

The Right to Work: Human Rights, Duties, and International Law

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ABSTRACT

The right to work in international human rights documents often have broad, sweeping assertions that people have a right to work, but are vague in what that right actually entails. That is why there is a wealth of literature written on rights *at* work, or labour laws, which are identifiable and easy to understand and legislate, but a noticeable gap in the literature on the right *to* work. This thesis aims to explore that gap within the context of post-work literature, where the right to work has not been explored.

While the right to work is established in the Universal Declaration of Human Rights and other international legal documents, many argue there should also be a duty to work, because of religious reasons, civic duty, or moral and ethical beliefs. I argue that while a right to work is relevant and necessary within a global, capitalist economy, this does not mean that a right to work equates to a duty to work.

This thesis aims to contribute to a growing body of literature on work and labour in political theory, human rights and international human rights law, and post-work theory. My thesis makes an original contribution in two ways: first, in arguing that modern human rights are contingent upon the neoliberal global economy, but are mutable in nature; and second, the main argument I advance is that while there is a human right to work, there should not be a corresponding duty to work, legally or morally.

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Fig. 1: A Complex Molecular Right, L. Wenar (2001)

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DECLARATION

I declare that this thesis is a presentation of original work and I am the sole author. This work has not previously been presented for a degree or other qualification at this University or elsewhere. All sources are acknowledged as references.

INTRODUCTION

[W]ork, is, by its very nature, about violence—to the spirit as well as to the body. It is about ulcers as well as accidents, about shouting matches as well as fistfights, about nervous breakdowns as well as kicking the dog around. It is, above all (or beneath all), about daily humiliations. To survive the day is triumph enough for the walking wounded among the great many of us. ... It is about a search, too, for daily meaning as well as daily bread, for recognition as well as cash, for astonishment rather than torpor; in short, for a sort of life rather than a Monday through Friday sort of dying.

Studs Terkel, *Working* (1975)

The parable of the bricklayers is often attributed to the architect Christopher Wren, who designed dozens of new churches after the fire of 1666, including St Paul's Cathedral. It is a short, deceptively simple story, yet it has an unexpected depth as the bricklayers interpret their job differently:

Three bricklayers are asked, "What are you doing?"

The first bricklayer replies, "I am laying bricks."

The second one answers, "I am building a church."

The third says, "I am building the house of God."

The first bricklayer has a job. The second has a career. The third, a calling.

All three do the same thing, yet all three have differing attitudes to the same profession. The first viewed it as a job ("I view my job as just a necessity of life, much like breathing or sleeping"), the second as a career ("I view my job primarily as a stepping-stone to other jobs"), and the third a calling ("My work is one of the most important things in my life").¹ From it, one can draw lessons and peel away layers on the meaning of work, the power and/or importance of purpose, and for many a corporate workshop, how managers can try to inspire and move their employees from being the first two bricklayers to the third.

Why is looking at the right to work important? Because for the majority of people, work is what controls most of our days, most of our time, and most of our lives. It is the central unifying and coordinating system that dictates to us how to make sense of the world and ourselves for those living in modern economies, regardless of whether we have a job or not.² The definition of “work” however, is a thorny one, with different thinkers, societies, and cultures throughout history having different nuanced views on what counts as work vs labour, or work vs leisure, or work vs (fill in the counterbalancing, parallel, or opposing idea here). Every book one opens on work starts out with the conundrum of how to define it, and the difficulty in doing so.³ Indeed words for “work” are numerous, all with different nuances as can be seen with the parable above. “Job”, “career”, “occupation”, “vocation”, “calling”, “profession”, “employment”, “labour”, and so on. The word “work” itself is hard to encapsulate, with the *Oxford English Dictionary* giving the noun “work” thirty-four different meanings and the verb thirty-nine.⁴

While historically there may have been arguments defending “work” as necessary to building character, or necessary for citizens to contribute their fair share to society, or simply an inevitable fact of the human condition, I argue that such viewpoints are misguided and that work should be a choice, not a necessity or a duty, depending on how work is defined, and in what context it is given, as we will see throughout the thesis.

Work has been so fundamental to a person’s survival that the idea that there should be a right or entitlement attached to it has been around since at least the Enlightenment, when notions of equality rather than feudal hierarchy were starting to take root, and the idea that individuals regardless of status were equally valuable.⁵ Does this idea that work should be a “right”, and a human right under customary international law no less, binding nations in ideal circumstances, contradict the idea that work is a choice, and not a necessity? Again, I would argue no, and will explore what it means to have a human right that people may not want, exercise, or need. However, the key word is ideal, and unless those criteria are met where a system is set up with equitable distribution of subsistence in a manner that all or most would find just and fair, a right to work would still be necessary.

As work is such a broad topic, the Introduction chapter will first cover how the thesis understands work and why. I will then briefly touch on how the right to work and modern international human rights law can and does deal with issues of social reproduction and precarity, but why this thesis does not focus mostly or solely on precarious work. Then I will explain the contexts within which I

am exploring the right to work—international law and neoliberal capitalism—and why these areas are important to understand if one is to understand the right to work, and where I am situating myself in the literatures. Fourth, I will give an overview of the structure and chapters of the thesis. Finally, I will discuss the contribution I hope to make to the literature.

1. Understanding Work

This thesis understands “work” as paid employment that is not forced or compulsory labour, such as prison labour, bonded labour, indentured slavery, domestic servitude, and so on. This would also exclude subsistence farming, as international human rights law and political theory tend to refer to work and its analysis as paid employment in a modern economy.

Danaher defines work as “the performance of an activity for economic reward or in the hope of receiving some such reward”, which would include all paid forms of employment, as well as some unpaid forms such as internships and entrepreneurial work.⁶ Weeks defines work as “productive cooperation organized around, but not necessarily confined to, the privileged model of waged labor.”⁷ What is deemed legitimate work and what is illegitimate in society plays a role in signifying power, with certain forms of activity being remunerated but illegal (e.g., selling drugs, counterfeit goods, prostitution, illegal migrant work, and so on). As Eckert notes, legitimacy and illegality “has long been a matter of state policy” with the line of demarcation between labour and crime having always been fuzzy, shifting and adjusting “according to the needs of state and market regulatory regimes.”⁸ Weeks further notes, “What counts as work, which forms of productive activity will be included and how each will be valued, are a matter of historical dispute. Certainly the questions of whether or not various forms of productive activity—including some unwaged forms—will be recognized as work and at what rate they will be compensated have long been at the forefront of class, race, and gender struggles in and beyond the United States.”⁹ While illegal work and unwaged labour that is often considered work (e.g., unpaid domestic work, care work, or other forms that might fall under “social reproduction”¹⁰) are interesting areas to explore and merit further investigation, it falls outside the scope of this thesis, and I will therefore stick to so-called “legitimate”, waged jobs. But for those who are still curious, and demand I stray outside the scope of this thesis, I will briefly address social reproduction in the next section.

Another distinction to make is that I also do not differentiate between *work* and *labour*. While some authors may differentiate the idea between *work* and *labour*¹¹ based on the idea that work can be

any activity paid or unpaid, and labour tends to be viewed more as an activity people find physically demanding and perhaps even degrading, work in this context is obviously referring to work that brings about monetary compensation in a modern economy so that people can survive. Therefore, whether paid work is manually and physically demanding and thus what most people would associate with “labour” is not the point, and therefore I will not be differentiating between paid “work” or paid “labour”.

2. *What about Social Reproduction and Precarity?*¹²

The reader may have some questions regarding the scope and relevance of social reproduction and precarity in a thesis where the topic is on the right to work in human rights. I have already addressed how the thesis understands work and have explained why social reproduction is largely outside the scope of this thesis. However, as some readers are persistent in both agreeing it is outside the scope of the thesis, but nevertheless insist I address it, I give my brief analysis of it below. I will then address why precarity is not, nor should it be, the sole or even majority of focus in the thesis.

2.1 *Social Reproduction*

Although it is outside the scope of this thesis, there be might those who are still curious as to whether and how the right to work under Article 23 of the Universal Declaration of Human Rights (UDHR) and its corresponding rights within the International Bill of Rights (e.g., ICESCR, Articles 6–9, etc.), and the modern human rights doctrine in general, could apply to social reproduction. As such, I give a brief explanation below.

Social reproductive labour, if paid, can be looked at directly through Article 23 and its complementary articles in the UDHR¹³ and corresponding rights in the International Convention on Civil and Political Rights (ICCPR) and International Convention on Economic, Social, and Cultural Rights (ICESCR),¹⁴ or if unpaid, more broadly through other aspects of the international human rights doctrine and human rights law. That is, although Article 23 in and of itself does not mention social reproductive labour, that would be ignoring the fact that the right to work *is part of a larger body of rights*. These rights are often interpreted in the larger context of the overall objective and purpose of the UDHR and the International Bill of Rights, where all human rights are acknowledged as “indivisible and interdependent and interrelated.”¹⁵ Therefore, one could argue

that if domestic and care work are so poorly paid as to be seen as exploitative, or that a certain group of people are being paid less and discriminated against because the work itself is associated with people of certain characteristics (such as their gender),¹⁶ this would go against the spirit and letter of the UDHR, and more specifically, the Preamble and Articles 23, 24, and 25. It is easy to see how those who want to remedy the harms of social reproductive labour could then invoke these rights and call attention to the harms and exploitative practices that companies and governments may be committing by breaching certain human rights.

In addition, because individual rights such as the right to work are not thought of as independent, unrelated units to the rest of the body of human rights, other treaties, conventions, and sources of law can and do mention the right to work in its relation to paid and unpaid social reproductive labour *directly*. I will briefly mention and address these below. I will first address how the right to work and *unpaid* social reproductive labour is acknowledged and addressed in international law, and then move on to how the right to work can apply to different aspects of paid social reproductive labour. One example of this that is currently taking place in both international and domestic UK law, along with its enforcement, is regarding ‘occupational segregation’.

Unpaid social reproductive labour

One example of how unpaid care work and domestic work is acknowledged in its relation to the right to work in international human rights law is through The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). CEDAW is considered the international bill of rights for women,¹⁷ with its Committee (also known as CEDAW) making what are known as General Recommendations (GR).¹⁸ One of the Committee’s General Recommendations is GR17: “Measurement and Quantification of the *Unremunerated Domestic Activities of Women* and their Recognition in the Gross National Product”.¹⁹ GR17 is itself in relation to Article 11 of CEDAW which promulgates that “States Parties shall take all appropriate measures to eliminate discrimination against women in the field of employment”, and in particular to ensure “[t]he right to work as an inalienable right of all human beings”.²⁰ GR 17 goes on to reiterate what is said in other articles of the International Bill of Rights, such as Article 23 of the UDHR, including the right to free choice of employment, equal remuneration regardless of gender, right to social security, right to protection of health and safety at work, etc.²¹ It also goes so far as to suggest different remedies to the problem (such as incorporating unpaid social reproductive labour into national GDP calculations and why that would be beneficial to those performing such labour). From the title of

GR17 alone (“Measurement and Quantification of the *Unremunerated Domestic Activities of Women ...*”), one can see that it directly deals with unpaid social reproductive labour and its relation to the right to work of Article 11 of CEDAW.

For those unacquainted with international law and international human rights law, and therefore think the UDHR has no bearing or relation to CEDAW, I would again reiterate that international law does not mean that one convention or treaty has absolutely nothing to do with, or has no relation to, another convention or treaty within international law. These are all part of a larger body of rights, within a broader body of international law. Furthermore, those who are unaware of, or may challenge, CEDAW’s significance or the significance of its General Recommendations, I would like to point out that these have at times been considered an *authoritative source of law*, and thus cited and applied in domestic courts such as the UK Supreme Court and Indian Supreme Court when interpreting national law.^{22 23}

Paid social reproductive labour

The complexities of issues surrounding unpaid domestic and care work and neoliberal capitalism is the increasing commodification of things and services that were once not up for sale. More and more labour that was often done within the family or inside the home, such as childrearing, caring for the sick and elderly, cooking, cleaning, and so on has been increasingly outsourced to people for low wages, the majority of whom are women, and predominantly women of colour. Social reproductive labour in the home, and its association with gender—that is, women—has wide-ranging effects on the behaviours, activities, and jobs associated with women, and therefore, their pay and status.

This form of social reproductive labour is also an example of, and overlaps with, what is called *occupational segregation*, where an uneven distribution of a certain group of workers based on demographic characteristics are concentrated in certain areas within and across industries. These characteristics can include race, ethnicity, disability, and even religion,²⁴ but is most commonly seen by gender, although different characteristics (such as a person’s race and gender) often do intersect.

CEDAW and UN Women deal with occupational segregation under international human rights law that the UK has also implemented into domestic human rights law. There are cases currently undergoing legal action in the UK regarding occupational segregation based on gender and “care work” or “customer facing” work falling under the 5 C’s (cleaning, caring, clerical, cashiering

[retail], and catering)²⁵ involving major retail companies, including Asda, Tesco, Sainsbury's, Morrison's and Co-op.²⁶ The gendered aspects of social reproductive labour that largely harm women is not country specific, as a further global study involving occupational segregation, social reproduction, and whether economic development mitigates these problems can be seen in a 2023 World Bank Study. As Carranza et al. of the study observe,

Gender-segregation of economic activities begins in the household, where women tend to perform domestic and care responsibilities, men engage in tasks that contribute to the acquisition of marketable skills, and children play with toys and conduct chores in line with gender norms. The household not only determines the time allocations available to men and women for market activities, but also shapes men and women's actual and perceived comparative advantage, and the social norms regarding their aspirations, roles, and behavior.²⁷

As unpaid work moves from inside the domestic sphere to the public sphere of paid employment, this form of labour and its association with women often means that it is still valued less than other forms of paid employment, globally. Although Article 23(1) of the right to work states that "Everyone, without any discrimination, has the right to equal pay for equal work", if the average pay for a certain type of industry or work is paid less because it is associated with a specific gender, this circumvents in a sense the purpose behind paragraph 1 in trying to promote and fulfil conditions of equality in pay between men and women. One could argue it also circumvents paragraph 2 of Article 23, that "Everyone who works has the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity," if the remuneration itself is seen as discriminatory and/or exploitative in low wages and/or low-status due to its association with gender, and therefore not just or favourable to the worker in question.²⁸ Occupational segregation is also addressed in the ICESCR, in particular, Articles 2, 3, and more specifically 7.²⁹ (These are the corresponding articles that directly relate to the UDHR's Article 23, on the right to work).

Article 7 specifically discusses occupational segregation in paragraph (a) (i). The article recognises the right of everyone to the enjoyment of just and favourable conditions of work. As a minimum, this includes "Fair wages and *equal remuneration for work of equal value* without distinction of any kind, in particular women being guaranteed conditions of work not inferior to those enjoyed by men, with equal pay for equal work". CESCR General Comment No. 23 goes in more detail explaining Article 7 (a)(i): "Not only should workers receive equal remuneration when they perform

the same or similar jobs, but their remuneration should also be equal even when their work is *completely different but nonetheless of equal value* when assessed by objective criteria.”³⁰

As we can see, the right to work has been acknowledged and applied in both areas of paid and unpaid labour that is considered to fall under the term of “social reproduction” in international human rights law. Work that is associated with women and thus lower paid, such as some instances of occupational segregation that includes cleaning, care work, and work that is more customer-facing and thus associated with skills thought to be “inherent” to women,³¹ is also being challenged in domestic courts as with the cases regarding major supermarket chains in the UK, and pushed by its international obligations under international law.³²

The problems associated with social reproductive labour, both paid and unpaid, in its relation to the right to work and labour laws, and the complexities of solutions offered and debated within a socio-political context of gender norms in a neoliberal capitalist economy, is outside the scope of this thesis. Nevertheless, I hope this brief section has addressed some of the questions one might have on whether and how the right to work in international human rights law can address social reproductive labour. As we can see, this can be done by invoking and enforcing human rights and labour rights, with progress being seen with greater acknowledgement as well as government action in the UK.³³ As to the suggested solutions to some of the larger and more systemic problems, these debates are ongoing as they involve more complex social, political, economic, and normative challenges regarding gender, what is valued as legitimate economic output as opposed to women’s actual societal contributions vs their perceived societal contributions, and the value and accuracy of GDP in state measurements versus possible alternatives.³⁴

I will now move on to the second question the reader may have about the thesis—precarity, and why this thesis does not focus mostly or solely on precarious work.

2.2 Precarity

Nancy Worth describes precarious work as “nonstandard work that can be insecure, lacking benefits, poorly paid, and unpredictable—especially regarding working hours and conditions of work.”³⁵ If asked to identify what it is about neoliberalism that helps make the case for a moral human right to work, precarity might be an obvious choice for people to jump to. Although I do touch on precarity in later chapters and why a moral human right to work applies to precarity in a

neoliberal capitalist setting, therefore bringing precarity into my argument for a moral and legal human right to work, it may be worth mentioning why this thesis does not focus mostly or solely on precarious jobs. There are two different but related points to this. First, it is not that precarity does not apply to the right to work at all—it certainly does, and I will briefly analyse why below. But also, my second point is that the right to work applies to *all* jobs, not just the precarious ones, which is why this thesis does not focus mostly or solely on precarious work.

To the first point, when we look at Article 23 on the right to work, we can see that it does not mean we want people to access work of *any* quality. In fact, it prescribes work that is *not* precarious and unpredictable. Some might call this “decent work”. Precarity goes against the very nature of the human rights doctrine and the intentions behind the right to work in being able to live a life of dignity. Precarity also undermines and goes against subsequent complementary articles. Although there are several articles we could analyse in the UDHR that are relevant, as rights are interdependent and interrelated, due to the limitations of space I will only focus on Article 23, the right to work itself.

Article 23 of the UDHR promulgates,

1. Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment.
2. Everyone, without any discrimination, has the right to equal pay for equal work.
3. Everyone who works has the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection.
4. Everyone has the right to form and to join trade unions for the protection of his interests.³⁶

Following Worth’s definition of precarious work above, it is clear that precarious work breaches Article 23 in the UDHR, and that people should be protected from precarious work under this article. For example, let us look at the first clause: “Everyone has the right to ... just and favourable conditions of work and to protection against unemployment.” There have been many documented cases of precarious work where the low pay and work conditions are not what many would consider “just” or “favourable”. This could be with the increasing use of “dynamic scheduling” tools that Starbucks (among other companies) use to allow employers to change schedules more often so as to “constantly optimize”. While this helps a company pay the smallest wage bill it can to service a

given amount of demand, thereby making a company more profitable, it can also bring chaos into workers' lives.³⁷ Giridharadas noted that employees "no longer knew how many hours they would get in a given period of time, which complicated paying bills and making purchases. They had to arrange child care on the fly."³⁸ Precarious workers are often unable to plan their time because of the nature of the job. Agency workers on zero-hours contracts, for example, have little sense of their income week to week as hours of work are uncertain, and therefore are unable to save or have a sense of financial stability and security. Precarious work often lacks many benefits such as paid sick days or health care (in countries where it is tied to one's employment), coupled with their low wages, which could mean getting sick is not an option lest they risk getting fired or lose substantial wages to pay bills.

Lastly, Article 23(4) realises the right to form and join trade unions to protect the worker's interests. However, union-busting is an industry unto itself where companies spend more than \$400 million per year on "union-avoidance consultants" in the United States alone, with consultants reporting that they receive \$350-plus per hour and \$2,500-plus per day in fees.³⁹ Amazon in particular is famous for trying to disrupt any whiff of its workers unionising⁴⁰ and is repeatedly accused of exploiting workers.⁴¹ Amazon training videos on how to discourage unions were leaked in 2018, where managers were warned to look out for signs of union activity if employees used phrases such as "living wage", raised concerns on behalf of their coworkers, or showed an "unusual interest in policies, benefits, employee lists, or other company information".⁴² Although Amazon workers in Staten Island in New York became the first in the US to win union recognition in 2022, seeing this materialise is another question. The company has "still not sat down to negotiate with the union and continues to fight legal challenges to the vote."⁴³

Precarious jobs of low pay, little to no benefits, that are of an unstable and insecure nature often breach international human rights and labour laws,⁴⁴ but are argued for as jobs that give flexibility, autonomy over oneself and one's hours, and therefore freedom and independence.⁴⁵ This glosses over the fact that they are only offering these jobs as "flexible" so that they do not have to pay for work-related benefits that a full-time worker might normally receive, such as "the legally enforceable minimum hourly wage and a workplace pension",⁴⁶ paid sick days, paid holiday, etc. even though much of the flexible work could be seen as essentially full-time in all but name.⁴⁷ This is not a win-win situation for both parties when "flexible" working arrangements benefit the company (this is called "one-sided flexibility"), but leaves employees unable to plan for childcare, get sick, or have any life of their own outside of work because of the need to pay bills.⁴⁸

As Worth notes, the language used shifts perspective. Research and literature that uses “the somewhat neutral term ‘flexible work’ ... often centers the employer, examining how nonstandard work is more cost-effective, allowing companies to respond to change.” Contrast this to the term “precarious work”, which she argues “evokes negative connotations, ... implicitly setting up a comparison of what work might be like if it was not precarious.” This perspective in research tends to “be more closely focused on the lived experiences of workers (although not exclusively) and the challenges they face in employment.”⁴⁹ This shift in language matters. “For many, the term itself [precarious work] acts as a corrective to the *neoliberal language of flexibility*, especially for workers whose main experience of the labor market is one of uncertainty and insecurity.”⁵⁰

While precarity in a neoliberal global economy is very much a relevant topic regarding the human right to work, as well as needing protection under a *moral* human right to work, there is a larger and more important reason why this thesis does not mostly or solely focus on precarity, which moves me on to my second point. That is, in both the right to work and post-work literature, there is an acknowledgment and focus on *all* work, not just the precarious ones. Article 23 itself applies to *all* jobs, not just the precarious ones. The former (the right to work) is an acknowledgement of the necessity of work in a capitalist system, but an acknowledgement also that there needs to be something to temper the excesses of capitalism to protect the individual. The latter (post-work literature) is a critique of the concept of work itself. The underlying principle to both the right to work literature and the post-work literature is that work is universal, and therefore it is a topic about the nature of *all* work, not just precarity. One could very easily have focused the literature on the precariat, but that would lead down a more specific road towards “decent work” and rights *at* work, or labour laws, which, although the right to work does cover, it is not the only or underlying reason the right to work was written in the UDHR. It is also not the question I am exploring here, which is the right *to* work, the underlying philosophy of the right, and whether there is a corresponding duty to work at all.

While precarious jobs are a serious problem that undermine basic human rights, getting rid of precarious jobs does not get rid of the problems inherent in work overall. For example, the power dynamics between a worker and their boss never go away, regardless of whether you have a precarious job, or a better paid and more secure white collar job. Indeed, Elizabeth Anderson details some of this and more, arguing forcefully in her book *Private Government*,⁵¹ discussing the enormous amount of power that employers and the workplace have over their employees that

citizens living in a democracy wouldn't dream of giving to their own government. Many jobs are not necessarily what we would consider precarious jobs or precarity, as they have a certain level of stability, or a salary that could comfortably put them somewhere in the middle class.

The documentary *Salaryman* (2021), examining Tokyo's work culture of largely white collar workers and "raises questions around the ethics of our global working practices in a capitalist society", exemplifies this well. The documentary opens with salarymen being asked to describe themselves in five words. "Corporate cattle", "replaceable and disposable", and other similar descriptions are expressed about their identity and lives.⁵² The more recent, popular TV series *Severance* seems to also reflect the increasing unease, nihilistic angst, and cynicism people have towards corporate culture, work-life balance, and capitalism.⁵³ *The New Statesman* writes: "Forgive the hyperbole, but it is *the* television show for our times, and all the more gut-wrenching for it."⁵⁴ In fact, an increasing number of shows, documentaries, and podcasts are questioning the nature of work, its focus having less to do with precarity and more to do with the problem of paid employment itself—all paid employment—often critiquing it against the context of capitalism.

So while precarity may be a subject within post-work literature, it is not the only subject, and at the end of the day, precarity is not the core underlying issue that drives post-work literature. The core underlying issue of post-work literature is one that questions the very nature and reason for work—all work—and the hyper-valorisation of paid employment in a work-centred society, the attendant harms that such a society brings, and how to challenge and mitigate those harms as work is such a significant, central part of our individual lives, as well as being central and critical to society and the economy as a whole. This challenge brings with it what sort of world we want to live in if we want to move beyond work, in a post-work world.

In sum, to focus solely or heavily on the precariat would miss this essential nature of the right to work, or the overall critique of work itself in the post-work literature. Precarity is certainly an important topic when thinking about the harms we are seeing with certain types of employment in a neoliberal capitalist global economy, and does in fact, to a certain extent, help make the case for a moral human right to work. But the problem most people focus on with precarity is in the name—the very precarious nature of the work itself, which seems, again, more on "decent work" and to fall more under the umbrella of rights *at* work, or labour laws. Not the philosophical or normative justification of the right to work itself, or a critique to the nature of employment, or challenging those that argue that there is a duty to work. It is not that precarity and the right to work are

mutually exclusive, but rather that precarity is a smaller part of the bigger whole, and it is this underlying, bigger picture that my thesis is analysing.

3. Contexts: International Law and Neoliberalism

While definitions are important, context is equally so. The background and context within which these debates are taking place need to be defined and analysed. It may seem obvious that, when looking at Article 23 and the right to work within the UDHR, the topic itself would mean having to understand it within the context of international law and international human rights law. What is less obvious is how the global economic system interacts with, and is also a part of, international law. We will see in later chapters the concomitant rise between neoliberalism and the human rights movement, and the way these two have influenced, co-opted, and have reinforced one another. Indeed, part of my original contribution and argument is that the right to work and human rights in general are largely contingent upon features of the global economy, which I will flesh out in the following chapters.

3.1 The Significance of International Law

International human rights and the UDHR in particular are considered the standard bearers of international norms. While there are criticisms lobbed against human rights (for example, as being Eurocentric or another form of Western imperialism over weaker states),⁵⁵ human rights overall are seen as a weapon used to fight against unjust actions taken by governments, corporations, and individuals, and to help the powerless and voiceless. Having a norm on an international level often leads it to trickle down to the domestic level, as well as pushing the frontiers of who (or what) can have rights in a way that furthers the dignity of people and communities,⁵⁶ albeit it must be said, with varying degrees of progress and success.

As such, because international law and international human rights law are significant in its influence, it is through this lens that this thesis contributes to the debate on work in a fundamentally different way than the literature at present, and differently from traditional debates on work within politics, political philosophy, political economy, economics, and law. Incorporating international law and human rights contributes to the broader debate in the post-work literature by helping to reposition the debate firstly on a philosophical level, and secondly on a practical level through tools

that are already extant (the international human rights doctrine and the power of human rights language), as well as giving further guidance to goals and creating new possibilities for activists, theorists, policy makers, etc. within the literature.

I will get a few objections out of the way regarding international law that the lay reader may have.

1) International law does not matter because it is not enforceable, and 2) it is not applied domestically and therefore has no impact on our day-to-day lives. Therefore, any arguments falling within international law or international human rights law, such as the right to work, does not have any real or material benefits to the average person. Both of these objections are untrue, and I will briefly address them now.

To the first, while international law has been flouted by more powerful states, and international organisations such as the United Nations have at times been accused of serving an American or Western agenda, breaking international law is often more the exception than the norm.⁵⁷ Because it is the exception, news outlets often report on egregious infractions committed by states, but not the “regular conduct” and “the ordinary course of business between states” abiding by international law.⁵⁸ This leads to a misconception that states hardly follow it at all. Despite the lack of a supreme authority, as Louis Henkin observed in what is now arguably one of the most famous statements within the discipline of modern international law: “almost all nations observe almost all principles of international law and almost all of their obligations almost all of the time.”⁵⁹

International law and domestic law are simply different systems of law that have historically evolved in very different ways due to the nature of the subjects they are dealing with. As such, while domestic law is a *vertical* system of law, international law is a *horizontal* system. This does not mean one is “better” than the other, or that international law is unenforceable or has never been, or is very rarely, enforced. It only means that they are different and therefore function differently.⁶⁰

To then say it is not applied domestically and has no bearing on our day-to-day lives is also patently false. For example, if we were to only look at just one branch of international law—trade law—we can see the the number of international trade laws that countries follow to engage with each other in global commerce. On a more individual level, international law already directly impacts our day-to-day living, from the coffee we drink and the prices we pay for them, to our ability to go on holiday and travel, as well as having other economic and political impacts on the essential or “mundane” things in our lives. This is done through the legal structure and concept of monism vs dualism, or

the incorporation of international law into domestic law that different states' legal systems choose to follow. As many are not aware of how international law operates, and perceive it as an abstract form of law with little direct interaction with domestic laws of states, let me briefly go through the mechanics so that the lay reader is aware of not just the normative significance of international law, but also of its direct impact and significance on domestic law.

Monism vs Dualism

International law is significant because normatively the message it sends trickles down into domestic laws and into individual countries. This reflects international law's both practical and normative significance and function in affecting change.

For example, with the enormous increase in the development of international criminal law at the global level, Slye observes that this has "inevitably trickled down into domestic legal systems."⁶¹ This is true with international labour law as well, as Drzewicki argues, citing Philip Alston: "Integration of work-related rights into international law has followed the same path typical for most human rights, that is usually through their anticipated regulation within domestic legal systems."⁶² We can therefore see how international law related to work-related rights have trickled down into domestic legal systems, both normatively and practically, in terms of how policymakers consider what working conditions should be, in order for paid employment to be considered "fair", "just", or "decent".

In fact, "[i]nternational law is mostly enforced in domestic legal systems",⁶³ but how it is integrated has often been characterised as being on a continuum between monism and dualism. These two theories offer approaches as to how international law comes into effect in states, and how conflicts between domestic and international law are resolved. Monism posits that domestic and international law are a part of the same legal order, and if conflicts between the two arise, international law occupies a superior position to domestic law. Examples of countries with a largely monist approach are the Netherlands and France.

Dualism, on the other hand, "posits two separate yet co-existing legal systems—one domestic, the other international. In a dualist system, domestic law is superior to international law *within* the domestic legal system, while international law is superior to domestic law within the international legal system."⁶⁴ International law can only have the force of domestic law if the rules of a treaty

have been adopted into domestic law. The UK follows a dualist approach, and therefore a treaty can only have the force of law domestically once an Act of Parliament has passed to give it effect.⁶⁵ An example of this is the European Convention on Human Rights, which entered into force in 1953. The convention was only considered to have the force of law domestically after Parliament passed the Human Rights Act 1998.⁶⁶ Thus, a conflict may arise between domestic and international law that is not always resolved in the same way in both systems. As Slye notes, in a dualist system, “an individual’s rights may be violated as a matter of international law, but not necessarily as a matter of domestic law.”⁶⁷

There are other ways that international human rights law can also influence domestic law, for example, by providing guidance for the interpretation of domestic law. “Many domestic legal systems contain a presumption that domestic statutes are to be interpreted consistent with international law unless the legislature has made clear its intent to legislate contrary to international law.”⁶⁸

This binary approach between monism and dualism is challenged by some scholars despite being “the dominant paradigm through which the relationship between the two bodies of law is viewed.”⁶⁹ Instead, the reality is more nuanced with the relationship between the two as being characterised as a continuum between monism and dualism. In addition, even if a country chooses a more dualist approach, States should still respect and follow international law. As Hersch Lauterpacht, one of the most influential international lawyers of the twentieth century, maintained, “a State cannot invoke its municipal law as the reason for the non-fulfillment of its international obligations.”⁷⁰ Thus a dualist system requires continuous screening of any new legislation made for possible incompatibility with earlier international law (although a monist system has its own drawbacks as well).⁷¹

More can be and has been discussed and analysed regarding this binary distinction and its relevance and usefulness amongst legal theorists. For example, Slye cites Janne Nijman and Andre Nolkaemper’s argument that “attention should be shifted away from international law and its influence on domestic legal systems, and instead focus on universal *values* and their influence on domestic legal systems. Focusing on values rather than law allows a move away from a focus on technical legal doctrines to a more nuanced evaluation of the influence of international processes and politics on their domestic counterparts.”⁷² These theoretical approaches challenge the dominant

paradigm and instead draw attention to the cultural, political, and economic processes to better understand how “values, rather than laws, make their way across systems.”⁷³

All this is to say is that while there is a wide-ranging debate on the nuances and complexities of how international law influences domestic law, the simplified and snapshot summary above highlights the impact and influence that international law has on domestic law. And because international law and international human rights law are significant in its influence, it is through this lens that this thesis contributes to the debate on work in a fundamentally different way than the literature at present. That is, incorporating international law and human rights contributes to the broader debate in the post-work literature by helping to reposition the debate through tools that are already extant (the international human rights doctrine), as well as giving further guidance to goals and creating new possibilities for activists, theorists, policy makers, etc. within the literature.

3.2 Neoliberalism as Ideology and Economic Theory

The selling of one’s labour for cash in order to survive is essential for most people within a capitalist economy. As this thesis is specifically on paid employment and international human rights, understanding the global political economy and the dominant global economic system that defines, frames, and creates a system dependent on paid labour, which in turn impacts individual rights, is essential. Especially when unemployment is often used as a tool to control inflation in many governments’ policies. Capitalism on a broader scale of a global economic system interacts and impacts areas such as human rights and labour rights. The political ideology which governs the more mainstream or orthodox views on “correct” economic policies or economic reasoning therefore needs to be examined and defined.

Capitalism itself has changed form throughout its short history, taking different forms in association with different types of governments, cultures, and historical events. As D’Souza observes, “Capitalism has evolved ever since but the evolution is marked by *qualitative* transformations at crucial junctures in its history. The capitalism of today is not the same capitalism that existed in the seventeenth and eighteenth centuries. The qualitative changes mark different stages of capitalism.”⁷⁴ In the last century, however, neoliberal policies and ideology have arguably been the most successful in becoming the norm to such an extent that they are now considered “common sense” in global economic policies.⁷⁵ Scholte notes that, “in the late twentieth century neoliberal ideas gained widespread unquestioned acceptance as ‘commonsense,’”⁷⁶ while Kirkup and Evans

contend that in the United Kingdom and the United States, “‘common sense’ neoliberalism has driven both the expansion of global market discipline and undermined the pursuit of economic and social entitlement through the state.”⁷⁷ Although I explore the meaning of neoliberalism in more detail in Chapter 3, both as an economic policy and as an ideology, for clarity I will give a general definition of neoliberalism now as an

ideology and policy model that emphasizes the value of free market competition. Although there is considerable debate as to the defining features of neoliberal thought and practice, it is most commonly associated with laissez-faire economics. In particular, neoliberalism is often characterized in terms of its belief in sustained economic growth as the means to achieve human progress, its confidence in free markets as the most-efficient allocation of resources, its emphasis on minimal state intervention in economic and social affairs, and its commitment to the freedom of trade and capital.⁷⁸

While there are a multitude of schools of economic thought and debates within those schools, due to the influence and spread of neoliberal policies,⁷⁹ especially through Bretton Woods institutions and its reverberations to this day, it is from this orthodoxy of neoliberal economics, ideology, and form of global capitalism that I will engage with and contend against in subsequent chapters throughout this thesis. While waged labour is tied to the economic system of capitalism in general, it is this particular form of neoliberal capitalism that most people have in the forefront of their minds when discussions of public policy, unemployment rates, societal values and norms, individual morality, etc., take place. I will examine and define neoliberalism in more detail in Chapter 3, analysing it as an ideology as well as an economic theory, and the effects it has on our everyday lives. This chapter partly sets up the premise for why there should not be a duty to work, that I argue in Chapter 4.

A) Post-work and Capitalism

In addition, while post-work theorists are often associated with the dismantling of, or distancing themselves from, capitalism, my own position is that capitalism as a system is not inherently evil in and of itself. I am not anti-capitalist. Indeed, scholars have argued that it is because of the system of capitalism that we have had as much prosperity, technological breakthroughs, and economic development throughout the world as we do today.⁸⁰ Of course it is by no means a perfect system, but there are areas where a market system may be beneficial to society.⁸¹ However, that does not mean applying free market principles or a capitalist way of thinking should be applied to every area,

facet, and arena of our public and private lives, as we are increasingly seeing today. That being said, depending on the type of capitalism and other socio-cultural and political systems that may converge within a country, a post-work world where there is less work, even potentially no work, is possible.

This, however, does *not* mean I am advocating that a post-work future *must* be capitalist either. My point is that if society finds a better system to move towards, capitalist or not, human rights and protecting human dignity should be at the forefront of what guides whichever alternative that society chooses for itself. I do not think capitalism is the be-all-end-all, nor do I think we must automatically and completely shun a capitalist system. My argument is that capitalism has its benefits,⁸² and there is a more nuanced way of looking at capitalism, instead of epitomising neoliberalism as the only form of capitalism possible, or falsely equating neoliberalism as being the only form of capitalism possible.

So if there are ways to mitigate the harms of work for the majority of people within a more humane capitalist system that is better regulated, I am not against it. However, if there is a better alternative in the future, with better technology that allows for a move completely away from and outside any traces of a capitalist, market system, I would not be opposed to it, if such a system and technology developed. My point is simply that the global economic system we are in now, neoliberal capitalism, is a particularly pernicious form of capitalism, but that does not mean that capitalism itself does not have any benefits whatsoever.

Broadly put, the purpose of post-work is to re-evaluate work, reduce it, and possibly liberate people from it completely. It politicises work as a *problem* that needs to be explored, rather than viewing work as a *solution* to all of our individual and moral failings, which is how labour and work have historically been treated.⁸³ That is why research in post-work literature include trialling the 4 Day Work Week,⁸⁴ universal basic income schemes, universal basic services, full employment schemes (or what is sometimes known as a *job guarantee*), discussions over living wage, the crisis of growing inequality, the histories of labour unions, and so on.

These are all policy suggestions that happen *within* a capitalist system, not in spite of one. And not all of the participants and researchers are avowedly anti-capitalist. These policy suggestions might be stepping stones towards completely liberating us from all work, or it may be a more modest view of the authors to reduce and redistribute work. The think tank Autonomy, which looks into the

future of work and is directly associated with authors in post-work literature, argues that because post-work studies is an “emerging field”, there is no single “post-work prospectus”. In fact,

There is a notable variety of perspectives even amongst the avowedly left wing thinkers associated with post-work; while most express a general investment in ideas of emancipation from wage labour in the name of human flourishing, they suture their perspectives on life after work to differing political ambitions, be they anarchist, communist, or social democratic.⁸⁵

Social democrats, I would like to point out, are not anti-capitalist, but believe in a mixed, market-based economy that makes the market fairer for all. To misunderstand post-work theorists as *all* being anti-capitalist, and under such a small umbrella, misrepresents, narrows, and essentialises the people associated with it and the literature itself. Furthermore, narrowing it too much ends up vitiating much of the richness and analysis of interdisciplinary research. As long as the central objective remains true—in this case, analysing and politicising work as a problem that needs to be explored, and therefore looking at ways at lessening, redistributing, re-examining, or even completely abolishing paid employment in hopes to make the world better fit for people and their human flourishing (or what Twine calls their “right to self-development”),⁸⁶ I do not think only anti-capitalist authors should be allowed into the field of post-work. Nor am I unique in thinking this.⁸⁷

Post-work is an emerging, new field. It is a little comical for anyone who misunderstands it as an exclusionary, purist discipline of anti-capitalists, when it is more of an inclusive, humanistic one with a wide ranging variety of authors from different disciplines. This is what makes the area so exciting, creative, and important, because work affects almost everyone. At the end of the day, to say post-work literature *only* supports and includes those who are anti-capitalists, is a tenuous claim. Especially when it is not a fixed discipline itself, but relatively new. Likewise, it is not a contradiction on the part of post-work theorists who support initiatives like a 4 Day Work Week (which is still wage labour and often advocated for on grounds of increasing profit) or want stronger labour rights (i.e., rights *at* work), nor do I think post-work theorists are “betraying” their discipline or contradicting themselves if they are not avowedly anti-capitalist.

