

### *Chapter Three*

## **A Right to Work and Fair Conditions of Employment**

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Since the publication of *A Theory of Justice* by John Rawls almost fifty years ago, two significant trends have emerged in liberal political philosophy.<sup>1</sup> The first consists of egalitarian theories of justice that are motivated by two questions: whether there are principles that determine what we owe to one another as social members, and how institutions should be designed to reflect our commitment to those principles (Rawls 1999). The second consists of human rights discourse in the era of globalization. This trend is motivated by a related question of international justice whether developed countries and their members have a duty to assist the poor of lesser-developed countries. There are good reasons to think that the former owe some measure of restitution, since they have historically benefitted, and continue to benefit, from unjust economic and political relations with the latter (Beitz 1979; Shue 1996; Singer 2002). When considered together, both trends share a still more fundamental question: Do human beings have a legitimate claim to a social minimum of some kind? One that ensures their basic welfare, ranging from needs for subsistence, health care, and housing to even more complex needs for fair wages, secure employment, and self-respect?<sup>2</sup>

While these debates have made significant contributions to our individual and collective understanding of justice and human rights, they have not by and large clarified the implications of these theories for paid work in the economy.<sup>3</sup> This omission stands in stark contrast to the widely shared consensus found in the democratic state that able-bodied individuals have an obligation to work (Becker 1980). Since the majority of its members necessarily lack independent resources in the form of inheritance or property, fulfilling this obligation will minimally require finding gainful employment.

The remuneration provided by this job not only supplies them with the means to satisfy needs and pursue their life plans accordingly, it also carries with it a *status* that imparts self-respect. Moreover, as social members they contribute part of this remuneration back to the state, funding essential state programs for the care of social dependents, infrastructure, education, public health, and national security.<sup>4</sup> For all these reasons and more, the role of work is vital to the reproduction and stability of the democratic state. Yet, in the era of globalization, work is increasingly contingent and insecure for many, subject not just to the normal cycle of supply and demand, but also to the powerful interests of corporations seeking profit-maximization, rapid technological changes, and volatile global markets.

The present chapter argues that a right to work, defined as social and legal guarantees to fair conditions of employment, should be an essential part of a democratic state with market arrangements. This argument proceeds along the following lines. First, I reconstruct an account of rights that defends the “correlativity” thesis of rights and duties. The basic idea is that a social member’s legitimate demand to have something of value, such as gainful employment, implies duties on the part of others to respect and fulfill it. These duties include the following with regard to that demand: avoiding actions that cause it harm, protecting it against standard threats, and otherwise providing aid in case it is deprived. Second, I sketch an outline of what a right to work will entail in terms of the correlative duties just described. This means that respect and fulfillment of the demand will require both social members and the democratic state alike to guarantee fair conditions of employment: first, by forbearing from actions that deprive members of access to work; and second, by protecting members against threats of deprivation and aiding them when they are so deprived. Third, I answer some ethical and empirical objections to the idea of a right to work: that it violates the legal rights of owners and employers, fails to impart self-respect, lacks economic efficiency, and erodes human capital by undermining competitive incentives. Finally, I make some concluding observations that a democratic right to work so conceived is ethically and economically superior to alternative arrangements that neither respect nor fulfill these correlative duties to avoid harm, protect against threats, and provide aid in cases of deprivation.

## I. THE CORRELATIVITY OF RIGHTS AND DUTIES

One fairly compelling account of rights defends the so-called correlativity thesis of rights and duties. Many political philosophers, ranging from G. W. F. Hegel to Joel Feinberg, have defended different versions of this thesis.<sup>5</sup> The basic insight is that rights and duties mutually imply one another. For an individual to have a “right” means that other individuals and institutions have

