of International Affairs*, 57 (1): 41-50.

Hirschman, A. O. (1991) *The Rhetoric of Reaction*, Cambridge MA: Belknap Press of Harvard University Press.

Howard, M. (2005) “Basic Income and Job Guarantees: alternatives or complements?”, *Rutgers Journal of Law and Urban Policy*, 2 (1).

Hude, H. (1994) *Philosophie de la Prospérité. Marché et Solidarité*. Paris: Éditions du Prologue, Economica.

- Kalecki, M. (1971) "Political Aspects of Full Employment" in Kalecki M., *Selected Essays on the Dynamics of the Capitalist Economy*, Cambridge UK: Cambridge University Press.
- Kaplow, L., Shavell S. (2003) "Fairness versus Welfare: Notes on the Pareto Principle, Preferences, and Distributive Justice", *Journal of Legal Studies* 32 (January): 331-362.
- Krugman, P. (1994) "Europe Jobless, America Penniless?", *Foreign Policy*, Summer.
- Lane, R (1994) "Le Travail comme Désutilité et l'Argent comme Mesure du Bonheur? Deux Erreurs dans l'Équation Hédoniste des Économistes", *Revue du MAUSS*, n° 3: 17-31.
- Lefresne, F. (2006) "Précarité Pour Tous, la Norme du Futur", *Le Monde Diplomatique*, Mars, p 18-19.
- Le Goff, J. (1996) "Une Politique de l'Emploi à la Dérive", *Le Monde Diplomatique*, May.
- Linhart, D. (2006) "Hier Solidaires, Désormais Concurrents", *Le Monde Diplomatique*, Mars, p 16-17.
- Marx, K. (1977) *Le Capital*, Paris: Editions Sociales (1st edition, 1871).
- Mauss, M. (1983) *Sociologie et Anthropologie*, Paris: Quadrige/Presses Universitaires de France, 8th edition (1st edition 1950).
- Méda, D (1995) *Le Travail, une Valeur en voie de Disparition*, Paris: Aubier.
- OECD (2006) *OECD Standardised Unemployment Rates*, available at <http://www.oecd.org/dataoecd/3/28/36254032.pdf>
- Passet, R. (2000) *L'Illusion Néo-Libérale*, Paris: Fayard
- Perret, B. (1995) *L'Avenir du Travail, les Démocraties face au Chômage*, Paris: Seuil.
- Pinilla, I. A. (1989) "Los Derechos Humanos de la Tercera Generación en la Dinámica de la Legitimidad Democrática", in Peces-Barba, G. (ed) *El Fundamento de los Derechos Humanos*, Madrid: Editorial Debate, pp 57-66.
- Polanyi, K. (1983) *La Grande Transformation, aux origines politiques et économiques de notre temps*, Paris: Gallimard.
- Proudhon, P. J. (1938) *Ouvres Complètes*, Paris: Marcel Rivière et Cie.
- Queiroz, C. M. M. (2002) *Direitos Fundamentais (teoria geral)*, Coimbra: Coimbra Editora.

Revue du MAUSS, (1996) *Vers un Revenu Minimum Inconditionnel?*, n° 7, 1^{er} Semestre.

Sen, A. K. (1999) *Development as Freedom*, New York: Anchor Books.

Shakleton, J. R. (1998) “Alternative ways to Tackle European Joblessness”, in Lange, T. (ed) *Unemployment in Theory and Practice*, Cheltenham UK: Edward Elgar, pp 44-63.

Smith, A. (1776) *An Inquiry into the Nature and Causes of the Wealth of Nations*, on line edition available at <http://socserv2.socsci.mcmaster.ca/~econ/ugcm/3113/smith/wealth/wealbk01>

Standing, G. (2005) “Why Basic Income is Needed for a Right to Work”, *Rutgers Journal of Law and Urban Policy*, 2 (1), 91-102.

Symes, V. (1995) *Unemployment in Europe, problems and policies*, London: Routledge.

Tanghe, F. (1989) *Le Droit au Travail entre Histoire et Utopie 1789-1848-1989: de la répression de la mendicité à l'allocation universelle*, Bruxelles: Facultés Saint Louis, Florence: Institut Universitaire Européen.

UNDP (2002) *Human Development Report: deepening democracy in a fragmented world*, Oxford University Press.

Van Parijs, Ph. (1995) *Real Freedom for all, what (if anything) can justify capitalism?*, New York: Oxford University Press.

Walker, T. (2000) “The “Lump of Labor” Case against work-sharing: Populist Fallacy or Marginalist Throwback”, available on line at: <http://www.maxspeak.org/mt/archives/lump%20of%20labor.pdf>

Weikard, H. P. (2004) “On the Economics of Basic Liberties”, *Social Choice and Welfare* (22): 267-280.