The regulation of the excesses of neoliberal capitalism, towards a less deregulated system with a stronger social safety net that is significantly different from what we are seeing today, could be a stepping stone towards a future of less work, for example. This future could then be directed to a

less capitalist economy, or continue as a capitalist one with even further regulations, social protections, and increasing investment into infrastructure, education, etc. This could be a cultural shift from viewing the economy as a profit-only or profit-oriented/driven economy to a care-economy that prioritises human needs, human dignity, and human development over solely profit. My main point, ultimately, is that capitalism is not the inherent evil we must all shun completely in order for us to see significant improvements towards paid employment, or to question the nature of work, or to reduce, redistribute, and re-evaluate work itself. Nor is post-work literature avowedly anti-capitalist.

4. Structure

This thesis has four chapters, excluding the Introduction and Conclusion. Chapter 1 establishes the context by looking at the background and history of the right to work and its significance. Chapters 2 and 3 establish the theoretical and philosophical foundations in human rights and neoliberalism, arguing for a moral right to work. Chapter 4 argues that based on the preceding chapters, there is no corresponding moral duty to work.

The aim of the whole sequence of chapters is to describe the theory in the first part (Chapters 1 to 3) culminating in the last chapter to show how, based on the incorporation of these different theoretical backgrounds, one can make an argument for a right to work, but not a duty to work. These are based on ideas of human rights and inherent human worth versus economic productivity and the human worth we place based on this in a neoliberal capitalist economy. The right to work, I essentially argue, is the right to be. But having a right to be, to exist, does not, nor should it, automatically equate to the duty to work in paid employment, in order to have that right to exist. A summary and overview of the chapters are as follows:

Chapter 1 starts with analysing the underdevelopment in the literature regarding the right to work in international law, and the reasons as to why this area has been neglected due to the historical, political, and economic circumstances of the time. I also argue the significance of starting to acknowledge and contribute to the right to work. As the right to work falls under both civil and political rights, as well as the more contested economic, social, and cultural rights (ESCRs), I will address some common arguments against ESCRs that also apply to the right to work. One significant issue I identify in the chapter is the concept of full employment and how it is different from the right to work. While the term at first blush appears to mean the same thing as the right to

work, it is not, and in fact means different things depending on the person. Here I will look the different meanings of full employment, the politicisation of full employment, the wielding of unemployment as a means of control, and the feasibility of a job guarantee.

Chapter 2 starts with laying down some philosophical foundations and clarifying key terms. The *right to work* does not have just one contentious word, but two: the concept of a *right*. What does it mean to have a right to work? What does this right entail? With this in mind, I will first analyse what it means to have a *human* right, the development of modern human rights, and how they are more than just natural rights. I further argue that because of what makes human rights different to, and an extension of, natural rights, the human rights we have at present are contingent upon the global economy of neoliberal capitalism. This is no accident, and was (consciously or unconsciously) developed in this way to protect us against changes in political climate, economic systems, technological advances, or anything that may significantly affect the dignity of the individual.

Chapter 3 analyses the economic system within which the right to work is contingent upon: neoliberalism. Here I analyse the concept of neoliberalism not only as an economic system, but also neoliberalism as an ideology that allows the economic system to perpetuate and reinforce itself. The internal and contradictory logic of neoliberalism, both as an ideology and economic policy, and its dominant and expansive spread to areas outside how we would normally apply principles of “the market” has had significant effects. This includes how we view people and their value and worth, either through their work/paid employment or through the amount of money they make, which in turn impacts how we view ideas of the right to work, the duty to work, and social obligations of the state and to one another.

Having established why there may be reasons for a legal and moral human right to work in the previous chapters in protecting human dignity, survival, and promoting human flourishing and development, Chapter 4 then moves on to argue why, based on the previous chapters, there should be no moral duty to work. I will go through some common arguments that have been put forward on why there should be a duty to work, refute those arguments, and then move on to my own substantive claim, based on the previous chapters above, that despite there being a right to work there should not be a legal or moral duty to work.

The very last chapter concludes, tying together the questions I have asked and addressed so far and summarising the main arguments.

5. *Contribution*

This thesis aims to contribute to a growing body of literature on work and labour in human rights and international human rights law, political philosophy, and post-work theory.

My main argument and original contribution to the different literatures is that while there is a human right to work, there is no corresponding duty to work, either legally or morally. The right to work, I interpret within the context of the philosophy of international human rights, symbolises what human rights as a whole exemplifies: that we as individuals are inherently valuable through our common humanity, and that we have a right to be, to exist. By putting these two very different disciplines together in dialogue, my argument constructed is thus: Having a right to work (not just in order for us to gain those basic necessities to survive, but also for human flourishing) is in essence, trying to uphold the most fundamental of all human rights—a right to *be*. But having a right to work and a right to exist does not automatically translate into having a duty to work in order to have that right to exist.

Drawing upon the works of James Griffin and Charles Beitz in their understanding of human rights, and a historical analysis in the drafting of the UDHR, I argue how and why modern human rights are contingent upon the nature of the global economy, and a neoliberal capitalist economy in particular. This is especially true with regard to the right to work, i.e, the right to paid employment .

I also explore the philosophical arguments within a post-work literature and human rights literature that I contend would agree that the right to work is a human right, but the duty to work is not. Thus I hope to combine the theoretical framework and philosophy of international human rights that is based on the concept of human dignity with post-work literature that challenges the “work-based society” and convergence in their respective goals for “utopia”. By drawing upon the literature of human rights through the works of Griffin and of Beitz, and combining it with the literature in post-work and political theory that critically examines neoliberalism and work, I contend that there is a human right to work, but not a duty to work under those premises.

Thus, my thesis makes an original contribution in two ways: first, in analysing how modern human rights and the human right to work specifically are contingent upon the features of a neoliberal global economy, and second, that while there is a human right to work, there should not be a corresponding duty to work, either legally or morally.

I

THE SIGNIFICANCE OF THE RIGHT TO WORK

Workers' rights are human rights, yet the international human rights movement devotes little attention to the rights of workers. At the same time, trade unions and labor leaders rarely enlist the support of human rights groups for the defense of workers' rights. A regrettable paradox: the human rights movement and the labor movement run on tracks that are sometimes parallel and rarely meet.

Virginia A. Leary⁸⁸

“Amazon’s New CEO, Andy Jassy, Can Either Help Workers and Sellers—or Automate Them Away”⁸⁹

“Overwork Killed More Than 745,000 People In A Year, WHO Study Finds”⁹⁰

“The case for a shorter workweek”⁹¹

“Meet Grace, the ultra-lifelike nurse robot”⁹²

“Why do we buy into the ‘cult’ of overwork?”⁹³

“The gig economy challenges China’s state-run labour unions”⁹⁴

“Elon Musk says we need universal basic income because ‘in the future, physical work will be a choice’”⁹⁵

The headlines above only represent some of the crises that work and people have faced regarding employment, especially as the pandemic has adversely affected women more in the workforce, possibly undermining much of the progress that may have been made, as well as adversely affecting other minority groups.⁹⁶ The effects of the pandemic has exacerbated already growing inequality, has led to an increase in government borrowing that has reached all time highs since the Second World War,⁹⁷ has left many jobless, and has also brought about renewed interest in universal basic

income schemes that have either been implemented and studied or seriously debated and considered. There have been increasing discussions of other alternative forms of work, such as the four day week movement,⁹⁸ with supporters arguing how the 40-hour workweek has not always been and perhaps no longer should be the norm. More and more headlines conjecture and prognosticate how algorithms, robots and artificial intelligence will augment or even upend entire industries and jobs. To say it has never been more relevant at this juncture to talk about the right to work would be an understatement.

It is usually in economic crises and periods of depression and recession, with widespread unemployment, that the right to work becomes fashionable to discuss, with renewed attention on rights-based language in economic discourse and market policy.⁹⁹ Yet while there is always renewed attention to the right, with social and economic rights being temporarily prioritised in periods of economic downturn, Sarkin and Koenig also note that when those periods end and sustained economic growth take over again, the focus shifts back to “increasing rates of growth and preventing inflation, leaving many decision makers to discount the perceived value of human rights, including the right to work.”¹⁰⁰ Throughout these cycles of boom and bust, they further note that “the right to work has never been firmly established as positive human rights law that creates very clear and specific obligations for nation-states.”¹⁰¹

Despite the right to work being fundamental to securing other rights, such as food, education, housing, and a means to a basic standard of living, why has the right to work been widely discussed and acknowledged, but largely ignored? This chapter will cover three things. First, I will discuss why scholars have not treated this subject in much detail by looking at the shaping and (under)development of the right through recent history and politics. Second, I will move onto some criticisms regarding the right itself that have led to it being dismissed or underdeveloped, such as justiciability, and why it is unwarranted.¹⁰² And the third subsection looks at the necessity, relevance, or significance of the right and why this gap should be explored.

1. Why the Right to Work has been Underdeveloped

Drzewicki citing Philip Alston writes: “International labour legislation and international human rights law, albeit distinct, remain valid and complementary dimensions for the protection of work-related rights in modern international law. ... It was pertinently observed by a commentator that, due to emergence of bodies of domestic jurisprudence, labour rights belong to the *most developed*

of the economic, social and cultural rights”.¹⁰³ Leary also notes, “Workers’ rights should be of interest to human rights scholars and activists since they are among the most well-defined rights and are subject to a better enforcement procedure than most rights. Workers’ rights have been elaborated and clarified by ILO conventions and by ILO organs that supervise the application of these conventions”.¹⁰⁴

As we can see from the two comments above, while labour rights are the most developed out of all of the economic, social and cultural rights (ESCRs), with the right to work having “acquired growing recognition,” the right to work itself has proven to be profoundly controversial, with states “disputing whether it can be conceptualized as a right to employment, as freedom to work or as rights to work.”¹⁰⁵ A report published by The Joint Committee on Human Rights entitled *A Bill of Rights for the UK?* accurately touched upon why the right to work, and ESCRs in general, were as controversial as they were: “the debate is an outcrop of often deeply submerged but sincerely held differences between reasonable people about the most fundamental questions of political philosophy, including the nature of liberty and the appropriate role of the State in preventing inequality.”¹⁰⁶ Komlosy writes, “In the world of sociopolitical concepts, notions of work as the basis of self-actualization stand diametrically opposed to notions of freeing humanity from the compulsion to work”.¹⁰⁷ At the heart of this controversy lies disagreements over individual freedom, how society should value work, and what the social contract between state and citizens should be, with debates over the substantive content of this right having deep philosophical implications.

Despite work’s pivotal role “at the intersection of social and economic rights and of civil liberties,” and work being “so central to most of the valuable features of life that are protected through appeals to human rights,” Collins observes that nevertheless the right to work is “rarely examined or included in philosophical investigations of the foundations of rights.”¹⁰⁸ Sarkin and Koenig also acknowledge the issue remains contentious and oftentimes ignored, and analyse why the right to work remains underdeveloped by looking at the political history of the development of the right, the segmentation of the right by various actors, and criticisms regarding justiciability as well as the inaccessibility of economic dialogue for rights-based language.

As to the historical and theoretical origins of the right to work in international law, the most logical place to start would be after World War II, and the drafting of the UDHR when the right to work itself was being drafted.¹⁰⁹ While the UDHR tends to be more hortatory in setting out general principles or standards of human rights, the two covenants—the International Covenant on

Economic, Social and Cultural Rights (ICESCR) and the International Covenant on Civil and Political Rights (ICCPR) set out to define specific rights and their limitations that were to be binding obligations to States. These three, plus the two Optional Protocols, form the basis of the International Bill of Rights. Within the ICESCR is Article 6, which recognises the right to work, including “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.” Article 7 deals with what one might call rights at work or “decent work”, outlining fair remuneration, a decent living for the individual and their family, safe and healthy working conditions, rest and leisure, and paid holidays.¹¹⁰ The two separate covenants were created as a compromise between capitalist and socialist nations, with socialist nations advocating that ESCRs were just as important if not more so than civil and political rights, whilst capitalist countries argued that ICCPRs were in fact the more important set of rights. It was not just the compromises and tensions between Western and socialist countries in drafting the UDHR, but also in drafting the right itself. Sarkin and Koenig argue that it was this construction of the right that is the origin of the theoretical and practical division of the right that has restricted the right’s development and have left it constricted.¹¹¹

However, more importantly than that, Sarkin and Koenig note that whilst “political tensions between capitalist and socialist nations did indeed affect the way in which the right was written into international law,” those tensions, however, have been drastically reduced in recent years, but that there has been no substantial change in the approach by countries to the right to work.¹¹² Instead, they argue, even if divisions between political ideologies and economic systems have contributed to a “poorly constructed compromise” regarding the right to work, what has “uniquely set back the development of the right has been a steady process of dividing the right to work in pieces.”¹¹³

This segmentation introduced a hierarchy of rights within the divided right. Many theorists, activists, and governments have contributed to this division as they have approached the right to work with specific goals in mind. Several distinct aspects or components of the right to work have been identified, and specific actors have pushed for a hierarchy of importance within those pieces, on the basis of political or institutional objectives as opposed to a concerted effort to explore and develop the right itself. As a result of this process, contemporary perspectives on the right to work tend to conceive of a conglomeration of interrelated rights. There has therefore been no consensus built on what the core elements of the right are, and how the entire right should be developed and sustained. These differences

have prevented even seemingly natural allies like the labor and human rights movements from working together to promote the right to work.¹¹⁴

Other issues include justiciability (a common criticism that applies to all ESCRs and not just the right to work), and the content of the right—that it was diplomats drafting and constructing the right and not economists or technocrats more in tune with the vagaries of the market. For example, when considering economic policies and jargon versus what human rights are meant to deliver, including concepts of full employment, unemployment, and the confusion surrounding what diplomats think the terms mean versus how they are used by economists, have seriously undermined the normative utility of Articles¹¹⁵ relating to the right to work in the International Bill of Rights.

Sarkin and Koenig also note the disconnect between human rights based language and economics. Economics is a discipline that deals with priorities, trade-offs and scarce resources which does not translate well into a rights-based approach that insists on the equal value of all rights based on indivisibility, interdependence, and interrelatedness. Additionally, there are a whole host of human costs (depression, disruption of family patterns, loss of pride, deep depression, suicide, mental anxiety, etc.) that are difficult to quantify in economic models.¹¹⁶ This has seriously undermined how the right to work has developed, and how naysayers of human rights view with scepticism the very existence of rights in declarations and covenants. Because the right to work includes normative as well as instrumental and positive obligations of states, as a conglomeration of interrelated rights, the debate has ignored the underlying purpose of human rights,¹¹⁷ and instead has focused on essentialist aspects that oversimplify or distort what a human right should be. This has caused particular controversy regarding Article 24—the right to rest and leisure—where paid holidays elucidated within this Article tip into policy prescriptions rather than the upholding of abstract rights.

As Morsink notes, “The worry the drafters expressed about exposing their document to ridicule was not misplaced. Not realizing that this part of the Declaration was fed by the traditions of trade unionism and socialism, even serious scholars have failed to come to grips with what Article 24 represents.”¹¹⁸ He observes that the drafters “constantly struggled over where to draw the line between a statement of abstract right and the measures or legal rights that seek to implement that right”.¹¹⁹ And while they understood the difference between stating an abstract right and levels of implementation, with respect to work-related rights they were especially torn “as to where to draw the unsteady line between these two realms.” Morsink further observes, “The Declaration is not a

pure document and the drafters did now and then tip the scales toward one culture or social system rather than another,” but their selection was not out of line with what most countries and cultural traditions actually had or felt was needed.¹²⁰

What was critical for the Drafters of the UDHR and the reason for the rights stipulated in Articles 23 and 24 was to ensure that human labour was not to be treated as a commodity, and thus people would be treated with dignity through their work conditions. If, however, “society could guarantee that dignity in some other way, the drafters would not have objected.”¹²¹ Again, if taken as a whole, and even in line with Griffin’s “narrowing” of human rights that we will see in the next chapter, Griffin contended that human rights derives from human dignity with its purpose of protecting human agency, which was why Griffin did not see any serious discrepancy between the right to work and his more narrow list of human rights.

2. Criticisms and Responses

The criticisms to the right to work, despite being enshrined in the UDHR and therefore considered customary international law and obligatory,¹²² are many due to the complexity of the right itself. Paraphrasing Drzewicki, the right to work is “not a single legal concept”, but “a complex normative aggregate”, having within it classic freedoms as well as obligations-oriented rights that are strictly enforceable. As a positive right, arguments regarding justiciability inevitably arise, and as a negative right, such as the right to association, the right itself lends to confusion as to how the right should be prioritised and dealt with.

While Collins argues that criticisms on the content and nature of the right itself has led to its underdevelopment, Sarkin and Koenig as seen above, analyse the historical conditions and motivations of different actors that have led to such neglect. The most common criticism regarding the right to work (and ESCRs in general) is the concept of *justiciability*. Justiciability means that it can be reviewable by courts, thus opponents of socio-economic rights argue that enforcing ESCRs become problematic. This is because judges in courts that might oversee such cases lack the expertise and institutional competence to make rulings that require technocratic knowledge related to the right in question. In addition, judges now become lawmakers, which goes well beyond the purpose of the judiciary and its functions in a governmental system reliant on a separation of powers in order to safeguard liberties and guard against tyranny. It further goes against democratic governance as it involves unelected and unaccountable judges to make decisions about resources

and setting priorities that society as a whole (i.e., in the form of democratically elected representatives) should make.

The Joint Committee on Human Rights, however, argues,

The courts already make decisions about social and economic rights in judicial review cases concerning the State's various statutory duties to provide education, social care or other welfare services. An example is the situation in which a local authority is failing to provide to a child the provision to which their Statement of Special Educational Needs entitles them. Such cases are key to ensuring that state organs do what is legally required of them. To this extent our courts are already very familiar with having some role in the enforcement of such rights. It is therefore untrue to say that such rights are currently nonjusticiable.¹²³

In addition, although it acknowledges that "courts are not well equipped" and may lack the practical capacity to perform tasks such as priority setting of resources, this does not mean that courts should have no role at all. Quoting Baroness Hale, "It does depend how you do it. It is not impossible to do it in a way which would not turn the judiciary into a taxing body." The report concludes that, "In our view the main objections to the inclusion of social and economic rights in a Bill of Rights are not, in the end, objections of principle, but matters which are capable of being addressed by careful drafting."¹²⁴ Indeed, Fons Coomans observes how "over the last five to ten years we have witnessed several developments at the international level that aim at strengthening the justiciability of social and economic rights." Coomans further notes that "the justiciability of social and economic rights has drawn increasing academic interest A reason for this greater interest in the protection of economic and social rights is the progressive development of 'good practices' and creative case law coming from a number of domestic systems."¹²⁵

Chapman also argues that "Economic, social and cultural rights are no longer as neglected as they once were in relation to civil and political rights. Wider agreement on the core elements of these rights, development of international standards, and some guides to monitoring and evaluating them now exist."¹²⁶ She notes in particular "core minimum obligations" that States must adhere to at all times and in all circumstances. The UN Committee on Economic, Social and Cultural Rights (CESCR) has made clear in their General Comment No. 3 that every economic and social right makes incumbent on states a "minimum core obligation to ensure the satisfaction of, at the very least, minimum essential levels" of the right. "Thus, for example," it continues, "a State party in

which any significant number of individuals is deprived of essential foodstuffs, of essential primary health care, of basic shelter and housing, or of the most basic forms of education is, prima facie, failing to discharge its obligations under the Covenant.”¹²⁷

3. Significance of the Right to Work

As seen above, over the past few decades there has been a growing interest in and acknowledgment of not just socio-economic rights, but also in the right to work itself. A confusing stew that makes up the content of the right, the stunting of its development due to its political history, and different actors recognising its value yet failing to collaborate, thus further fragmenting the right and hindering the development of the right itself, has led it to being unexplored in the literature which many would maintain needs tending. While the literature on work in politics tends to be focused on post-workists arguing that paid work itself as generally being harmful (either due to the nature of the job itself or the structural elements that forces us to go into paid employment), with thoughts of a workless utopia (or at least a world with less work) being dreamt of on the horizon, the drafters of the UDHR, politicians, economists, and legal scholars tend to view work as inherently positive, not least because it ensures other fundamental human rights as well as giving individuals a sense of purpose and other non-monetary benefits.¹²⁸ It seems to be yet another parallel being created, this time not between human rights activists and labour activists, as the epigramme at the beginning of this chapter suggests, but between legal scholars, economists, and political theorists.

Why is examining the right to work through an international human rights lens important? Why bother bridging different disciplines, and instead continue to let everyone play in their segregated playgrounds? Because by virtue of its widespread acceptance, the UDHR “has gradually assumed an independent status as a statement of customary international law” and “it can be viewed as a statement of the obligations that governments bear whether or not they have acknowledged the obligation.”¹²⁹ I also further explained in the Introduction about monistic and dualistic approaches when incorporating international law into domestic law, highlighting the importance of the right in question. We see this with the increase in the development of different branches of international law at the global level being incorporated domestically at the individual state level. As I have already pointed out, “[i]nternational law is mostly enforced in domestic legal systems”.¹³⁰

In addition, as we see with Article 24, or the right to not be overworked, international law and justiciability allows room for there to be some form of an internationally agreed minimum of decent

work.¹³¹ The other important aspect to recognise in international law is the fact that such law is in constant evolution. As Michael Kirby argues, the foundation of international human rights law lies in “black letter” provisions that are expressed in declarations, covenants, conventions, and treaties that have proliferated around the world in regional and international courts since 1945, and which continue to evolve from the “soft law”¹³² that ordinarily precedes the “emergence of binding rules of international law.” Kirby further argues that human rights law should not be treated as simply “aspirational” or “comprising moral generalities”, but as a new body of *law*.¹³³

Not only that, but by pointing out that work itself is not an inherent good (which is what I am arguing), but nevertheless a necessity so fundamental in a global capitalist ordering of the world that one often needs it in order to exercise and secure other basic rights—it brings to light a whole host of interesting questions that demand to be explored. The right to work touches upon a constellation of other interesting and equally important ideas—universal basic income, the meaning of citizenship, equitable distribution, social justice, inequality, freedom, time, the welfare state vs workfare, the moral economy, moral capitalism, the market, climate change, and so on. In addition, with growing inequality, financial crises, and the pandemic, one would think the right to work would be more sought after than before. In fact, there is a growing movement of those who believe in a shorter workweek,¹³⁴ concerns over climate change and the environment,¹³⁵ and passive resistance to work in highly competitive societies such as China with ‘tang ping’ (lying flat)¹³⁶ and other parts of Asia.¹³⁷ Bridging this seemingly contradictory divide is the acknowledgement that the right to work cannot function well without a welfare state or government provision of some sort to prevent harms to individuals in a market economy that has now, according to Sandel, drifted into becoming a “market society”.¹³⁸

Underlying all of these concepts is the idea of social contract, and the rights, duties, and responsibilities citizens and government have toward each other. One cannot separate theory from the realities of the world, or vice versa. By analysing rights and duties and how it applies to post-work literature through a framework of human rights and political theory, I am hoping to explore this significant but underdeveloped question that is the right to work. As we will see through the course of this thesis, one of my original contributions is to combine the literatures of human rights with that of post-work that have thus far been kept separate, to construct an argument that there is a human right to work, but not necessarily a duty to work, depending on how work is defined, and in what context it is given.

4. Full Employment

The last section of this chapter deals with terms and ideas that are often confused and conflated with the right to work: full employment, a job guarantee, and a duty to work. People might think that they mean the same thing—that the right to work means everyone in a country automatically gets access to employment, hence full employment. In addition, if everyone has a right to work, and full employment is available, everyone in some sense, should have a duty to work. There are now no excuses not to work, as if people are shirking away from work, or are using excuses for why they cannot find work.

This obviously does not take into account different reasons for unemployment: people who are studying, the retired, people with disabilities who are unable to work, new parents or others with caretaking responsibilities, etc. And additionally it creates stigma around the word unemployment and the stigma one experiences from others by not engaging in paid employment. As countries outside the industrialised West realised they needed to “modernise” as they became further integrated into a global economy in the early 20th century, concepts of poverty that used to have more positive moral and religious affiliations changed more negatively.¹³⁹ Associated with this change in local economies to nationwide modernisation, were changes to concepts of work and labour. The economist John Kenneth Galbraith observed,

Emerging here also is the now urgent, though relatively new, problem of why it is impossible in the modern economy to find useful employment for so many people who are willing to work. In the 1800s, unemployment was scarcely discussed; only in this century has the difficulty of achieving an adequate supply of goods given way to the far greater, far more discussed difficulty of finding adequate employment for as many people as possible in the production of goods.¹⁴⁰

In this section I will first look at how the term full employment has shifted in meaning from when the UN Charter and the UDHR to the ICESCR were drafted, to how it is used in more modern times by economists today. But beyond being used as a term to look at levels of inflation, the term itself and what it could mean in practice is also used differently by different thinkers. I will then turn to the political reasons as to why full employment, in the sense of everyone who wants a job should be able to find one, might not be supported or encouraged. Here I will draw on Michael (Michał) Kalecki’s seminal article on full employment.¹⁴¹ I will then explore the feasibility of full

employment, looking at how Pavlina R. Tcherneva and some Modern Monetary Theory (MMT) economists have come to define and see full employment, or what they call a “job guarantee”, as a viable policy option that would provide “decent, living-wage work”.¹⁴² Their idea of decent jobs are in line with labour rights and principles (such as fair pay and working conditions, for example), which may help to support the right to work at a local, regional, and national level, as well as contributing to remedying some of the harms we see in paid employment currently. These are harms that both post-work theorists and international human rights advocates against. What is proposed by Tcherneva and MMT economists, I argue, might help as an alternative path towards transitioning out of workfare and what I call “productivist” or “productivity-oriented” schemes we have in place currently, where it is implied that a person’s worth is determined by how economically productive and therefore “useful” a member of society they are.

The reason for this final section in this chapter is to not just to differentiate between a right to work and full employment/job guarantee, but also to illustrate what I stated at the outset of this section. That is, just because people have a right to work, and there are feasible schemes that government could set up to allow for a job guarantee, that does not mean people necessarily have a duty to work. Instead, I would argue that the right to work is in tandem with, or complementary to, full employment/job guarantee for those who want to work. Through this next section of historical, economic, and political analyses we will see how the concept of the right to work is different from full employment, although the one can be seen to complement the other.

4.1 Full employment in the UN Charter and what it means today

Sarkin and Koenig,¹⁴³ Morsink,¹⁴⁴ McBeth et al.,¹⁴⁵ among others, note that the drafters of the UN Charter, UDHR, and ICESCR were not economists by trade. They were more often than not diplomats, lawyers, philosophers, and specialists in areas other than economic policy.¹⁴⁶ Sarkin and Koenig contend that because those drafting the ICESCR were diplomats and not economists, “when drafting the right to work the meaning of full employment was not really considered. While today different types of unemployment are identified, the drafters at the time did not consider all the theoretical complexities surrounding unemployment.”¹⁴⁷ Although the drafters may have been aware of different forms of unemployment (as Harvey argues below), within the context of the Charter, “full employment was taken to mean a job for every job seeker” (and not that everyone *must* have a job), as opposed to some of the later formulations of full employment which took into account so called “natural” rates of unemployment.¹⁴⁸

Although “right to work discussions may have begun earlier,” Sarkin and Koenig suggest that “from an international law perspective, the right to work did not truly emerge before the UN Charter”, and that it was Articles 55 and 56 that first suggested that states bore the obligation to promote “full employment.”¹⁴⁹ Article 55 of the UN Charter states,

With a view to the creation of conditions of stability and well-being which are necessary for peaceful and friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, the United Nations shall promote:

- a. higher standards of living, full employment and conditions of economic and social progress and development; ...

And Article 56:

All Members pledge themselves to take joint and separate action in cooperation with the Organization for the achievement of the purposes set forth in Article 55.¹⁵⁰

When the UN Charter was drafted in the 1940s, the term full employment was “unquestionably understood to imply the elimination of all but the most temporary frictional and seasonal unemployment.”¹⁵¹ William Beveridge, the principal architect of the British welfare state, also illustrated the term in this way in his 1944 book *Full Employment*. After clarifying that “Full employment does not literally mean no unemployment”, Beveridge takes a more humanistic look at what full employment means, focusing on the person rather than abstract numbers in the economy. Full employment is “having always more vacant jobs than unemployed men, not slightly fewer jobs. It means that the jobs are at fair wages, of such a kind, and so located that the unemployed men can reasonably be expected to take them; it means, by consequence, that the normal lag between losing one job and finding another will be very short.”¹⁵² In summary—“Jobs, rather than men, should wait”.¹⁵³

This means that the labour market should always be a *seller's* market, rather than a buyer's market.¹⁵⁴ Unemployment should not be, as neoclassical economists and “captains of industry” later advocated for, a political tool to keep “industrial discipline” by keeping workers “in check”, and to endow unemployment with a function by making it a policy tool to keep inflation down, as we will

see in the next section. Beveridge justified this by arguing that “society exists for the individual”, and that

... difficulty in selling labour has consequences of a different order of harmfulness from those associated with difficulty in buying labour. A person who has difficulty in buying the labour that he wants suffers inconvenience or reduction of profits. A person who cannot sell his labour is in effect told that he is of no use. The first difficulty causes annoyance or loss. The other is a personal catastrophe.¹⁵⁵

Harvey opines that a few years later, “a task force of internationally prominent economists working under United Nations auspices and led by an American, John Maurice Clark, defined full employment for purposes of Articles 55 and 56”. They defined it as “a situation in which unemployment does not exceed the minimum allowances that must be made for the effects of frictional and seasonal factors.” Harvey notes that the American Senate which ratified the UN Charter also shared this understanding of the term, which was “amply” demonstrated by the political battle fought in the US Congress during 1945 and 1946 over a proposed “full employment” bill. This bill would have required the federal government to take steps ensuring the availability of work for all job-seekers.¹⁵⁶

Sarkin and Koenig point out that the assumptions and perspectives on unemployment many policy makers have now were not shared by the drafters when the ICESCR was being negotiated in the 1950s.¹⁵⁷ For context, after WWII, with the fear of the spread of communism, arguments against the right to work and full employment focused on the corruption, inefficiency, and waste in centrally planned economies. The poster child for the latter is often thought to be highly centralised, bureaucratic governments such as the Soviet Union or other poor communist states. Today however, neoclassical indicators such as fear of inflation and an emphasis on growth were raised. “These indicators have each been used with significant success to argue against the use of full employment as a reasonable goal for governments to set.”¹⁵⁸

This more modern interpretation of full employment came about in the late 1960s and 1970s. When western industrialised nations were facing stagflation due to a number of factors, including the US leaving the gold standard by freely floating the US dollar, surging global oil prices in 1973 and 1979,¹⁵⁹ and Keynesian policies doing little to mitigate the effects, neoliberal pundits and think tanks stepped in to suggest solutions to the problem.¹⁶⁰ While previously under Keynesian

welfarism, “the state provision of goods and services to a national population was understood as a means of ensuring social well-being”, neoliberalism, on the other hand, was “associated with the preference for a minimalist state.”¹⁶¹ This is because markets are understood to be a better way of organising economic activity, as they are associated with competition, economic efficiency, and choice.¹⁶²

As neoliberalism came in vogue, economists reclaimed the term full employment to refer to “an ideal rate of *unemployment*” that is thought necessary to keep inflation in check.¹⁶³ True full employment where unemployment is 0 is an ideal. It is more of a goal for policymakers rather than an “actually observed state of the economy.” Not only is it a theoretical ideal, but unemployment to some degree is inevitable as some people choose to be unemployed (as mentioned above, because of further education, retirement, caretaking responsibilities, disabilities, etc.), as well as acknowledging the frictional and seasonal unemployment that inevitably occurs.

There are different categories of unemployment, some of which are not counted in official unemployment figures. However, each type of unemployment has specific and distinct causes, and “[n]ot all of them are indicative of a poorly performing economy.”¹⁶⁴ In fact, fluctuations in supply and demand, market imperfections, the time it takes to look for a job, all contribute to what is called the *natural rate of unemployment*,¹⁶⁵ or the normal rate of unemployment around which the unemployment rate fluctuates. As Sarkin and Koenig reiterate: “there will always be unemployment occurring in a healthy market and that it cannot always be considered.”¹⁶⁶

One of the reasons policymakers worry about full employment or a “tight” labour market where nearly everyone is employed is the fear of inflation. The argument goes, if unemployment is “too low”, firms must raise wages to attract workers and in turn raise prices to cover those costs. But because neoclassical economics has redefined the term full employment to actually refer to a certain level of unemployment in order to keep inflation in check, unemployment itself has been endowed with a function, as Young and Prager highlight. It is worth quoting their passage in full:

It is one of the paradoxes of the capitalist economy that it endows unemployment with a function. Unemployment is politically dangerous. But it also serves to keep industrial discipline. As long as there are many unemployed eager and willing to take jobs even though they may be badly paid, those who are in work can easily be held in check by the

threat of the sack. Demands for wage increases can be refused, the intensity of work can be heightened, and the employer is master in his house.

But when there is full employment, i.e. at least as many jobs as workers, the threat of the sack loses its sting for there will be another job waiting for the man or woman who is dismissed. The workers become more confident and press for better pay and conditions. The employers do not mind paying higher wages provided they can raise prices and pass the increased costs on to the consumer. But if there is price control this particular avenue of escape is closed.¹⁶⁷

It is here we turn to a Polish economist who made similar arguments regarding the political economy of full employment: Michael Kalecki. Kalecki, a major thinker in Post-Keynesian economics (PKE) who came to prominence in the interwar period, wrote what is now a seminal article in 1943 that predicted the economic turmoil of the 1970s entitled “Political Aspects of Full Employment”.¹⁶⁸ Kalecki argues that full employment is possible and even beneficial for businesses, government, and society, but that there are political reasons as to why it is not popular amongst business leaders and those in power.

4.2 Politicisation of Full Employment

On September 12, 2023, Tim Gurner, property developer, CEO, and founder of Gurner Group, was castigated for the remarks he made on stage at the Australian Financial Review’s Property Summit.¹⁶⁹ The global backlash and online censure led to Gurner issuing an apology not long after on LinkedIn.¹⁷⁰ Among some of the things he said were that working people have been “paid a lot to do not too much in the last few years”, that “There’s been a systematic change where employees feel the employer is extremely lucky to have them,” and that there is a need to kill “arrogance in the employment market” by suggesting, “We need to see unemployment rise. Unemployment has to jump 40–50%, in my view. We need to see pain in the economy. We need to remind people they work for the employer, not the other way around.” He also suggested that productivity had plummeted during the global pandemic because “people decided they didn’t really want to work so much”, taking particular aim at builders. Tim Gurner, having gone viral in the past by criticising millennials unable to buy homes because, according to him, they buy too many avocados on toast,¹⁷¹ himself has an estimated worth of £479 million (US\$598 million),¹⁷² ranks 154 out of 200

on the Australian Financial Review's 2023 Rich List,¹⁷³ with his company holding a portfolio of US\$6.09 billion.¹⁷⁴

While there have been a few on social media that have defended him, the majority of people have criticised his comments, saying he has simply said the quiet part out loud about class warfare.¹⁷⁵ On the platform X (formerly known as Twitter) US lawmaker Alexandria Ocasio-Cortez criticised the property mogul, writing, "Reminder that major CEOs have skyrocketed their own pay so much that the ratio of CEO-to-worker pay is now at some of the highest levels ever recorded." Australian media commentator Mike Carlton wrote, "This Gurner character personifies everything that is wrong with unfettered capitalism and the cult of the super-CEO: rampant greed and an arrogant contempt for working people."¹⁷⁶ Australia's current unemployment rate is 3.7%, meaning a 40–50% unemployment rate would lead to over 200,000 Australians losing their jobs.¹⁷⁷ In addition, others have pointed out that Gurner's assertions that productivity declined during the pandemic are false.¹⁷⁸

That Gurner holds the view that the 99% are different from the ultra-rich because they are not hardworking enough, and thus the poor must "earn their bread in sweat"—is something the economist Michael Kalecki contended was a reason the elites were against full employment as early as 1943.¹⁷⁹ In response to Gurner's now viral comments, Associate Professor Olúfemi O. Táíwò of Georgetown University wrote, "I can rarely do better at explaining the connection between capital and social-political domination than just pointing at what the guys with the capital do and say."¹⁸⁰ Downie observes that other wealthy individuals "have expressed similar distaste for the 99%. 'The 1% work harder,'" said billionaire Sam Zell. 'The 1% are much bigger factors in all forms of our society.' According to the Pew Research Center, a majority of the wealthiest Americans believe the 'poor have it easy because they can get government benefits without doing anything in return.'"¹⁸¹

Further, Gurner's comments that we have to kill the attitude employees have that their employer is lucky to have them, by increasing unemployment so it creates pain for workers in the economy, also evinces what Kalecki (and Young and Prager above) observed—that full employment is something that "leaders of industry" often do not want, because without unemployment to constantly threaten the majority of people, "The 'sack' would cease to play its role as a disciplinary measure."¹⁸²

Turning to Kalecki's arguments in his article "Political Aspects of Full Employment", he contends that "A solid majority of economists is now of the opinion that, even in a capitalist system, full employment may be secured by a Government spending programme, provided there is in existence

adequate plant [sic] to employ all existing labour power, and provided adequate supplies of necessary foreign raw materials may be obtained in exchange for exports.”¹⁸³

While he acknowledges his proposal is a simplified statement or model regarding the economic doctrine of full employment, it should be sufficient enough to “acquaint the reader with the essence of the doctrine” so as to allow them to understand the *political* challenges involved in the achievement of full employment.¹⁸⁴ His proposal is that

If the Government undertakes public investment (e.g. builds schools, hospitals, and highways) or subsidises mass consumption (by family allowances, reduction of indirect taxation, or subsidies to keep down the prices of necessities), if, moreover, this expenditure is financed by borrowing and not by taxation (which could affect adversely private investment and consumption), the effective demand for goods and services may be increased up to a point where full employment is achieved. Such Government expenditure increases employment, be it noted, not only directly but indirectly as well, since the higher incomes caused by it result in a secondary increase in demand for consumption and investment goods.¹⁸⁵

Furthermore, any objections that may be had that Government borrowing will lead to inflation, Kalecki argues:

To this may be replied that the effective demand created by the Government acts like any other increase in demand. If labour, plant and foreign raw materials are in ample supply, the increase in demand is met by an increase in production. But if the point of full employment of resources is reached and effective demand continues to increase, prices will rise so as to equilibrate the demand for and the supply of goods and services. (In the state of overemployment of resources such as we witness at present in the war economy, an inflationary rise in prices has been avoided only to the extent to which effective demand for consumption goods has been curtailed by rationing and direct taxation.) It follows that if the Government intervention aims at achieving full employment but stops short of increasing effective demand over the full employment mark, there is no need to be afraid of inflation.¹⁸⁶

Despite this, Kalecki observes that there are still those in opposition to full employment. These tend to be “so called ‘economic experts’ closely connected with banking and industry”, suggesting that there is a “political background” to the opposition of full employment, despite the arguments advanced being economic. He further contends that there are even more direct indications of a “first

class political issue” being at stake, arguing that during the Great Depression in the thirties, big business consistently opposed “experiments for increasing employment by Government spending in all countries, except Nazi Germany.” He gives examples of this in the US (opposition to the New Deal), France (the Blum experiment), and in Germany before Hitler.