“duties” to respect and fulfill it. Similarly, having such duties implies that an individual somewhere else has a legitimate demand that is to be respected and fulfilled. In his classic study *Basic Rights*, Henry Shue defines a *moral* right as “(1) the rational basis for a justified demand (2) that the actual enjoyment of a substance be (3) socially guaranteed against standard threats” (Shue 1996, 13). There are three parts to this definition: the first identifies a right as a rational *demand*; the second specifies that it is a demand for *something of value*; and third, it should be *guaranteed* against standard threats. We can make sense of (1) and (2) taken together because a moral right is a claim that an individual makes to something that has substantial value for her. However, understanding (3) is especially important for understanding the *correlativity* of rights and duties. That a right should be “guaranteed against standard threats” means that other individuals and institutions have duties to respect and fulfill it. For example, duties requiring them to forbear from acting in ways that deny the right, to act in ways that protect it, and to provide aid in cases where that right has been denied.

Traditionally, there are two classes of rights that can be distinguished in this respect: negative and positive. *Negative* rights are claims that individuals have to something of value that demands protection *from* standard threats such as coercion and interference by the state. By contrast, *positive* rights are claims that individuals have *to* something of substantial value. While the distinction can be analytically useful for understanding different kinds of claims that individuals make regarding things that are of value to them, Shue is especially critical of it for the following reasons. When one considers the evaluation of outcomes favored by consequentialism, and the fact that outcomes follow from both omissions and actions alike, any substantial difference between negative and positive rights turns out to be impractical. Consider the right to subsistence, which requires “the provision of subsistence at least to those who cannot provide for themselves” (Shue 1996, 24). In terms of the traditional distinction between two classes of rights the demand for subsistence appears to be positive—that is, it is a claim *to* something of substantial value that is essential for an individual’s basic needs. However, Shue claims that there are both negative and positive actions required by these duties that correlate with any given right. The demand for subsistence not only implies duties that others have to *refrain from* actions that will interfere with the provision of subsistence, it also implies that they *make provision* for the protection and aid of this demand. Thus, there are negative duties to refrain from actions that will lead to the harm of deprivation, as well as positive duties to protect against it and aid those who are deprived of their subsistence (51–53).

In citing this traditional distinction, I am neither suggesting there is a clear and consistent line of demarcation between two classes of rights, nor that Shue’s criticism of it is insignificant. On the contrary, carefully breaking

it down makes it clear that duties correlating with an individual's "claim-right" will require both refraining from harming and acting to respect and fulfill it.<sup>6</sup> Shue argues that any given right therefore implies the following tripartite division of duties: *avoidance*, *protection*, and *aid*.

If a right provides the rational basis for a justified demand that the actual enjoyment of the substance of the right be socially guaranteed against standard threats, then a right provides the rational basis for insisting upon the performance, as needed, of duties to avoid, duties to protect, and duties to aid. This picture seems to me to fit all the standard cases of moral rights. (Shue 1996, 54–55)

This formulation of duties is useful because it will help clarify the distribution of responsibility for respecting and fulfilling a right among all individuals and institutions implicated by that demand. First, there is a duty to *refrain from imposing harm*. Shue claims it is "a duty simply not to take actions that deprive others of a means that, but for one's own harmful actions, would have satisfied their subsistence rights or enabled them to satisfy their own subsistence rights" (55). This duty requires forbearing from actions that will cause deprivation for others, which aligns with the traditional characterization that a negative right is *freedom from* interference or obstruction caused by the actions of others. Second, there is a duty to *protect from harm*. Shue attributes this duty primarily to institutions, particularly the democratic state, because it is ultimately responsible for enforcing the claim-rights of its members when those are violated. "The duty to protect is, then, in part a secondary duty of enforcing the primary duty of avoiding the destruction of people's means of subsistence" (55). When there is a threat to the enjoyment of that right, actions are required to protect it against such deprivation. Third, there is a duty to *aid the deprived*. Shue argues that this final duty will require especially proactive measures because cases of deprivation are the result of individuals and institutions alike either failing to refrain from actions that cause deprivation or protecting against standard threats. "Thus, the need for assistance is the result of a prior twofold failure to perform duties, and the victims have been harmed by both actions and omissions of actions by other people" (57). The correlative duties so described therefore have an order of priority. When taken together, these three duties of *avoidance*, *protection*, and *aid* are interdependent, so that respecting and fulfilling any one of them ultimately depends on effectively respecting and fulfilling some combination of them.