He observes that their attitude of opposition to full employment is not easy to explain, as higher output and employment clearly benefits not only workers, but also entrepreneurs as their profits rise. In addition, the policy of full employment that Kalecki has outlined above does not encroach upon profits, because it does not involve any additional taxation. He puzzles, “The entrepreneurs in the slump are longing for a boom; why do not they accept gladly the ‘synthetic’ boom which the Government is able to offer them?”¹⁸⁷

He gives three reasons for this opposition and emphasises how these reasons are not purely economic, but ideological, political, and social. They are, (1) the dislike of Government interference in the problem of employment, (2) the dislike over certain forms of Government spending (public investment and subsidising consumption), and (3) the dislike of the social and political changes resulting from the maintenance of full employment.¹⁸⁸

As to the first objection, Kalecki argues that businesses tend to view any expansion of state activity with suspicion, but the creation of employment by Government spending “has a special aspect which makes the opposition particularly intense.” Because markets and the level of employment to a great extent is dependent on a “state of confidence” under a laissez-faire system, people and the Government are beholden to it. This reliance on a state of confidence by the government and people gives capitalists “a powerful indirect control over Government policy”. This is because if the state of confidence deteriorates, private investment declines, leading to a fall in output and employment. This would happen not just directly, but through secondary effects with the fall of incomes upon consumption and investment. The fears of these effects “gives to the capitalists a powerful indirect control over Government policy: everything which may shake the state of confidence must be carefully avoided because it would cause an economic crisis.” However, once Government “learns the trick of increasing employment by its own purchases, this powerful controlling device loses its effectiveness”, which is why budget deficits necessary to carry out Government intervention “must be regarded as perilous” by captains of industry. For capitalists, therefore, “The social function of the doctrine of ‘sound finance’ is to make the level of employment dependent on the ‘state of confidence.’”¹⁸⁹

The second reason Kalecki proffers is the dislike of how Government chooses to spend money. Kalecki avers,

The economic principles of Government intervention require that public investment should be confined to objects which do not compete with the equipment of private business (e.g. hospitals, schools, highways, etc.). Otherwise the profitability of private investment might be impaired and the positive effect of public investment upon employment offset by the negative effect of the decline in private investment. This conception suits the business men very well.¹⁹⁰

The scope of public investment of this type, however, is narrow, and there is a danger that in pursuing this policy, the Government will eventually be tempted to nationalise transport and/or public utilities so as to gain a new sphere in which to carry out investment. Therefore, one might expect business leaders and business experts to favour subsidising mass consumption (e.g., family allowances, subsidies to keep down the prices of necessities, etc.) to public investment, as subsidising mass consumption would mean the Government would not be embarking on any sort of “enterprise”. In reality, Kalecki notes, this is not the case. Instead, “subsidising mass consumption is much more violently opposed by these ‘experts’ than public investment”, because a moral principle of the highest importance is at stake here. The fundamentals of capitalist ethics require that ‘You shall earn your bread in sweat’—unless you happen to have private means.”¹⁹¹ The recent comments by Tim Gurner that we saw above highlight that this belief is alive and well.

Having considered the political reasons for opposition, Kalecki argues that even if the opposition were overcome, perhaps due to the pressure of the masses, “the *maintenance* of full employment would cause social and political changes” that would give business leaders new impetus to oppose it still. This is because under a regime of “permanent full employment, ‘the sack’ would cease to play its role as a disciplinary measure”, as the social position of the boss would be undermined, and self-assurance along with class consciousness of the working class would grow. This would lead to strikes for wage increases and improvements in working conditions, causing political tension. And while “It is true that profits would be higher under a regime of full employment than they are on the average under *laissez-faire*; and even the rise in wage rates resulting from the stronger bargaining power of the workers is less likely to reduce profits than to increase prices, and thus affects adversely only the rentier interests”, nevertheless, “‘discipline in the factories’ and ‘political stability’ are more appreciated by the business leaders than profits. Their class instinct tells them that lasting full employment is unsound from their point of view and that unemployment is an

integral part of the ‘normal’ capitalist system.”¹⁹² Again, the recent comments of Tim Gurner and other wealthy individuals above illustrate the continuing relevance of this argument.

In summary, Kalecki sets forth three arguments that have led industry leaders to oppose the doctrine of full employment: 1) the opposition on principle against Government spending based on a budget deficit, 2) the opposition against this spending being directed towards public investment which may foreshadow the intrusion of the state into new spheres of economic activity, or towards subsidising mass consumption, and 3) the opposition against maintaining full employment, instead of the Government just preventing deep and prolonged slumps.¹⁹³

Kalecki is not the only one to argue that full employment, in the sense that government is able to create jobs for those citizens that want one, is feasible, if not for the political and “moral” considerations of business leaders. Calls for a job guarantee have been making a return in recent years.

4.3 A Job Guarantee

As I have already highlighted previously, contemporary debates and the literature tend to focus on rights *at* work, rather than the right *to* work, often noting the difficulty in defining what the right to work actually means and how to implement policies that flow from such a right that is yet undefined and therefore contested. It is only in more recent scholarship that debates have started to become more popularised regarding a “job guarantee”,¹⁹⁴ looking increasingly at what such a guarantee could mean and how governments could fund it.

It should be noted, however, that while a job guarantee may overlap in certain areas with the right to work, the argument for a job guarantee is a different argument from having a *right* to work, as the analysis and the justifying philosophy does not arise from the perspective of human rights or international human rights law. Guy Standing also argues, although from a different perspective from mine, that to interpret a right to work as a job guarantee would be wrong, and would open the door to many problems both conceptually as well as in terms of practical policies. His interpretation and disagreement of a job guarantee comes from arguments from what he calls “social democrats around the world”, refuting most notably Philip Harvey.¹⁹⁵ This in turn is different from the job guarantee that has been more recently advocated by economists of Modern Monetary Theory (MMT), such as Pavlina R. Tcherneva and others, and their proposals in funding a job guarantee by the government.¹⁹⁶

Standing for example, argues that a “job guarantee cannot be made without stating the wage, labour time and type of activity that would be guaranteed. In reality, the labourist perspective implies a low wage for many people and little choice in terms of type of labour.”¹⁹⁷ This would cause a host of problems that would further stigmatise the person wanting and needing the job if they then refused what was offered to them as being ungrateful or a “parasite”.

Standing notes that there is also the matter of equity, disagreeing with Harvey’s proposal of a job guarantee. Harvey suggests that those who have become unemployed are “guaranteed a job roughly equivalent to the one they lost”. If this were to become reality, Standing contests, the financial services employee losing his job would be given one that was roughly similar and paid similar, whereas someone with a low-paying job would be given something similar to the job they lost. This would “imply covering the risks taken by bond traders and would offend any respectable principle of social justice.”

In addition, Standing points out that a “job guarantee” tends to shift quickly to variants of workfare schemes, where there would be means-tested and behaviour-tested state benefits for those unable to work, leading to more intrusive checks, indignity, and stigma. Standing, in opposition to Harvey, argues, “Means-testing is part of the job guarantee approach, and its failings have to be added to those of any workfare scheme.”¹⁹⁸ Harvey’s and others’ proposals of a job guarantee as interpreted by Standing, however, are very different from those of Modern Monetary Theory (MMT) economists who have recently seen a surge in popularity.

Modern Monetary Theory (MMT) economists’ proposals for a job guarantee differ vastly from Harvey’s and Standing’s. Several MMT economists have advocated for jobs to be oriented around building a “care economy”, taking into account environmental stewardship and using democratic and participatory processes in the creation of projects and employment opportunities.¹⁹⁹ They have also addressed possible problems of low wages, choice, and means- and behaviour-testing that Standing has railed against above.

In fact, Tcherneva outlines her policy of a job guarantee would be one that had a “decent living-wage job as a standard for all jobs in the economy”, and not the low wage that Standing worries about. It would also deal with two very specific aspects of economic insecurity: intermittent or long-term unemployment and poorly paid employment that is precarious or unequal.²⁰⁰ She

suggests the following design features: the programme is *voluntary* and *inclusive*, it is not a replacement for traditional public works or essential government services, it is not a charity or a subsidy as people are getting paid to work, and it is not a means-tested workfare policy threatening to remove a person's benefits unless they show up for work.²⁰¹ It would approach unemployment as a public health concern “not only because of the way it affects family and community health, but also because of the way it spreads.”²⁰²

In addition the programme would be funded by the government, but locally administered in a decentralised manner, with a *bottom-up design* and having a *participatory democracy* approach. Tcherneva notes this approach is already found in many places around the world,²⁰³ and so the programme could already draw on the best practices without having to reinvent the wheel. Unemployment offices would turn into employment offices that would “provide voluntary public service work opportunities in a wide range of care, environmental, rehabilitation, and small infrastructure projects.”²⁰⁴ A job guarantee would also have direct knock-on effects and benefits towards a wide range of social and economic problems, such as housing, crime, the environment, etc., that would help towards building a fairer economy.

Another core principle of the job guarantee is rejecting the notion of what we have already discussed above—of viewing unemployment as having a necessary function in the market economy. Tcherneva notes how the way unemployment is discussed and framed is “far too abstract and paradoxically impersonal”, ignoring the human element of losing one's job. Yet most economists and policymakers still talk about unemployment impersonally, much in the way a meteorologist talks about the weather.²⁰⁵ It is also framed as if involuntary unemployment is an unfortunate or unavoidable occurrence, but that there is also an appropriate level of unemployment necessary for the smooth functioning of the economy. She argues, this is not just one of the great unexamined myths of our time, it is also “bad economics.”²⁰⁶

Due to limitations of space, I will not analyse all of Tcherneva's proposals regarding what a job guarantee would look like, such as the economics behind how to fund it,²⁰⁷ and the proposals on how to implement it²⁰⁸ that she delves into. But one can see from the brief summary above that much of what is proposed is materially in line with labour laws to protect workers, and the values and culture of what should drive the focus of a job guarantee is in line with international human rights law, even if she does not directly draw upon the philosophy or doctrine of human rights. What is important to remember here is that when implementing such programmes or considering

the projects and the jobs that will be catered to it, that it follows the underlying values Tcherneva articulates to guide, direct, and give content to what a job guarantee could look like, even if one chose to localise it. This includes centring it around a care economy, where unemployment is treated as a public health risk, and not as a social disciplining tool or an inevitable occurrence and policy tool where some must be involuntary casualties so that the rest can benefit from their sacrifice.

One thing I would like to point out is the common confusion that arises when something is deemed “a right” in human rights documents, and therefore mistakenly seen as being guaranteed by the government or enforceable. This might occur as intuitive that that would be the case if one did not know the history behind the drafting of the documents or understood the language used (which like economics, can be abstract and hortatory). Tcherneva also seems to confuse the content of the UDHR and the right to work. She writes, “The idea of using public policy to guarantee the right to employment is not new. ... It was affirmed in the Universal Declaration of Human Rights”.²⁰⁹ As we saw above, the language of these documents ultimately were watered down as a political compromise. Instead of immediately guaranteeing employment, as she implies it should, the right to work ended up being formulated as a progressive right that works *toward* the realisation of the rights, thereby requiring that states “only accept the responsibility of developing employment opportunities” and not having to provide jobs to all citizens directly. This may be why she later concludes that “In the absence of a universal right to work, intermittent direct employment programs around the world have attempted, however imperfectly, to fill the void”.²¹⁰ While there does exist a universal right to work, as outlined in different international human rights documents and in the Universal Declaration of Human Rights, as she acknowledges, there is no guarantee placed upon states to directly ensure jobs for all willing job seekers. Thus this is how she may have meant in “the absence of a universal right to work” as a lack of enforcement in this right.

Tcherneva also seems to agree that having a job guarantee does not mean people must work, as she touts other benefits the job guarantee would have on “the lives of those who do not seek paid work” that “complements other forms of income support” for people with disabilities, caregivers, students, and the retired who all need economic security.²¹¹

While no policy is perfect, the implementation of a job guarantee with the view of creating a “care economy” that does not endow unemployment with a function, either as a policy tool to keep inflation low or a social tool to instil discipline into the working classes, could be a possible policy

measure if implemented well, that could support a right to work to those who wish to exercise that right.

The danger is always of course that by having a job guarantee this creates unspoken expectations towards individuals that they now have a duty to work, with employment centres eventually reverting back to the unemployment centres they originally were. It is important, therefore, to create a broader society that uses language that emphasises and frames such values. Language and ideology, as we will see in Chapter 3, is important in how it constructs our views of the world and our relationship to the people in it, especially regarding work.

Conclusion

This chapter looked at the history of the right to work, and the reason why it has been underdeveloped in the literature due to the historical, political, and economic circumstances of the time. I also addressed some common challenges against the right to work. Despite it being enshrined in the UDHR and therefore considered customary international law and obligatory,²¹² due to the complexity of the right itself of having both elements of negative and positive rights, this makes it difficult in how it should be prioritised and enforced.

I also explored the concept of full employment, and differentiated between it and the right to work—two phrases that have often been confused and used interchangeably, even by the original Drafters of the UDHR. I then looked at the politicisation of full employment, drawing upon the seminal essay by Michael Kalecki, who gives examples of successful attempts at full employment and arguments for its feasibility, but why, due to political challenges, it is often not popular or widely accepted. I then explored the difference between full employment, the right to work, and a job guarantee. Although there have been different ways in which a job guarantee has been conceived of and understood, I argue the one that is complementary to the right to work and labour rights is one that is understood by MMT economists.

One thing to emphasise here, as it is often lost in work debates, is the *voluntary* nature of full employment. Because work is often considered so important as to be a right, people tend to make the leap that it should also be a duty (I explain this in chapter 4). As I have analysed in this chapter, there is a nuance and difference between the right to work, full employment, and a duty to work. While a right to work is a human right because it allows a person to access other basic human

rights, as well as to pursue their own goals and dreams in the pursuit of “the good life”, to demand citizens have a duty to work leads to adverse consequences.

Full employment and a job guarantee as stipulated by Tcherneva emphasises that such a programme must be *voluntary*, lest it falls into demeaning means-based testing and workfare schemes that stigmatises job seekers. Conversely, utilising unemployment as a policy measure within the framework of prioritising the economy or “the market” whereby some must sink so that others may swim, is an unnecessary measure economically, as we have seen in this chapter. Kalecki and Young and Prager’s arguments that unemployment, of forcing working people to suffer from *no* work, has been endowed with either a function to prioritise the economy over individuals in order for the nation to become richer by way of keeping inflation low, or through “moral” reasons that the poor must earn their bread in sweat.

This would not be the first time such abuses of power came about, as David Spencer points out, in thinly veiled class-based agendas that work against the poor. He describes how it was prominent in the seventeenth and eighteenth centuries for writers, often linked to mercantilist doctrine, to complain about workers’ slothfulness. “English workers were seen as too lazy and too insolent to deliver the work required to raise national wealth. The only cure for the ‘labour problem’, as the mercantilists saw it, was the perpetuation of poverty.” Mercantilism thus became associated with the “utility of poverty thesis”—“the belief that a more productive and compliant workforce depended on reducing wages to subsistence level.”²¹³

Mercantilist writers held the view that workers were born to labour, and to labour on behalf of the nation. “A nationalistic appeal to the merits of hard work was used by the mercantilists to justify poverty for the masses. Workers may not benefit directly from working hard, but it was their duty to work in order that the nation could become richer.”²¹⁴ Billionaire Tim Gurner’s recent blunt, overt, and unabashed public comments regarding productivity and “lazy” builders illustrate that this is not a polemically argued theory in the abstract, or a belief stuck in the past, but a very real belief held to this day by those with enormous amounts of money and power.

I analyse this more in Chapter 3, where I look at how ideology and historical narrative that we carry from the past to today, frames and shapes how we view the world, and explore it further in Chapter 4 when looking at arguments regarding the duty to work. Phrases like “the Protestant Work Ethic”, “idle hands”, and the “deserving and undeserving poor”, are all shorthand for deeper historical and

cultural meanings that have material, normative, and societal impacts on everyone. Before jumping too far ahead however, the next chapter, Chapter 2, will analyse what human rights are, whether the right to work should be considered a “legitimate” human right, and explore that which human rights spring from—dignity.

As one can see from this chapter, exploring the right to work as a human right, legally and normatively, and against economic policies and beliefs within a larger political landscape, matters tremendously. It reflects not just who we are as a society, but how we view ourselves and others as human being, as we will see in the coming chapters.

II

THE NATURE OF RIGHTS:

WHAT IS A RIGHT? WHAT DOES IT MEAN TO HAVE A RIGHT?

Words like 'freedom,' 'justice,' 'democracy' are not common concepts; on the contrary, they are rare. People are not born knowing what these are. It takes enormous and, above all, individual effort to arrive at the respect for other people that these words imply.

James Baldwin

As I stated in the Introduction, the phrase “the right to work” does not have one contentious word in it, but two. The other being the concept of what a *right* is, and more specifically, what a *human* right is. In this chapter I aim to cover six things. First, I will draw upon the works of James Griffin²¹⁵ and that of Charles Beitz²¹⁶ to build an understanding of what human rights are in relation to their predecessor, natural rights. In the second section, I will look at the challenges against the right to work as a “second generation right” and as an instrumental right, addressing challenges to whether these things undermine the right to work as a “true” human right. After I have established an understanding of what modern human rights are, the reader may have questions in relation to how that applies to the right to work. In the third section I apply the theory to our topic, the right to work, to answer the question “If human rights are mutable, can the right to work become obsolete?”

The fourth section looks at the complexity of the right to work outside of it being a mix of positive and negative rights. The right to work is also sometimes divided into quantitative and qualitative. It can also be analysed according to three approaches: positive, instrumental, and normative. An additional aspect in most “right to work” debates are on free choice of employment and liberty. Moving to the fifth section I explore the concept of dignity. Because human rights documents often ground human rights in human dignity, I give an understanding of dignity within the framework and context of the Universal Declaration of Human Rights (UDHR). Here I draw on Glenn Hughes’

understanding and interpretation of the concept. In the final section of this chapter I give my own interpretation of how and why human rights have become, and are contingent upon, different features of the modern world, such as features of the global economy, which in this case is neoliberal capitalism.

1. Are human rights natural rights, or something more?

Rights, and human rights in particular, often lead to contentious debate over its content, its reach, and its meaning in law and society. Rights in general, as Wenar notes, “structure the form of governments, the content of laws, and the shape of morality as many now see it. To accept a set of rights is to approve a distribution of freedom and authority, and so to endorse a certain view of what may, must, and must not be done.”²¹⁷ In analysing what a right is, its form (a description of the internal structure of rights) and function (a description of what rights do for those who hold them)²¹⁸ play a critical role in understanding what rights are.

The Hohfeldian system, named after the American legal scholar Wesley Hohfeld, is widely accepted as a system for describing the form of rights.²¹⁹ The four basic components of rights are called “the Hohfeldian incidents”, which are 1) the privilege (sometimes called liberties), 2) the claim, 3) the power, and 4) the immunity.

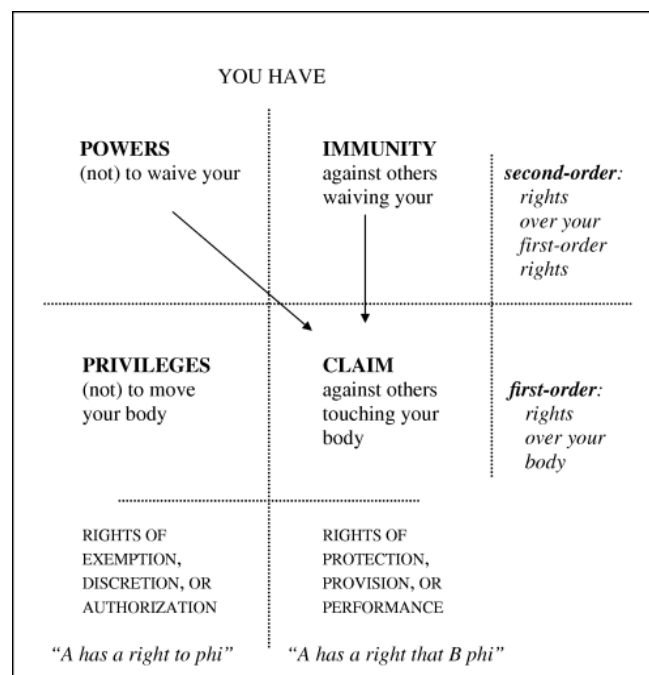


Fig. 1: “A Complex Molecular Right”, Wenar, L. (2005).

Negative rights and positive rights tend to fall under ‘immunity’ and ‘claim’ rights, a claim right being:

“A has a right to X” may mean that an individual B has a duty towards A, that is, that A has a claim against B—the dutyholder—to the provision of X. *Claim rights* ... may imply the existence of negative duties—duties not to act in ways which impede the realization of X, as well as positive duties—duties to act in ways which facilitate the realization of X.²²⁰

For the purposes of this chapter, it is not necessary to go into too much detail into each of these rights and how they work together to create complex “molecular” rights. However, Valentini argues that philosophical discussions tend to understand human rights as “claim rights”, or “rights that are always correlative to duties.”²²¹

Human rights have taken up the mantle of natural rights, rights that emerged in popularity especially during the Enlightenment, in conjunction with natural law. Though even then, natural rights were countered with much criticism, the most famous perhaps being Bentham’s view that they were nothing more than “nonsense upon stilts.”²²² Natural rights are the idea that all people, by virtue of their common humanity, are endowed with inalienable rights that exist independent of institutions, and therefore continue to exist whether or not political or societal institutions grant or acknowledge them.²²³ The UDHR does nothing to settle this debate, as its theoretical foundation was never defined, expanded upon, or even acknowledged. Griffin, however, contends that the UDHR is “not entirely innocent of theory”, being “deeply influenced by both the natural law tradition and the Enlightenment”, but that “there are only the slightest traces of theory explicit in the important twentieth century declarations of human rights.”²²⁴ He notes,

The Preambles of the International Covenant on Economic, Social and Cultural Rights and of the International Covenant on Civil and Political Rights, adopted by the General Assembly of the United Nations in 1966 in order to give legal force to the merely hortatory Universal Declaration of 1948, both contain the clause, ‘Recognising that these rights derive from the inherent dignity of the human person ...’. This clause is, indeed, the only gesture at theory in the two documents. It is a feature of the international declarations in general that they pay little attention to reasons or justifications.

That is not a criticism. It is common in law not to dwell on justification; different groups, particularly different cultures, might agree that there is such a thing as the dignity of the person, and largely agree on the rights that follow from it, but differ in their understanding of quite what that ‘dignity’ is. So silence on the subject is often simple wisdom ...²²⁵

Beitz is largely in concurrence with Griffin, noting how the “Universal Declaration simply *declares* certain values to be human rights,” arguing that the framers believed that people from different cultures would be able to find reasons within their own ethical traditions to be able to make the rights in the Declaration a practical reality. This silence on the theoretical foundations, argues Beitz, could be seen both as part of its brilliance as well as its embarrassment: “The framers were surely correct that their philosophical differences would never be fully resolved: without an agreement to disagree, at best the Declaration would have been politically empty; at worst there would have been no declaration at all.”²²⁶

It was early on in their work that the framers of the Declaration found it was much easier to agree on the contents of the declaration than about a common set of underlying principles. “It was the philosophical, not the practical, arguments that were the most difficult, and in the end the framers simply agreed to disagree about the foundation of human rights.”²²⁷ Jacques Maritain summarised this sentiment best: “Yes, we agree about the rights, but on condition that no one asks us why.”²²⁸ The absence of theory, however, led to its own difficulties: as there was no justifying theory like there were in other declarations of rights, there was “no public basis for settling the problems of interpretation and implementation that the framers bequeathed to their successors”,²²⁹ leading to much debate and suspicion over what human rights are and should be.

Maritain himself believed that “a complete account of human rights required a philosophical theory.”²³⁰ In line with Griffin and Beitz that trying to form an underlying philosophy made it “*powerless* to create agreement among men,” Maritain believed that it was nonetheless “*indispensable*.”²³¹ If one could not agree upon a foundation, he argued, rights would soon become inflated, and anything could be argued as a human right, losing its validity. And if it was built upon a “wrong foundation”, rights would become bankrupt and the object of criticism and skepticism.²³² Indeed, both of those concerns are still levelled at human rights today. As Leib notes, “Since its inception, the doctrine of human rights has oscillated between two theories of law: natural law and positive law. This oscillation reflects the unsettled debate in international human rights law over the

source of human rights, that is, whether they emanate from the inherent dignity of the human person or from the will of the State.”²³³

Beitz, however, theorises a more contextually-based, political conception of human rights that builds upon the idea that human rights are natural rights *and more*. To solely identify human rights with natural rights, argues Beitz, “leads to a damaging misconception of the legitimate scope of international human rights and of their potential for remediating injustice.”²³⁴ He explicates how there are three significant preconceptions we hold to what natural rights are, but how human rights as we find them in international practice are ill-fitted to this mould, and examines what human rights in fact should be.

The first is the idea that natural rights are supposed to be *pre-institutional*, second that they are what Hart calls “general rights” as opposed to “special rights”,²³⁵ and third that natural rights are *universal*. This chapter will look at the first and last idea of the natural rights paradigm and how human rights are criticised for not fitting within that mould, as they are the most intuitive and common criticisms against human rights in its equivocation as natural rights relating to the right to work.

1.1 Pre-institutional

The first preconception is that as natural rights are pre-institutional, they thus belong to human beings by virtue of their common humanity, independent of institutions. Natural rights theorists imagined that society developed by means of a social contract from a pre-political ‘state of nature’ where people had rights that others could not violate. “It imagines that individuals establish institutions in a pre-institutional situation that is already constrained by certain moral prohibitions; because people have no authority to abrogate these prohibitions, any institutions they establish must respect them.”²³⁶ That is, if natural rights are pre-institutional, they would exist even in conditions where there are no institutions.

However, as Beitz notes, many of the rights that most would consider fundamental and necessary for living in a free and democratic society that are listed in human rights documents *need* institutions for them to exist and function, such as a judiciary to have the right to a fair trial, or to be able to take part in government, or a right to free elementary education. “Because these rights

describe features of an acceptable *institutional* environment, we can't give meaning to the thought that these rights might exist in a state of nature."²³⁷

In addition, the purpose for which natural rights and the rights of the UDHR were conceived differ. Natural rights theories developed during the Enlightenment, as part of social contract theory. Like the social contract, they were largely theoretical devices more than anything else, and "at least in the more liberal variants [of social contract] such as Locke's, were primarily attempts to formulate constraints on the use of a government's monopoly of coercive power." These theoretical devices were used to question the legitimacy of state authority over the individual, and to distinguish legitimate and illegitimate uses of power by the state.

Beitz argues that natural rights, therefore, only makes sense against a historical backdrop where the "central problem of political life is the protection of individual liberties against a predictable threat of tyranny or oppression." However, "This is not the nature of the human rights of the Declaration, which describes 'a common standard of achievement for all peoples and all nations.'" He concludes,

If natural rights are about guaranteeing individual liberty against the infringement by the state, human rights are about this *and more*: to put it extravagantly, though I think not wrongly, international human rights, taken as a package, are about establishing social conditions conducive to the living of dignified human lives. These rights represent an assumption of moral responsibility for the public sphere that was missing in classical natural rights theories.²³⁸

As we can see, modern human rights have grown and evolved beyond just natural rights. They are not stuck, frozen in the time and place where the concept of rights to protect the individual against the state were first conceived. If human rights were immutable and fixed, they would not be effective in protecting people in an ever-changing world. Which moves us to the next misunderstanding of human rights that Beitz refutes.

1.2 Universal and Timeless

The last argument Beitz makes against the direct correlation of human rights to natural rights is regarding universality and timelessness. Natural rights are thought of as universal and timeless—

that these rights are relevant and necessary to all people at all times throughout history, and therefore some people might think that human rights should have this same kind of timelessness as well. But looking at the Universal Declaration, as Beitz notes, few rights listed would pass this test:

The framers of the Declaration could not have intended that the doctrine of human rights apply, for example, to the ancient Greeks or to China in the Ch'in Dynasty or to European societies in the Middle Ages. International human rights, to judge by the contents of the Declaration and covenants, are suited to play a role in a certain range of societies. Roughly speaking, these are societies that have at least some defining features of modernization: a reasonably well-developed legal system (including a capability for enforcement), an economy with some significant portion of employment in industry rather than agriculture, and a public institutional capacity to raise revenue and provide essential collective goods. It is hard to imagine any interesting sense in which a doctrine of human rights pertaining principally to societies meeting these conditions could be said to be 'timeless.'²³⁹

Beitz continues that international human rights shouldn't even be *prospectively* timeless, because "They are standards appropriate to the institutions of modern or modernizing societies coexisting in a global political economy in which human beings face a series of predictable threats." The composition of the list of human rights is explained by the nature of these threats, and so as the "economic and technological environment evolves, the array of threats will change," and over time, so will the list of human rights.²⁴⁰ This can be seen with newer rights that countries have considered human rights, such as internet access declared a human right in Finland in 2010. This meant that the Finnish government vowed to connect everyone to a 100Mbps connection by 2015.²⁴¹ As of 2020, Finland was among the European nations with the highest percentage of overall internet coverage, with 96 percent of households in Finland having access to the internet. "The overall share of households in Finland with internet access therefore was five percent higher than the average of the European Union (EU-27) in 2020."²⁴²

During the time of its announcement, the then Secretary-General of the International Telecommunication Union (ITU) told BBC News that "The right to communicate cannot be ignored," and that governments must "regard the internet as basic infrastructure—just like roads, waste and water".²⁴³ Countries trying to suppress protests by shutting down the internet, such as what happened during the Arab Spring, or government censorship of speech and information such as in China, illustrates how important the internet is in terms of freedom of speech and democratic

dissent. The pandemic has also highlighted how vital internet access is, especially regarding work and education. Those unable to afford a laptop or lacking access to the internet meant that children were left behind in their schooling during the pandemic,²⁴⁴ although the digital divide is nothing new in the perpetuating harms of inequality it causes.²⁴⁵ Internet access was also vital in keeping in touch with loved ones during successive lockdowns, which affected many people's mental and physical health throughout.

I want to emphasise again the point Beitz makes, that *as the economic and technological environment evolves, the array of threats will change, and over time, so will the list of human rights*. This point is vital to understanding what human rights are, the nature of human rights, their purpose, and therefore their intended function. And yet, not many will not know or even be aware of it, as human rights are often conflated to or equated with natural rights.

This idea is especially pertinent as it pertains to the right to work, as technology often radically changes, eliminates, or supersedes jobs, with fear-mongering that soon automation and AI will make all jobs held by humans obsolete, thus affecting the status or significance of the right. Indeed, sophomoric debates would likely resurface on the nature of human rights and whether they are nothing more than metaphysical nonsense, if one were ignorant of the observations that Beitz has made and had little knowledge beyond surface level of what human rights might ought to be.

Ultimately, Beitz notes, the lack of timelessness that human rights exhibits only becomes a problem if we insist that they be something they were plainly never meant to be.

1.3 Protecting Dignity, Agency, and Personhood is a Global Concern

Whilst it seems almost instinctive to assume human rights is nothing more than natural rights in a new garb, a historical continuation of the human rights movement that tried to advance the efforts of the "rights of man", to do so would only diminish and distort the aspirations of the international human rights doctrine. Beitz therefore suggests that we think of human rights based on two ideas that are central to contemporary human rights doctrine.

The first is based on the idea that human rights are closely connected to *human dignity*, as referenced in the words of the 1993 Vienna Declaration of "the dignity and worth inherent in the human person".²⁴⁶ The second is that human rights are a *global concern* whose systematic violation

over a period of time could justify “some appropriate form of remedial action by agents outside of the society where the violation occurs.”²⁴⁷

Beitz concludes that by putting these two ideas together, human rights are the basic requirements of global justice that the “institutions of all domestic societies should strive to satisfy.” If a country is unable to do so because of a lack of resources, the international community should and has a duty to come to its aid. If a country has the resources to satisfy these conditions, but fails to do so, Beitz argues that it would be “susceptible to outside corrective interference”,²⁴⁸ his argument reminiscent of the international norm of the Responsibility to Protect (R2P) by the international community. That is, when gross violations of international humanitarian and human rights laws are committed, the principle of non-intervention of States yields to the international responsibility to protect.²⁴⁹

I want to compare Charles Beitz’s (a political theorist) interpretation of what human rights are and should be with that of James Griffin (a moral philosopher). Griffin gives an address called “Discrepancies between the Best Philosophical Account of Human Rights and the International Law of Human Rights” where he attempts to bring philosophical theory and legal practice together. He assures us that “We should be neither surprised nor troubled by some discrepancy between the list of human rights that emerges from a theorist’s account and the lists that are enshrined in law”. He then reflects on the discrepancies between two particular lists of human rights: “the one from the best philosophical account and the other from the most authoritative declarations in international law. To set the scene, let me quickly sketch the best philosophical account. I shall not make a case for its being the best, because that would take at least another lecture. But the account I shall give is not at all eccentric, and its attractions are easy to see.”²⁵⁰

In his address, Griffin too argues that dignity (deriving from agency) should be the basis of international human rights doctrine when addressing worries of the source of human rights and what they are. Keeping these rights tight by basing them on ideas of personhood would help in addressing the criticisms of the proliferation of human rights that detractors say has led them to mean both everything and nothing:

What seems to me the best account of human rights is this. It is centred on the notion of agency. We human beings have the capacity to form pictures of what a good life would be and to try to realise these pictures. We value our status as agents especially highly, often more highly even than our happiness. Human rights can then be seen as protections of our

agency—what one might call our personhood. They are protections of that somewhat austere state, the life of an agent and not of a good or happy or perfected or flourishing life. It is not that what human rights protect is the only, or the most, important aspect of our life. But we attach special importance to it, and that is reason enough to mark it off, too, with the language of human rights.²⁵¹

But this does not mean, in the traditional sense as many have argued, that it should only apply to negative rights. Griffin argues why positive rights (or “welfare rights”) are just as necessary and important in protecting agency and personhood to fulfil the purpose of human rights.

To be more than empty tokens, our decisions must be informed; we must have basic education, access to information and to other people’s views. And then, having formed a conception of a good life, we must be able to pursue it. So we need enough in the way of material provisions to support ourselves. And if we have all that, then we need others not to stop us (liberty). Whenever the word ‘basic’ appears here, it means the base needed not just to keep body and soul together, but to live as an agent. From this picture, or a more developed form of it, we should be able to derive all human rights. ... Then, it is hardly surprising that there are rights that cut across these three major categories (that is, autonomy rights, welfare rights, and liberty rights).²⁵²

Here we can see that all human rights are what The 1993 Vienna Declaration proclaimed as “indivisible and interdependent and interrelated.”²⁵³ In the next section, I will briefly touch upon the arguments regarding negative rights versus positive rights, and whether the right to work as an instrumental right makes it less deserving to be viewed as a “true” human right, according to Griffin’s analysis.

2. Negative rights, positive rights, and instrumental rights in relation to the right to work

There tends to be a biased view that negative rights, or civil and political rights, are “true” human rights, deemed easier to enforce as it only needs governments not to interfere with people’s lives. Economic, social and cultural rights, on the other hand, are generally thought of as rights having lesser stature or criticised as not being rights at all,²⁵⁴ as they are more demanding and harder to enforce, require more complex ethical substantiation of resources, and positive action by governments. Those that profess this view argue that “Treating them as rights undermines the

enjoyment of freedom,” and “distorts the functioning of free markets by justifying large-scale state intervention in the economy”.²⁵⁵ Despite this, there has been increasing recognition that this is simply not true. As I mentioned above, The 1993 Vienna Declaration, for example, proclaims that “all human rights are ... indivisible and interdependent and interrelated.”²⁵⁶ At one end of the spectrum lies the view that economic, cultural and social rights are in fact superior to civil and political rights, both in “appropriate value hierarchy and in chronological terms. Of what use is the right to free speech to those who are starving and illiterate? The homeless cannot register to vote, the illiterate cannot fully exercise their political rights.”²⁵⁷ As Wenar notes,

It is sometimes said that negative rights are easier to satisfy than positive rights. Negative rights can be respected simply by each person refraining from interfering with each other, while it may be difficult or even impossible to fulfill everyone’s positive rights if the sum of people’s claims outstrips the resources available. However, when it comes to the enforcement of rights, this difference disappears. Funding a legal system that enforces citizens’ negative rights against assault may require more resources than funding a welfare system that realizes citizens’ positive rights to assistance. As Holmes and Sunstein put it, in the context of citizens’ rights to state enforcement, all rights are positive. Moreover, the point is often made that the moral urgency of securing positive rights may be just as great as the moral urgency of securing negative rights. Whatever is the justificatory basis for ascribing rights—autonomy, need, or something else—there might be just as strong a moral case for fulfilling a person’s right to adequate nutrition as there is for protecting that person’s right not to be assaulted.²⁵⁸

So while international human rights documents generally do not justify the philosophical basis of where human rights come from, the general statement in all human rights documents tend to state that human rights derive from human dignity.²⁵⁹ But as a welfare right, does the *right to work* fall within this category deriving itself ‘from the dignity of the person’? Griffin initially argues *no*, and it is worth quoting the full reasoning here:

The Universal Declaration of 1948 proclaims, in the spirit of Roosevelt’s address, a right to work (Article 23.1), and many subsequent international documents have repeated the claim. Yet on my account, *there is no right to work*. There is certainly a right to the resources needed to live as an agent, *but those resources do not have to come from work. If in an*

advanced technological society there were not enough work for everyone, and those without it were adequately provided for, then, on the face of it, no one's human rights would be violated. Work is valuable to us, it is true, in more than one way. The most obvious way is as a means to an end. What ultimately we need, as Roosevelt puts it, is adequate food and clothing and (even) recreation. We need them, he says, in order to live as 'free men'. All of this seems to me exactly right. Still, for most people on the face of the earth work is the expected, and sometimes the only, means to that end. Roosevelt and the drafters of the Universal Declaration, and of all the other documents that claim a right to work, reasonably enough wanted to state the right they had in mind in a form relevant to the social reality of their time. What their Post-Depression societies had to do to ensure adequate provision was to ensure the availability of jobs. And most societies today have to do so too.²⁶⁰

Griffin notes, however, much like Keynes' 1930 prediction that we will all be working 15 hour weeks due to technological displacement,²⁶¹ that "some societies are nearing conditions in which a job will not be, even for a large proportion of the population, the necessary means to the end." While Griffin acknowledges that work is more complex than just a means to an end, that for some, work may be a way for them to feel they are contributing to society, to derive meaning from their life, or to get enjoyment out of something challenging, absorbing, and useful to do, this he argues, is not what the advocates of the right to work originally meant. The advocates of a right to work were referring to "jobs of the old sort ... (butcher, baker, candlestick maker ...)" to provide "adequate material provision—adequate for life as an agent—and to options to live one's life in a productive, interesting, enjoyable way."²⁶² That being said, Griffin contends that as his account of human rights derives from human dignity, with its purpose of protecting human agency, "the discrepancy between that right, which is what follows from my account, and the right to work, which appears in these international documents, *can largely be reconciled. There is no serious discrepancy.*"²⁶³

In short, Griffin is arguing that even though a right to work is an "instrumental right"²⁶⁴, i.e., a right that is a means to an end rather than a right inherently valuable unto itself, and therefore one could argue that it should be excluded from his narrow list of rights, *there is no need to do so*. This is because work is often the main, if not the only vehicle, that allows people to exercise, enjoy, and lay a claim to all the other rights that people need in protecting one's human agency and maintaining human dignity. The argument then is that the underlying purpose of the right to work is to ensure that human beings have a right to adequate material provision that is enough for life as an agent, rather than work being an inherent good so as to have a right to work itself.

Therefore, based on Griffin's "best philosophical account", that in order to have agency and dignity one must have rights that cut across autonomy rights, liberty rights, and welfare rights. As his definition is narrow, Griffin's human rights are not aspirational, nor do they guarantee the "highest attainable standard of physical and mental health" as some documents claim they should.²⁶⁵ In order to live with dignity then, means to at least have basic subsistence ensured, in addition to other provisions (such as education, health care, being able to save for retirement, etc.), to be able to live as an agent.

One, however, could argue that instrumental rights, while acknowledged as being important in achieving those ends, are not essential because there may be alternative routes to enjoying those human rights, such as wealth for some individuals who therefore do not need the right to work to enjoy more fundamental rights. Therefore, as an instrumental right, it could be argued that it should not be deemed a human right.

However, as most people around the world (excluding the idle rich) need to work to survive, and work itself within the global economy provides a system and structure in which to organise economies, societies, and social relations, a right to adequate material provision in the status quo really means a right to work. Or, a right to work is a way to ensure a right to adequate material provision. Despite it being instrumental, the significance of the impact of the right on all other rights, is, as Griffin notes, not in discrepancy with the underlying philosophy of the Drafter's aims of the UDHR, nor his own philosophical account of human dignity and human rights.

Although Griffin tries to keep his list of human rights narrow, even if one agreed on the broader aims that the Declaration tries to achieve, I would argue that Griffin is right up to a point. The right to work is not an actual right in and of itself, *per se*, rather its purpose exists to ensure a more genuine right—to have enough to live as an *agent*. To earn enough money means to be able to afford food, clothing, shelter, and pay the bills. But to be a full *agent* also means to be able to access education, go on holidays, pursue new hobbies, have time for friends and family, and so on—all of which costs money to a large degree. In other words, the right to work in essence, in the context it was written of a modern capitalist economy, underlies a more fundamental right—the right to *be*. To keep body and soul together, as Griffin stated, and to exist more than just to survive, but to flourish. As Griffin, Beitz, and other legal scholars cannot fail to notice, human rights declarations and conventions are also aspirational in spirit as well as letter.

However, being an instrumental right does not mean that its intrinsic value or significance is diminished, nor does it go against the fundamental purpose or philosophy underpinning human rights that Griffin and Beitz, argue. Like Beitz it *is* a human right in the sense that, because we have to work in order to survive in the modern economy, and international human rights are standards appropriate to modern societies coexisting in a global political economy, it should indeed be a human right. That is, unless or until technology creates enough, and there is an equitable system of distribution whereby society is able to allocate resources to the point that people are not reliant upon work to have an adequate provision of material goods to live as an agent in a modern economy.

It can also be seen as a necessary human right in the sense that if the only way to guarantee survival in the modern economy for most people is through paid employment, it is a human right—until technology creates enough and society is able to allocate resources to the point that people are not reliant on work to have an adequate provision of material goods to live as an agent in a modern economy.

According to Beitz, human rights are natural rights and more. They change according to the changing needs of the individual and society in order to maintain human dignity in an ever changing world. If the purpose of human rights are to uphold and maintain the dignity of the person, both Griffin and Beitz' arguments complement as well as correspond with one another in its grounding and understanding of human rights. And as Griffin concludes, if there ever is a discrepancy between his narrow account and the broader purpose of the Declaration (he calls these “debatable” cases), he argues that the sensible answer is to just accept them as human rights “[I]n deliberating about what is and what is not a human right,” he adds, “one cannot do anything but appeal to one’s own understanding of human dignity.”²⁶⁶

3. If Human Rights are Mutable, Can the Right to Work Become Obsolete?

I am hoping the answer to the question to the heading above would be obvious, but in case it is not clear—Yes. I have already cited Keynes' essay “Economic Possibilities for our Grandchildren” above where he believed technological displacement meant that productivity through technology would result in people working fewer hours and enjoying more leisure time. One would hope that if he were consistent with that sentiment, that would mean that he would not be entirely opposed to a

future where technology could advance to a point where most people would work even fewer hours than he predicted, or no longer need to work at all if they had a choice. I have also drawn upon Griffin's analysis at several points in this chapter, where he argues that the resources needed to live do not have to come from work, and if in an "advanced technological society there were not enough work for everyone, and those without it were adequately provided for, then, on the face of it, no one's human rights would be violated."²⁶⁷

I have not only drawn upon the work of Griffin in attempting to build an understanding of human rights, but I have also analysed how Beitz's arguments complement that of Griffin's work to give us a fuller picture of what modern human rights are and are meant to be. As a reminder, Beitz argues that human rights "are standards appropriate to the institutions of modern or modernizing societies coexisting in a global political economy in which human beings face a series of predictable threats." As such, "the composition of the list of human rights is explained by the nature of these threats." That is, "*As the economic and technological environment evolves, the array of threats will change, and so, over time, will the list of human rights.*"²⁶⁸

Obviously then, if I am drawing upon the works of specific authors to develop an understanding of what a human right is and why they are important, necessary, and useful, and am attempting to also apply it to a specific concept of a right—the right to work—and place it in a post-work context where authors grapple with how technology will change the face of work to argue for a world of less or even no work—then I would naturally agree that if some utopian development were to occur (through technology or other means), to the point where nobody needed to work to have resources or develop fully as a human being, the right to work would become obsolete and it would no longer need to be a legal or moral human right.

To apply the argument more directly, as some people might not understand it and need further guidance: Human rights are standards appropriate to the institutions of modern societies coexisting in a global economy where people face a series of predictable threats. Hence, the composition of the list of human rights is explained by these threats. The threat to us in question in this situation is unemployment, but it could also mean having work that is exploitative, hostile, toxic, discriminatory, stigmatising, etc., or other rights denied to us because of a lack of work such as healthcare or benefits, or exploitative work imposed on us because of a lack of work, such as workfare, and so on. If the political, economic, and technological environment evolves so that the majority of people no longer need paid employment to live as a human *agent* (and not just survive),

or to prove their worth or inherent value to society, or to access benefits that they are entitled to in the first place, then the array of threats facing us have changed, and obviously the list of human rights over time will also change. So yes, human rights are not immutable, and neither is the right to work or its corresponding rights.

4. The Complexity of the Right to Work

Drzewicki points out that the right to work is “not a single legal concept”, but “a complex normative aggregate It reflects a cluster of provisions entailing equally classic freedoms and modern rights approaches as well as an obligations-orientated perspective made up of strictly enforceable legal obligations and political commitment”.²⁶⁹ This is part of the reason why the right to work has been so controversial regarding the content of the right, the purpose and meaning of the right, the positive and normative breadth the right gives to claim holders, and why there has been neglect regarding the development of this right, as we saw in the previous chapter.

Sarkin and Koenig acknowledge this confusion. On the face of it, the right to work seems to be a fairly straightforward concept, seemingly to refer to the right to a job for every individual. However, they argue, “this is by many standards, a very narrow definition,” with the phrase “right to work” having “been used to denote a conglomerate of rights, including issues such as the right to dignified work, equal access to work, etc. This construction of a multi-use right has ultimately obfuscated the core goal of the right: to ensure that every willing person is able to support themselves and provide a livelihood for their families through work. Some aspects of this aggregated right overlap with political rights such as freedom of association and non-discrimination.”²⁷⁰

Because the right to work is often divided into several distinct but interrelated rights, different theorists have structured and analysed the right in different ways. Sarkin and Koenig have broken down the components of the right into *quantitative* and *qualitative*. The quantitative aspect would refer to the fundamental right that there are enough jobs for everyone who wants one. The qualitative aspect refers to the need for the jobs to qualify as decent or dignified work.²⁷¹ Decent and dignified work “is a term that is itself a collection of requirements” that includes fair wages, fair conditions, reasonable hours, etc. Some may also demand that it include that work be productive. They acknowledge possible criticisms to this approach, as it fails to include the ability or rights of the job seeker to freely *choose* their work. “Often this right to freedom of choice or liberty is

emphasized”. The reasons for this emphasis should be obvious—the right to choose one’s work or liberty (to not work at all) could easily slide into an “obligation to work or into an argument for a socialist planning system.”²⁷² Sarkin and Koenig further explain what “free choice of employment” means in that it

does not mean that the state must provide the exact job that any individual desires; rather it guarantees each worker the full opportunity to be employed in a manner that is suitable to his or her skills. The range of opportunities available to individuals will obviously be limited by the requirements of a country’s social and economic development. The right of free choice of employment prohibits forced labour and is a protection against excessive restrictions on the right to work. The right to free choice of employment also contains the right *not* to work or to refuse work.”²⁷³

It is important to note, the right to free choice of employment, the ability to choose one’s work and not be forced into it by a government apparatus also meant the right *not* to work, or to refuse work. I would argue that leaving the duty to work out of the UDHR was a wise decision, not only to protect the individual from the encroachments of the state, or possible encroachments by the state, but for several other reasons which I explore in Chapter 4.

Lastly, Mantouvalou gives a useful analysis of the right to work by distinguishing three approaches that question whether labour rights are human rights, as they are sometimes conflated in the literature. She argues that having this division helps in the analysis of the right to work, as well as other labour rights. The first approach she terms the ‘positivist approach’, the second the ‘instrumentalist approach’, and third the ‘normative approach’:

1. *Positivist approach*: the right to work is a human right if it is protected as such in human rights documents.
2. *Instrumentalist approach*: the right to work is a human right if courts or civil society organisations are successful in using it in order to promote their goals.
3. *Normative approach*: the right to work is a human right if there is a sufficiently strong justification for it to be treated as such.

Mantouvalou argues that *all three* approaches are valuable:

The positivistic approach not only serves as a starting point in the analysis of the legal protection of human rights, it may also reflect democratic legitimacy, if a democratically elected body has decided to include the right to work in a legal document. The instrumental analysis reflects a neo-Marxist approach to human rights, which seeks to utilise legal tools in order to promote aims that its proponents deem valuable. Finally, the normative analysis is the one that brings the legal and philosophical discussions together most. This is because it assesses the theoretical justification of the right to work and has implications for its legal protection. ... What emerges, though, is that the right to work has a legal effect both when it is explicitly mentioned in a legal document, and when not explicitly mentioned, through interpretation of other human rights.²⁷⁴

There is yet another layer to this complex right that leads to additional questions of work for those who do not analyse the underlying reason for why it exists in the first place. This could be seen as work as an inherent good. People may argue, for example, about how much they love their jobs and get a sense of identity and purpose from it. What would we do with all our free time if we didn't have work, others may ponder. What about inclusion and a sense of community we get when we chat with our co-workers over coffee, or feel our job is meaningful because it helps other people and is necessary, such as a janitor or a business owner? If work is what makes the world go round, does it not make sense that if human rights are meant for human flourishing, and for those of us who have jobs that pay a living wage and give us a sense of purpose, should work not be a right for reasons other than survival and paying the bills?

The problem with this argument is that it does not get at the core of the issue. I will be analysing this idea that work is not an inherent good in more detail in Chapter 4, where I argue that there is a moral human right to work before tackling the question of whether there is a moral duty to work. I now move on to the penultimate part of this chapter—understanding that which human rights documents affirm human rights are grounded in—dignity.

5. Understanding Dignity—Whence Human Rights?

Common criticisms lobbed against human rights, apart from how to define them and whether they exist or not, is where they come from and what theoretically and philosophically underpins them. I

have already discussed in the first part of this chapter, how the Drafters of the UDHR deliberately chose not to ground human rights in any specific religion or philosophy, as the framers believed that people from different cultures would be able to find reasons within their own ethical traditions to be able to make the rights in the Declaration a practical reality. As Jacques Maritain quipped, the overall mood of the drafting of the Declaration was, “Yes, we agree about the rights, but on condition that no one asks us why.”²⁷⁵ Because of this, “Since its inception, the doctrine of human rights has oscillated between two theories of law: natural law and positive law. This oscillation reflects the unsettled debate in international human rights law over the source of human rights, that is, whether they emanate from the inherent dignity of the human person or from the will of the State.”²⁷⁶

However, the growing trend in international law has affected the discourse on the international human rights doctrine in what the source of human rights are. That is, international law itself was initially understood as a way of keeping strictly to international order and stability through positive law. But in the last three decades the discourse of international law has shifted to reintroduce natural law, or ethical premises based on values and ideas, into legal reasoning.²⁷⁷ The theoretical approaches, discourse, and scope of international law were often confined (or attempts were made to confine it) to questions of order, and not justice.²⁷⁸ The purpose of international law was to facilitate how states interacted with each other, not how states operated within their own territorial boundaries.

In recent decades, however, “states have sought to move beyond the simple pursuit of international order towards the ambitious yet amorphous objective of global governance”.²⁷⁹ There are several reasons for this evolution, factoring in the interconnected nature of global politics, trade, technology, climate change, etc., as well as the increasing realisation that international order and stability cannot be maintained without also protecting individual security. For example, although states remain the primary actors under international law, increasingly individuals, groups, and international organisations are being recognised as subjects as well. The development and expansion of a body of international human rights law, “supported by evolving mechanisms of enforcement,” has given individuals, minority groups, and indigenous peoples “clear rights under international law.”

Recent moves to hold individuals criminally responsible for violations of human rights, such as through war crimes tribunals for Rwanda and Yugoslavia and in the International Criminal Court

(ICC), show that individuals must also respect basic human rights.²⁸⁰ And although the twin principles of self-determination and non-intervention clearly demarcate the boundaries between international and domestic legal realms, that boundary is being breached increasingly “by the development of international rules that regulate how states should behave within their territories” by way of trade and the environment.²⁸¹

In addition, the development of international humanitarian law (the laws of war) indicates a broadening of international law to address questions of global justice. Notably, decisions by the United Nations Security Council (UNSC) warranting international interventions into sovereign states who are seen to be grossly violating human rights are treated as threats to international peace and security, thus legitimating action under Chapter 7 of the UN Charter. In these cases, “the Security Council has drawn a link between international order and the maintenance of at least minimum standards of global justice.”²⁸²

Therefore, we often see in international legal documents *inherent dignity* as the reason that human rights are needed and need to be protected. In fact, the “concept of dignity forms the foundational basis of the modern international human rights regime that traces its roots to the Universal Declaration of Human Rights in 1948.”²⁸³ Dignity, however, is an abstract concept that brings about its own debate and could be a book unto itself. In addition, words that overlap in meaning and usage, that are also abstract, appear in these debates—such as autonomy, agency, personhood, and so on. In this section, I will give a brief overview of what the significance of dignity holds in international law, illustrating with examples how the growing acknowledgement of human rights springing from the protection of human dignity has now all but become consensus in international law. I then interpret the differences between dignity, autonomy, and agency. In defining the concept of dignity itself, I draw on Glenn Hughes’s interpretation of dignity in the context of the UDHR and explain why I think his interpretation is the best one in the context of this thesis.

5.1 The Significance of Dignity in International Law

The founding documents of the UN—the UN Charter and the UDHR—both acknowledge and reaffirm “the dignity and worth of the human person” and “the inherent dignity and ... equal and inalienable rights of all”.²⁸⁴ Later UN documents, most notably the two international covenants (the ICCPR and ICESCR) and the 1975 Convention Against Torture, make clear the relation between dignity and rights, stating for example that human rights “derive from the inherent dignity of the

human person.”²⁸⁵ The use of dignity is also used directly in Article 23 in relation to the right to work and workers’ rights in paragraph 3, as well as directly in other articles and parts of the UDHR.

Most of the international human rights instruments adopted subsequently include similar provisions, such as the Vienna Declaration and The Helsinki Final Act. Beitz notes that The Helsinki Final Act “goes so far as to say that ‘all’ human rights (‘civil, political, economic, social, cultural and other’) ‘derive from the inherent dignity of the human person.’”²⁸⁶ Nearly all postwar human rights instruments “either quote or refer to this formula to invoke the authority of the charter for the international protection of human rights.”²⁸⁷ Reflecting on human dignity in international legal thought, Oscar Schacter observed that “‘No other ideal seems so clearly accepted as a universal social good.’”²⁸⁸

Furthermore, Saxon notes that in addition to the commitments of states to promote and protect human dignity, as expressed in treaty law, a majority of states have also “expressly incorporated the value of human dignity into their constitutions.”²⁸⁹ Drawing on research from 2012, he reports that “nearly 85 percent of countries use the term ‘human dignity’ in their constitutions. Every one of the forty-nine constitutions enacted between 2003 and 2012 include the term, whether in the preamble, in sections containing ‘fundamental principles,’ in specific articles, or in some combination.” He further observes that South Africa and Hungary go so far as to treat dignity as a separate right in their constitutions, with South African jurisprudence recognising the right to human dignity as “a right concomitant to life itself.”²⁹⁰ And where the term “human dignity” is absent from the text of a national constitution, “the concept can still imbue legal reasoning of the courts of that state.” Saxon gives the example of the US and Canada, where though the phrase is not mentioned expressly in the US Bill of Rights or in the Canadian Charter of Rights and Freedoms, its use in US jurisprudence is “intuitive” and the specific rights guaranteed therein the Canadian Charter are “inextricably tied to the concept of human dignity.” Thus, he argues, the majority of modern domestic legal systems “expressly or implicitly mandate respect for human dignity.”²⁹¹

One could therefore argue that inherent human dignity is “the foundational fact and value upon which rests the Declaration’s affirmation of rights.” The concept of dignity has become such a powerful tool in the reasoning of human rights that “The inviolable dignity of each human being is [now] the coin of moral discourse the world over.”²⁹² As we can see, there is by now an accepted international consensus that human rights spring from the inherent dignity of the person.

Despite this recognition of significance and globally accepted consensus on the source of human rights that is dignity, the concept of dignity is a fraught one. Its abstractness and ambiguity in human rights discourse has encountered criticisms that it is nothing more than an empty word. Such “elasticity of the idea in common usage”, and the “extravagance of the references to it” in declarations and treaties allow it to be a target for critics.²⁹³ Beitz acknowledges the weariness skeptics might hold for a word that is “too abstract a value to be informative about the grounds of human rights or that it functions only as a kind of pointer to other values that carry the weight in explaining their importance and content.”²⁹⁴ Cynically, one could view dignity as that which “adds nothing but a phrase to the theory of human rights.”²⁹⁵

And yet, despite its ambiguity in preambles and fundamental principles, Saxon argues dignity actually provides practical usage in real life, as “its inclusion in operative constitutional articles serves to guide the implementation of those provisions.” He gives the example of specific articles that “may protect the dignity of persons imprisoned or detained, address the dignity of labor conditions and compensation, use dignity as a guide for guarantees concerning vulnerable groups such as the elderly, children, and persons with disabilities, and so on.”²⁹⁶ And so, despite its ambiguity and criticisms by some as being “nothing but a phrase”, we nevertheless see the extraordinary influence of the UDHR to “propel the concept of human dignity to the center of international and domestic political discourse”,²⁹⁷ and to give guidance to the implementation of specific provisions within those documents.

5.2 How are dignity, autonomy, and agency different?

As referenced earlier, Griffin uses the terms dignity, autonomy, and agency as separate but interdependent ideas. Dignity is grounded in autonomy, “in the sense that for any given individual, they have dignity if and only if they are autonomous.” Griffin’s methodology, as we saw above,

is to try to locate a common historical thread running through human rights theory and practice, from which a substantive account of human rights can be built. He finds that thread in the concept of dignity Moreover, dignity in this context is taken to refer to agency. So we have human rights because we have dignity; and our dignity consists in us being a certain kind of agent—able to reflect on the kind of life we want to lead, and take means to pursue that life.²⁹⁸

Recalling Beitz's argument that human rights are natural rights *and more*, if the main purpose of human rights are to protect the dignity of the person, than modern human rights must change as the threats and environment people face and are in changes. This mutability can also be seen in Hughes' argument of how we should understand dignity. Hughes' concept of dignity based on its transcendence allows for this flexibility, as well as dignity being understood as a heuristic device to counter the inability to define an abstract concept that all people, religions, and cultures seem to have a sense of, but difficulty in articulating and pinning down.²⁹⁹

While agency, autonomy, and dignity are all concepts often invoked together in some combination, and interrelated, my focus is specifically on the concept of *dignity*, as we have already established that that is what human rights treaties, conventions, declarations, national constitutions, and the UN Charter and UDHR focus and ground their justification of human rights on. Suffice it to say, moral human rights are grounded in the concept of dignity.

Although agency and autonomy are also abstract concepts that have much debate surrounding their exact meaning, for clarity's sake, *agency* is understood in this context as the ability not only to be able to choose, but also to be able to pursue that choice and, within limits, is not blocked from doing so. In very broad, general terms, "an agent is a being with the capacity to act, and 'agency' denotes the exercise or manifestation of this capacity."³⁰⁰ In concurrence with Griffin's conception of an agent, "an agent is someone who chooses goals and is then free to pursue them. Both choosing and pursuing, both autonomy and liberty, are values that we attribute to agency. If either is missing, one's agency, on this fuller interpretation, is deficient."³⁰¹

With regard to *autonomy*, Killmister affirms that "there is no consensus on what autonomy is: competing conceptions of autonomy have emerged from the literature, each suited to its own theoretical purpose. This means that the term 'autonomy' can mean very different things, depending on who is uttering it. The very same pattern holds for dignity."³⁰² She unpacks the meanings of autonomy as a capacity, condition, and right, but concludes that while all three of these interpretations of autonomy have distinct meanings, they are nonetheless interrelated.³⁰³ As such, this thesis understands autonomy as an interrelation between all three meanings: the ability to make rational choices (as a capacity), to have the capacity for self-governance and self-determination (as a condition), and to have the right to decide for yourself how you want to lead your own life, both in the day-to-day and in making long-term decisions (as a right).³⁰⁴

5.3 Dignity as Heuristic Concept and Transcendence

Moving on to the concept of dignity, within the context of this thesis of human rights, I draw upon Glenn Hughes' understanding and reasoning of dignity based on the intentions and understanding of the Drafters of the UDHR. Hughes analyses how the concept of dignity, which he identifies as being *inherent dignity* and *achieved dignity*, properly functions as an intrinsically heuristic concept in the UDHR and similar documents. I will first explain what Hughes means by heuristic concept. I will then give a very brief explanation of his distinction of achieved dignity and inherent dignity, and how these ideas as heuristic concept and transcendence achieves its functional purpose as a grounding of human rights in the UDHR and other similar documents.

A Heuristic Concept

Like Griffin and Beitz, Hughes acknowledges the secular language and absence of theory in the UDHR. Given the diverse political viewpoints and backgrounds of the Drafters, the language employed, as Hughes asserts, “was eminently practical rather than theoretical—a language that avoided all metaphysical and religious formulations. Common agreement on the ontological basis of human rights was out of the question. This explains the purely secular character of the Universal Declaration.”³⁰⁵

Nevertheless, he points out that the Drafters had to give some indication of why human beings had “what is identified as ‘inalienable rights’.” What was the basis for that claim? They could not invoke a Creator that endows them with certain “unalienable rights,” as proclaimed in the US Declaration of Independence. And to proclaim that these “inalienable rights” derived from the State or any other social organ would be problematic, as “something socially conferred can, on principle, be socially rescinded.” Hughes argues that the Drafters solved this problem “by indicating that human beings have rights because of their intrinsic *dignity*”. That is, “because human beings, due to qualities they possess, have a special value or distinctive worth, that in each case and without exception should be respected and nourished. Thus the Declaration’s first words proclaim the ‘inherent dignity’ of each member of the human family.” Reading the preamble of the UDHR the document presents human dignity as the *basis* of human rights.³⁰⁶

In fact, despite the criticism regarding the vagueness of dignity as being “deficient in meaning,”³⁰⁷ Hughes argues that this relative abstractness is more of a strength than a weakness:

Detaching it from all explicit religious reference and philosophical anthropology renders the concept of dignity in one sense fragile On the other hand, this very decontextualization guards and preserves its capacity to serve as a symbolic evocation of the majesty and mystery of the human being in universal and open-ended manner and, in that way, to perform a crucial political role in the articulation of the values orienting a liberal and democratic order. Specifically, removing the term *dignity* from any defining religious or metaphysical framework allows it to function as, and highlights the fact that it is, an intrinsically heuristic concept.³⁰⁸

He explicates how the concept of dignity functions as a heuristic device. “Something has a “heuristic” character when it invites, and serves in, the effort of discovery. ... Any word can be said to have heuristic meaning for us as soon as it piques our curiosity due to our awareness that, while we have some understanding of its meaning, our knowledge of that meaning is unclear or incomplete.” He goes on to explain how words cease to function heuristically when we attain a “satisfactorily complete understanding of them”, in which he gives the example of *cat* and *voltage*.

However, “some words denote concepts that are *intrinsically* heuristic in nature.” These are concepts whose meaning-content we can increasingly grasp as we learn more about them, but whose meaning-content will always seem out of reach because further discovery always remains possible, and the concept’s meaning can therefore never be fully understood.³⁰⁹

Some examples might be concepts such as happiness, love, freedom, justice, courage, etc. These are all words that have many meanings that can be further extrapolated. Like Plato’s dialogue *Meno* questioning virtue, or Aristotle famously examining the concept of happiness in his *Nicomachean Ethics*, profound discovery of the content and meaning take place, but “there is no declaration at its end of a meaning completely filled-in, of the finding of a perfect and final definition.” That is because there are no final answers, no completely filled-in meanings about these concepts that exist.³¹⁰

The concept of dignity, therefore, properly functions as an intrinsically heuristic concept in the UDHR, in that *dignity* refers to “an intelligible reality of which we have some understanding, but whose full or complete content remains, and will always remain to some degree, unknown to us.”³¹¹ Like with the concept of happiness, we have some idea of what the concept of dignity is, but upon further exploration and trying to qualify its characteristics and nature, it is a word that “remains to some degree inexplicit and thus open-ended”. In the UDHR’s vision, “we always (ontologically if not politically) possess our dignity-based rights, whether or not, in enjoyment of these, we actually

pursue dignified living.” This distinction, between *inherent dignity* and *achieved dignity*, helps us clarify how the concept of dignity is employed in the UDHR, i.e., how “the term *dignity* functions heuristically in two separate manners.”³¹² Hughes explains,

On the one hand, the [Universal] Declaration is concerned to specify, proclaim, and promote the observance of those rights that will allow for the *achievement* of dignified living. It thus projects a concept of *achieved human dignity*. On the other hand, and of course more foundationally, the Declaration begins with the avowal that persons are “born” with dignity, that persons have an *inherent dignity*, an innate worth, which does not have to be sought or strived for, and which has nothing to do with achievement³¹³

Hughes illustrates how achieved and inherent dignity together informs what human rights are in the UDHR in protecting personhood. First, Hughes unpacks what the notion of “person” means, as the phrase *human dignity* refers to the value of being a person. He argues that being a person, “typically and normatively,” means having the awareness of freedom, which is linked to responsibility, which is linked to our awareness of interplaceability, and lastly our vulnerability. “The core constellation of meanings in the concept of human dignity consists then of four elements: liberty, responsibility, irreplaceability, and vulnerability to suffering and degradation. This is in fact the concept of human dignity that informs the Universal Declaration.”³¹⁴

As to the first, freedom or liberty, he describes as “our ability to consciously choose and decide, and thus awareness of the capacity to be self-determining.” The second core element is responsibility, as our awareness of our choices in our freedom also means being aware of our responsibility for those choices we make. This awareness of our ability to choose and be capable of our own “self-determination through our capacities to imagine, understand, know, and decide,” makes each of us aware of our uniqueness. This leads to the third element—the acknowledgment that through this uniqueness, we are therefore irreplaceable. The last element is our vulnerability. It is “our capacity to suffer” because of the actions of others or our own.

This concept of human dignity, based on these four elements, Hughes argues, is what informs the UDHR. “Human rights derive from human dignity, since it is because we are responsibly self-determining, unique, and vulnerable beings that we have an inalienable right to those conditions and opportunities that will allow us to freely and fully develop as persons.”³¹⁵ Therefore, the Declaration, on one hand, is concerned with specifying, proclaiming, and promoting the observance of those rights that will allow for the *achievement* of dignified living. He illustrates this with the

UDHR's thirty articles, where in it are the rights and freedoms that the Drafters thought to be essential for the achievement of dignified living.

"Certain conditions must be present", Hughes notes, "and as we all know, even when the conditions and opportunities are present, sustained personal effort and growth are required." These conditions that are necessary, according to the Declaration, include civil and political rights (such as the right to liberty, privacy, equality before the law, etc.) and economic, social and cultural rights (the right to education, the right to work, the right to a standard of living, etc.).³¹⁶ All of these rights are, according to Article 22, "indispensable for [a person's] dignity and the free development of his personality."³¹⁷

The UDHR offers a basic picture of what a "dignified" human life is, and fills in some of the meaning-content of the concept of achieved human dignity. How all of this will manifest itself in any concrete way is up to the individual in how they choose to exercise these rights in the situation and context that they find themselves in, and therefore difficult for the UDHR to predict or envision. The UDHR's conception of *achieved* human dignity, therefore, is still *heuristic*. Hughes maintains,

[I]ts meaning is incomplete with regard to the actualized particulars of the life of any one person living a dignified existence. However, this does not make the concept flawed, or inconsequential. On the contrary, by filling in essential antecedent determinations of what dignified human living consists of, the Declaration presents a powerful yet open-ended portrait of achieved dignity, a portrait firm enough for the enunciation of a large number of specific universal rights, while flexible and unfinished enough to encompass any further filling in of the meaning of dignified living through an individual's ongoing insights and self-defining decisions—conditioned, of course, by particular social, economic, and cultural traditions.³¹⁸

Inherent dignity, Hughes argues, is "the philosophically more important of the two" as it provides the grounding of human rights in the UDHR. He describes the link that inherent dignity and achieved dignity have in giving people the freedoms and protections articulated in the Declaration:

In fact, we should properly understand "rights" as an extrapolation of what is implied in the recognition of inherent dignity, and thus as the link between it and the Declaration's portrait of achieved dignity. The link is this: the idea that a person ontologically possesses inherent dignity implies that he or she ontologically possesses—and therefore is socially and politically entitled to—the right to those freedoms and protections that would allow

dignified living to be achieved. Respect for inherent dignity, thus, obliges others to allow or enable that person's dignity to be realized; and so it is the respect for inherent dignity that generates the articulation of such freedoms and protections as are listed in the Declaration as civil, political, economic, social, and cultural rights.³¹⁹

The difficulty for some to acknowledge it, however, is because the concept of inherent dignity has been “under-explained” and “uncontextualised” that it has drawn criticism for being “peremptorily asserted as a fact and employed as a political starting point without any metaphysical argumentation provided to ground its validity”.

But Hughes argues it is precisely this open-endedness that “allows it to function “importantly and effectively as a heuristic concept, in this and in other modern political documents.”³²⁰ Moreover, the lack of further definition, Hughes points out, is counterbalanced by the philosophical implications embedded in the idea of *inherency*. He gives four points:

- 1) Inherent dignity and the rights deriving from it are not granted by the State or any other external authority. As mentioned earlier, “if basic human dignity were socially conferred, it could be socially taken away. The notion of inherency eliminates the idea that basic human dignity is granted by other people.”
- 2) Inherent dignity, as explicitly stated in various documents such as the *Charter of the Fundamental Rights of the European Union*, “inviolable” dignity. I.e., “it cannot be negated or destroyed by any means whatsoever”, whether the person is a victim of torture or by a person who performs evil by choice. Which is why even criminals retain the right to a trial before the law for their crimes.
- 3) It is not linked to any achievement or socially useful function. It renders all equal and irreducible in worth, and both one's personal development and one's contribution to the social good “are irrelevant to one's inherent dignity.”
- 4) Inherent dignity is not capacity based: “it exists independently of one's physical, mental, and moral capabilities.” “To affirm it means that persons command our respect” even if they are mentally handicapped, hopelessly ill, etc.³²¹

These clarifications lead to a further question. If fundamental dignity of a human being “is independent of social recognition, personal achievements, and even the capacity to exercise that freedom of will”, etc. that we associate with the concept of personhood, “then from whence does it

derive its truth and validity?” In simpler terms, Hughes is trying to answer the question that if human rights derive from human dignity, where in turn does human dignity come from, or how can we justify it?

Hughes admits that while there is “no satisfactory philosophical answer to this question other than to recognize that, if inherent human dignity exists, it is *given* along with human existence and belongs to human existence *essentially*.”³²² This “givenness” and “essentiality” Hughes associates with human nature. And although the Drafters “bargained away” all references to God and nature because they were confident that words such as “inalienable” or “inherent” gave “a firm enough rhetorical foundation to function as an open door inviting metaphysical questions and insights concerning this foundation”,³²³ we see that ultimately secular language such as “our common humanity” leads us to understand that there is something essentially human that tries to justify these rights and our conduct. This is where he turns to the idea of transcendence.

Transcendence to Hughes is an “ontological mystery”. This mystery, this heuristic device where exploring a concept but never being able to come to a final, satisfactory meaning of it, means that although we recognise that this “ontological ignorance ‘is inherent in the human situation’,” this does not mean that we should resign to “darkness and impotence; on the contrary, it is a refusal to pretend to know what we are quite aware of not knowing: the ultimate origins and purposes of human existence.”³²⁴

What then, Hughes asks, “is the empirical base-line, the most elementary human phenomenon, that should call forth this respect”? It is more fundamental than those who act virtuously, or have any capacity to reason or exercise moral authority.³²⁵ Hughes writes,

It is simply the manifestation of the living human being in his or her physical presence—a presence almost always vulnerable to suffering, which by its presence alone reveals, and represents, all the potentialities of a human being as free, rational, moral, and self-defining, even when the effective probabilities of realizing these potentialities are in the individual case—for whatever reason—low, minimal, or, as far as we can tell, zero.³²⁶

He then concludes by pointing out that the concept serves three important functions.

- 1) Because of its transcendental nature, inherent human dignity understood in this way serves a politically protective function in grounding it in a reality beyond all differences, such as race, class, gender, etc. Because of its unconditional nature, it “stands in the way” of “the

crime underlying all crime” that people have committed against others throughout history. What that is, “reducing the essential human being to an accidental manifestation: to the slave, the barbarian, the heretic, the worker, the capitalist, the Jew, the black. It reveals the immorality of scapegoating and dehumanization of every kind, by indicating that the essential worth of any person lies beyond all distinguishing biological and social characteristics.” That is, whoever we are or whatever position we are born into, our inherent dignity transcends those things.

- 2) The intimation of transcendence serves a heuristically pluralist function in that it leaves open the door for different cultures, religions, philosophical or wisdom traditions, as well as non-religious individuals to offer their own understanding and defense of human dignity. It invites the symbolic filling in of meanings in various traditions, “while pluralistically accommodating this variety by recognizing their basic equivalence as symbolizations of a primordial ontological mystery.”
- 3) Finally, “an intimation of transcendence serves an existentially orientational function.” Here Hughes refers to “a self-transcending concern for the well being of another creature” which most religious and philosophical traditions identify this ultimate transcendent value with love, in the sense of a “profound concern for the good of others.” This is expressed in Article 1 of the UDHR that each of us has an obligation to “act toward one another in the spirit of brotherhood.” Without an orienting sense of transcendence, it becomes easier to exclude certain types of people and regard them as subhumans, less-than, non-persons, or “enemies of the people.” History is replete with such examples, such as the Nazi and Soviet regimes.³²⁷

In conclusion, Hughes argues that the “noncontextualized affirmation” of the inherent dignity of all people in the UDHR serves two purposes. First, its detachment from any philosophical or theological framework has allowed it to speak universally to the international community. And secondly, the notion of inherency carries with it the “intimations” of transcendence³²⁸ that allows for an understanding of what dignity might be to a certain tradition, group, or person, but because of its “mystery” or heuristic nature, allows this ambiguity to ground the concept of human existence and human dignity.

While dignity may continue to be a contested and ambiguous concept, the acknowledgement that it is nevertheless a concept that holds universal appeal, as evidenced by numerous international documents and national constitutions, illustrates how despite these difficulties, it is still something understood everywhere on some deeper level. There may be those who object to the concept of

transcendence, which Hughes addresses, regarding how it is sometimes understood and its limitations.³²⁹ Nevertheless, Hughes argues that its politically protective function, its heuristic nature to support universal and pluralistic accounts, and its existential orientational function counterbalances the ambiguities of the concept of dignity. Saxon contends, “Conceptual differences and real or perceived ambiguities in definitions of human dignity do not reduce the benefits or the challenges that dignity poses to our moral lives. On the contrary, human dignity is the value that does the ‘moral work’ for societies.”³³⁰

In the first half of this chapter, I analysed Griffin’s attempt to qualify the meaning of human rights and therefore narrow the ever-expanding list of rights that critics have accused of becoming frivolous. When there are those rights that do not easily slot into his categories, and are instead what he considered “debatable” rights, he asks us rhetorically, what should we do then—do we dismiss them outright? “The sensible answer,” he writes, “I think, is this: *accept them as human rights*.” He too, like Hughes, highlights the heuristic function of language and concludes that “Their lack of essential properties does not matter; their having a settled use is enough for there to be criteria for determining whether or not they are used correctly.”³³¹ Ultimately his conclusion aligns with Hughes’ own reading: “We should concentrate, as most of these documents do, on the notion of the *dignity* of the person”,³³² and that “in deliberating about what is and what is not a human right, one cannot do anything but *appeal to one’s own understanding of human dignity*. And we need more, not less, such deliberation.”³³³

5.4 Why is Hughes’s concept of dignity most appropriate in this context?

Hughes analyses the concept of dignity directly in the context of the UDHR, and also analyses how the Drafters chose to articulate human rights within the Declaration with dignity in mind. These might be obvious reasons as to why Hughes’ extrapolation and analysis of dignity would be best placed and appropriate in understanding the concept directly within the context of the UDHR and this thesis. However, many authors have given their own analyses, categorising different ways human dignity can be understood, or focusing on different aspects of dignity and its relation to human rights, worried about the “fragmentation” in understanding what dignity is, or noting the difficulty in having a coherent substantive meaning in all legal jurisdictions, but being popular in use, nevertheless, in judicial reasoning.³³⁴ Their justifications and choice of focus are not wrong, but Hughes’ choice of focusing on the heuristic nature of dignity and its transcendence is what I would argue gets to the heart of the debate regarding its depth and abstractness that leads to it (dignity),

and human rights, to be perennially attacked by critics and yet give it moral force universally and still able to endure. Like all paradoxical things, this is both its strength and weakness.

As we see from debates about human rights, dignity, autonomy, etc., these are concepts that can be forever debated. As Hughes points out, that is because these are ideas that are understood the more they are discussed, but never fully complete. This should not deter us from trying to understand what these words mean, or why they are important, but to acknowledge the paradox in both knowing what they mean, but also knowing this meaning will never be completely determined. He applies this directly to human dignity, but this also applies to some extent to human rights. Although Griffin lays out a theoretical foundation of what human rights are and why, and Beitz gives more practical boundaries justifying and explaining their mutability, because of their abstract nature, the idea of what human rights are and should be, will always be up for debate. And because the concept itself, like the epigram at the beginning of this chapter illustrates, are not just abstract, but also at times challenging, difficult, and both intuitive but also something that must be *learned* in order to be understood, human rights are bandied about as a phrase that people think they know, but often know little about.

By bringing attention first and foremost to our inability to ever define it completely, but to acknowledge that this heuristic ability and transcendence is actually beneficial, answers the challenges of those critics who argue that the concept of dignity is bupkis, or over-inflated nonsense that is empty in meaning and usefulness.