## II. A RIGHT TO WORK AND DUTIES FOR FAIR CONDITIONS OF EMPLOYMENT

The correlativity of rights and duties implies something else that is important to emphasize about the present argument: the purpose of social membership. An individual's demand for something of value correlates with duties that others have to respect and fulfill it because they are all *members* of shared social and political arrangements. Membership in a system of cooperation is therefore an important part of what justifies individuals having rights and obligations respecting one another in the first place. As such, they have what Lawrence Becker calls a "non-voluntary social obligation" to contribute to the common stock of resources from which they all take in order to satisfy their needs (Becker 1980, 39). Assuming that able-bodied individuals have an obligation to work, it is surely reasonable to expect that others have it as well. By contrast, it is surely unreasonable to expect the same of elderly, disabled, or mentally ill social members because extraneous circumstances limit their capacities to work and thus their ability to support themselves. While there are no present laws enforcing it, and so-called Poor Laws and workhouses are remnants of the past, states can still use indirect means to encourage individuals to work. For example, they might incentivize other able-bodied individuals to seek out work by restricting who qualifies for welfare assistance, setting limits on how long they qualify for it, and requiring them to participate in job training as a condition of receiving it.<sup>7</sup>

There are two lines of argument for grounding an obligation to work. The first concerns the *principle of fairness* in a system of cooperation. According to Rawls, the principles of justice governing the basic structure of a democratic society aim to specify what individuals owe to one another as members of what he calls a "fair system of social cooperation over time" (Rawls 2001, 5). Such a system functions well to the extent that there is a principle of reciprocity requiring individuals to give and take from the stock of common resources. This reciprocity is based on a fair expectation that rules governing that system are being followed and fairly enforced. In this case, individual members have a duty to provide for themselves rather than "free ride" on the productive contribution of others. The principle of fairness is basic to such arrangements: Individuals who participate in a system of cooperation expect that they will benefit from their productive contribution, but they also expect others will do the same. The second line of argument is that individuals have a duty to develop their talents and skills so that they lead more full and productive lives. To use another example from Rawls, "Imagine someone whose only pleasure is to count blades of grass in various geometrically shaped areas such as park squares and well-trimmed lawns" (Rawls 1999, 379). While this activity might be attractive to the unmotivated and unproductive, it is not one that can ever realize an individual's full potential. For

this reason it cannot count as a form of productive contribution in a system where individuals are both giving and taking from common resources. Whether individuals have a duty to develop their talents and skills, or whether they are obligated to lead virtuous lives, are interesting questions that I set aside here, relying instead on the first line of argument.

Despite the consensus that social members have an obligation to work because of reciprocity and fairness, there is less of a consensus whether they ought to have a right to it. Given the normative expectation that we support ourselves, however, the demand that fair conditions of employment be respected and fulfilled is surely reasonable. What are "fair" conditions of employment? These conditions include adequate employment opportunities, protecting jobs from standard threats against deprivation, and aiding those who are deprived. For members of democratic states with market arrangements, having a job *is* their means of subsistence. Thus, the paradigmatic case of deprivation is involuntary unemployment.