6. How and Why Modern Human Rights are Contingent Upon the Global Economy (and the Changing World in General)

As I have already established, if people are forced to contend with changing technology, economic and political challenges, societal norms, and other significant challenges in the world that changes the way we live our lives, and normatively changes the way we view ourselves and each other, these changes will affect how we access food, work, education, our networks and relations, and ability to interact with each other as a community. Because these changes can possibly take away our agency, our livelihoods, our dignity, and our sense of self, the protection of our human rights and our dignity are therefore contingent upon changing norms, political and economic changes in the environment, and technological advances.

If we accept the understanding of human rights that I have established, it seems very obvious that human rights are not unchanging, immutable objects that remain perennially detached from the messy, lived experiences of people's lives. Human rights did not fall from the heavens in perfectly ideal form. Nor are human rights simply a theoretical or intellectual exercise that lawyers and philosophers do in their armchairs. Instead, they are a very real endeavour that demands action for activists and the ordinary person wanting to see change. As Harvey succinctly observed on the moral legitimacy of right to work claims:

The rights proclaimed in international human rights agreements are not based on a unified theory of human rights. Given the highly political nature of the process that led to their adoption it could hardly be otherwise. As Louis Henken has noted, "[I]nternational human rights are not the work of philosophers, but of politicians and citizens, and philosophers have only begun to try to build conceptual justifications for them." Nevertheless, philosophical justifications for these rights do exist and their articulation has been an important part of the political process that has led to their formal recognition.³³⁵

And because the free market and economic systems are not perfect either, the Drafters of the UDHR put in certain rights they felt were needed in order to protect the dignity of people from possible excesses of the economic system, and from possible failures and encroachment by the state. Human rights are important, not because they are oven-ready, perfectly formed ideals. They are important because the purpose they serve is to protect that which we find sacred in ourselves as individuals and with other people, whether it is our dignity, agency, or personhood, and to ensure that a sense of justice, fairness, and beliefs in right and wrong are expressed. It is to keep body and soul together, and not merely as a way to only ensure the barest of minimum to survive. So while specific rights may not be constant, the underlying notion of why they exist and what purpose they serve is.

Eleanor Roosevelt, one of the Drafters and a driving force behind the UDHR and who chaired the UN Commission on Human Rights, was also acutely aware that what they were drafting meant that not all human rights applied to all people at all times:

The representative from the United Kingdom is very much troubled by the fact that, while you can write a bill of human rights, it will mean nothing to various parts of the world where people are still in a state which will not allow them to enjoy many of these rights. It is quite obvious that the people of Borneo do not have exactly the same conception of rights and

freedoms as do the people of New York City or London. Therefore, we will have to bear in mind that we are writing a bill of rights for the world, and that one of the most important rights is the opportunity for development. As people grasp that opportunity, they can also demand new rights if these are broadly defined.³³⁶

Whether it is Eleanor Roosevelt and the other Drafters of the UDHR, Beitz, Morsink,³³⁷ White,³³⁸ Twine,³³⁹ or Garland,³⁴⁰ many have touched upon or observed that human rights are there to protect people against the excesses of the market, and of the changing nature of circumstance in general, whatever these may be. And although the Drafters might not have realised at the time how what they were drafting were contingent upon these changes happening in the world, it is a fact that how modern human rights in the UDHR were conceived, and newer rights that have come into law today,³⁴¹ are contingent upon the external challenges people face. Many authors may have noticed the lack of timelessness and universality of some modern human rights, even if they have not outright expressed the relation as I have, or have joined the dots in the same manner.

I therefore put forward the argument that modern human rights are contingent upon the neoliberal global economy, of technology, and of any other threat human beings face at any given time. This is because human rights are there to protect people from the excesses of the market, or from environmental, global, and political threats, or new technology that might harm a person's dignity and other fundamental rights. To have new human rights come into being or to expand on existing rights as the environment changes or new threats arise in order to protect human beings, is not a weakness against human rights, but a strength.

Conclusion

As I highlighted in the Introduction, the right to work does not have one contentious word in it, but two. While I have already given an understanding of what work is in this thesis, analysing and breaking down what a human right is, is much more complex as we saw. Because people often equate modern human rights as classical natural rights, controversy and criticisms take place because people are expecting human rights to be something they are not. Human rights, as I have established, drawing on the work of Beitz, are natural rights *and more*. And the purpose of human rights is to protect the personhood and dignity of the individual. This means that human rights and the right to work is more than just guaranteeing our basic physical and material subsistence, but instead to bring body and soul together, as Griffin explains. Dignity as a concept also has

complexities and debates over its meaning and substance. But to understand inherent and achieved dignity and accept its heuristic function and transcendental nature, allows it to develop in meaning and flexibility, much like human rights, which also allows it to supplement the absence of philosophy in the UDHR in order to grant it universality.

As Beitz opines, “international human rights, taken as a package, are about establishing social conditions conducive to the living of dignified human lives. These rights represent an assumption of moral responsibility for the public sphere”.³⁴² Griffin’s concluding observations are that “We should concentrate, as most of these documents do, on the notion of the dignity of the person”, and that “in deliberating about what is and what is not a human right, one cannot do anything but appeal to one’s own understanding of human dignity.”³⁴³ The point I am making is, at the end of the day, whatever disagreements and discrepancies there may be about human rights, either in philosophy or international law, at its core what should matter most on the relevance and legitimacy of a human right is whether the right in question maintains and upholds the dignity of the person in the current context of the situation they are facing.

Human rights do not exist to ensure that people have the bare minimum of resources to survive, but to live and flourish as a full human agent, or to the “full development of his personality.” That is why Griffin talks about “welfare rights” and the interdependence of positive and negative rights needed in order to accomplish this. If the right to work, as an instrumental right, gives people access to resources, as well as the means to live fully as an agent beyond subsistence and survival, then it is a basic human right we all need at present, as I have already explained above.

However, because of this mutability of human rights to adapt and change as the world changes, if we somehow find ourselves in a situation where work is obsolete, and “decent work” is no longer necessary for the majority of people to access resources, as well as to live and flourish as a human agent with no harms to human dignity, then obviously it would no longer be a human right. The right to work and other rights could become superseded by human rights more relevant to the circumstances of the time. Or new rights could come into being, like the right to Internet access as we saw in previous sections. Because the purpose of human rights are to protect people from the ever-changing threats we face today and in the future, they are mutable in nature. But what is constant about them is to protect the dignity and flourishing or “the full development” of the “personality” of the individual.³⁴⁴

In addition, the right to work itself is a complicated, complex right and Article within the UDHR. Because it is not a single legal concept but a complex normative aggregate, it includes classic negative rights, as well as second generation rights (ESCRs). It is also a combination, not just of first and second generation, negative and positive rights, but it can also be analysed according to three approaches: positive, instrumental, and normative.

And finally, I contend that because modern human rights were written in response to protect people from the vagaries and excesses of the market, they are contingent upon aspects of the neoliberal global economy.

In establishing what a human right is, the complexities of the right to work within the context of modern human rights, and how modern human rights are contingent upon the neoliberal global economy, I have set up a framework for the reader to understand why the right to work exists both legally and morally. There will still be those who may disagree and challenge the notion that work is a problem that needs to be politicised or re-evaluated, instead touting the benefits that work brings and arguments that work is an inherent good. These will be addressed and responded to in Chapter 4. As such, this chapter sets up one half of the argument I am making—that while there is a legal and moral reason for the right to work in international law, there should not be a corresponding duty to work, legally or morally.

I will be exploring the philosophical arguments within a post-work literature that I contend would agree that the right to work is a human right, but the duty to work is not. Thus I hope to combine the theoretical framework and philosophy of international human rights (one based on dignity and the inherent worth of the individual) and post-work literature that challenges the “work-based society”, which values the individual based on their economic output in a market society. I will be analysing this in Chapter 4. But in order to understand how individuals are valued and viewed in a market society where market fundamentalism is the dominant ideology, versus how individuals are valued and viewed in human rights, we need to understand neoliberalism both as an ideology and as global economic policy.

III

NEOLIBERALISM AS IDEOLOGY AND ECONOMIC POLICY

[I]t has become an article of the creed of modern morality that all labour is good in itself; a convenient belief to those who live on the wealth of others.

—William Morris, *Useful Work versus Useless Toil*, 1885

A really efficient totalitarian state would be one in which the all-powerful executive of political bosses and their army of managers control a population of slaves who do not have to be coerced, because they love their servitude.

—Aldous Huxley³⁴⁵

Analysing and understanding the ideologies, framing, and narrative when discussing work is important, and Weber's notion of the "iron cage" of purposive rationality helps illustrate this. In *The Protestant Ethic and the Spirit of Capitalism*,³⁴⁶ Weber argued that once some principle of organisation, such as market competition or ideological orthodoxy "has achieved dominance in the spheres of production and governance, the rest of a society's institutions find themselves gradually but inexorably adopting the same principle."³⁴⁷ As George Scialabba observes,

In an ideology-dominant society, everything fluid turns to stone; in a market-dominant society, everything solid melts into air. ... In time, Weber believed, every practice or institution in a modern society, regardless of its original purpose, experiences an irresistible pressure to adapt to the society's fundamental organizing principle.³⁴⁸

We see this today with neoliberal thinking and market values intruding in areas outside of the traditional domain of the market and economy, into other areas of life where quantification and

profit may not be best suited as an accurate measurement of progress, and we see how ideologies are transmitted from generation to generation as we inherit the beliefs from those before us.

Marx himself understood ideology as having a class function in sustaining the interests of the economically dominant group.³⁴⁹ Hence, Marxist scholars tend to view ideology negatively, arguing that the dominant ideology in society is one that creates a narrative justifying the position and wealth of those in power, reflecting the interests, values, and beliefs of the ruling class, and thus maintaining the status quo.

In his *Prison Notebooks*, Marxist theorist Antonio Gramsci shifted the focus of Marxist analysis more towards superstructural phenomena, developing “Machiavelli’s view of power as a centaur—half beast, half man—a mixture of coercion and consent.”³⁵⁰ It was through cultural hegemony that those in power achieved ideological dominance, as the moral, political, and cultural values of the dominant group become widely dispersed throughout society to be accepted by subordinate groups and classes as their own. They did this through the institutions of civil society, “the network of institutions and practices that enjoy some autonomy from the state, and through which groups and individuals organize, represent, and express themselves to each other and to the state”. These would include churches, the media, the education system and schools, and voluntary organisations.³⁵¹ This is how and why the working class “tends to accept its subordination because the prevailing ideology functions to naturalize and legitimize the social inequalities of the status quo, for instance by promoting the value of hard work”.³⁵²

In Chapter 2, I referred to Spencer’s observations of mercantilist ideology, that the poor were seen to be too lazy and insolent so as to be diligent workers that helped in building the nation’s wealth. Therefore, by keeping them in poverty by reducing wages to subsistence level, they would be forced to work for the good of the nation. It was the duty of workers to accept subsistence wages for the sake of the nation, but the nation had no duty to pay workers well. As Spencer points out, these views on poverty betrayed the prejudices and lack of sympathy of mercantilist writers, whose views represented a privileged minority in society that distracted attention from the real hardships faced by workers in their lives.³⁵³

Spencer observes that we continue to see echoes of mercantilist thinking today, particularly on debates on welfare reform and the stigmatisation of people on benefits seen as “scroungers”. Framing benefits claimants as “scroungers” that are easily living the good life at the tax payer’s

expense has led to arguments that higher budget deficits have been caused by excessive welfare spending. Therefore, the state must reduce benefits in order to get the unemployed back to work. This means that a return to the growth of the nation requires austerity for the masses.

Such rhetoric fuels a hatred of welfare claimants and the continuing myth of the “lazy poor” and fails to address the root causes of those on benefits that involve “genuine struggle and adversity”, while justifying draconian policies. The austerity agenda “detracts from the actual causes of the crisis and the associated rise in budget deficits—in particular, the financialisation of the economy that ironically has been associated with the rising income of the very rich. If any group in society should shoulder the burden of responsibility for the crisis and its resolution,” he argues, “it is the reckless rich not the downtrodden poor.” The suggestion that a return to the acceptance of low wages as the way to restore economic growth and get people “back into work” without addressing the structural or root causes of the hardship in people’s lives is “bad economic policy”.³⁵⁴ This is but one example that shows how we are the recipients of past ideologies, and illustrate the power of ideology and narrative in justifying and accepting vulnerable populations into often exploitative labour.

Because human rights and post-work literature operate within a neoliberal economy that are currently affecting rights at work and ideas of the right to work, leisure, and social security, this chapter will analyse and unpack certain aspects of neoliberalism as an ideology and economic philosophy. As an ideology, it has become an economic system that has been able to perpetuate and reinforce itself despite its internal contradictions.

This chapter has four sections. First I will go through a brief history of neoliberalism’s rise and the understanding of neoliberalism as an economic policy. As I briefly explained in the Introduction chapter, this type of capitalism has become the dominant, “common sense” “orthodoxy”. Second, I will give a definition of ideology and analyse how neoliberal capitalism as an ideology affects the overarching social, political, and economic environment and the norms it shapes. This is often done through language and ideas, such as “the market”, and the values they disseminate. In the third section, I will briefly differentiate between neoliberal versions of capitalism versus other possible forms of capitalism. Due to the limitations of space, this will not be an exhaustive list, but instead I will compare neoliberalism to another political and economic ideology, social democracy, as it operates in a capitalist framework while also advocating for government intervention with a strong

social safety net and high quality public services, among other things. The last section answers some challenges the reader may have regarding work, stigma, and welfare.

1. Rise of neoliberalism and economic policies

As I have maintained in the Introduction chapter, the type of capitalism that has become dominant, “common sense” “orthodoxy” is neoliberalism. I have given a definition of neoliberalism in the Introduction chapter. In this chapter I will delve a little deeper to analyse neoliberalism as an economic policy, and also as an ideology. Analysing and understanding this ideology is necessary if one is to understand the underlying assumptions and arguments people make when stating that work is a duty, not just a right. Furthermore, the excesses of neoliberal capitalism also highlights why work should be, and is, a human right, and that simply having paid employment is not enough. Human rights (e.g., labour rights) should also protect the quality of work in order to protect human dignity. The Drafters, as well as other organisations associated with the UN, have repeatedly stated that “labour is not a commodity”, and thus working conditions should be fair and safe.³⁵⁵ The selling of one’s labour for cash in order to survive is essential within a capitalist economy. As this thesis is specifically on paid employment and international human rights, understanding the global political economy and the dominant global economic system that defines, frames, and creates a system dependent on paid labour, which in turn impacts individual rights, is essential.

Capitalism on a broader scale of a global economic system interacts and impacts areas such as human rights and labour rights. The political ideology which governs the more mainstream or orthodox views on “correct” economic policies or economic reasoning therefore needs to be examined and defined. Neoliberal policies and ideology have arguably been the most successful in becoming the “common sense” “norm” in global economic policies.³⁵⁶ Peck and Tickell also observe how neoliberalism’s “virtues of free trade, flexible labor, and active individualism has become so commonplace in contemporary politics—from Washington to Moscow—that they hardly even warrant a comment in many quarters ... it has become a commonsense of the times”.³⁵⁷ As Ha-Joon Chang contends, “Neoliberalism has been the dominant economic doctrine of the last quarter century”.³⁵⁸ Scholte concurs, observing that in the late twentieth century neoliberal ideas had gained “widespread unquestioned acceptance as ‘commonsense’” “policy orthodoxy”, and “has generally prevailed as the reigning policy framework in contemporary globalization”.³⁵⁹ Kirkup and Evans echo a similar sentiment that neoliberalism has been adopted “as the new orthodoxy in political economy”, and that in the UK and the US, “‘common sense’ *neoliberalism has driven both*

*the expansion of global market discipline and undermined the pursuit of economic and social entitlement through the state.”*³⁶⁰

This process largely began in the 1970s³⁶¹ and became the dominant ideology during the Thatcher and Reagan era of the 1980s. It received “further legitimation with the 1989–1990 collapse of communism in the Soviet Union and Central Europe”,³⁶² and continued to spread during the 1990s when many third world countries fell into debt and needed the IMF to bail them out.³⁶³ While the structural adjustment policies (SAPs) and the so-called “Washington Consensus” these countries had to strictly adhere to have since been heavily criticised as failing to deliver their promised goals of economic growth and poverty reduction (some commentators wryly observing that instead of lifting all boats, neoliberal policies have instead lifted all yachts),³⁶⁴ the rhetoric and logic of the neoliberal ideology and policies are still heavily prevalent today and thought of as “the norm throughout the world.”³⁶⁵ In fact, Nobel laureate and former World Bank chief economist Joseph Stiglitz also noted how inequality grew: “structural adjustment policies—the policies designed to help a country to adjust to crises as well as to more persistent imbalances—led to hunger and riots in many countries; and even when results were not so dire, even when they managed to eke out some growth for a while, often the benefits went disproportionately to the better-off, with those at the bottom sometimes facing even greater poverty.”³⁶⁶

As Salomon observes, “while neoliberalism (Washington Consensus) is widely understood by even mainstream economists and policymakers to have failed in terms of its announced goals of more rapid economic growth, reduced poverty and more stable economies, *this recognition has not led to a meaningful overhaul of the system.*”³⁶⁷ Peck and Tickell give a possible explanation as to why this is:

[D]iscourses of neoliberalism have proved to be so compelling because, in representing the world of market rules as a state of nature, their prescriptions have a self-actualizing quality. Even as they misdescribe the social world, discourses of globalization and neoliberalism seek to remake it in their own image. Discourses of neoliberalism are “strong discourses” in part by virtue of this self-actualizing nature and in part because of their self-evident alignment with the primary contours of contemporary political-economic power.³⁶⁸

The Washington Consensus and SAPs were a package of policies that included deregulation, reducing public expenditure, currency devaluation, privatisation, the promotion of free markets, financial liberalization, encouraging foreign direct investment, introducing a competitive exchange

rate, fiscal discipline, lower taxes, securing property rights, and small government. The broader neoliberal project is analysed by Peck and Tickell, who label this as the “roll back” and the “roll out” of neoliberalism, i.e., the destructive and creative moments of the process of neoliberalism.³⁶⁹ As Chamberlain summarises: “Rather than unfolding according to a singular logic, during the years of Margaret Thatcher and Ronald Reagan neoliberalism involved the rollback of the welfare state and the reduction of the influence of labor unions, while from the 1990s and into the 2000s, it featured the rollout of the state by constructing individualistic labor-market regulations as well as interventionist and at times paternalistic social policy to address some of the negative consequences of the earlier mode.”³⁷⁰

While SAPs and the formulaic, “one-size-fits-all” approach of the Washington Consensus that the IMF and World Bank required developing countries to follow has since softened with some acknowledgement of its shortcomings, the underpinning ideology of neoliberal values is still overwhelmingly with us today. Indeed, to the present day we are still inundated with phrases such as “value for money” and other justifications of government policies by way of neoliberal market thinking where such cost-benefit analysis or measurements of productivity may not only be inapplicable, but also detrimental. As Meyer contends, neoliberal, pro-market policies have been applied “to almost every area of governing”,³⁷¹ even in areas that are not traditionally associated with the market, or suitable for such approaches to be applied.

For example, Jackson illustrates how measurements of productivity in certain sectors of the economy may not be inapplicable, but that we have become so conditioned by the language of efficiency that “output is everything” and “time is money”. Chasing labour productivity in increasingly quantifiable ways in areas where “it doesn’t stack up at all”, he argues, leads to lunacy. Jackson gives the example of “Baumol’s cost disease”, or the care sector. When asking teachers to teach bigger classes, doctors to treat more patients per hour, and asking nurses to rush from bed to bed, they are no longer able to feel empathy and offer comfort. He argues that being hounded by meaningless productivity targets leads to compassion fatigue in the caring professions.³⁷²

And in line with this shift towards “market thinking”, Sandel argues that over the past three decades we have “drifted almost without realizing it from having a *market economy* to becoming *market societies*.” The difference being, “A *market economy* is a tool, a valuable and effective tool, for organizing productive activity, but a *market society* is a place where almost everything is up for

sale. It's a way of life, in which market thinking and market values begin to dominate every aspect of life: personal relations, family life, health, education, politics, law, civic life."

Sandel contends that one of the detriments of becoming a market society is the inequality to the access of basic goods that occurs. The other is that "with some social goods and practices, when market thinking and market values enter, they may change the meaning of those practices and crowd out attitudes and norms worth caring about."³⁷³ As Weber argued in *The Protestant Ethic and the Spirit of Capitalism*,³⁷⁴ once some principle of organisation, such as market competition or ideological orthodoxy "has achieved dominance in the spheres of production and governance, the rest of a society's institutions find themselves gradually but inexorably adopting the same principle."³⁷⁵

I have given a definition of neoliberalism in the Introduction chapter, and in this section I have given a deeper analysis and understanding of neoliberalism by describing the rise of neoliberal capitalism that has spread as economic policy, so much so that it has infiltrated other areas of our lives that are not market-oriented. As I described above, even "while neoliberalism (Washington Consensus) is widely understood by even mainstream economists and policymakers to have failed in terms of its announced goals of more rapid economic growth, reduced poverty and more stable economies,"³⁷⁶ people nevertheless have continued to support neoliberal policies and the ideology of "the market" that is so often associated with neoliberalism. In the next section, I will give an understanding of the concept of ideology, analyse neoliberalism as ideology, and explain its concomitant growth with human rights.

2. Neoliberalism as ideology

One of the central tenets of neoliberalism is the idea of "the market", and thus neoliberalism has alternatively been called "market fundamentalism". Everything, including the individual, is in service to the market. Hence, productivity becomes a metric in which we have begun to measure ourselves and others.

In very simple terms, an ideology is "a set of ideas, beliefs and attitudes, consciously or unconsciously held, which reflects or shapes understandings or misconceptions of the social and political world. It serves to recommend, justify or endorse collective action aimed at preserving or changing political practices and institutions."³⁷⁷ In even simpler terms, an ideology can be

considered a belief system or a worldview. Everyone has a belief system or a worldview, even if they are not explicitly aware of it. Anderson opines that “we can hardly do without” ideology,³⁷⁸ while Baylis and Smith argue that ideology is not something that is an option.³⁷⁹ “It is not as if you can say that you do not want to bother” with ideology “because all you want to do is to look at the ‘facts.’ We believe that this is impossible, since the only way you can decide which of the millions of possible facts to look at is by adhering to some simplifying device that tells you which ones matter the most.” They maintain that ideology “is such a simplifying device.”³⁸⁰

Anderson further describes ideologies, in a *non-pejorative* sense of the word, as an abstract model that people use “to represent and cope with the social world. Ideologies simplify the world”, helping us “identify the normatively important features of the world.”³⁸¹ Because ideologies are simplifying devices, dangers arise when the ideology over-simplifies or has features that are contradictory or repeatedly bear out to be untrue, yet people still adamantly adhere to them, as belief systems are not easy to change. (Much like supporters of SAPs, despite research showing that neoliberal policies did not, in fact, decrease global poverty, as mentioned above). Ideologies, then, can take on a meaning in the *pejorative* sense of the term. It is worth quoting Anderson at length as she goes through a list of features that help differentiate between when ideologies go from being helpful to unhelpful. Anderson maintains that ideologies become pejorative when they

... mask problematic features of our world, or cast those features in a misleadingly positive light, or lack the normative concepts needed to identify what is problematic about them, or misrepresent the space of possibilities so as to obscure better options, the means to realizing them, or their merits. Of course, no model can capture all normatively relevant features of the world. If it misses only relatively small, random, and idiosyncratic features, we should not condemn it. When these features are structurally embedded in the social world, so as to systematically undermine the interests of identifiable groups of people in serious or gratuitous ways, we need to revise our model to attend to them and identify means to change them.³⁸²

She continues, “This is harder to do when the interests of those who dominate public discourse are already served by the dominant ideology.”³⁸³

While that understanding of ideology, when it goes awry, is helpful, I want to give a further understanding of ideology that expands on the one I gave at the beginning of this Section. Here I follow Ball and Dagger's working definition of ideology:

an ideology is a fairly coherent and comprehensive set of ideas that explains and evaluates social conditions, helps people understand their place in society, and provides a program for social and political action. An ideology, more precisely, performs four functions for people who hold it: the (1) explanatory, (2) evaluative, (3) orientative, and (4) programmatic functions.³⁸⁴

They conclude that, "Every ideology provides a vision of the social and political world as it is, and as it should be, in hopes of inspiring people to act either to change or to preserve their way of life. If it does not do this—if it does not perform all four functions—it is not a political ideology."

I will apply these four functions to neoliberalism to understand it as an ideology. The first is explanatory. That is, an ideology "offers an explanation of why social, political, and economic conditions are as they are, particularly in times of crisis."

James Meadway traces the ideas of neoliberalism all the way back to the 1930s and the time of crisis was the Great Depression. Although Keynesianism was more popular at the time, Meadway notes that there was another incredibly *unpopular* version of capitalism that had a few true believers who stuck by it (such as Friederich von Hayek). It wasn't until the crisis of the 1970s that started to give Hayek and his group their opportunity.³⁸⁵ Western industrialised nations at the time were facing stagflation due to a number of factors, including the US leaving the gold standard by freely floating the US dollar, surging global oil prices in 1973 and 1979, and Keynesian policies doing little to mitigate the effects. Neoliberal pundits and think tanks stepped in to suggest solutions to the problem. While previously under Keynesian welfarism, "the state provision of goods and services to a national population was understood as a means of ensuring social well-being".³⁸⁶ This was clearly no longer working, and neoliberalism, associated with the preference for a minimalist state, offered an explanation that because markets are understood to be a better way of organising economic activity, less government intervention and more market competition was needed in these areas.

The second function of ideology is evaluation. On what grounds do we evaluate social conditions and public policies? If we take the assumption that the market is best at information gathering, such as prices, and the most efficient way of organising social and economic relations, then whatever outcomes arise from it must be the best of all possible outcomes. So long as the actors in the market were able to act freely without undue intervention, and fairly in the sense that no one broke any laws, etc., then inequalities that arose from the market are actually good. Therefore, neoliberals evaluate policies based on what Whyte calls “market sovereignty”³⁸⁷—minimal state intervention while also *expanding* the market. While neoliberal thinkers have often advocated for minimal state intervention in the belief that interfering with the natural order of market dynamics (such as a wealth tax, the welfare state, free education and health care, or other government interventions) or any collectivist undertaking would lead to the eventual slide towards becoming a totalitarian state,³⁸⁸ neoliberals do advocate for government intervention in order to establish a market in areas where there might be none (e.g., water, education, health care, etc.),³⁸⁹ and to enforce regulation that would help the market function better.³⁹⁰ “But beyond these tasks the state should not venture.”³⁹¹

The third function is orientation. An ideology gives its followers a sense of identity, and a way to navigate and orient themselves in the world. Here neoliberals insist that “the best way of thinking about how society functions is to ensure that people think about themselves just as individuals.”³⁹² Like the liberals and neoclassical economists before them, neoliberals orientation is not around group identity, but individual identity, who have interests to pursue and choices to make. And if there are things like concentrations of wealth or power, “if they’ve been arrived at through a market process, through a process of competition, amongst firms, and this sort of thing, then that’s actually the best possible outcome we can get to.”³⁹³

The last function is political programme. An ideology tells its followers what to do and how to do it. “At a base level” neoliberals generally advocate for “new political, economic, and social arrangements within society that emphasize market relations, re-tasking the role of the state, and individual responsibility.” With its emphasis on the idea of the market, “Most scholars tend to agree that neoliberalism is broadly defined as the extension of competitive markets into *all* areas of life, including the economy, politics, and society. Key to this process is an attempt to instill a series of *values* and social practices in subjects. This process can have lasting effects by virtue of being embedded in practices of governance at the local level, which often leads to a sense of neoliberalism being *everywhere*.”³⁹⁴ Market exchange is thus valued as “an ethic in itself, capable of acting as a guide to all human action, and substituting for all previously held ethical beliefs.”³⁹⁵

Thatcher famously expressed these sentiments in her interview with the *Sunday Times*: “Economics are the method: the object is to change the soul.”³⁹⁶

2.1 How Neoliberalism is Viewed as a Pejorative

As we can see above, neoliberalism fits into the conditions of a political ideology. It also fits into the conditions that Anderson points out, when ideology becomes pejorative. As I noted above, even though neoliberal policies were supposed to reduce global poverty, experts admitted it had actually increased it. And although there may be a time and place where market competition is suitable, such as in the buying and selling of certain goods and services, when neoliberal ideology expands into areas that do not suit market logic, the problems I have mentioned above arise.

The central tenet to neoliberalism is the market. Indeed, neoliberalism has at times been called “market fundamentalism”. The value neoliberals attribute to the market, to a religious degree, means that all must yield to the market and its expansion, including individual rights. Maddy Power contends that this “secular faith” has led to institutional arrangements to implement neoliberal values of the market “in every society under neoliberal control.”³⁹⁷ As I touched upon above, because neoliberalism has become the dominant ideology in all realms of life and not just the economy, people have become valued and measured by neoliberal standards that are informed by the priorities of the market.

Power describes this as neoliberalism infiltrating personal identities and relationships through practices of neoliberal self-government.³⁹⁸ Foucault asserts that these are not practices that the individual invents themselves: “They are patterns he finds in his culture and which are proposed, suggested and imposed on him by his culture, his society and his social group.”³⁹⁹ The “patterns” Foucault is referring to that an individual must emulate in the modern era are informed by the priorities of the market.⁴⁰⁰ This is akin to what the philosopher Allan Bloom opined regarding education—that every educational system wants to produce a certain type of human being, and “[a]lways important is the political regime, which needs citizens who are in accord with its fundamental principle”,⁴⁰¹ which in this case would be neoliberalism.

Power remarks that “the neoliberal ethical self” is in short, *homo economicus*. The achievement of being this self, “is contingent upon certain behaviours, including industriousness and obedience to authority.”⁴⁰² We see these types of behaviour being encouraged and exemplified, reflecting and

reinforcing the ascendance of neoliberalism in higher education and inequality today, much to the lament of William Deresiewicz,⁴⁰³ Michael J. Sandel,⁴⁰⁴ and Kean Birch.⁴⁰⁵ This is not just a way we view ourselves and are coerced to behave, but also affects how we see others. The ideals “traditionally associated with the market economy—individualism, competition, profit, efficiency and self-help—shape how we see and judge ourselves, to the exclusion of other determinants of wellbeing and care.”⁴⁰⁶

I will point out two that directly relate to right to work and human rights—Whyte’s description of “market sovereignty” over individual sovereignty in neoliberal thought, and the justification of inequality through the market.

2.2 Market Sovereignty over Individual Sovereignty

The neoliberal justification that supremacy of the market over individual needs or freedoms is necessary because it actually increases individual freedom is a paradox within neoliberalism that ultimately does not benefit the majority of individuals in practice. As Whyte notes, “Liberty, or freedom, is the one value that neoliberal human rights would be expected to serve; but, examined closely, neoliberal freedom is largely indistinguishable from submission to what Mises called ‘the sovereignty of the market’.”⁴⁰⁷ Although neoliberals saw market sovereignty as compatible with individual freedom, they still maintained that “the sovereign market requires individuals to adjust themselves to its imperatives, which means *sacrificing egalitarianism* and *eschewing the project of collective freedom*. They believed that adjustment to the demands of the market was primarily secured by price fluctuations”.⁴⁰⁸

In an unregulated market, Mises contended that wage fluctuations would “penalize disobedience” and “recompense obedience” to the demands of the labour market. The use of this penal language, Whyte observes, makes clear that “the market subject is not free in any expansive sense. The demands of the sovereign market, Mises states explicitly, ‘submit the individual to a harsh social pressure’ and ‘indirectly limit the individual’s freedom to choose his occupation’.” This pressure, however, leaves the individual “‘a margin in the limits of which he can choose between what suits him better and what less’. It is only within this predetermined margin that the neoliberal individual is ‘free to choose’.” This means that the person can choose to work in another city or drive for Uber, but they *cannot* join a trade union, or struggle against the capitalist exploitation of waged labour⁴⁰⁹ because the “organisation of labour and collective bargaining by trade unions are portrayed as

market distortions that impede the formation of a natural hierarchy of winners and losers.”⁴¹⁰ For Mises, ‘this amount of freedom is the maximum of freedom that an individual can enjoy in the framework of the social division of labor’.”⁴¹¹

Hence, free market equalling market supremacy in neoliberal thought and practice illustrates the problems in denying individuals the human rights granted to them. Whyte concludes,

By pathologising mass politics as a threat to individual freedom, neoliberal liberty rights seek to confine human action within what I call the ‘margin of freedom’ offered by a liberal capitalist order. *The neoliberal right to liberty is the right to do anything that does not harm the market.*⁴¹²

This rise of neoliberal right to liberty also coincided with the rise of human rights at about the same time. Here, Tănăsescu argues about two interconnected concepts of the liberal expansion of rights versus the expansion of capital that has become the narrative of the 20th century to today, that “the story of capitalist expansion is told as a separate story from that of the liberal expansion of rights.” He argues instead that it is more helpful to look at the connections, “and one way to see them clearly is by briefly exploring the way in which the contemporary dominance of a globalized economy works on the basis of an increased number of rights, selectively applied.”⁴¹³ The history of the rise of rights in the twentieth century came concomitantly in the Western world, with the ever increasing expansion of neoliberal capitalism.

As Tănăsescu explains, political liberalism therefore became split between two mutually reinforcing poles. One stressed the importance of individual rights, and the other the necessity for free movement of capital. The ideological explanation was that one was indispensable to the other. During the Cold War, the “free world” argued that “its freedom passed through both its upholding of individual rights and its economic liberalism.” Tănăsescu argues that the ideology that unites individual rights with economic liberalism continues to endure,⁴¹⁴ and that it has been a “deliberate program of political economy that has managed to put together two seemingly disparate movements”:⁴¹⁵

This is the genius of the current system of globalized, intense exploitation: it doesn’t merely tolerate the expansion of rights discourses; it uses it to its advantage, ... The way in which this hegemonic system of production/consumption accomplishes this feat is through the

power of the nation state to selectively apply rights in a way that matches with the interests of global capital expansion. This collusion between the national state and capitalist expansion is not a recent invention, but there from the beginning of nations themselves. Without it, much of the structure on which the Great Acceleration depends would collapse.⁴¹⁶

Jessica Whyte also documents in her book the rise of these two coexisting and oftentimes cooperating bodies of thought—neoliberalism and human rights—that were emerging in prevalence around the same time.⁴¹⁷ In her book, *Morals of the Market*, documents the concerted effort during the past hundred years to redefine and enforce a set of rights that were compatible with the market economy.⁴¹⁸ Neoliberals used human rights as tools to “depoliticise civil society, protect private investments and shape liberal subjects.” Due to limitations of space, I will not go through every aspect of her book, but to highlight some relevant parts as to the concomitant rise of neoliberalism and human rights. One of these is regarding humanitarian organisations and the dialogue between the Global North and South.

As James Ferguson writes in the *Anti-Politics Machine*, development agencies try to depoliticise aid through economists and “technical experts” using “objective”, rational, technocratic language to depoliticise very politicised decisions.⁴¹⁹ The often ironic tendency, as has been pointed out by Ferguson in the *Anti-Politics Machine*, is that the depoliticization of aid has given it more political influence. Framing problems of deprivation and poverty as technical problems that need technical solutions, even the most sensitive political operations are thought of and handled apolitically “under the cover of a neutral, technical mission to which no one can object.” And we see this with the language that neoliberals applied.

Whyte documents that because human rights advocates had a specifically narrow focus and made deliberate choices in not getting involved in politics, neoliberal economics was able to flourish. And it was able to do so on moral grounds that it would alleviate poverty, introduce economic stability, and encourage political freedom. Neoliberal thinkers were able to interject themselves in human rights discourse, arguing that politics was violent, coercive, and ultimately totalitarian, and that commercial or “civil society” was the realm of free, mutually beneficial voluntary relations. “Only the widespread adoption of the morals of the market, Hayek argued, offered ‘the distant hope of a universal order of peace’.” Negative connotations regarding inequality were reframed positively as “the apolitical condition of a competitive economy”. While human rights were used in anticolonial

movements to fight for the right to self-determination, neoliberals also used human rights to justify its policies as it “saw the promise of human rights in constraining sovereign power, especially in the post-colony, and in restraining the politicisation of the economy.”⁴²⁰

Whyte documents that the idea that human rights and free markets are essential for conditions of peace and prosperity still lingers on, citing a speech by Hillary Clinton in 2015 that “great democracies” should combat the rise of extremism through ‘free people and free markets, human rights and human dignity’. This belief in “the complementarity of interests and values, free markets and human rights, was central to neoliberal attempts to develop a universal morality to support the global extension of a competitive market. For the neoliberals, unless individuals are free to pursue their own interests on the market, all talk of human rights is meaningless.” Whyte ultimately concludes her book that the insistence that freedom requires submission to the market, and the acceptance of the inequalities it produces, has led neither to equality nor to freedom”, and that a “break with neoliberalism requires a break with the morals of the market.”⁴²¹

We can see how neoliberalism, by putting the market above all else, has co-opted the language of human rights, and has centred the market *above* the individual, rather than what is commonly claimed—that “free markets” promote the freedom and rights of individuals. Instead, we see arguments denying the right to unionise, for example, because it might distort market competition. This goes against Article 23(4), among the many other rights above that neoliberal thinking has justified and shunned. And because the individual is formed by the dominant practices, culture, and patterns they find themselves in, people must submit to the priorities of the market and shape their identities as based on one of individualism, productivity, efficiency, industriousness, and obedience to authority, to become what Deresiewicz calls “excellent sheep”. This evaluation of ourselves and our quantifiable achievements end up infiltrating how we view ourselves and each other.

In addition, this fervent “quasi-religious” belief in the market and market self-regulation has led many to call neoliberalism “market fundamentalism”⁴²² or “laissez-faire *absolutism*”⁴²³ as faith in the market continued, even in the face of policy failures and empirical evidence showing otherwise. Daniel Stedman Jones describes how this faith in markets had become divorced from reality,⁴²⁴ and concludes “Faith, even a secular faith in individual liberty as expressed through free markets, should never drive the application of a model inflexibly, impervious to real social and economic problems.”⁴²⁵ Because of this, neoliberalism as an ideology does not always bear the fruits of its

labour in practice. Neoliberalism becomes, as Anderson described in the previous section, an ideology in the *pejorative* sense of the term, and not just a pejorative used by neoliberalism's critics.

2.3 Market Values, Human Worth, and Productivity

The ideology of neoliberalism centres and prioritises above all else, the maintenance and spread of the market. The spread of neoliberal values, principles, ideas, and justification has spread to all areas of our lives, and as I established above, has subjected and subjugated the individual to the values of the market. Because of this, people are now being judged and valued by how productive a citizen they are, economically. What was debated and finalised as a Universal Declaration of Human Rights and to prevent labour becoming a commodity, to maintain the dignity of the person, and to protect people against the possible harms and excesses of the market if left unchecked, have been superseded by the values of the neoliberal marketplace.

We have seen this in government policies in the last few decades with austerity measures, and a shift from welfare entitlements to a system of workfare, of surveillance, and of invasive means-testing. And we see this dominance in ideology and our belief systems with the language we use. I have discussed how terms such as “strivers vs skivers”, or “benefit scroungers”, the “deserving and undeserving poor” and other terminology have affected the narrative in how we view those less fortunate. By valuing people based on how much wealth they have in a market economy where inequality is justified (because the market knows best), or in some cases, religious belief that wealth is a gift from God because you are a “good person” (Prosperity Gospel or the Protestant Work Ethic), or valuing them based on what jobs they have or if they work at all, society in general has accepted the centring of the market of neoliberal doctrine and profit to that of centring the economy for the benefit of all human beings. And in doing so, we have come to value people based on how *productive* they are. Leisure now has moved from being a necessity, to becoming a luxury, to now being an ever present feeling of guilt. Rest is something that only the lazy or the infirm do.