We can better understand what the demand for fair employment will entail by specifying the duties correlating with it and clarifying what they require on the part of others. If we accept that such duties include *avoiding*, *protecting*, and *aiding*, then individuals and institutions such as the state are obligated both to forbear from acting to deny and to take action in order to respect and fulfill this legitimate demand. First, there are many actions that individuals and institutions alike should forbear from taking that easily lead to the deprivation of work. One example is undertaking risky financial speculation that lends priority to the interests of wealthy elites and large corporations over the livelihoods of workers. To prevent harm, they have a duty to refrain from taking these kinds of actions. Second, there is a duty to protect the rights of members from standard threats such as involuntary unemployment, arbitrary dismissal, and retaliation against whistleblowers. This means making and enforcing policies not only to ensure there are adequate opportunities for employment but also to protect job security. Finally, there is a duty to aid individuals who have been so deprived. When they do lose their jobs or cannot find work because of extraneous forces beyond their control, then individuals and institutions alike have the duty to assist them. What form that assistance takes is another matter concerning best practices, but the duty to provide aid to those who have been deprived is at least clear.

There are many forces that can lead to deprivation, including actions and policies affecting supply and demand of labor, financial deregulation, and monetary policy. Even forces beyond our control such as seasonal changes and natural disasters can lead to involuntary unemployment. Many economists subscribe to the view that there is a "natural rate of unemployment," and some even claim that there is no such thing as "involuntary" unemployment (Friedman 1968; Lucas 1978). However, there is nothing "natural" about arrangements that lead social members to be deprived of their means of

subsistence, and while economic models might show that involuntary unemployment does not occur under ideal market arrangements, the practical reality is starkly different. The fact is "frictional" unemployment that accompanies the normal cycle of supply and demand stems from individual and collective decision making that is more or less guided by the conjunction of self-interest, social norms, legal constraints, and enforcement of policies. Admittedly, there can be no control over all these factors that will lead to ideal outcomes, but this is not what the specification of these duties is intended to do. The point is that when duties to forbear from taking an action *do* lead to involuntary unemployment, or when taking action to protect jobs does *fail*, there is a subsequent duty in place to assist those who are deprived.

In democratic states with market arrangements, wage stagnation, contingent and insecure work, chronic unemployment, and growing inequality are the product of actions and policies that can be avoided with serious political will and smart democratic planning. Practically speaking, the persistence of involuntary unemployment is not merely a consequence of the "invisible hand" of the market. In fact, it is a market failure arising from the individual and collective failure to respect and fulfill one or more of the duties to avoid, protect, and aid in this regard. Surely it is reasonable for members to demand fair conditions of employment. These conditions will include adequate opportunities for employment that are protected against standard threats arising from the actions and omissions of individuals, institutions, and states alike. Specifying the duties of avoidance, protection, and aid clarify what is required of individuals, institutions, and states to respect and fulfill that reasonable demand. Of course, in most parts of the developing world, individuals are subject to circumstances far worse than unemployment, including disease, drought, and starvation. Since conditions of extreme deprivation undermine the minimal conditions necessary for the preservation of life itself, the right to subsistence means something very different in the global context.

### III. ETHICAL OBJECTIONS

In a paper titled "Is There (or Should There Be) a Right to Work?" Jon Elster argues that the enforcement of such a right is not an answer to the problem of unemployment found in the democratic state. There are basically two approaches for resolving this problem: either creating jobs or providing welfare assistance.

First, one may attempt to ensure work for the unemployed, by macroeconomic policies, institutional reform at the level of the firm, work relief programs, or the creation of a right to work. Second, one may create alternative sources of income, by unemployment assistance, unemployment insurance, or less selective schemes such as a universal unconditional grant. (Elster 1988, 53)

Elster claims there are three objections to a right to work defined as legally guaranteed employment. First, the state's enforcement of this right would violate the legal rights of owners and employers to property and voluntary contracts. Second, such a right is incoherent because it cannot provide all able-bodied individuals with cash or in-kind aid for purchasing work when there is a scarcity of jobs. Unlike other welfare rights, which are provided in cash or kind, gainful employment is a *status* that carries with it the benefit of self-respect, and this cannot be imparted by the state provision of employment. Third, this right is not feasible in light of present market arrangements because state-mandated employment will lead to the inefficient allocation of resources. If the state provides jobs as an employer of last resort, it will merely be "workfare" for the unskilled, uneducated, and unemployed.

Let us consider the first objection. A right to work defined as legally guaranteed employment either has to protect jobs individuals already have, or it has to subsidize employers in order to hire more workers. By doing so, the state will essentially be *forcing* owners and employers to keep or hire unproductive workers, thereby violating their legal rights regarding property and contracts. We have seen that the right to subsistence is a basic right that others have correlative duties to respect and fulfill. What is to be done about cases where rights are in conflict? How is the right to subsistence to be reconciled with the rights of property owners and employers to enter into and exit voluntary contracts? To start, a right makes a provision for some good-*X* by granting a right-*Y* to it, but this depends on two further conditions. Accordingly, *X* has to be sufficiently important to take priority over conflicting right-*Z*, and it has to be feasible for *Y* to achieve *X*. Setting aside the question of feasibility until the next section, the question remains whether *Y* is sufficiently important to take priority over *Z*. We have seen that there is a basic right to subsistence (*Y*), and since the good that it encompasses is significantly valuable (*X*), it appears that this right ought to be given priority. One might counter that the basic right to security must also be given equal priority (*Z*), and that the state's *forcing* owners and employers to keep or hire unproductive workers violates the legitimate claim individuals have not to be coerced. However, this interpretation of legal rights to property and contracts is overly generous. Such legal rights do not amount to a basic right to security, which is, first and foremost, a right to *physical security*. The fact is that members of a democratic state have all kinds of non-voluntary obligations that they might dislike, such as paying taxes or military conscription. While these duties are non-voluntary, no one can claim that individuals are *forced* to pay their taxes in the morally impermissible sense of coercion. Paying taxes is simply a duty that comes with membership in a democratic state. Since the effective realization of a right to subsistence will require access to employment, securing this access should be given priority over other legal rights, at least in cases where individuals who have conflicting claim-*Z* are not themselves experi-

encing deprivation of valuable-*X*. Thus, in cases where there is a genuine conflict of rights, priority should be given to basic rights like that of subsistence, in this case having gainful employment in order to support oneself.

The second objection is that a right to work is incoherent because it does not fit the pattern of other rights to welfare found in democratic states. What does this mean? Democratic rights are claims that individuals have by virtue of participating in procedures that aim to protect their interests and assist them in cases where their claims in relation to such interests have been violated. According to Elster, welfare rights are democratic in the following respect: "Procedurally, these rights are grounded in a political process involving recipients as well as donors. Substantively, the rights rest on the needs of recipients, not on the benevolent or self-interested motives of the donors, except to the extent that they themselves are potential recipients" (58). The point is that welfare assistance can be justified for needy individuals either because they have contributed in the past to the stock of common resources from which transfers are made, or because they are currently employed but might require future assistance. The problem is that the *status* that comes with employment cannot be transferred. For this reason a right to work does not "fit the pattern" of other welfare rights because an important part of work's value lies in the fact that individuals gain self-respect and economic independence by finding their own gainful employment. Welfare assistance will not be a satisfactory substitute for this non-material good because without work individuals will have to *depend* on someone else for the satisfaction of their welfare. Therefore, the problem is that guaranteed employment in this sense functions much the same as welfare assistance: if individuals have to depend on the state to provide them with a job, the non-material benefit of self-respect cannot be acquired.

There are two problems with Elster's formulation of this objection. First, it is limited to one particular example he considers: workfare. For obvious reasons the provision of such work will not impart the non-material benefit of gainful employment, but that is because it is basically welfare assistance from the state in the form of a borrowed income. If welfare payments and "make work" are merely equivalent forms of dependence, then self-respect cannot be imparted through a state-sponsored job. However, instituting a right to work need not be limited to the state's creation of menial work. There are Keynesian-style job creation policies that can provide *useful* work. For example, work that aims at protecting and improving public goods such as infrastructure, education, services for social dependents, and environmental quality. Since the provision of public goods is valuable to all, it follows that work that aids in their provision will promote self-respect as well as solidarity with other members.<sup>8</sup>