Discourse about productivity and our worth is something widespread, so much so that it is casually thrown around as a given on social media. One author, discussing her disability, wrote: “We’ve been using our productivity as proof of our worth for too long now. I don’t think it’s accidental that so many of us experience unemployment or disability as a kind of moral failure.”⁴²⁶ Another content creator tells us, “I’m trying to unlearn the urge to constantly produce, as a way to subconsciously earn the right to exist.”⁴²⁷

Power refers to the “vocabularies of the economy” where we “alter ourselves and our everyday relationships”. The language of customer, consumer, choice, markets, self interest, etc., shape our conception of who we are, and our understanding of our relationship to the world.⁴²⁸ The vocabularies of the economy is also used to distinguish between the neoliberal ethical self and “the Other”. Power points out how a person becomes the neoliberal ethical self not only by constant self-improvement and assertive autonomy, but by demarcating their industriousness from those whom they judge and stigmatise as “Others”. This othering is a process by the “non-poor” condemning “the poor”, leading to “further social stratifications according to income, class, gender, disability, race and religion, undermining solidarity among communities and reinforcing the predominance of government. Othering is also, however, increasingly a process by which ‘the poor’ condemn their peers”.⁴²⁹

Now, obviously, I am not arguing that productivity in and of itself is bad, or that being a productive person, or and feeling good at the end of the day about how productive you were is a bad thing. Nor am I arguing that no one should work hard at all, for anything in life, because that might mean we are being productive, or putting in effort for something we know is in our grasp and in our control. What I am arguing is that we should not reduce individuals down to merely how economically productive they are, nor blame individuals who might be unemployed, homeless, or “poor” as automatic moral failings, when there are systemic and structural issues that could also be affecting a person’s ability to get by in life.

What I am obviously arguing is that the dominant ideology of neoliberalism has seeped into all areas of life. So much so that the values of the market are now human values, and those values in turn, have come to determine on some level, human worth. We see this in the language we use, in government policies, in how we allocate blame when resources seem to be scarce. The inherent worth of the individual has given way to the productivity of the market. This idea of productivity and why there should not be a duty to work based on it, will be explored in the next chapter.

Before moving on to the third section of this chapter, I will address two challenges regarding neoliberalism and ideology. The first is the claim that there cannot be an ideology without there being people who espouse it. The second is that nobody nowadays espouses neoliberalism. To give some context, Steger and Roy observe that,

Over the last quarter century, ‘neoliberalism’ has been associated with such different political figures as Ronald Reagan, Margaret Thatcher, Bill Clinton, Tony Blair, Augusto Pinochet, Boris Yeltsin, Jiang Zemin, Manmohan Singh, Junichiro Koizumi, John Howard, and George W. Bush. *But not one of these political leaders has ever publicly embraced this ambiguous label—although they all share some affinity for ‘neoliberal’ policies aimed at deregulating national economies, liberalizing international trade, and creating a single global market.*⁴³⁰

Boas and Gans-Morse note that “neoliberalism is employed asymmetrically across ideological divides: it is used frequently by those who are critical of free markets, but rarely by those who view marketization more positively. In part, proponents avoid the term because neoliberalism has come to signify a radical form of market fundamentalism with which no one wants to be associated.” They concur with Steger and Roy that “One compelling indicator of the term’s negative connotation is that virtually *no one* self-identifies as a neoliberal, even though scholars frequently associate others—politicians, economic advisors, and even fellow academics—with this term.”⁴³¹

I would argue, yes. Even if no one espoused or called themselves a neoliberal, the ideology as an *ideology* would still exist. That is, if every person professing to be a Marxist or a Liberal died, and no one alive admitted to being a Marxist or a Liberal ever again, the ideology would still exist conceptually. It may not exist in practice if no one acted in a way that followed those worldviews, but conceptually it is still an ideology that exists. Or if no one ever openly admitted to being a neoliberal, the ideology would still exist, and someone in the future more willing could call themselves an adherent of it. Which brings me to answer the second challenge.

The second challenge, that nobody nowadays espouses neoliberalism, is now outdated and untrue. Unfortunately for Steger and Roy, and Boas and Gans-Morse, the political and economic climate has changed considerably, and their observations may need to be amended. A simple Google search will find a small but growing number of individuals and think tanks trying to reclaim the word to be something more “positive” than the negative associations with the term, and calling themselves “neoliberals”. Although their economic viewpoints and policies may differ somewhat from one another, and indeed differ somewhat from what I have outlined above and of the definitions and understandings of other scholars I have given, nevertheless, an increasing number of people self-identify as a neoliberal. The core tenets that define or are “short-hand” associated with neoliberalism, however, remain the same: market-focused, growth-focused, and individualism-

focused.⁴³² The Adam Smith Institute has decided they are self-professed “free market ‘neoliberals’” instead of libertarians.⁴³³ An LA Times journalist in 2017 wrote an article entitled, “I’m a neoliberal and I’m proud.”⁴³⁴ Another more recently in 2020 called himself a “Conservative neoliberal.”⁴³⁵ However, even if these individuals or organisations did not call themselves neoliberals, I would still argue that an ideology without there being people espousing it, is still an ideology, especially conceptually as I argued above. And even if people do not want to be associated with what is still largely considered a pejorative, that does not mean that they do not follow or align themselves with neoliberal beliefs. And as we see with the change of events, despite no one espousing neoliberalism or admitting to being a neoliberal in the past, it still existed as an ideology. So much so that it has now gained some adherents.

3. Varieties of Capitalism

When asked to distinguish between neoliberalism and capitalism, Meadway used the example of rugby:

[W]hat we’re talking about here is the rules of the game of capitalism. That you can kind of play the same game but change the rules over time. If you think about rugby where I’m from, they play rugby league. This is a different set of rules to playing rugby union like you get down in the south. It’s the same game, but you change the rules around and things end up working out quite differently. This is exactly what you get with neoliberalism. There are other rules you could have to run capitalism. The rules that we have are neoliberal, and stress privatisation, free markets, and allowing corporations and the wealthy the space to do their thing as far as possible.⁴³⁶

There are a variety of ways countries organise their economic and political systems, leading to economists categorising different types of capitalism.⁴³⁷ There are also different stages to capitalism that I mention in the Introduction chapter. To quote D’Souza again, “Capitalism has evolved ever since but the evolution is marked by *qualitative* transformations at crucial junctures in its history. The capitalism of today is not the same capitalism that existed in the seventeenth and eighteenth centuries. The qualitative changes mark different stages of capitalism.”⁴³⁸ These different stages throughout history have led to the stage of capitalism that we are in now, which I would argue is largely a neoliberal form of global economic governance. Due to limitations of space, I will not go into all of the different ways or criteria economists and academics classify different types of capitalism,⁴³⁹ or go into the history of the emergence of capitalism as it is today.

Instead, I will focus very briefly on neoliberalism versus what might be considered a “non-neoliberal” version of capitalism that people looking to remedy the harms of work and neoliberal capitalism might consider a “better” way of economic governance. “Better” could involve respecting human rights, improving social cohesion by limiting economic inequality, strengthening the social safety net, and more market regulation and policies promoting social justice, for example. One example might be social democracy. To give a definition,

The idea of social democracy is now used to describe a society the economy of which is predominantly capitalist, but where the state acts to regulate the economy in the general interest, provides welfare services outside of it and attempts to alter the distribution of income and wealth in the name of social justice. Originally ‘social democracy’ was more or less equivalent to ‘socialism’. But since the mid-twentieth century, those who think of themselves as social democrats have come to believe that the old opposition between capitalism and socialism is outmoded; many of the values upheld by earlier socialists can be promoted by reforming capitalism rather than abolishing it.⁴⁴⁰

Colin Croust, for example, in his book *Making Capitalism Fit for Society*, offers a critique against the dominance of neoliberalism by “making a pitch” for social democracy.⁴⁴¹ When rejecting neoliberalism, post-work theorists are in opposition to neoliberal capitalism. The precarity it begets, the inequality and use of unemployment as a policy tool, are just a few of the things post-work theorists may detest about neoliberalism. A form of capitalism that has a stronger social safety net, stronger worker rights, and a government focus on social justice may be a better path away from neoliberal policies. Or it could be a step towards non-capitalist forms of economic and political governance in the future for those who may advocate for a rejection of capitalism outright. For example, those who believe that a techno-utopia will save us from any need to work.⁴⁴²

4. Don’t Robust Welfare States Supersede the Right to Work?

Another challenge that has been put before me in response to my argument that not having paid employment leads to stigmatisation, as well as not being able to access one’s basic needs. There are other reasons a “right to work” in actuality means a “right to *be*” that goes beyond mere subsistence, to keep “body and soul together”, to pursue what one sees as “the good life”, that I have discussed in previous chapters. The right to work goes beyond just avoiding stigmatisation, although that is part of why it is important. It also goes beyond a loss of economic citizenship and

therefore access to basic needs, or a loss of subsistence. However, this is the challenge that I have to address that essentialises and simplifies what the right to work stands for.

They make a country specific challenge that, “There are lots of countries in which one can gain subsistence without working, because the welfare state is robust enough to support non-workers.”

Paid employment and the welfare state have a complex, contradictory relationship. Much could be written about the two in relation to each other. However, in response to the challenge “There are lots of countries in which one can gain subsistence without working, because the welfare state is robust enough to support non-workers”, let me start off by saying I’m not sure which countries the examiner was on about, as he gives no specific examples, despite there being “lots of countries”. I assume that because the welfare state is so robust that it can support non-workers to gain subsistence, there is an underlying assumption he means they can do this *indefinitely*, and that is why there is no pressure for them to work. If that is the case, then I think it would be safe to assume there is also no social stigma to unemployment or pressure attached to finding work (otherwise the robustness of the welfare state and its policies would constantly be called into question and reversed), and therefore people no longer feel the need to work and have no reason to work.

If that is the case, I must additionally assume that the welfare state is so robust, and divorced from any real life context, that for there to be no social stigma attached to unemployment, there are then also no societal and cultural norms and language and attitudes surrounding unemployment that stigmatises people in any way who do not work. Let me save you time by stating that no such country exists. Here is why.

As I have illustrated above regarding the ideology of “the market” and productivity under neoliberalism, no such state actively engaging in the global economy such as the vague and loaded question above refers to exists. Some countries may advocate for, or be more focused on, alternative country indicators than others (such as Gross National Happiness or other alternative measurements as opposed to the now essentially universal GDP) to measure a nation’s progress.⁴⁴³ And while different countries with different cultures and histories have inevitably led to neoliberal economic policies to translate differently depending on these factors and their geopolitical standing, at the end of the day, the majority of countries actively enmeshed in and engaged with the global economy contend with the same political problems that a Westphalian system of state sovereignty within a neoliberal global economy puts on its citizens: how to manage the (paid) productivity of its workers.

As David Garland points out,

Welfare policies are rarely carried out smoothly because while the relation between the welfare state and market capitalism is functionally necessary it is also structurally contradictory. In welfare state societies, privately-determined economic action and publicly-determined social protection are shackled together. The result is a contradictory hybrid in which *each structure works to sustain but also to undermine the other*.⁴⁴⁴

So, no. There is no country in the world where the welfare state is so robust that absolutely no stigma is attached for those who do not, or choose not, to work. The question itself is tinged with an unfalsifiable nature as it lists no specific countries as examples, despite claiming there are “lots” of them, surely, to choose from. Even governments famed for having the “best” or most robust welfare states, often associated with Scandinavian countries or the “Nordic model”, still pressure and have policies in place to actively encourage the unemployed to get back to work.⁴⁴⁵ No country in the world encourages long-term unemployment or dependency on the State.

No government openly encourages its citizens to live and be entirely dependent on the state long term. Economists and policy makers often debate whether generous welfare benefits decrease people’s incentives to look for stable, steady work, and therefore increase dependency, but that is a very different argument from saying governments explicitly design policies to encourage long-term unemployment. And even then, some countries that are often touted as having robust or strong social safety nets such as those in the “Nordic model” have *higher* employment rates and *lower* unemployment rates than countries often associated with much weaker welfare systems.

For example, despite their generous unemployment benefits, the employment rates in Denmark and Sweden continue to be among the highest in the EU, and in terms of long term unemployment both countries continue “to be at the top of the league with a very low share of long term unemployed.”⁴⁴⁶ Nordic countries in addition to Denmark and Sweden also have high levels of employment in general, despite being known for having a “generous” welfare system.⁴⁴⁷ Because, again, no country actively encourages long-term dependency on the state, and even Scandinavian countries or countries within the “Nordic model”, still pressure and have policies in place to actively encourage the unemployed to get back to work. If there was no stigma attached to unemployment whatsoever because welfare benefits were so generous, then the employment rates

wouldn't be so *high*, and governments wouldn't be trying so hard to get people back into work, even in countries with "robust" welfare systems. That is why there is a right to work in the UDHR, so that people may avoid the stigma of unemployment, but also have the right to a decent standard of living for the full development of their personality.

Even more isolationist and so-called "communist" countries such as North Korea, which are largely outside of, but not completely immune from, international trade and the global economy, values labour and work. For example, people in North Korea are paid wages and grain rations for their labour in the professions they hold, as refusing to work can mean imprisonment at a re-education camp.⁴⁴⁸ As Judith Shklar observed, both America (a capitalist country) and the Soviet Union (a communist one) valued labour and work so highly that work was not just considered a right in both countries, but a fundamental *duty*.⁴⁴⁹

The *only* country I can think of, where welfare is so robust that those who are unwilling or unable to work and be as productive in paid employment as other members of society, and somehow not be stigmatised in the media, by politicians, or by society in general, is the country of Utilitaria. In Utilitaria, the state provides everything for those who need them (maternity care, day nurseries, education at every level, health care, sick pay, unemployment compensation, care for the elderly, etc.),⁴⁵⁰ so there is no reason or justification for an individual to say they cannot contribute through their labour. Therefore, meritocracy in Utilitaria reigns supreme, and any contribution made is credited to the group, but failure is contributed solely to the individual. The belief in Utilitaria is that if someone is *unable* to contribute, it is nobody's fault, and if someone is *unwilling* to work, then they have no one else to blame but themselves.⁴⁵¹

While there are many problems and flaws Utilitaria faces despite the material benefits it provides to its "worse off", i.e., less productive citizens, I will not go into these and instead move on to point out the obvious instead. That this country, of course, only exists in the imagination, in Steven Lukes political fantasy book, *The Curious Enlightenment of Professor Caritat*. The protagonist journeys from country to country, fleeing his homeland of Militaria to find the "perfect" society to write back to the rebels to help them fight the Militarist government. Even if someone argued that we should take the fictional country of Utilitaria seriously, with their material provisions for the citizens of Utilitaria's least productive members of society, and argue that maybe there is something we can learn from this fictional system, obvious problems within Utilitaria arise.

In Lukes' simplified interpretation of utilitarianism, Professor Caritat soon learns that beneath the surface, the welfare benefits do not go as deep as they first seem. He is explained to by a Minister that those who cannot work in any capacity, while not their fault, are nevertheless eventually put out to pasture and do not get welfare benefits, such as medical care, if their disability is very severe. This is measured on a points-based system depending on the severity of their disability or handicap. "The higher your score the less entitlement to medical resources."⁴⁵² A broken leg is 3 points, blindness 6, and not being able to use scissors even higher. Although a similar system can be said to be followed in real life regarding limited hospital beds and other resources versus the length of life (doctors call this QALY),⁴⁵³ to have it on a nationwide scale based on a person's productivity and impacting all areas of life, not just access to medical resources, has its own obvious disadvantages. This is especially true regarding human rights and how Utilitarians view the inherent worth of a person in their own society.

Utilitaria, in the footsteps of its founder Jeremy Bentham, does not believe in inherent human rights, as they are nothing more than "nonsense upon stilts." Citizens only have worth insofar as how much they can produce in society, and those who are no longer able to produce as much, or at all, either through old age or disability, are eventually forced to give up their organs to younger, more productive members of society who needs them. This seems to be in contradiction to an earlier statement in the book—that there is a welfare floor that no one can fall below, even if they are not as productive as others, as your life could be cut short because your age or disability is unable to grant you medical care based on how productive an expert thinks you might be. As such, the state determines whose lives are sacrificed early for the greater benefit of society. Valuing an individual not on the inherent worth of them as human beings, but solely as productive units, leads to other moral problems that those outside of Utilitaria might find suspect or even morally repugnant.

Another problem with using Utilitaria as a possibility or guide for the real world, is that it is a place seemingly devoid of the influences of the Protestant Work Ethic that historically has informed and justified aspects of labour, capital, and God or morality, impacting the wider societal discourse of beliefs. Especially rhetoric we still hear today from politicians and the media of the deserving versus undeserving poor,⁴⁵⁴ and the othering and stigmatisation such framing brings to the impoverished.⁴⁵⁵ So even then it would be irrelevant if someone used this fictional country as a possible, hypothetical challenge.

Utilitaria does not have the baggage of history, religion, real-world political events, etc. that countries and individuals face within the context of a welfare state versus work-centred society. It is instead a fictional and symbolic state existing in a vacuum, removed from context from those complicating influences that states and individuals face today. There are also different forms of utilitarianism, and Lukes' book was only fancifully dealing with a simplified version to illustrate a point, rather than an exhaustive approach in the advantages and disadvantages of different offshoots of utilitarianism.

Finally, a country that prioritises productivity and quantifiable measurements above all else means they do not or perhaps cannot value other things as importantly, such as freedom, love, or things that are transient or unquantifiable. Suicide rates are admittedly "very high" in Utilitaria, but because suicides are "appropriately distributed, [it] can make a real contribution to the overall sum of happiness."⁴⁵⁶ The things worth living for in life are *only* those that can be quantifiable measured in Utilitaria, for the future benefit of all, and never those that are immediately or otherwise felt, experienced, or believed, because experts and futurologists are there to calculate and make life decisions for you. Immigrants, those seeking political asylum, refugees, etc. it is noted, are only accepted based on how they directly contribute to Utilitarian society, and whether they directly benefit the citizens of Utilitaria with their presence in the country. Their individual welfare and safety, if immigrating to Utilitaria, is not taken into consideration, nor is their inherent worth or rights as a human being.

Professor Caritat's letter to the rebels eagerly awaiting news from his journey was quizzical:

They do, however, have an unrelenting, all-absorbing interest in something else—in whatever it is that is the source of all their smiling and the object of all their calculations. They debate over who is to decide how to maximize it, they punish those whom they see as diminishing it, they defend themselves against those whom they see as threatening it. *But what is it? I have to confess that I have yet to find out.* And none of its various names—'utility', 'happiness', 'well-being', 'want-satisfaction'—help. It's as though their whole way of life is founded on an arcane mystery, a sacred essence, an unfathomable secret, a value unrelated to any other. It seems to be quite unconnected with any particular social relationship or community, such as friendship or the family, and, as I have said, *caring for it does not appear to imply a desire for freedom.* Yet they believe in it totally and act as though

they can calculate its extent with precision and by their actions bring about the maximum amount of it possible. It is the strangest religion I have ever come across.⁴⁵⁷

It is safe to say Caritat did not think this world was the “ideal” world for people to live in. John Maynard Keynes noted the same problem of trying to find the meaning of what “it” is, when considering the problem of work versus leisure. In leisure, one is not productive at all in the traditional sense. But why then should leisure be considered a basic good? Because, according to Lord Skidelsky, a life without leisure “where everything is done for the sake of something else, is a half-life. It is a life spent always in preparation, never actually living.” He quotes Keynes in that the purpose of the man, the man without leisure, ““does not love his cat, but his cat’s kittens; nor, in truth, the kittens, but only the kittens’ kittens, and so on forward forever to the end of cat-dom.’ Such a man is always looking forward to a consummation that he can never in the nature of the case actually enjoy, so his life has something absurd or futile about it.”⁴⁵⁸ We see this problem overlap with neoliberal capitalism as well, where Baumol’s cost disease and the obsession with quantification, productivity, efficiency, and a profit-driven market ideology ends up overreaching into areas where quantification is inapplicable, as I explained in previous sections of this chapter.

In sum, no such country as described by the examiner (who failed to list a single country himself) exists. In addition, no state encourages longterm dependency on the government, as robust welfare measures are still written to be a short-term safety net for those falling into unemployment. Dependency on the state is not meant to be a longterm or even permanent solution for citizens. And as I have highlighted above, even a fictitious country with its own internal logic cannot save the argument that a country with a robust welfare state would lead to no stigma or other material and societal harms for the individual with no employment, or poorly or lower paid employment. Productivity or work is still expected from citizens and measured as the entire worth of a person in this fictitious world. And even then, it is a world devoid of the history, narrative, and religious context within which these debates between work and welfare take place. Finally, a society that has no regard for human rights or the right to be, and only values a person depending on how much they produce, brings about ethical challenges of its own that one could argue are questionable at best.⁴⁵⁹

Conclusion

Neoliberalism as an economic policy and ideology has had a profound impact on human rights in general, and on the right to work in particular. I have gone through the history of neoliberalism’s rise and the understanding of neoliberalism as an economic policy. I then established how

neoliberalism can be viewed as an ideology, and when ideologies can falter. I analysed the centrality of the market in neoliberal thinking, over individual sovereignty and freedoms, and highlighted throughout how the language of the dominant ideology of neoliberalism influences how people see inequality, unemployment, individual responsibility, and freedom.

All of this culminated in how market values have superseded what it means to be human, so that the inherent worth of the individual gives way to their worth being judged on their productivity for the market. I also responded to the challenge of whether neoliberalism can be considered an ideology if no one calls themselves a neoliberal, due to the negative connotations heavily associated with it, or not. And last, I established how there is no country in the world that encourages lifelong dependency on the state, and with no stigma, no matter how robust or generous their welfare system, rendering the challenge that “There are lots of countries in which one can gain subsistence without working, because the welfare state is robust enough to support non-workers” as simply untrue.

Now that I have established the theoretical background in the last three chapters, the last chapter ties it together to make an argument that while there is a moral right to work, there should not be a corresponding moral duty to work within the context of a neoliberal global economy where human rights are there to protect us against the excesses of the market.

IV

THE RIGHT TO WORK VERSUS THE DUTY TO WORK

*Labore nutrior, labore plector*⁴⁶⁰

*He who does not work, neither shall he eat.*⁴⁶¹

–1936 Soviet Constitution, Article 12⁴⁶²

Work is the best form of welfare.

Department for Work and Pensions, 2008⁴⁶³

The law, in its majestic equality, forbids the rich as well as the poor to sleep under bridges, to beg in the streets, and to steal bread.

Anatole France, *The Red Lily*, 1894

I have already established how there is a legal right to work in international law, but as to a moral right to work, I have already touched upon a few arguments. In this last chapter, I will first address the challenge that work is an inherent good, and explain why that is not necessarily true. I will then briefly touch on a broader debate of rights versus duties, and then I will move onto the final argument within the context of international law and neoliberalism, that there should be no legal or moral duty to work.

1. Is Work an Inherent Good?

As I pointed out in the last chapter, some things are considered so sacred, such as work, that it turns into a duty to work in some people's minds.⁴⁶⁴ And in fact, people tout the benefits of paid

employment as being necessary to the quality of a person's life beyond the monetary compensation.

However, there is another layer to this complex right that leads to additional questions of work for those who do not analyse the underlying reason for why it exists in the first place. People may argue, for example, about how much they love their jobs and get a sense of identity and purpose from it. What would we do with all our free time if we didn't have work, others may ponder. What about inclusion and a sense of community we get when we chat with our co-workers over coffee, or feel our job is meaningful because it helps other people and is necessary, such as a janitor or a business owner? If work is what makes the world go round, does it not make sense that if human rights are meant for human flourishing, and for those of us who have jobs that pay a living wage and give us a sense of purpose, should work not be a right for reasons other than subsistence?

The problem with this argument is that it does not get at the core of the issue. Yes, for those who have jobs that give them a decent wage that allows them to live as an agent to pursue their goals, and lets them work with dignity, it might very well be that work aligns to their idea of what a human right should be in terms of human flourishing and agency. For example, because work is where most people spend most of their time throughout the week, this is where people meet and develop social relationships with others. Not only through those relationships, but having a job may give one a sense of membership in society. It could be said that work brings not just material, but also crucial non-material goods to a person that is necessary for their human flourishing. Gheaus and Herzog, for example, argue that there are at least four non-monetary goods associated with work: 1) excellence in the cultivation of our skills, 2) contribution to society, 3) a sense of community, and 4) social status. It is mainly through work that people gain these four goods.⁴⁶⁵ Others argue that in order to enjoy "equal citizenship" and not just legal citizenship, that is, despite having the same legal status as a citizen but treated poorly in society such as women, people of colour, etc., one can only enjoy such rights through access to good jobs or decent work.⁴⁶⁶

Regarding their first non-monetary good, the problem is that most jobs do not exercise all or most of our faculties, allowing us to cultivate our skills and feeling a sense of acquiring a level of excellence. This applies especially to jobs that require mundane, repetitive tasks, or jobs for those who are overqualified but having to take any job that is available in an increasingly competitive market. Nor are they necessarily fulfilling, or pay a wage that gives them a sense of autonomy or freedom, negating Gheaus and Herzog's second non-monetary good. For example, Bryson,⁴⁶⁷

Hunnicut, ⁴⁶⁸ Hester, ⁴⁶⁹ Srnicek and Hester, ⁴⁷⁰ and others note that while raising children and caring for the sick is essential work, these jobs are compensated poorly or not at all. Even if one had jobs that cultivated our skills, one does not necessarily need paid employment in order to do those things. “Leisure is a capacity,” David Frayne argues, with anthropologist David Graeber arguing that the absence of work would produce a richer culture: “The postwar years, when people worked less and it was easier to be on the dole, produced beat poetry, avant garde theatre, 50-minute drum solos, and all Britain’s great pop music—art forms that take time to produce and consume.” ⁴⁷¹

Other problems regarding the last two arguments such as a sense of community or inclusion, in addition to identity (such as social status) and perhaps even purpose fall short when looking at post-work literature on work versus leisure time. “In a post-work society,” Hunnicutt has said, “people might spend more time caring for their families and neighbours; pride could come from our relationships rather than from our careers. ... [C]olleges could reemerge as cultural centers rather than job-prep institutions. The word *school*, he pointed out, comes from *skholē*, the Greek word for ‘leisure.’ ‘We used to teach people to be free. ... Now we teach them to work.’” ⁴⁷²

One could argue that the unemployed then should have the most time for leisure. Yet studies often find that those who are unemployed spend it either sleeping or in front of the television, and express more mental and physical ailments. ⁴⁷³ Is this not a reason, most pundits argue, to encourage people to work more and not less? As Thompson wryly notes, the social isolation these people may feel is but inevitable without work, writing “it is surprisingly hard to replace the camaraderie of the water cooler.” But many who make that argument are missing the point. It is not work itself that intrinsically gives people meaning to their lives. It is the community and social cohesions around work that people miss, and it is the social stigma that is associated with *not having work* that lead people to deliberately isolate themselves.

This is shown in David Frayne’s *The Refusal to Work*, where Frayne looks into the lives of people actively resisting nine-to-five employment. ⁴⁷⁴ Most of the participants found “modern labour to be as damaging and unhealthy as unemployment is generally alleged to be.” ⁴⁷⁵ Even those who lived by their own means felt stigmatised for not doing paid work, illustrating further that it is not work itself that gives people meaning, or is better for mental health than unemployment, but social stigma that can lead people to be unhappy while unemployed, sometimes, even when they are living by their own means. Whether people have jobs or not, the underlying point of post-work literature is

that work is tied to basic sustenance, it commands the majority of our day and attention, and it is also where we interact the most with people. This does not make leisure less important, but more.

Swidler stresses that,

Without vital public spheres and cultures, leisure is unattractive; if and when we become individuals without an imperative to go to work, and if we are simultaneously without a community to be part of, we have “time on our hands,” time to be filled, time to be “killed,” time to be “passed.” We need to “stay busy.” When work so fills our lives and our society that we go to work even on days off to be in the company of others; when we do not take vacation days because we do not know what to do with ourselves outside work; when schoolchildren eagerly anticipate returning to their hated schools because time hangs so heavily on them in the summers; then there is no doubt that work reduction cannot be instituted individually. An alternate, collective, social world must co-exist with our work worlds, to provide an alternate home, an alternate web of connections, an alternate identity, an alternate constellation of values, activities, and purposes, even alternate markings of time.

Circularly, the commons and the public sphere require adequate leisure. To restore a social world independent of the market and the workplace, and to keep the commons vital, we need the leisure time to inhabit the commons. We also need our communities to have time to be there with us—hanging on the porch chatting, shooting hoops at the rec center, jamming in the basement. In other words, we need both a vital cultural commons beyond the world of paid labor and we need a leisure ethic, a constant challenge to the very concept and valorization of work. A leisure ethic and the public commons depend on each other. And for both of these, collectivity is key. With the communal revalorization of leisure, by pushing back against the constant attempts of capital to encroach on work-free time and the unmonetized forms of everyday life and community, we take up the most foundational struggle, the struggle against work itself.⁴⁷⁶

While there is nothing inherently wrong with people identifying closely with their job, harms can come about when they let their jobs define them and let it determine their value and self-worth. Psychologists call this “enmeshment”, where boundaries between people become blurred, and individual identities lose their importance. This is not just with people, but can happen when a

person becomes enmeshed with their career. It can have disastrous effects as it can make the person vulnerable to identity crisis if they get laid off, burn out, or retire, leading to anxiety, depression, or even substance abuse. Living in a culture that idolises and encourages people to find their “calling”, with their goal in life to find it in order to give their lives purpose and meaning, may set people up for disappointment if they do not, or to feel as if they have failed.

While there may be people who love their jobs, perhaps even identify very closely with it, and feel they get the four non-monetary goods that Gheaus and Herzog mention, the fact remains that we don’t necessarily need work for those things. People tend to think that work is inherently valuable because it is the main thing, if not the only thing, which gives the majority of the population certain material and non-material goods. However, as many post-work theorists posit, that is not necessarily true. Because work commands most of our attention and takes up most of our time, work is the space where those things more often than not happen, because we cannot be anywhere else even if we wanted to, because we need to be there in order to get paid and make a living. So while it can provide human flourishing to a certain degree, as Swidler, Hunnicutt, and others argue, it is not work per se that is needed for human flourishing. For human flourishing, a change in how society orients itself regarding work and leisure, genuine freedom and time, and a change in how it values or stigmatises the types of work people do would help us reach that goal better.

2. Rights versus Duties

The beginning of the chapter outlined how human rights are generally thought of as claim rights. That is, if A has a right, B has a duty to fulfil that right. So in the case of a right to work, who has a duty to ensure that people indeed have a right to work (in order to ensure they are able to provide for themselves)? Mantouvalou rhetorically asks, if there is a right to work, “Against whom is the right held: an employer, the state, trade unions?”⁴⁷⁷ Although she does not answer the question directly, there is an argument to be made that corporations might have such a duty. After all, companies are the ones that provide jobs to people. In addition, multinational corporations are sometimes richer and have more financial resources than some small, independent states. A study done in 2016 by the NGO Global Justice Now, looked at a hundred of the largest economic entities in the world and found while the top nine were countries, Walmart came in at tenth, beating the government revenue of major global economies including Australia, South Korea, and India.⁴⁷⁸ In fact, 69 out of the top 100 economic entities were corporations, not countries, with Walmart, Apple, and Shell being richer than Russia, Belgium, and Sweden. In 2017, Walmart’s revenue was

\$485,873 million—more than the GDP of Belgium. If it were a country, Walmart would be ranked 24th in the world by its GDP.⁴⁷⁹ We are also seeing the rise of what McGoe and Thiel have called ‘philanthrocapitalists’.⁴⁸⁰ These billionaires (Jeff Bezos is projected to be the world’s first trillionaire by 2026)⁴⁸¹ engender forms of structural violence that are similar to, but differ from, the robber barons of the past, reshaping philanthropy to their own advantage.

Nevertheless, despite the increasing influence, impact, and power of non-state actors (or even mere individuals) on the international stage, in the field of international relations, while recognising this growing importance, still tends to recognise and theorise mainly around states as being the primary, if not only, legitimate actors. This is especially true under international law where representatives of states, not the heads of corporations, draw up, ratify, and sign treaties. In addition, it is not just the right to work, but rights in general that are upheld by laws and institutions legislated by government, not corporations. In mature, liberal Western democracies, in the broadest sense, a “social contract” between citizens and their government exist, and it is through this understanding of representative democracy that governments are expected to provide security and order for citizens to consent to their rule. The duty falls, therefore, on the government to provide some sort of provision to ensure that their citizens have at least their basic needs met. A right to adequate material provision, then, would mean as discussed above in the current status quo, a right to work. If there are any obligations that corporations or workplaces are expected to provide for their employees, it is often in training, equipment, or basic necessities such as toilet roll (a scarce commodity during the beginning of the pandemic),⁴⁸² electricity, coffee, tea, water, etc. Even these are starting to be called into question as more and more people are expected to work from home, and how much workers now have to pay out of their own pockets for their utility bills working from home, and how much of it was and should continue to be provided by companies have sparked debate.⁴⁸³

A lot of the contention in the right to work, then, is not who has a duty to provide people with work, but whether the *right* to work should really be a *duty* to work.

“What duties, if any, does international human rights law establish for individuals, corporations, and private actors?” Knox asks. In analysing this, it might be helpful to look at his analysis of correlative and converse duties.⁴⁸⁴ “For many years,” he observes, “the conventional answer has been that [international human rights law] places duties on states to respect the rights of individuals and creates few or no private duties. In other words, human rights law is aligned vertically, not

horizontally. But this view has been regularly challenged.” Converse duties run vertical from the individual towards the state itself, such as duties of citizens to not break the country’s laws, pay taxes, or participate in military service. “They run conversely to the vertical duties of the government to promote and protect the individual’s human rights. ... these *converse* duties have the potential to undermine human rights because the government may rely on them to offset the duties it owes to the individual under human rights law. To cabin this danger, human rights law generally refuses to list converse duties and restricts the authority of governments to use such duties to limit human rights.”⁴⁸⁵ Correlative duties on the other hand, run horizontal between or across actors. They are duties we have towards one another, i.e., they are private duties to respect the human rights of others. Knox argues that, “These duties are truly horizontal, in the sense that they run between actors on the same legal plane, and, unlike converse duties, they appear to further, rather than undermine, the enjoyment of human rights.”^{486 487}

Against a background assumption that a central problem of political life is the protection of individual liberties against a credible threat of tyranny or oppression, certain fundamental rights were theoretical attempts to distinguish between legitimate and illegitimate uses of power by the state, and were primarily to constrain the use of a government’s monopoly of coercive power. That is why rights such as the freedom of speech or other civil and political rights are protected with the assumption that if they are not, a government may very well try to trample on the rights of its critics and detractors. However, just because one has the right to free speech does not mean one is forced to speak at every opportunity, nor does it necessarily mean one has a legal duty to speak. A right to marry does not mean you must marry or have a legal duty to marry, and indeed there are those who do not want to marry and argue that by choosing to be single they are discriminated against by certain tax laws, in society, at work, and so forth.⁴⁸⁸ How then, has a right to work turned into a duty to work? When looking at how rights can become duties, especially regarding the right to work, Paz-Fuchs notes:

The cause for theoretical embarrassment from the above question [How can rights become duties?] arises, it would seem, from the legal and intuitive notion that a right to X includes also the right not to X. Thus, the right to freedom of speech includes the right not to speak. It seems obvious, therefore, that one’s right to speak (or pray, or marry, or join a union) does not carry with it one’s *duty* to speak (or pray, or marry, or join a union). An individual’s right to autonomy justifies allowing her to decide whether or not to make use of her given rights. They provide a strong reason to place a duty on the state, and not on the individual herself.

And yet, as explained below, the governing theory of rights, known as the ‘Interest (or Benefit) Theory’, carries with it the seeds of correlation and conflation, the danger that, if one is not careful, a right to X would seem inseparable from a duty to do X. It is therefore important to briefly outline the Interest Theory of rights.

A simple account of the Interest Theory holds that Jack has a right that Jill performs A, and hence Jill has a duty towards Jack to do A, if and only if Jill has a duty to do A *and* performance of A by Jill would benefit Jack. We find, therefore, that the Interest Theory identifies rights by reference to the duty that society holds, and only if it is understood that the duty is grounded in the putative-right holders interest.⁴⁸⁹

Thus Paz-Fuchs reasons, if we accept that work (or voting) is of such fundamental importance that society feels obligated to guarantee it as a right to individuals, “it is a short step towards the conclusion that the very same significance justifies *forcing* the individual to act upon that right (to work, or to vote). The same line of thought that suggests that a right to X is justified by the value *society* places on X, may (though by no means, must) lead to the conclusion that ‘the right to X and the duty to do X are inseparable’ (*emphasis in original*).”⁴⁹⁰ Much like Wenar above on the controversy between negative (civil and political) rights and positive (economics, social, and cultural) rights, and the demoted status that positive rights can sometimes carry, Paz-Fuchs notes that even “within this group of de facto second class rights, the right to work is often deemed less than worthy.” The reason for this, he suggests, is that the right to work carries a special burden, “a spectre that looms above: the fact that the right to work is understood as intimately connected to the duty to work, or perhaps even *is* ‘a duty to work in disguise.’”⁴⁹¹

Paz-Fuchs distinguishes between two main justifications that favour and confuse the right to work and the duty to work. The first he categorises under the heading of ‘citizenship,’ the other “on the material and moral well-being of the individual” or ‘paternalism’. The citizenship argument focuses on the relation between the individual and society. It suggests that individuals have a duty themselves to work towards social inclusion and participation in society. The paternalism argument focuses on the material and moral well-being of the individual, believing that work is good for one’s character, and therefore justifies its enforcement.