The second limitation of Elster's objection is that it assumes the duty to make provisions for this right resides exclusively with the state. This is

incorrect because the distribution of correlative duties shows that the state is not the only agent who is responsible for respecting and fulfilling a right to work. The correlative duties of avoiding, protecting, and aiding also apply to individuals and nonpolitical institutions alike. In terms of the first *duty to avoid*, they are obligated not to take actions that will lead to the deprivation of subsistence. Moreover, *duties to protect and aid* are also not limited to the state. Suppose a firm adopts a labor-saving technology, in this case leading to layoffs. Assuming it does not fulfill its first duty not to harm by refraining from taking this action, the firm still has obligations to protect and assist those who are harmed. At the very least it shares a significant portion of the responsibility for retraining and relocating workers who are deprived of their jobs. In this way, the responsibility for avoiding, protecting, and assisting individuals who are deprived of gainful employment is not limited to the state, but distributed across all parties involved.<sup>9</sup>

#### IV. THE FEASIBILITY OBJECTION

The third objection is that a right to work is not feasible because enforcing it will lead to an inefficient allocation of resources. First, it might be argued that such a right will be costly and time consuming in terms of economic decision making. Since market forces offer the best means for making efficient decisions to allocate resources in a timely manner, enforcing legally guaranteed employment will make firms less flexible in response to greater market changes. Second, it might be argued that a right to work, conceived as an entitlement, will undermine incentives for workers to be more productive and acquire new skills. Depending on how stringently it was enforced, employers would be unable to get rid of unproductive workers, or they could be forced to raise wages since the lack of job competition will erode incentives for working harder. After all, without the standard threat of unemployment to discipline workers there can be no consequences for the lazy and unproductive. The basic point here is that making work into an entitlement will either be an inefficient use of resources or encourage massive shirking. There is also an underlying concern here: that enforcing such a right will have adverse consequences for workers themselves, since massive inefficiencies will likely undermine growth, create unemployment, and cause economic stagnation.

Whether enforcing a right to work will necessarily incur these problems remains subject to debate. There are many complex factors to consider, including the roles of implicit and institutional bias in the acceptance or rejection of evidence-based policy, all of which exceed the scope of the present argument. In short, the answer to the question of whether a right to work is feasible must be "it all depends." The empirical question of whether there are better or worse labor policies for respecting and fulfilling the duties to ensure

fair conditions of employment is one for citizens, policy makers, and elected officials to answer. Given the range of alternatives and the creativity that may be required of individuals and institutions alike for addressing these issues, it is not necessarily the case that enforcing a right to work will lead to the disastrous economic consequences just described. In what follows, I can only outline a tentative case for a right that is, in principle, compatible with efficient decision making.

Let us start with the problem of efficiency regarding decision making. The claim that centralized power and authority is the *most* efficient way for firms to make decisions, especially with regard to fair employment conditions, depends on how "efficiency" is being defined. There are good reasons to think that a right to work is compatible, in principle, with efficient decision making. First, centralized decision making is less transparent and therefore more easily manipulated. When a small number of decision makers establish the rules, policies, and goals of a firm, either without input from the rest of employees or without oversight by the state, the opportunity for corruption increases. The results are poor planning, embezzlement, fraudulent investments, and lack of accountability. In fact, research shows that the incentive to engage in questionable business practices actually increases as transparency decreases (Bowles and Gintis 1993, 86–87). Second, some of the gains that flow from centralized decision making are easily lost in the long run. One way these gains are lost is that centralized decision making diminishes the value of work for employees, leading to significant inefficiencies such as shirking and shrinkage. Workers who are dissatisfied with their exclusion from participation will either underperform or steal or both, and this entails costs in the form of intensified task monitoring and employee theft.<sup>10</sup> By contrast, studies show that a clear majority of workers believe that their own jobs can be made more meaningful when they are consulted or at least allowed to participate in decision making (Freeman and Rogers 1999, 45–46). Suppose a firm is considering replacing most of its workers with robots. While this might seem like an efficient means for reducing labor costs, improving production and boosting profit, such an arrangement will be short lived if effective demand for what the robots are producing significantly declines in the absence of well-paid workers. The fact is that ensuring fair conditions of employment will strengthen the position of workers as stakeholders in the firm. By including them in decision making as well, the representation of their interests might help to avoid adverse consequences that follow from the failure to consider those interests, as in the example of replacing workers with robots. Thus, the claim that centralized decision making is the most efficient is often just a self-interested claim to protect the power and authority of management from being redistributed to workers.<sup>11</sup>

Moreover, there are numerous problems of efficiency in the absence of such a right, so it is not a given that a right to work necessarily makes these

problems worse. Let us suppose that instituting this right does lead to massive shirking, because employees know they cannot easily be fired, or if they are fired they will be guaranteed work elsewhere. As a result, they will have little incentive either to improve their performance or seek out education to diversify their skills. What can be done to avoid such problems? In one respect the answer is simple: extend the right to work described here to include democratic rights to participation in the workplace as well.<sup>12</sup> In this way, workers will become *stakeholders* in decision making rather than outsiders to it, thereby promoting a vested interest in their performance and success of the firm. They can also help create fair conditions of employment where they will have considerably more autonomy to pursue their interest in further education. In fact, there is some research showing that the efficient operation of a productive enterprise is entirely compatible with extending participation rights at the level of the firm (McPherson 1983, 354–68; Schweickart 1996, 88–102). For example, studies in Japan and the United States show that rotating tasks, job sharing, skill diversification, and worker participation can actually *increase* efficiency (Levine 1991; Morishima 1983). Currently, there are also plenty of market-based, worker-owned enterprises that are successful, competitive, and healthy such as Spain's internationally recognized Mondragon Corporation, as well as Ace Hardware or Whole Foods Co-op in the United States (Whyte and Whyte 1988). The success of worker cooperatives and similar firms that extend participation rights to workers is especially notable because they face social, economic, and political obstacles in order to compete successfully in a capitalist economy (Bowles and Gintis 1993, 95–96). At the very least, the benefits of a right to work and its extension to democratic rights in the workplace are attractive enough to warrant further debate.

## V. CONCLUSION

We have seen that rights and duties are correlative, and that the content of a right is less about specifying particular goods that one is *entitled* to, and more about the *duties that others have* to respect and fulfill that right. A right to work as it is conceived here simply means formulating and enforcing some modest guarantees to fair conditions of employment: first, that individuals and institutions, including the democratic state, will refrain from taking actions that directly deprive social members of access to work; second, that the livelihoods of workers will be protected against standard threats such as arbitrary dismissal, retaliation, and mass layoffs; and third, that in cases where deprivation either cannot be avoided, or can be avoided but should be accounted for, members will receive assistance to ensure their transition to a new livelihood, so that they can remain productive and independent social

members with all the material and nonmaterial benefits attached to that status. In a fair system of cooperation like that of a democratic state, such expectations are not radical but should be part and parcel of what it means to be a full participating member of just social, economic, and political arrangements.

A brief consideration of the significant parallels between the democratic state and the just organization of work is warranted at this point. Both politics and productive relations are systems of cooperation that depend on a principle of fairness in which an individual member's participation entails both benefits and burdens. The purpose of the democratic state is to protect the liberty and subsistence of its members from force, fraud, and theft. To the extent that its members participate in the procedures supporting it, their liberty is supposed to be secured. Yet, without an effective right to work in place, they almost certainly cannot ensure their subsistence. Work has a twofold purpose that is crucial for the full participation of its members. On the one hand, it provides individuals with the means for satisfying their needs and pursuing their ends, but it also carries with it a status that promotes self-realization and imparts self-respect. For this reason, social members have a legitimate demand that their basic rights to nondiscrimination, fair wages and taxation, workplace safety, and public health should be respected and fulfilled. Since realizing a right to work means having secure and stable access to the fair conditions of employment described here, members should also voice rights that extend to decision making in the workplace.