Dealing with the first category, Paz-Fuchs examines the ‘duties of citizenship’:

Their beneficiaries are unspecified, and the goods that derive from them arguably add to the general welfare of the public as a whole. Common examples include the duty to obey the law, to pay taxes and to participate in military service. To this list two duties are often added: the duty to vote and the duty to work. It is notable that political theorist Judith Shklar chose precisely two acts—voting and earning—as the pillars forming the centrepiece of (American) citizenship. The peculiarity stems from two character traits that the two have in common: first, they are frequently discussed both as rights and as duties, and, second, these are precisely the two ‘duties of participation’ that served as touchstones for Communist regimes.⁴⁹²

This in turn creates socio-political ramifications that come about in conflating rights and duties. While Thorstein Veblen’s book *The Theory of the Leisure Class* (where the term conspicuous consumption comes from) shamed the idle rich, “racial elements that governed Western slavery saw to it that the obligation to work was never seriously directed at the idle rich, but only towards (the mainly non-white) poor. The latter, but not the former, risk social exclusion and equal citizenship as a result of their failure to participate in the workforce. Such an ideology was a driving force behind welfare-to-work programmes in the late 1990s, a force that is still apparent today.”⁴⁹³ While acknowledging important differences between welfare-to-work programmes around the world, Paz-Fuchs observes that they nevertheless view work as a tool in dealing with many social and economic ills, including poverty, drug abuse, homelessness, and so on.⁴⁹⁴ The focus is never on the idle rich, nor are they a concern, but on the lowest socio-economic classes. The “central common element” behind these welfare-to-work programmes it seems, was “the ideology behind conditioning rights on the fulfilment of obligation.”⁴⁹⁵

In addition, one of the prominent rationales for welfare-to-work programmes is the idea of inclusion. A healthy citizenry rests on a sense of inclusion and social cohesion, and according to the driving rationale behind welfare-to-work programmes, work is what gives people the feeling of inclusion and “social dignity”; it is through work that they feel they are a contributing member of society, even though the only jobs that are available to them may be demeaning or very poorly paid, or there may even be no jobs for them, essentially demanding from them the impossible. Quoting Shklar, “What is really astonishing is the degree of agreement between these critics and defenders of welfare All want to make good citizens out of the ‘underclass’ by getting them a job and making them, too, earning members of society.” One of the problems with this is that, as Guy Standing argues, while having a job may integrate and socially include people in some cases, in

other cases, the job itself may potentially be *dis*-integrating. These are epitomised as “McJobs”, exacerbating rather than solving the very problem it was set out to deal with. As Lister contends, “the obligation to take usually low-paid, often dirty, unpleasant jobs, is central to this debate. Thus it is inaccurate to construe the obligation as providing these prospective new citizens with the same work opportunities enjoyed by more advantaged members of society.” Quoting Lawrence Mead she further argues that “‘for both rich and poor alike, work has become increasingly elective.’ But the rich can choose to work if it is in their interests to do so, whereas the poor are obliged to work ‘because it is in the interests of others (the taxpayers and the rich) that they should do so. The key point here is that any ‘common interest in contributing to a productive system from which all benefit’ is undermined by the fact that the benefits of that system are distributed so unevenly.”⁴⁹⁶

Furthermore, as I highlighted in the Introduction regarding how power determines which activity in society is considered legitimate work that should or should not be legal, power also “determines whether society regards you as ‘dependent’ or ‘independent’—dependency is not, in its everyday allocation, a matter of fact but rather a matter of designation’. ... [T]he dependency of the poor on the visible welfare state of social security benefits is designated very differently from the dependency of the middle class on the invisible fiscal welfare state of tax reliefs.”⁴⁹⁷ Likewise, the Guardian columnist Owen Jones observes that while the Establishment abhor the state, it is nevertheless completely dependent on it to flourish: “Bailed-out banks; state-funded infrastructure; the state’s protection of property; research and development; a workforce educated at great public expense; the topping up of wages too low to live on; numerous subsidies—all are examples of what could be described as a ‘socialism for the rich’ that marks today’s Establishment.”⁴⁹⁸ Or paraphrasing Martin Luther King, Jr.: “We have socialism for the rich and rugged individualism for the poor.”

In sum, moral and cultural norms identify who is acceptable and unacceptable in society. Focusing on certain traits of those who may be deemed unacceptable (the poor, minorities, etc.) and therefore excluded, rather than focusing on the structure that leads to their exclusion, leads to a lack of empathy “that makes it easier to stigmatize and dehumanize excluded groups such as the unemployed.”

The steps as described assure that the unemployed arrive at the negotiating table in a precarious position. Their exclusion is not only a descriptive assessment, but an evaluative one as well. They are not perceived as having legitimate claims on society’s resources, but

rather it is the generosity of society that allows for the offer of benefits and job opportunities. If the claimants now refuse the conditions offered to them, they are re-categorised as not only excluded, but as also *undeserving* of society's assistance towards inclusion. By making 'exclusion and inclusion entirely a matter of law', this process, as mentioned, leads to the danger of *further* exclusion.⁴⁹⁹

A cynical interpretation thus, is one of social control. This is much like Piven and Cloward's seminal work *Regulating the Poor*,⁵⁰⁰ arguing that government relief programs "serve a larger economic, political, and social purpose to ensure control and to force the poor into the labor market."⁵⁰¹ As Shklar noted above that voting and working were both touchstones in American democracy, as well as in Communist regimes, Paz-Fuchs highlights how under socialist and fascist regimes social control was also used through social rights which were granted under the condition of loyalty and moral desert. The idea of social control and exploitation cannot be ignored within the context of a capitalist economy "where preserving a duty to work serves the interest of those who enjoy an oversupply of cheap labour. Taking this position to the extreme, some have forcefully argued that slavery and servitude were only *formally* abolished in the late nineteenth century. In reality, they were replaced with industrial bondage, which was similar in important respects to the odious historical institution".⁵⁰²

With the coupling of the duty to work and the right to work, Paz-Fuchs notes this shift towards a duty to work that correlates monetary benefits with civic duties with a 'duty to work as a condition for social assistance'. This has become the paradigm for Anglo-American welfare-to-work programmes and "it is becoming increasingly established that the new welfare-to-work regime represents a 'fundamental change in the balance between rights and obligations in the provision of assistance'".⁵⁰³ Paz-Fuchs also warns of the danger of confusing, as some have, the right to work with the right to public assistance when looking at the duty to work, as imposed by contemporary welfare states:

Contemporary 'welfare-to-work' programmes, which figure prominently in discussions regarding the duty to work, offer public assistance 'in exchange' for one's obligation to work. They do not offer (as some would like) a government commitment to provide work, as an employer of last resort. Instead, governments provide public assistance, thus viewing the monetary benefit that derives from work and enable subsistence, as the only relevant aspect of the right. One may even suggest[sic] that, as such, the substitution of a right with

a monetary value is part of a wider trend that can only be noted here, one that relates to the ability to ‘buy out’ human rights.⁵⁰⁴

Arguing largely in line with Weeks and Hunnicutt, Paz-Fuchs contends that “even if there are good moral reasons for people to work, this does not necessarily entail that a *legal duty* should exist.”⁵⁰⁵

The conflation of rights and duties regarding the right to work can be a dangerous one that leads to a reinforcement between the idea of the deserving and undeserving poor, rather than it being a right to adequate material provisions that all people should have in order to live a life of dignity. The contradiction is rife when considering the societal expectations placed upon those who are poor and unable to find work, and those who are idle and rich who may *choose* not to work. If work is tied to citizenship, and there are those that argue that people should contribute their fair share to society, do they really mean one’s labour or just one’s wealth? The principle under a democracy of one person, one vote is quickly replaced under capitalism of one dollar, one vote.

In fact, if the point of vertical rights that the government has towards individuals is in protecting their personhood, turning a right to work into a duty to work may in fact be coercing those into a subtler form of forced labour. The duty to work ends up undermining the purpose of the right to work, with political, social, economic, and cultural norms used to evaluate and exploit people who are either forced into jobs that don’t provide them with material and financial security and thus further exclusion as highlighted above (the gig economy, precariats, McJobs, etc.), or do provide financial means, but are as David Graeber so memorably called them, “bullshit jobs” that psychologically harm and damage those who do them.⁵⁰⁶

The fear of forced labour, of work that could go against the dignity of the individual and therefore undermine fundamental human rights, was one of the reasons why some of the drafters of the UDHR opposed putting in Article 23 a “duty” to work. Eleanor Roosevelt, for example, objected to the duty to work because she felt that it “could be considered in certain countries as leading to forced labor.”⁵⁰⁷ In addition, the drafters in general were aware that while an individual may want work and seek it, in the modern economy factors other than a person’s ability or will play a crucial role in whether employment is available.⁵⁰⁸ In sum, while there may be those that argue that work is so important that it is not a right but a duty, fail to show how intrinsically work is valuable. It may be valuable in the sense that we have to do it, but if we did not and everyone in society was adequately provided for as Griffin contends, the argument falls away. It also fails to take into

account the coercive forces of politics, class, power, gender, race, as well as the economy, and forgetting what human rights are and what the right was set up to do in the first place.

3. Why There Should Be No Moral Duty to Work

I have already talked about some of the historical and practical implications of having a legal duty to work, which Eleanor Roosevelt warned against—States using this a justification for forced labour. But another common argument that there should be a duty to work is what I call “The Deserted Island Argument.”

That is, here might be circumstances where people argue that there is a duty to work, although these arguments are based on very different philosophical considerations than my own. That is, if a group of people are stranded on a deserted island, and there is no civilisation—no shops, no ready access to water and food, no money, no way to get off the island until someone else finds you—it is only fair that everyone should work together to contribute to the survival on the island. That is, no one lounges about or frolics in the sun doing nothing but enjoying themselves, while others attempt to fish, hunt, gather berries or whatever to eat, build shelter against wind, rain and other dangers, etc. If they do choose not to contribute, they should not be allowed to eat the food others got, or stay safe in the shelter others helped to build. Those who worked hard to stay alive would view this as unfair for them to feel so entitled, and would probably resent the person sunbathing, while also expecting the fruits of others’ labour. If that person was severely injured or physically or mentally unable to help, that might lessen the reason for them not contributing. However, being physically able and healthy and otherwise mentally sound, would lead to fights regarding fairness.

Work in this context does not mean paid employment. It is physical labour for survival on a deserted island. It is not in the context of a complex industrialised modern economy and government. The context and situation on a deserted island is very different. Obviously the argument that the sunbather has an obligation to contribute and “work” is not applicable as a refutation to my argument that there is no duty to work, as the premise and context of my argument is very different. That is, it is based on premises of human rights that are shaped and contingent upon a neoliberal global economy, and the harms that are attributed to a neoliberal global economy in complex, industrialised economies. The “Deserted Island” argument is not applicable as the premises and context is completely different, and the concept of “work” is altogether a different thing from paid employment.

On Productivity

However, as I established in the last chapter, the ideology of neoliberalism means that market sovereignty overtakes individual sovereignty, and that human beings' value is no longer inherent simply by virtue of being human. The value of a human being is based on how productive they are economically, and thus government policies of workfare, of rhetoric shaming individuals unemployed or lacking jobs that pay well, seem to agree with this line of thinking. I contend that there should be no duty to work based on notions of productivity as being the basis of judging a human being, if human rights are to be maintained. If basing it on modern human rights doctrine, the right to work equates to the right to be. We do not need to "earn" our right to exist, because we are inherently valuable as human beings, and our dignity should be maintained, even as we sell our labour in the marketplace. Labour is not a commodity, and that is why the Drafters put in additional provisions so that our dignity is maintained in work. As society has drifted from a market economy into a market society where a duty to work is now explicitly and implicitly implied that it is to "earn" our right to be, I argue that no such duty should exist.

Conclusion

The conflation of rights and duties regarding the right to work can be a dangerous one that leads to a reinforcement between the idea of the deserving and undeserving poor, rather than it being a right to adequate material provisions that all people should have in order to live a life of dignity. The contradiction is rife when considering the societal expectations placed upon those who are poor and unable to find work, and those who are idle and rich who may *choose* not to work. If work is tied to citizenship, and there are those that argue that people should contribute their fair share to society, do they really mean one's labour or just one's wealth? The principle under a democracy of one person, one vote is quickly replaced under capitalism of one dollar, one vote.

In fact, if the point of vertical rights that the government has towards individuals is in protecting their personhood, turning a right to work into a duty to work may in fact be coercing those into a subtler form of forced labour. The duty to work ends up undermining the purpose of the right to work, with political, social, economic, and cultural norms used to evaluate and exploit people who are either forced into jobs that don't provide them with material and financial security and thus further exclusion as highlighted above (the gig economy, precariats, McJobs, etc.), or do provide

financial means, but are as David Graeber so memorably called them, “bullshit jobs” that psychologically harm and damage those who do them.⁵⁰⁹

As Sarkin and Koenig acknowledge, “It is noteworthy that the right to work recognized in the UDHR does not include an obligation for people to work. During the drafting process, proposals to link the right to work with an obligation for people to work were expressed, debated, and rejected. The fear of forced labour, of work that could go against the dignity of the individual and therefore undermine fundamental human rights, was one of the reasons why some of the drafters of the UDHR opposed putting in Article 23 a “duty” to work. Eleanor Roosevelt, for example, objected to the duty to work because she felt that it “could be considered in certain countries as leading to forced labor.”⁵¹⁰

In addition, the drafters in general were aware that while an individual may want work and seek it, in the modern economy factors other than a person’s ability or will play a crucial role in whether employment is available.⁵¹¹ In sum, while there may be those that argue that work is so important that it is not a right but a duty, fail to show how intrinsically work is valuable. It may be valuable in the sense that we have to do it, but if we did not and everyone in society was adequately provided for as Griffin contends, the argument falls away. It also fails to take into account the coercive forces of politics, class, power, gender, race, as well as the economy, and forgetting what human rights are and what the right was set up to do in the first place.

CONCLUSION

Human lives are essentially moral or they are nothing.

—Fred Twine⁵¹²

This is not a small question. The world that applauds visible achievement is giving you a very strong message about why you are worthwhile. When you choose to think, rather than do, you are rejecting production in favor of reflection; you are pushing back against a system that wants to locate your worth as a human being in your ability to turn out a commodity. Reading, rather than working, is a small but meaningful dissent.

—Susan Wise Bauer

*What is this life if, full of care,
We have no time to stand and stare?*

—William H. Davies, “Leisure”

On the surface, post-work studies, human rights literature, and political ideologies seem to have very little in common with each other. However, what all three have in common is that all are utopian discourses. All have a vision for a better world and steps we must take in order to get to that better world. *Utopia* is the central concept that converges between all three, shaping and framing how we view ourselves, each other, and the present state of the world and what it could be.

Hence, we need a cultural shift on how we view work, productivity, and human worth. While it should be obvious that a human life is priceless, and a person’s worth is inherently valuable regardless of whether they are economically productive or not, our policies, our media, our politicians, national and global rhetoric does not reflect this. Not in the language we use or the

policies that have been constructed. Instead, a language of “the market” seems to have taken place in areas we normally would not consider market values as being appropriate. And while the Drafters believed in the principle, “human labour is not a merchandise” and that a worker’s dignity and that of their family is not to be denied or diminished, by outlining just and fair working conditions,⁵¹³ the “rational”, “objective”, “technocratic” language of the market seems to have overtaken the language and moral force of human rights.

Human rights, political ideologies, and post work are an intersection of utopian thinking. But while all three literatures are utopian discourses, that does not mean the utopia each seeks are the same or are in perfect agreement with each other. For example, an important thing to note is the different perspectives that international human rights law and post-work literature have regarding their views on work. What is striking about the tone and tenor when reading international legal documents regarding work, compared to post-work literature, is how positive, promoting, and laudatory work is viewed.⁵¹⁴ And legal scholars and political theorists who directly discuss the right to work, also express views towards paid employment that tend to be laudatory, extolling the virtues and benefits that work bestows upon us.⁵¹⁵ Post-work literature, on the other hand, as the name suggests, tends to have a more critical standpoint regarding work. Ultimately, I agree with post-work theorists that paid employment is not necessarily an inherent good, but like those in international human rights law, it is nevertheless a human right. In addition, I have argued that while work is a right, it is not a duty.

Furthermore, what is not dealt within the post-work literature, but very pertinent, is the idea of the right to work in human rights and in international human rights law. And despite their differences, what the human rights movement and the post-work literature have in common is a utopian vision for social change, a focus on freedom, agency, and autonomy, and analysing the often unspoken interplay between capitalism, power, and politics. How post-work literature can benefit from by engaging with human rights are the tools and moral force human rights language has. Even as the language of the market has taken over, as Whyte documented, neoliberals saw the benefit and power that human rights language held. So much so that they ended up “co-opting” such language and the moral force driven by it, equating individual freedom politically as only being able to happen if the market and the movement of capital was first free also. As Tănăsescu contends, the ideology that unites individual rights with economic liberalism continues to endure, and that “This is the genius of the current system of globalized, intense exploitation: it doesn’t merely tolerate the expansion of rights discourses; it uses it to its advantage”.

But although human rights are not perfect, and as with any tool, can be used in positive and negative ways depending on the user and their intention, that also means that while something can be manipulated to further the power of one group, it can also be used to further the needs of others. Human rights were originally created to speak truth to power, and to protect the individual from the government, as well as other powerful entities that could easily encroach on the freedoms and dignity of the powerless individual.

In this thesis, I have established and explored how human rights are contingent upon features of the global economy. I have also explored neoliberalism, both as economic policy and as ideology and why a duty to work based on productivity does not align with human rights. I have explored what a right is, and specifically what a human right is, developing a theory of human rights based on dignity, drawing upon and combining the works of James Griffin and of Charles Beitz whereby human rights are not immutable, but adapt to the dangers that people face. If the purpose of human rights is to uphold and maintain the dignity of the person, both Griffin and Beitz' arguments complement as well as correspond with one another. I also explored some of the complexities relating to the content of the right to work, and the different ways scholars have attempted to approach and categorise the right. I then gave an understanding of dignity, within the context of the Universal Declaration and other similar documents, drawing upon the work of Glenn Hughes' examination of the function of human dignity as heuristic concept and transcendence.

Thus, my thesis makes an original contribution in two ways: first, in analysing how modern human rights and the human right to work specifically are contingent upon the features of a neoliberal global economy, and second, that while there is a human right to work, there should not be a corresponding duty to work, either legally or morally.

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ENDNOTES

¹ Angela Duckworth, *Grit: The Power of Passion and Perseverance* (Scribner, 2016).

² “Work is now one of the ways we understand ourselves, how we give our lives meaning when religions, party politics and community fall away,” Biggs (2015) notes, while Fineman (2012) writes, “Work ... is woven into the fabric of all human societies to become part of our identities and key to life’s narrative.” Thomas (1999, v) opines that “Many of us spend most of our waking hours engaged in it. It absorbs our energies and preoccupies our thoughts. It involves us in close relations with other people and gives us our sense of identity. It provides us with the means of subsistence, and it makes possible all the pleasures and achievements of civilization.” Weeks (2011) observes how work “monopolizes so much of life,” and that “Work is crucial not only to those whose lives are centered around it, but also, in a society that expects people to work for wages, to those who are expelled or excluded from work and marginalized in relation to it.” With so much of our time focused on work, she argues that work is a requirement, a system, and a way of life: “Work produces not just economic goods and services but also social and political subjects. In other words, the wage relation generates not just income and capital, but disciplined individuals, governable subjects, worthy citizens, and responsible family members.” It is central “both to individuals’ lives and to the social imaginary”. Chamberlain (2018, 4) goes so far as to argue that work “not only constructs individual subjects, it also structures the social order as a whole, making up the work society.”

³ For example, see Keith Thomas, *The Oxford Book of Work* (Oxford University Press, 1999); Keith Grint and Darren Nixon, *The Sociology of Work*, 4th ed. (Polity, 2015); Mike Noon and Paul Blyton, *The Realities of Work: Experiencing Work and Employment in Contemporary Society*, 3rd ed. (Palgrave Macmillan, 2007).

⁴ *Oxford English Dictionary*, 2nd ed. (1989), s.v. “work”.

⁵ James Griffin, “The Presidential Address: Discrepancies between the Best Philosophical Account of Human Rights and the International Law of Human Rights,” *Proceedings of the Aristotelian Society* 101 (2001): 1–28.

⁶ John Danaher, “The Case Against Work,” *The Philosophers’ Magazine*, May 14, 2018, <https://www.philosophersmag.com/essays/184-the-case-against-work>.

⁷ Kathi Weeks, *The Problem with Work: Feminism, Marxism, Antiwork Politics, and Postwork Imaginaries* (Duke University Press, 2011), 14.

⁸ Andreas Eckert, “Why all the fuss about Global Labour History?,” in *Global Histories of Work*, ed. Andreas Eckert (Walter de Gruyter GmbH, 2016), 6.

⁹ Weeks, *The Problem with Work*, 14.

¹⁰ Social reproduction or reproductive labour refers to the activities that “nurture future workers, regenerate the current workforce, and maintain those who cannot work—that is, the set of tasks that together maintain and reproduce life, both daily and generationally” (Hester 2018). They are everyday tasks involved in staying alive, helping others stay alive, and are often traditionally performed by women for low or no wages. While work done in the home is often unpaid and not counted towards a country’s GDP, and therefore consciously or unconsciously devalued, the fact remains that without it, capitalism itself could not survive. Vergès (2021) argues even when care or domestic work is paid, it is often so poorly paid as to be seen as exploitative.

¹¹ Standing (2013, 7), for example, notes that Athenians had a richer perspective than our own modern understanding of work, dividing time into four primary uses: labour, work, play/recreation, and leisure. Labour was the most “onerous use of time in directed work, intended to produce ‘exchange value,’ doing tasks for an income or subsistence,” and only performed by noncitizens. Work, on the other hand, was “done by citizens and their families and consisted of activities in and around the home, with family and friends. Work was essential to strengthen civic friendship. ... It was reproductive, regenerative, and civilizing activity.”

¹² Although my supervisors said the original chapter I had written was directly relevant in response to the corrections on precarity and social reproduction that the examiners gave me (I asked my supervisors directly during our meeting), my examiners on the other hand felt it was completely irrelevant when they received it. I am not sure why I get the sole blame when different academics are giving me polarising and opposite opinions, but here we are.

In addition, I was given one year to revise and resubmit from my original thesis. After answering their corrections, the examiners implicitly admitted that my work had gotten worse *after* receiving their feedback, with them saying the thesis now needs years, not one year, to correct. Whether their feedback was so poor that they now have to admit my work needs more time to fix than before, or whether my supervisors and examiners see things completely differently regarding what is and is not relevant, at the end of the day, I’m the one being punished for conflicting advice, longterm illness and disability, and being grossly misinformed by my examiner and University staff (including the Head of Student Administration of Central Exams) regarding the marking criteria that has led to this ultimate thesis.

¹³ By complementary articles, I am referring to Articles 24 on the right to leisure and 25 on the right to “security in the event of unemployment”.

¹⁴ For readers that are unaware of what the International Bill of Rights comprises of, or the relationship the UDHR has with the ICCPR and ICESCR and its corresponding articles, *see* Adam McBeth et al., *The International Law of Human Rights* (Oxford University Press, 2011).

¹⁵ UN, “Vienna Declaration and Programme of Action,” adopted by the World Conference on Human Rights, A/CONF.157/23, June 25, 1993, <https://www.ohchr.org/en/professionalinterest/pages/vienna.aspx>.

¹⁶ This includes and overlaps with the concept of *occupational segregation*, which I deal with in the section under ‘Paid social reproductive labour’.

¹⁷ UNGA, Convention on the Elimination of All Forms of Discrimination Against Women, G.A. Res. 34/180, December 18, 1979, <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-elimination-all-forms-discrimination-against-women>.

¹⁸ For more on what General Recommendations are, and its importance and significance, *see* Anne Hellum and Ingunn Ik Dahl, “Committee on the Elimination of Discrimination Against Women (CEDAW),” *Max Planck Encyclopedia of International Law*, January 2019, <https://opil.ouplaw.com/view/10.1093/law-mpeipro/e1329.013.1329/law-mpeipro-e1329>.

¹⁹ UN Committee on the Elimination of Discrimination Against Women (CEDAW), CEDAW General Recommendations Nos. 16, 17 and 18, adopted at the Tenth Session, 1991 (contained in Document A/46/38), A/46/38, 1991, <https://www.refworld.org/legal/general/cedaw/1991/en/38085>.

²⁰ UNGA, Convention, art. 11, (*emphasis added*).

²¹ UN Committee, CEDAW General Recommendations No. 17.

²² Hellum and Ik Dahl, “Committee.”

²³ For more on the procedures, mechanisms, and implementation of CEDAW, how its General Recommendations may be considered authoritative interpretations by national and international courts, and the “role these documents can play as sources of law, including outside the context of CEDAW,” *see* Hellum and Ik Dahl, “Committee,” note 17. For readers who know little to nothing about international law, and are further ignorant regarding what an *authoritative source of law* is, I kindly refer you to Peter Malanczuk, *Akehurst’s Modern Introduction to International Law*, 7th ed. (Routledge, 1997).

²⁴ John Scott, “Occupational Segregation,” in *A Dictionary of Sociology*, 4th ed. (Oxford University Press, 2014), <https://www.oxfordreference.com/display/10.1093/acref/9780199533008.001.0001/acref-9780199533008-e-1601>.

²⁵ Close the Gap, “Briefing Five: Women’s Jobs, Men’s Jobs? Job Segregation and What it Means for the Gender Pay Gap,” 2020, 1, <https://www.closeyourpaygap.org.uk/files/briefing-5-segregation-what-means-2020.pdf>.

²⁶ “Asda workers advance to the final stage of their equal pay battle,” Leigh Day, February 3, 2025, <https://www.leighday.co.uk/news/news/2025-news/asda-workers-advance-to-the-final-stage-of-their-equal-pay-battle/>.

²⁷ Eliana Carranza et al., *Gender-based Employment Segregation: Understanding Causes and Policy Interventions* (The World Bank, 2023), 2, <https://openknowledge.worldbank.org/server/api/core/bitstreams/2079c5e4-747c-4801-9b51-bdf2b0db79bb/content>.

²⁸ UN, Universal Declaration of Human Rights, G.A. Res. 217 (III) A, December 10, 1948, Article 23, <https://www.un.org/en/about-us/universal-declaration-of-human-rights>.

²⁹ UN, International Covenant on Economic, Social and Cultural Rights (ICESCR), G.A. Res. 2200A (XXI), December 16, 1966, Article 7, <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-economic-social-and-cultural-rights>.

³⁰ UN Committee on Economic, Social and Cultural Rights (CESCR), General comment No. 23 (2016) on the right to just and favourable conditions of work (article 7 of the International Covenant on Economic, Social and Cultural Rights), E/C.12/GC/23, April 7, 2016, <https://www.refworld.org/legal/general/cescr/2016/en/122360>, (*emphasis added*).

³¹ As CEDAW, Close the Gap, and others note, harmful gendered stereotypes that certain activities (e.g., care work, domestic work, or “soft” skills such as managing other people’s feelings and expectations) have lower status and value “because the skills required for these jobs are perceived to be *inherent* in women, and the work is therefore not fairly remunerated.” However, as Carranza et al. (2023, i, iv, 4) in their global study find, “in general there is no such thing as an inherently or universally male or female occupation”, and there are even “a handful of breakthrough countries which defy the stereotypical gender associations of certain occupations.” This goes to show that “women’s work” or labour of any kind is not “natural” or innately restricted to one gender, but often culturally, historically, or societally learned and formed.

³² UN Committee on the Elimination of Discrimination Against Women (CEDAW), Concluding observations on the eighth periodic report of the United Kingdom of Great Britain and Northern Ireland, CEDAW/C/GBR/CO/8, March 14, 2019, <https://docs.un.org/en/CEDAW/C/GBR/CO/8>.

³³ UN Committee (CEDAW), Concluding observations.

³⁴ For more on these debates, See Marilyn Waring, *Counting for Nothing: What Men Value and What Women are Worth*, 2nd ed. (University of Toronto Press, 1999); Shahra Razavi, “What is the real value of unpaid work?,” UN Women, March 2, 2017, https://youtu.be/fcqt0QzgUFU?si=YOP6IP0fc_kfQ2Gg; Daniel DeRock, “Hidden in Plain Sight: Unpaid Household Services and the Politics of GDP Measurement,” *New Political Economy* 26, no. 1 (2021): 20–35, <https://doi.org/10.1080/13563467.2019.1680964>; Georgia Meyer, “Cartography Between Worlds—The 2025 update to the system of national accounts re-opens debates on key economic measures,” LSE Impact Blog, August 26, 2025, <https://blogs.lse.ac.uk/impactofsocialsciences/2025/08/26/cartography-between-worlds-the-2025-update-to-the-system-of-national-accounts-re-opens-debates-on-key-economic-measures/>; System of National Accounts 2025, 54, paras 2.93–94.

³⁵ Nancy Worth, “Precarious Work,” in *International Encyclopedia of Human Geography*, ed. Audrey Kobayashi, 2nd ed. (Elsevier, 2020), 11:5. For a fuller definition of precarity, see Guy Standing, “The Precariat,” *Contexts*, 13, no. 4 (2014): 10–12, <https://doi.org/10.1177/1536504214558209>; Guy Standing, *The Precariat: The New Dangerous Class* (Bloomsbury, 2011).

³⁶ UN, Universal Declaration, Article 23.

³⁷ Anand Giridharadas, *Winners Take All: The Elite Charade of Changing the World* (Penguin Books, 2020).

³⁸ *Ibid.*, 148.

³⁹ Celine McNicholas et al., “Employers spend more than \$400 million per year on ‘union-avoidance’ consultants to bolster their union-busting efforts,” Economic Policy Institute, March 29, 2023, <https://www.epi.org/publication/union-avoidance/>; Victoria Scarlet Berka, “How does the union-busting industry work?,” The Emergency Workplace Organizing Committee (EWOC), October 15, 2025, <https://workerorganizing.org/how-does-the-union-busting-industry-work-11652/>.

⁴⁰ More Perfect Union, “Amazon Workers Share the Shocking Tactics the Company is Using to Stop Workers From Forming a Union,” February 5, 2021, <https://youtu.be/RTkWjYiVjV?si=KpiKPqjFqU1tIMm1>; John Oliver, host, *Last Week Tonight with John Oliver*, Season 8, Episode 30, “Union Busting,” HBO, original airdate November 14, 2021, <https://youtu.be/Gk8dUXRpoy8?si=34YOH4SB1cEpphI5>.

⁴¹ Rachel Aroesti, “The Great Amazon Heist review—how a prankster took on the online behemoth and (sort of) won,” *The Guardian*, October 19, 2023, <https://www.theguardian.com/tv-and-radio/2023/oct/19/the-great-amazon-heist-review-how-a-prankster-took-on-the-online-behemoth-and-sort-of-won>.

⁴² Michael Sainato, “Amazon training videos coach Whole Foods staff on how to discourage unions,” *The Guardian*, September 27, 2018, <https://www.theguardian.com/business/2018/sep/27/amazon-whole-foods-training-video-union-busting-efforts-staff>; Janet Burns, “Report: Amazon’s Anti-Union Training Is Revealed In Leaked Video,” *Forbes*, September 27, 2018, <https://www.forbes.com/sites/janetwburns/2018/09/27/amazons-anti-union-training-strategy-revealed-in-leaked-video/>. The Whole Foods grocery chain is owned by Amazon. After a mass email was sent out on September 6, 2018 by Whole Foods employees seeking to coordinate and discuss workplace issues and the prospect of forming a union, Amazon released what is now the leaked training video to managers in an attempt to thwart union efforts. You can watch clips of the training video, which is uploaded by the “Whole Worker” channel on YouTube (Whole Worker is a grassroots movement of Whole Foods team members): “Amazon’s Union-Busting Training Video,” December 19, 2018, <https://www.youtube.com/watch?v=AQeGBHxIyHw&t=1s>.

⁴³ Zoe Conway and Faarea Masud, “Amazon workers narrowly reject union in historic vote,” *BBC*, July 17, 2024, <https://www.bbc.co.uk/news/articles/c8vd72zrpr1o>.

⁴⁴ Sarah Butler, “Uber drivers entitled to workers’ rights, UK supreme court rules,” *The Guardian*, February 19, 2021, <https://www.theguardian.com/technology/2021/feb/19/uber-drivers-workers-uk-supreme-court-rules-rights>; McNicholas et al., “Unlawful.”

⁴⁵ James Bloodworth, *Hired: Six Months Undercover in Low-Wage Britain* (Atlantic Books, 2018); Giridharadas, *Winners Take All*.

⁴⁶ Butler, “Uber drivers entitled to workers’ rights.”

⁴⁷ Bloodworth discusses his experience on Carewatch’s zero-hours contract that led him to feel “like the company owned us to some degree”, despite such contracts being touted as giving individuals more flexibility. He also discusses his experience driving for Uber (Chapters 17–20). *See also* Uber’s legal battle in the UK High Court over drivers’ worker status (2018, 88, 229–242) and Giridharadas (2020, 69–73) on US District Judges Edward Chen and Vince Chhabria’s two rulings in San Francisco federal court in 2015 on whether Uber and Lyft drivers were truly independent, or whether these platforms exerted significant power over them; Butler, “Uber drivers entitled to workers’ rights.”

⁴⁸ There are of course some people who appreciate the flexible working arrangements, such as students, who benefit from such work more so than those who are solely dependent on it. As Worth (2020, 9) observes, it can be helpful distinguishing between precarious work and precarious workers: “If you are attending high school full-time, while also working part-time at a fast-food restaurant, your work may be precarious but you are not necessarily a precarious worker. To generalize, it might be possible to separate precarious work from the worker if the work is not the employee’s main source of income or support.”

⁴⁹ Worth, “Precarious Work,” 8.

⁵⁰ Worth, “Precarious Work,” Abstract, <https://www.sciencedirect.com/science/article/abs/pii/B9780081022955104469>, (*emphasis added*).

⁵¹ Elizabeth Anderson, *Private Government: How Employers Rule Our Lives (and Why We Don’t Talk about It)* (Princeton University Press, 2017).

⁵² *Salaryman*, directed by Allegra Pacheco (2021; Journeyman Pictures, 2022).

⁵³ *Severance*, directed by Ben Stiller, on Apple TV; *Severance* is a sci-fi dystopian psychological thriller following Mark Scout, an employee at a biotech corporation called Lumon Industries, who agrees to undergo a medical procedure known as “severance”. This procedure splits the consciousness of employees between their “innie”, or their workplace self and memories, and their “outie”, or their primary self. The “innie” only exists within the walls of the corporation of Lumon, unable to know or remember who they are outside of work. The “outie” likewise has no recollection of what they did all day, and unaware of their professional life. The procedure thus results in two distinct personalities for each employee. The show explores themes such as work-life balance, the exploitation of labour, and philosophical inquiries into identity and self. It also serves as commentary of corporations and corporate power, modern office culture, the cult-like following of CEOs, abuse and the power dynamic between employer and employees, and the potential dangers and abuses of technology.

⁵⁴ Rachel Cooke, “Why Severance is the series for our times,” *The New Statesman*, January 15, 2025, <https://www.newstatesman.com/culture/tv/2025/01/severance-review-series-for-our-times>, (*emphasis in original*).

⁵⁵ Makau Mutua, *Human Rights: A Political and Cultural Critique* (University of Pennsylvania Press, 2002); David Kennedy, *The Dark Side of Virtue: Reassessing International Humanitarianism* (Princeton University Press, 2004); David P. Fidler, “The Return of the Standard of Civilization,” *Chicago Journal of International Law* 137, no. 2 (2001): 137–57.

⁵⁶ Human rights have extended beyond having moral concern over the welfare of human beings, to that of animal rights and welfare. Rights are being further extended from non-human subjects to objects such as bodies of water, trees, ecosystems, species, etc. under the broad label of “Rights of Nature” (RoN). RoN is a legal instrument that enables nature “to have inherent rights and legally ... have the same protection as people and corporations It enables the defense of the environment in court—not only for the benefit of people, but for the sake of nature itself” (IPBES 2023). While this area in western legal philosophy and norms in giving nature a sort of moral and/or legal standing are relatively new compared to indigenous communities (*See* Boyd 2017), it is gaining momentum around the world as a means of protecting natural phenomena through law. The River Ouse, for example, is on course to be the first river in England to be granted legal rights (Kaminski 2023). In 2006, Tamaqua Borough, Pennsylvania was the first place in the world to recognize the Rights of Nature in law, and in 2008, Ecuador became the first country in the world to recognize the Rights of Nature in its national constitution (CELDF 2023). As Stone (1974, 2) noted in his seminal article, *Should Trees Have Standing?*: “Throughout legal history, each successive extension of rights to some new entity has been, theretofore, a bit unthinkable.”

⁵⁷ Malanczuk, *Akehurst's*, 6.

⁵⁸ *Ibid.*

⁵⁹ Louis Henkin, *How Nations Behave* (Columbia University Press, 1979), 47. Harold Koh (1999) described Henkin’s words as the “sentence that launched a thousand articles about compliance with international law.” D’Amato observed that “If any one sentence about international law has stood the test of time, it is Louis Henkin’s” (2010, 22).

⁶⁰ For more on the historical evolution, what horizontal and vertical legal systems are, why the concept of state sovereignty is essential to this understanding, how international law is enforced, and the basics of international law and its challenges, *see* Malanczuk, *Akehurst's*; Anthony D’Amato, “A Few Steps toward an Explanatory Theory of International Law,” *Santa Clara Journal of International Law* 7, no. 2 (2010), <http://digitalcommons.law.scu.edu/scujil/vol7/iss2/1>; Christian Reus-Smit, “International Law,” in *The Globalization of World Politics: An Introduction to International Relations*, eds. John Baylis et al., 9th ed. (Oxford University Press, 2023).

⁶¹ Ronald C. Slye, “Domestic Application of International Human Rights Norms and Universal Jurisdiction,” in *The International Studies Encyclopedia*, eds. Robert A. Denemark and Renée Marlin-Bennett (Malden, MA: Wiley-Blackwell, 2010), *Oxford Reference Online*, <https://www.oxfordreference.com/view/10.1093/acref/9780191842665.001.0001/acref-9780191842665-e-0064>.

- ⁶² Krzysztof Drzewicki, “The Right to Work and Rights in Work,” in *Economic, Social and Cultural Rights*, eds. Asbjorn Eide et al., 2nd ed. (Martinus Nijhoff Publishers, 2001), 255.
- ⁶³ Slye, “Domestic Application.”
- ⁶⁴ Ibid., (*emphasis in original*).
- ⁶⁵ Anthony Aust, *Modern Treaty Law and Practice* (Cambridge University Press, 2007), 189–192.
- ⁶⁶ Ibid.
- ⁶⁷ Slye, “Domestic Application.”
- ⁶⁸ Ibid.
- ⁶⁹ Ibid.
- ⁷⁰ Hersch Lauterpacht, *The Development of International Law by the International Court* (Cambridge University Press, 1982), 262.
- ⁷¹ See Aust, *Modern Treaty Law*, 195.
- ⁷² Slye, “Domestic Application,” (*emphasis in original*); The work Slye refers to is Janne Nijman, and Andre Nollkaemper, eds., *New Perspectives on the Divide Between National and International Law* (Oxford University Press, 2007).
- ⁷³ Ibid.
- ⁷⁴ Radha D’Souza, *What’s Wrong with Rights? Social Movements, Law and Liberal Imaginations* (Pluto Press, 2018), (*emphasis in original*), 46.
- ⁷⁵ John Baylis and Steve Smith, eds., *The Globalization of World Politics: An Introduction to International Relations*, 3rd ed. (Oxford University Press, 2004), 238.
- ⁷⁶ Jan Aart Scholte, *Globalization: A Critical Introduction* (Palgrave Macmillan, 2000), 35.
- ⁷⁷ Alex Kirkup and Tony Evans, “The Myth of Western Opposition to Economic, Social, and Cultural Rights? A Reply to Whelan and Donnelly,” *Human Rights Quarterly* 31, no. 1 (February 2009): 236.
- ⁷⁸ Nicola Smith, “Neoliberalism,” Britannica, accessed October 24, 2025, <https://www.britannica.com/money/neoliberalism>.
- ⁷⁹ For a history of the rise of neoliberal ideology and the spread of neoliberal policies, see David Harvey, *A Brief History of Neoliberalism* (Oxford University Press, 2007); William K. Tabb, *Economic Governance in the Age of Globalization* (Columbia University Press, 2004).

⁸⁰ Sarwat Jahan and Ahmed Saber Mahmud, “What is Capitalism?,” International Monetary Fund (IMF), <https://www.imf.org/en/Publications/fandd/issues/Series/Back-to-Basics/Capitalism>; Jonathan Wolff and David Leopold, “Karl Marx,” *The Stanford Encyclopedia of Philosophy* (Summer 2025 Edition), <https://plato.stanford.edu/archives/sum2025/entries/marx/>; Mitchell Aboulafia, “Eight Marxist Claims That May Surprise You,” *Jacobin*, January 12, 2019, <https://jacobin.com/2019/01/karl-marx-engels-capitalism-political-economy>.

⁸¹ Elizabeth Anderson, *Value in Ethics and Economics* (Harvard University Press, 1995).

⁸² See notes 80, 81.