While participation in democratic procedures is protected as a legal right, there is currently no right to work and no participation rights that extend to the workplace. This means there is real cognitive dissonance in the lives of individuals as citizens *and* workers. Voting in elections while working in undemocratic market arrangements is nothing but a practical form of alienation. In relation to the state, they are expected to affirm and practice the principle of equality, where every member has equal political rights to participation and due process, while in the workplace they are expected to affirm and practice deference to hierarchical authority, contingency, and insecurity. Only by instituting a right to work and extending participation rights to the workplace, can we constrain the self-interested norms encouraged by market arrangements, as well as transform the behavior of individuals and institutions to respect and fulfill the duties that come with social membership in the democratic state.

## NOTES

1. I would like to thank audiences for their feedback on earlier versions of this paper given at The Institute for Ethics and Public Affairs (March 2015) and the Janssen Memorial Conference (May 2015) at San Diego State University. In particular, I am grateful to Michael Tiboris



for organizing the Jannsen Conference, and inviting Randall Curren, Mark White, and myself to give earlier versions of our papers, all of which appear in this volume.

2. The question can be asked at the level of the nation-state and at the global level of human rights. If individuals have a legitimate claim to a social minimum, then access to the social roles providing basic resources appears to be what this minimum requires. In the context of democratic states with market arrangements, this minimum means having sufficient opportunities for gainful employment, but at the global level this means basic rights to security and subsistence, according to Shue (1996).

3. Some recent exceptions include Muirhead (2004) and Ezorsky (2007).

4. For the purpose of the argument here, it is irrelevant whether social members are citizens or noncitizens, such as guest workers, migrant workers, and even undocumented immigrants. Insofar as individual members of any of these groups participate in the system of cooperation found in the productive relations of a democratic state, they have rights and duties based on the principles of reciprocity and fairness. Thus, the argument that social members of a cooperative scheme have a right to work that others have correlative duties to respect and fulfill applies equally to citizens and noncitizens alike.

5. See Hegel (1991); Feinberg (1970); and Lyons (1970).

6. The term "claim-right" is taken from Feinberg (1970).

7. For example, the "Personal Responsibility and Work Opportunity Act of 1996," a cornerstone of the Republican Party's "Contract with America" that was signed into law by former President Bill Clinton, instituted both severe "means testing" and work requirements for welfare recipients.

8. The provision of public goods is subject to market failures such as the "tragedy of the commons" where free riders want the benefits of that good but no one wants to contribute to the cost of maintaining it. In response to the Great Depression, to give just one example, the Civilian Conservation Corps (CCC) was established by legislation to employ millions of unemployed individuals, but it was hardly work without purpose or benefit. In its decade of existence from 1933 to 1942, the CCC planted over one billion trees in reforestation programs, created nearly one thousand parks, and built both roads and trails to access state and federal wilderness areas. The benefits of this work are still enjoyed today by millions of Americans, so it is false that the state provision of employment is nothing but useless work along the lines conceived by Elster.

9. Uchitelle (2006) convincingly shows that the decline of unions, coupled with deregulated markets in financial investment and short-term profit dividends for investors, has led firms in the United States to use mass layoffs as a tool to pad profits across quarterly earnings reports. Responsibility for the devastation that follows from the systemic use of this tool is thereby outsourced to public institutions like the state, a paradigmatic case of "privatizing profit and socializing risk."

10. At least one study cited by the American Society of Employers claims that 55 percent of employee theft is perpetrated by "managers" as opposed to "workers."

11. One review of the economic research on worker self-management and efficiency can be found in McPherson (1983). A detailed and compelling defense of the efficiency gains that can be found in his model of "economic democracy" can be found in Schweickart (1996, 88–103).

12. See Schaff (2012) for a more detailed defense of extending participation rights to workers at the level of the firm.

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