⁸³ For a historical look at how prevalent the idea of work as a panacea was, and not just in more recent government policy, John Field explores the history of work camps and labour colonies in modern Britain and how labour colonies attracted a wide range of different religious, ideological, and political convictions to discipline and work a variety of people (not just men) for different purposes. This included private and government initiatives to deal with unemployment, provide an alternative to poor law workhouses, rehabilitate prostitutes, as well as settling emigrants throughout the empire. There were also work camps established to deal with people considered difficult to integrate into conventional employment at the time and stigmatised, such as alcoholics, people with tuberculosis, epileptics, the insane, the “feebleminded”, and the “abnormal”. Not all were coercive and aimed at dealing with idleness, as some were built on utopian ideologies and thus its participants voluntary. What these labour colonies all had in common, however, were their beliefs in the benefits of work. Similarly, according to Chamberlain, the impact of the Protestant Reformation on the American work ethic appeared “both in the nineteenth-century doctrine of usefulness and in the belief that regular work would consume sexual passions, dispel violence, doubts, and despair, distract from radicalism, and reform convicts.” See John Field, *Working Men’s Bodies: Work Camps in Britain, 1880–1940* (Manchester University Press, 2013); James A. Chamberlain, *Undoing Work, Rethinking Community: A Critique on the Social Function of Work* (Cornell University Press, 2018), 4.

⁸⁴ Kyle Lewis et al., “The results are in: the UK’s four-day week pilot,” *Autonomy*, February 2023, <https://autonomy.work/wp-content/uploads/2023/02/The-results-are-in-The-UKs-four-day-week-pilot.pdf>.

⁸⁵ Helen Hester and Will Stronge, “Towards Post-Work Studies: Identifying Misconceptions in an Emerging Field,” *Autonomy*, September 6, 2020, <https://autonomy.work/portfolio/post-workmisconceptions2/>.

⁸⁶ Fred Twine, *Citizenship and Social Rights: The Interdependence of Self and Society* (Sage, 1994).

⁸⁷ See note 85.

⁸⁸ Virginia A. Leary, “The Paradox of Workers’ Rights as Human Rights,” in *Human Rights, Labor Rights, and International Trade*, eds. Lance A. Compa and Stephen F. Diamond (University of Pennsylvania Press, 2003), 22.

⁸⁹ Christopher Mims, *The Wall Street Journal*, February 6, 2021, <https://www.wsj.com/articles/amazons-new-ceo-can-either-help-workers-and-sellers-or-automate-them-away-11612587602>.

⁹⁰ Bill Chappell, *NPR*, May 17, 2021, <https://www.npr.org/2021/05/17/997462169/thousands-of-people-are-dying-from-working-long-hours-a-new-study-finds>.

⁹¹ Bryan Lufkin and Jessica Mudditt, *BBC*, August 24, 2021, <https://www.bbc.com/worklife/article/20210819-the-case-for-a-shorter-workweek?ocid=liwl>.

⁹² Rebecca Cairns, *CNN*, August 19, 2021, <https://edition.cnn.com/2021/08/19/asia/grace-hanson-robotics-android-nurse-hnk-spc-intl/index.html>.

⁹³ Bryan Lufkin, *BBC*, May 10, 2021, <https://www.bbc.com/worklife/article/20210507-why-we-glorify-the-cult-of-burnout-and-overwork?ocid=liwl>.

⁹⁴ *The Economist*, January 31, 2021, <https://www.economist.com/china/2021/01/27/the-gig-economy-challenges-chinas-state-run-labour-unions>.

⁹⁵ Ayelet Sheffey, *Business Insider India*, August 20, 2021, <https://www.businessinsider.in/policy/economy/news/elon-musk-says-we-need-universal-basic-income-because-in-the-future-physical-work-will-be-a-choice/articleshow/85493221.cms>.

⁹⁶ See Nicole Bateman and Martha Ross, “Why has COVID-19 been especially harmful for working women?,” *The Brookings Institute*, October 2020, <https://www.brookings.edu/essay/why-has-covid-19-been-especially-harmful-for-working-women/>; UN Women, “COVID-19 and its economic toll on women: The story behind the numbers,” September 16, 2020, <https://www.unwomen.org/en/news/stories/2020/9/feature-covid-19-economic-impacts-on-women>; Alona Ferber and Katharine Swindells, “Inside Covid-19’s ‘lost year’ for women at work,” *The New Statesman*, March 8, 2021, <https://www.newstatesman.com/spotlight/2021/03/inside-covid-19-s-lost-year-women-work>.

⁹⁷ Ben King, “Coronavirus: How much will it cost the UK and how will we pay?” *BBC*, November 25, 2020, <https://www.bbc.co.uk/news/business-52663523#:~:text=On%2025%20November%2C%20the%20Office,figure%20ever%20seen%20outside%20wartime>.

⁹⁸ Some of the independent think tanks, researchers, activists, not-for-profit organisations, etc. that support the four day workweek include Autonomy (autonomy.work), the UK's national campaign for a four day working week aptly called '4 Day Week', 4 Day Week Global co-founders Charlotte Lockhart and Andrew Barnes, and 4 Day Week campaigns around the world (you can find them on X, formerly known as Twitter, under the hashtag #4dayweek).

⁹⁹ Jeremy Sarkin and Mark Koenig, "Developing the Right to Work: Intersecting and Dialoguing Human Rights and Economic Policy," *Human Rights Quarterly* 33, no. 1 (2011): 1–42, <http://www.jstor.org/stable/23015979>.

¹⁰⁰ Ibid., 4.

¹⁰¹ Ibid.

¹⁰² Further criticisms such as instrumentality will be dealt with in Chapter 2.

¹⁰³ Krzysztof Drzewicki, "The Right to Work and Rights in Work," in *Economic, Social and Cultural Rights*, eds. Asbjorn et al., 2nd ed. (Martinus Nijhoff Publishers, 2001), 225 (*emphasis added*).

¹⁰⁴ Leary, "The Paradox of Workers' Rights," 25.

¹⁰⁵ Saurabh Bhattacharjee, "Situating the Right to Work in International Human Rights Law: An Agenda for the Protection of Refugees and Asylum-Seekers," 6 NUJS L. Rev. 41 (May 1, 2013): 51, <https://ssrn.com/abstract=2501230>.

¹⁰⁶ Joint Committee on Human Rights, "A Bill of Rights for the UK?," 2007–2008, HL 165-I, HC 150-I, 43, available at <https://publications.parliament.uk/pa/jt200708/jtselect/jtrights/165/165i.pdf>.

¹⁰⁷ Andrea Komlosy, *Work: The Last 1000 Years*, trans. Loren Balhorn and Jacob K. Watson (Verso, 2018), Chapter 2.

¹⁰⁸ Hugh Collins, "Is there a Human Right to Work?," in *The Right to Work: Legal and Philosophical Perspectives*, ed. Virginia Mantouvalou (Hart, 2015), 18.

¹⁰⁹ I acknowledge there have been times people have tried to codify the right to work before the drafting of the UDHR, such as, for example, Article 21 to the revised Declaration of the Rights of Man included in the French Constitution of 1793, which states that citizens have a right to work. However, as this thesis is about the right to work in *modern* international human rights law, the most logical place to start as I have stated above, is with the drafting of the UDHR and what is now the International Bill of Human Rights.

- ¹¹⁰ UN, International Covenant on Economic, Social and Cultural Rights (ICESCR), G.A. Res. 2200A (XXI), December 16, 1966, Articles 6–7, <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-economic-social-and-cultural-rights>.
- ¹¹¹ Sarkin and Koenig, 8.
- ¹¹² Ibid., 5.
- ¹¹³ Ibid.
- ¹¹⁴ Ibid., 5–6.
- ¹¹⁵ See Bhattacharjee, “Situating the Right to Work”; Sarkin and Koenig, “Developing the Right to Work.”
- ¹¹⁶ Sarkin and Koenig, 34.
- ¹¹⁷ I establish an understanding of human rights in more detail in the next chapter.
- ¹¹⁸ Johannes Morsink, *The Universal Declaration of Human Rights: Origins, Drafting and Intent* (University of Pennsylvania Press, 1999), 190.
- ¹¹⁹ Ibid., 158.
- ¹²⁰ Ibid., 190.
- ¹²¹ Ibid.
- ¹²² Bhattacharjee, “Situating the Right to Work”.
- ¹²³ Joint Committee on Human Rights, “A Bill of Rights for the UK?,” 51.
- ¹²⁴ Ibid., 52.
- ¹²⁵ Fons Coomans, ed., *Justiciability of Economic and Social Rights: Experiences from Domestic Systems* (Intersentia, 2006), 2–3.
- ¹²⁶ Audrey Chapman, ed., *Core Obligations: Building a Framework for Economic, Social and Cultural Rights*, (Intersentia: 2002), 3.
- ¹²⁷ UN Economic and Social Council, Committee on Economic, Social and Cultural Rights, General Comment No. 3: The Nature of States Parties’ Obligations (art. 2, para. 1 of the Covenant), E/1991/23 (Dec. 14, 1990), <https://www.refworld.org/pdfid/4538838e10.pdf>.

¹²⁸ An important thing to note is the different perspectives that international human rights law and post-work literature have regarding their views on work. In international legal documents as well as amongst legal scholars and political theorists who directly discuss the right to work, the view towards paid employment tends to be laudatory, extolling the virtues and benefits that work bestows on us. Post-work literature as the name suggests, however, tends to have a more critical standpoint regarding work. Ultimately, I agree with most post-work theorists that paid employment is not necessarily an inherent good, but like those in international human rights law, it is nevertheless a human right. *See* UN Committee on Economic, Social and Cultural Rights (CESCR), General comment No. 23 (2016) on the right to just and favourable conditions of work (article 7 of the International Covenant on Economic, Social and Cultural Rights), E/C.12/GC/23, April 7, 2016. <https://www.refworld.org/legal/general/cescr/2016/en/122360>.

¹²⁹ Harvey, “Human Rights and Economic Policy Discourse,” 376.

¹³⁰ *See* note 63.

¹³¹ Article 24 obviously does not specify in detail the exact number of days or figures of “periodic holidays with pay” for good reason. Different countries can determine democratically for themselves what would be considered sufficient in terms of a minimum or living wage, paid vacations, health care, paid maternity/paternity leave, etc. But articles like Article 24 at least set a minimum standard of what must be included for fair and decent work, to protect human labour and people from becoming a commodity, as per the Declaration of Philadelphia (1944).

¹³² Soft law is used to denote agreements, principles and declarations that, while not strictly legally binding, has some normative or coercive effects. Soft law instruments are predominantly found in the international sphere. UN General Assembly resolutions are an example of soft law. Soft law measures are frequently used by EU institutions, particularly the European Commission, often in conjunction with legally binding measures (such as regulations, directives and decisions), to achieve a policy objective. EU soft law measures include quasi-legal instruments such as opinions, recommendations, communications, non-legislative resolutions, notices, guidance documents or statements of administrative priorities. Hard law refers generally to legal obligations that are binding on the parties involved and which can be legally enforced before a court. *See* “Hard/Soft Law,” The European Centre for Constitutional and Human Rights (ECCHR), <https://www.ecchr.eu/en/glossary/hard-law-soft-law/> and “Soft Law (EU),” Thomson Reuters, [https://uk.practicallaw.thomsonreuters.com/w-018-9616?transitionType=Default&contextData=\(sc.Default\)](https://uk.practicallaw.thomsonreuters.com/w-018-9616?transitionType=Default&contextData=(sc.Default)).

¹³³ Michael Kirby, “Foreword,” *The International Law of Human Rights* (Oxford University Press, 2011), iii.

¹³⁴ For example, the independent, progressive think tank Autonomy focuses on the future of work, and in particular, research on the benefits and feasibility of a shorter work week, among other things. See <https://autonomy.work>. Countries around the world including Scotland, Spain, Iceland, New Zealand and Japan are all trialling or have seen success with a shorter work week without cutting pay. See “Four-day week ‘an overwhelming success’ in Iceland,” *BBC*, July 6, 2021, <https://www.bbc.co.uk/news/business-57724779>; Douglas Fraser, “Scotland to trial a four-day week,” *BBC*, September 1, 2021, <https://www.bbc.co.uk/news/uk-scotland-scotland-business-58403087>; Ashifa Kassam, “Spain to launch trial of four-day working week,” *The Guardian*, March 15, 2021, <https://www.theguardian.com/world/2021/mar/15/spain-to-launch-trial-of-four-day-working-week>.

¹³⁵ See Martin Pullinger, “The ‘green life course’ approach to designing working time policy,” in *Time on our side: Why we all need a shorter working week*, eds. Anna Coote and Jane Franklin (New Economics Foundation, 2013); Angela Druckman et al., “Time, gender and carbon: how British adults use their leisure time,” in Coote and Franklin, *Time on our side*.

¹³⁶ “Tang ping”, meaning *lying flat*, is a lifestyle change among young people in China exhausted by societal pressure to find jobs and perform well, a culture of hard work and long hours, all with seemingly little reward. See “China’s new ‘tang ping’ trend aims to highlight pressures of work culture,” *BBC*, June 3, 2021, <https://www.bbc.co.uk/news/world-asia-china-57348406>.

¹³⁷ While “tang ping” is a relatively new trend in China, young people in other parts of Asia have also been struggling with similar problems for years. “In 2011, a South Korean newspaper coined the word ‘sampo’—literally ‘give up three’—to describe a generation who has given up on dating, marriage and having kids. In 2014, interpersonal relationships and home ownership were added to that list, giving rise to the ‘opo’ generation, or ‘give up five.’ More sacrifices have been added since then, eventually giving rise to the term ‘n-po,’ referring to the nth degree. ... Young Japanese people have been frustrated with work pressure and economic stagnation for years, too. Some identify as the ‘satori sedai,’ or resignation generation,” for similar reasons. See Sophie Jeong, “Exhausted and without hope, East Asian youth are ‘lying flat,’” *CNN Business*, August 29, 2021, <https://edition.cnn.com/2021/08/28/economy/china-japan-korea-youth-intl-dst-hnk/index.html>.

¹³⁸ See Michael Sandel, “Michael Sandel at Human After All conference 2014,” *New Economic Thinking*, April 12, 2014, <https://www.youtube.com/watch?v=WEOQ66oLgGQ>.

¹³⁹ Steven M. Beaudoin, *Poverty in World History* (Routledge, 2007).

- ¹⁴⁰ John Kenneth Galbraith, *A History of Economics: The Past as Present* (Hamish Hamilton, 1987), 7.
- ¹⁴¹ Michael Kalecki, “Political Aspects of Full Employment,” *The Political Quarterly* 14, no. 4 (1943): 322–30, <https://doi.org/10.1111/j.1467-923X.1943.tb01016.x>.
- ¹⁴² Pavlina R. Tcherneva, *A Case for a Job Guarantee* (Polity, 2020), 2.
- ¹⁴³ Sarkin and Koenig, 33.
- ¹⁴⁴ Morsink.
- ¹⁴⁵ Adam McBeth et al., *The International Law of Human Rights* (Oxford University Press, 2011).
- ¹⁴⁶ The drafting committee initially comprised of Eleanor Roosevelt, the wife of American president Franklin D. Roosevelt and the only woman on the committee; Habib Charles Malike, a Lebanese philosopher and diplomat; and Peng-Chun Chang, a diplomat, writer, and philosopher representing the Chinese National Government. The committee was later expanded to include René Cassin, a French judge; John Humphrey, a Canadian lawyer; Colonel William Hodgson, an Australian soldier and diplomat; Hernán Santa Cruz, a Chilean judge; Alexander Bogomolov, a Russian diplomat; Geoffrey Wilson, an English civil servant, and Charles Dukes, an English trade unionist (McBeth et al. 2011, 14).
- ¹⁴⁷ Sarkin and Koenig, 33.
- ¹⁴⁸ Ibid., 25.
- ¹⁴⁹ Ibid.
- ¹⁵⁰ UN, United Nations Charter, Chapter IX: International Economic and Social Cooperation, <https://www.un.org/en/about-us/un-charter/chapter-9>.
- ¹⁵¹ Harvey, 373.
- ¹⁵² William Beveridge, *Full Employment in a Free Society* (George Allen and Unwin, 1944), 18.
- ¹⁵³ Adrian Sinfield, *What Unemployment Means* (Martin Robertson, 1981), 129.
- ¹⁵⁴ Beveridge, *Full Employment*, 18–19, (*emphasis added*).
- ¹⁵⁵ Ibid.
- ¹⁵⁶ Harvey, 374.
- ¹⁵⁷ Sarkin and Koenig, 32.
- ¹⁵⁸ Ibid., 32–33.

- ¹⁵⁹ US Department of State, “Oil Embargo, 1973–1974,” June 1, 2017, <https://history.state.gov/milestones/1969-1976/oil-embargo>; Peter Gratton, “What Is Stagflation, What Causes It, and Why Is It Bad?” Investopedia, April 7, 2025, <https://www.investopedia.com/terms/s/stagflation.asp#toc-history-of-stagflation>.
- ¹⁶⁰ George Monbiot and Peter Hutchison, *The Invisible Doctrine: The Secret History of Neoliberalism* (Crown, 2024), EPUB; Kirsty Styles and James Meadway (hosts), *A Beginner’s Guide to Neoliberalism*, podcast, New Economics Foundation, <https://neweconomics.org/2019/05/a-beginners-guide-to-neoliberalism>.
- ¹⁶¹ Wendy Larner, “Neo-liberalism: Policy, Ideology, Governmentality,” *Studies in Political Economy* 63, no. 1 (2000): 5, <https://doi.org/10.1080/19187033.2000.11675231>.
- ¹⁶² Ibid., 5.
- ¹⁶³ Robert Brenner, “Chapter 3: Full Employment and the Long Downturn,” in *Utopia or Bust: A Guide to the Present Crisis*, ed. Benjamin Kunkel (Verso, 2014), 82, (*emphasis in original*).
- ¹⁶⁴ Sarkin and Koenig, 33.
- ¹⁶⁵ Ibid.
- ¹⁶⁶ Ibid.
- ¹⁶⁷ Michael Young and Theodor Prager, *There’s Work For All* (Nicholson and Watson, 1945), 62–63.
- ¹⁶⁸ Kalecki, “Political Aspects of Full Employment,” 326.
- ¹⁶⁹ Tim Gurner, “Tim Gurner at the AFR Property Summit,” *Financial Review*, September 15, 2023, YouTube video, <https://www.youtube.com/watch?v=K1tqDyN4xE&t=2s>.
- ¹⁷⁰ Tim Gurner’s LinkedIn account has since been deleted, and LinkedIn posts from Gurner Group and Tim’s luxury wellness club for rich people Saint Haven have had the comments disabled since the remarks were made as of 24 September 2023.
- ¹⁷¹ Tiffanie Turnbull and Natalie Sherman, “Tim Gurner Apologises Over Call for More Unemployment to Fix Worker Attitudes,” *BBC*, September 15, 2023, <https://www.bbc.co.uk/news/business-66803279>.
- ¹⁷² Ibid.
- ¹⁷³ Australian Financial Review, “Rich List 2023,” accessed September 17, 2023, <https://www.afr.com/rich-list>.

¹⁷⁴ Jordyn Beazley, “Multimillionaire Tim Gurner Regrets ‘Deeply Insensitive’ Comments Calling for ‘Pain in the Economy’,” *The Guardian*, September 14, 2023, <https://www.theguardian.com/australia-news/2023/sep/14/tim-gurner-group-insensitive-unemployment-increase-comments-apology-economy>.

¹⁷⁵ James Downie, “Watch this Multi-Millionaire CEO say the Quiet Part Out Loud About Class Warfare,” *MSNBC*, September 14, 2023, <https://www.msnbc.com/opinion/msnbc-opinion/tim-gurner-australian-ceo-unemployment-video-rcna104957>.

¹⁷⁶ Mike Carlton (@MikeCarlton01), “This Gurner character personifies everything that is wrong with unfettered capitalism and the cult of the super-CEO,” X, September 13, 2023, 8:12 am, <https://twitter.com/MikeCarlton01/status/1701856364048585127>.

¹⁷⁷ Turnbull and Sherman, “Tim Gurner apologises.”

¹⁷⁸ Kos Somaras (@KosSamaras), “Putting aside the outrage on this stuff for a minute. He is flat-out wrong and clearly has no idea what he is talking about. Two images explain why he should not,” X, September 13, 2023, 2:29 am, https://twitter.com/kossamaras/status/1701770147521024007?s=46&t=yfUUXQ2tEUd0DIKtK_c7Q; Downie, “Watch this Multi-Millionaire CEO.”

¹⁷⁹ Kalecki.

¹⁸⁰ Olúfẹmí O. Táíwò (@OlufemiOTaiwo), “I like teaching lefty theory as much as the next guy but I can rarely do better at explaining the connection between capital and social-political domination,” X, September 12, 2023, 5:28 pm, <https://twitter.com/OlufemiOTaiwo/status/1701633848629682588>.

¹⁸¹ Downie, “Watch this Multi-Millionaire CEO.”

¹⁸² Kalecki, 326.

¹⁸³ Ibid., 322.

¹⁸⁴ Ibid., 324, (*emphasis in original*).

¹⁸⁵ Ibid., 322.

¹⁸⁶ Ibid., 323.

¹⁸⁷ Ibid., 324.

¹⁸⁸ Ibid.

¹⁸⁹ Ibid., 325.

¹⁹⁰ Ibid.

¹⁹¹ Ibid.

¹⁹² Ibid., 326.

¹⁹³ Ibid., 327–28.

¹⁹⁴ The right to work, however, has been around for much longer. For example, Sarkin and Koenig (2011, 95) observe that while it is difficult to find a clear starting point for the historical development of the right to work, they suggest that the French Constitution of 1793 could be a good place to start, with Harvey (2002, 371) arguing that “the French Constitution of 1793 was where the right to work was first accorded positive recognition as a human right.” While the idea of the right to work existed before Charles Fourier’s extensive philosophical discussion of the right, he is often credited with being the first to coin the actual phrase, the “right to work”, in his 1808 treatise *Theory of the Four Movements*.

¹⁹⁵ Guy Standing, “Why a Basic Income Is Necessary for a Right to Work,” *Basic Income Studies* 7, no. 2 (2012): 22–26, <https://doi.org/10.1515/bis-2013-0007>.

¹⁹⁶ Tcherneva, *A Case for a Job Guarantee*; See also Stephanie Kelton, *The Deficit Myth: Modern Monetary Theory and the Birth of the People’s Economy* (Public Affairs, 2020).

¹⁹⁷ Standing, “Why a Basic Income Is Necessary,” 22–26.

¹⁹⁸ Ibid.

¹⁹⁹ Tcherneva, 120.

²⁰⁰ Ibid., 2.

²⁰¹ Ibid., 82, (*emphasis in original*).

²⁰² Ibid., 85.

²⁰³ Ibid., 88, (*emphasis in original*).

²⁰⁴ Ibid., 1–3.

²⁰⁵ Ibid., 7.

²⁰⁶ Ibid., 6.

²⁰⁷ See Tcherneva, 67–80.

²⁰⁸ See Tcherneva, 81–113.

²⁰⁹ Tcherneva, 3.

²¹⁰ Ibid.

²¹¹ Ibid., 10, 65.

²¹² Bhattacharjee.

- ²¹³ David A. Spencer, *Making Light Work: An End to Toil in the Twenty-First Century* (Polity, 2022), 13.
- ²¹⁴ Ibid.
- ²¹⁵ James Griffin, “The Presidential Address: Discrepancies between the Best Philosophical Account of Human Rights and the International Law of Human Rights,” *Proceedings of the Aristotelian Society* 101 (2001): 1–28.
- ²¹⁶ Charles Beitz, “What Human Rights Mean,” *Daedalus* 132, no. 1 (Winter 2003): 36–37, <http://www.jstor.org/stable/20027821>.
- ²¹⁷ Leif Wenar, “Rights,” *The Stanford Encyclopedia of Philosophy* (Spring 2020 Edition), Edward N. Zalta (ed.), <https://plato.stanford.edu/archives/spr2020/entries/rights/>.
- ²¹⁸ Ibid.
- ²¹⁹ Ibid.
- ²²⁰ Alon Harel, “Chapter 13: Theories of Rights,” in *Philosophy of Law and Legal Theory*, eds. Martin P. Golding and William A. Edmondson (Blackwell Publishing, 2005), 192, (*emphasis in original*).
- ²²¹ Laura Valentini, “In What sense are Human Rights Political? A Preliminary Exploration,” *Political Studies* 60 (2012): 181, <https://doi.org/10.1111/j.1467-9248.2011.00905.x>.
- ²²² Jeremy Bentham, *The Works of Jeremy Bentham*, Vol. 2 (William Tait, 1843), https://oll.libertyfund.org/title/bowring-the-works-of-jeremy-bentham-vol-2#Bentham_0872-02_6149.
- ²²³ This is in contrast with the opposing school of thought, ‘legal positivism’, whereby positivists believe that rights cannot exist without institutions to enforce laws and rights themselves.
- ²²⁴ Griffin, 6.
- ²²⁵ Ibid., 5–6.
- ²²⁶ Beitz, 36–37.
- ²²⁷ Ibid., 36.
- ²²⁸ Guglielmo Verdirame, “Chapter 3: Human rights in political and legal theory,” in *Routledge Handbook of International Human Rights Law*, eds. Scott Sheeran and Sir Nigel Rodley (Routledge, 2013), 31.
- ²²⁹ Beitz, 37.
- ²³⁰ William Sweet, *Philosophical Theory and the Universal Declaration of Human Rights* (University of Ottawa Press, 2003), 1.

²³¹ Ibid.

²³² Ibid.

²³³ Linda Hajjar Leib, *Human Rights and the Environment: Philosophical, Theoretical and Legal Perspectives* (Martinus Nijhoff Publishers, 2011), 41.

²³⁴ Beitz, 38.

²³⁵ For more on H. L. A. Hart and ‘general’ versus ‘special’ rights, see H. L. A. Hart, “Are There Any Natural Rights?,” *The Philosophical Review* 64, no. 2 (1955): 175–91, <https://www.jstor.org/stable/2182586>.

²³⁶ Beitz, 41.

²³⁷ Ibid.

²³⁸ Ibid., (*emphasis in original*).

²³⁹ Ibid., 43.

²⁴⁰ Ibid., 44.

²⁴¹ BBC, “Finland makes broadband a ‘legal right’,” July 1, 2010, <https://www.bbc.co.uk/news/10461048>.

²⁴² Eurostat, “Share of households with internet access in Finland from 2007 to 2020,” Chart, May 5, 2021, *Statista*, <https://www.statista.com/statistics/377766/household-internet-access-in-finland/>.

²⁴³ BBC. “Internet access is ‘a fundamental right,’” March 8, 2010, <http://news.bbc.co.uk/1/hi/technology/8548190.stm>.

²⁴⁴ Simone Vibert, “Children without internet access during lockdown,” *Children’s Commissioner for England*, August 18, 2020, <https://www.childrenscommissioner.gov.uk/2020/08/18/children-without-internet-access-during-lockdown/>; Cathy Li and Farah Lalani, “The COVID-19 pandemic has changed education forever. This is how,” *World Economic Forum*, April 20, 2020, <https://www.weforum.org/agenda/2020/04/coronavirus-education-global-covid19-online-digital-learning/>.

²⁴⁵ UNICEF, “Two thirds of the world’s school-age children have no internet access at home, new UNICEF-ITU report says,” December 1, 2020, <https://www.unicef.org/press-releases/two-thirds-worlds-school-age-children-have-no-internet-access-home-new-unicef-itu>.

²⁴⁶ UN, “Vienna Declaration and Programme of Action,” adopted by the World Conference on Human Rights, A/CONF.157/23, June 25, 1993, <https://www.ohchr.org/en/professionalinterest/pages/vienna.aspx>; See also Henry Steiner et al., eds., *International Human Rights in Context: Law, Politics, Morals*, 3rd ed. (Oxford University Press, 2008).

²⁴⁷ Beitz, 44.

²⁴⁸ Ibid.

²⁴⁹ See ICISS, *The Responsibility to Protect: Report of the International Commission on Intervention and State Sovereignty* (IDRC, December 2001), <https://idl-bnc-idrc.dspacedirect.org/server/api/core/bitstreams/7321d402-4733-4e62-98f2-8fbed4db04c1/content>.

²⁵⁰ Griffin, 1.

²⁵¹ Ibid., 4.

²⁵² Ibid., 7, 8.

²⁵³ UN, “Vienna Declaration.”

²⁵⁴ Steiner et al., *International Human Rights*, 263.

²⁵⁵ Philip Alston and Ryan Goodman, eds., *International Human Rights* (Oxford University Press, 2013), 277.

²⁵⁶ UN, “Vienna Declaration.”

²⁵⁷ Steiner et al., 263.

²⁵⁸ Wenar.

²⁵⁹ The Universal Declaration of Human Rights opens with “*Whereas* recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,” and in Article 1 that “All human beings are born free and equal in dignity and rights.” The Vienna Declaration of the 1993 World Human Rights Conference affirms that “all human rights derive from the dignity and worth inherent in the human person”. All of this can be traced back to the aim of the United Nations, as stated in the second paragraph of the Preamble of the Charter, “to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small.” Dignity is also mentioned in the ICESCR second preambulatory paragraph and ICCPR second preambulatory paragraph. Also in the ICESCR and ICCPR, first preambulatory paragraph (“recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world”); ICESCR, Article 13 (“education shall be directed to the full development of the human personality and the sense of its dignity”); ICCPR, Article 10 (“All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person”). For more examples, see Chapter 2, Section 5.1 The Significance of Dignity in International Law.

²⁶⁰ Griffin, 23–24, (*emphasis added*).

²⁶¹ In a short, now famous essay called “Economic Possibilities for our Grandchildren,” John Maynard Keynes in 1930 predicted that productivity, wealth, and living standards would rise due to technological advancements to the point that people would only need to work fifteen hours a week. “Technological displacement” would be a boon, as automation would do most of the menial tasks, leaving people to enjoy leisure. Unfortunately, while some of his other predictions, such as the rise in the standard of living has come true, the shortened work week has not. See John Maynard Keynes, “Economic Possibilities for Our Grandchildren,” in *Essays in Persuasion* (Palgrave Macmillan UK, 2010).

²⁶² Griffin, 25.

²⁶³ Ibid., (*emphasis added*).

²⁶⁴ Collins (2015, 19) defines an instrumental right as “one that has to be enjoyed in order to achieve a more fundamental right”, while Sarkin and Koenig (2011, 3) argue that the right to work should “not be overlooked in its role as an enabler for other rights”.

²⁶⁵ Griffin, 25.

²⁶⁶ Ibid., 28.

²⁶⁷ See note 259.

²⁶⁸ See note 239, (*emphasis added*).

²⁶⁹ Krzysztof Drzewicki, “The Right to Work and Rights in Work,” in *Economic, Social and Cultural Rights*, eds. Asbjorn Eide et al., 2nd ed. (Martinus Nijhoff Publishers, 2001), 227.

²⁷⁰ Jeremy Sarkin and Mark Koenig, “Developing the Right to Work: Intersecting and Dialoguing Human Rights and Economic Policy,” *Human Rights Quarterly* 33, no. 1 (February 2011): 8–9. <https://www.jstor.org/stable/23015979>.

²⁷¹ Ibid., 9.

²⁷² Ibid.

²⁷³ Ibid., 10, (*emphasis in original*).

²⁷⁴ Virginia Mantouvalou, ed. *The Legal Right to Work: Legal and Philosophical Perspectives* (Hart, 2015), 4.

²⁷⁵ See note 221.

²⁷⁶ Leib, *Human Rights and the Environment*, 41.

²⁷⁷ Alexander Orakhelashvili, *Akehurst’s Modern Introduction to International Law*, 9th ed. (Routledge, 2022), 13; Christian Reus-Smit, “International Law,” in John Baylis et al., *The Globalization of World Politics*, 300.

²⁷⁸ Reus-Smit, “International Law,” 300–301.

²⁷⁹ Ibid.

²⁸⁰ Ibid.

²⁸¹ Ibid.

²⁸² Ibid.

²⁸³ Salvador Santino Fulo Regilme and Karla Valeria Feijoo, “Right to human dignity,” in *The Palgrave Encyclopedia of Global Security Studies*, eds. Scott Romaniuk and Péter Marton (Palgrave, 2021), <https://scholarlypublications.universiteitleiden.nl/handle/1887/3216949>.

²⁸⁴ UN, United Nations Charter; UN, Universal Declaration.

²⁸⁵ Glenn Hughes, “The Concept of Dignity in the Universal Declaration of Human Rights,” *The Journal of Religious Ethics* 39, no. 1 (March 2011): 4.

²⁸⁶ Charles Beitz, “Human Dignity in the Theory of Human Rights: Nothing But a Phrase?,” *Philosophy & Public Affairs* 41, no. 3 (Summer 2013): 259.

²⁸⁷ Ibid., 265.

²⁸⁸ Oscar Schacter, “Human Dignity as a Normative Concept,” *American Journal of International Law* 77 (1983): 849, as quoted in Beitz, “Human Dignity,” 259.

²⁸⁹ Dan Saxon, *Fighting Machines: Autonomous Weapons and Human Dignity* (University of Pennsylvania Press, 2022), 30.

²⁹⁰ Ibid., 30.

²⁹¹ Ibid, 31.

²⁹² David Walsh, *Third Millennium: Reflections on Faith and Reason* (Georgetown University Press, 1999), 98, as quoted in Hughes, 4.

²⁹³ Beitz, “Human Dignity,” 260.

²⁹⁴ Ibid.

²⁹⁵ Ibid. Beitz quotes George Kateb, who he notes, did *not* endorse this view. See George Kateb, *Human Dignity* (Harvard University Press, 2011), 4.

²⁹⁶ Saxon, 30.

²⁹⁷ Hughes, 4.

²⁹⁸ As summarised by Suzy Killmister, “Chapter 15: Autonomy and Dignity,” in *The Routledge Handbook of Autonomy*, ed. Ben Colburn (Routledge, 2023), 169.

²⁹⁹ To understand what Hughes means regarding dignity being a *heuristic device*, and why the concept of *transcendence* is important in understanding abstract concepts such as dignity, *see* Hughes, “The Concept of Dignity.”

³⁰⁰ Markus Schlosser, “Agency,” *The Stanford Encyclopedia of Philosophy* (Winter 2019 Edition), Edward N. Zalta (ed.), <https://plato.stanford.edu/archives/win2019/entries/agency>.

³⁰¹ Griffin, 4.

³⁰² Killmister, “Chapter 15: Autonomy,” 167.

³⁰³ *Ibid.*, 168.

³⁰⁴ *Ibid.*

³⁰⁵ Hughes, 2.

³⁰⁶ Hughes, 2–4, (*emphasis in original*). Hughes looks at records of some of the Drafters’ suggestions, arguments, and drafts, and finds they “clearly” “understood the relation between dignity and rights in this way.”

³⁰⁷ *Ibid.*, 8.

³⁰⁸ *Ibid.*, (*emphasis added*).

³⁰⁹ *Ibid.*, (*emphasis in original*).

³¹⁰ *Ibid.*, 9.

³¹¹ *Ibid.*, 8.

³¹² *Ibid.*, 10.

³¹³ *Ibid.*

³¹⁴ *Ibid.*

³¹⁵ *Ibid.*

³¹⁶ *Ibid.*, 11.

³¹⁷ *Ibid.*

³¹⁸ *Ibid.*, 12.

³¹⁹ *Ibid.*

³²⁰ *Ibid.*, 12–13.

³²¹ *Ibid.*, 14.

³²² *Ibid.*

³²³ *Ibid.*

³²⁴ Ibid., 16.

³²⁵ Ibid., 18.

³²⁶ Ibid.

³²⁷ Ibid., 20–21.

³²⁸ Ibid., 19.

³²⁹ Hughes deals with two objections to transcendence. One is on its misconception as “some place or some imaginable entity,” rather than it being purely an explanatory term “best thought of as a dimension of *meaning*”, and the second on whether it only refers to “specific religious doctrines about human nature”. See Hughs, 16–18 (*emphasis in original*).

³³⁰ Saxon, 24.

³³¹ Griffin, 27.

³³² Ibid., 16, (*emphasis in original*).

³³³ Ibid., 28.

³³⁴ Jafari et al., “Examining the criteria of human dignity,” *Journal of Medical Ethics and History of Medicine* 16, no. 14 (Dec 2023), <https://pmc.ncbi.nlm.nih.gov/articles/PMC10909333/>; María Pardo-Vergara, “Dignity as Humanness: A Pathway to Understand the Place of Dignity as a Constitutional End,” *International Journal of Law in Context* 21, no. 3 (2025): 514–32, <https://doi.org/10.1017/S1744552325100025>; Lucy Michael, “Defining Dignity and Its Place in Human Rights,” *The New Bioethics* 20, no. 1 (2014): 12–34, <https://doi.org/10.1179/2050287714Z.00000000041>; Patrícia Frantz et al., “Reclaiming human dignity: A critical review of contemporary theories in light of ontological foundations,” *Medicine, Health Care and Philosophy* 28 (2025):791–97, <https://doi.org/10.1007/s11019-025-10290-7>; Christopher McCrudden, “Human Dignity and Judicial Interpretation of Human Rights,” IILJ Working Paper 2008/8, <https://iilj.org/wp-content/uploads/2016/08/McCruden-Human-Dignity-and-Judicial-Interpretation-of-Human-Rights-2008-1.pdf>.

³³⁵ Philip Harvey, “Human Rights and Economic Policy Discourse: Taking Economic and Social Rights Seriously,” 33 *Columbia Human Rights Law Review* (2002): 390.

³³⁶ Roosevelt House Public Policy Institute at Hunter College, “‘My Most Important Task’ Eleanor Roosevelt and the Universal Declaration of Human Rights,” exhibit originally displayed 14 September–21 December 2018, <http://www.roosevelthouse.hunter.cuny.edu/exhibits/my-most-important-task/>.

³³⁷ Morsink, Chapter 5.

³³⁸ Jessica Whyte, *The Morals of the Market: Human Rights and the Rise of Neoliberalism* (Verso, 2019), 228. As Whyte notes, the rights to food, clothing, housing, and education enshrined in the UDHR “sought to offer some protection from market forces”. However, neoliberals had a distinctively different conception of what the “economic” in Economic, Social, and Cultural Rights (ESCRs) should be, and “neoliberal ‘economic rights’ sought to protect the market freedom of private capital” instead.

³³⁹ Fred Twine, *Citizenship and Social Rights: The Interdependence of Self and Society* (Sage, 1994), 2–3. Twine touches upon how in industrial societies, nearly all of us are dependent on the selling of our, or our spouses, labour power “as a means to life.” This means there is a basic tendency in market-dominated societies for people to be treated as “things”. Yet, because we continually resist being treated as “things,” that partly is the reason for the development of social rights to a minimum wage or unemployment compensation.

³⁴⁰ See note 437.

³⁴¹ Such as the right to Internet access now considered a basic human right in Finland that I discussed. See notes 241, 243.

³⁴² See note 238.

³⁴³ See notes 332, 333.

³⁴⁴ UN, Universal Declaration of Human Rights, Articles 22, 26, 29.

³⁴⁵ Aldous Huxley, *Brave New World* (Vintage, 2007), xlvii.

³⁴⁶ Max Weber, *The Protestant Ethic and the Spirit of Capitalism with Other Writings on the Rise of the West*, trans. Stephen Kalberg, 4th ed. Oxford University Press, 2009.

³⁴⁷ George Scialabba, “Class and the Classroom: How Elite Universities Are Hurting America,” *Foreign Affairs* 94, no. 2 (2015): 167.

³⁴⁸ Ibid., 167.

³⁴⁹ David Leopold, “Marxism and Ideology: From Marx to Althusser,” in *The Oxford Handbook of Political Ideologies*, eds. Michael Freeden, and Marc Stears (Oxford University Press, 2013), <https://doi.org/10.1093/oxfordhb/9780199585977.013.0021>.

³⁵⁰ Stephen Hobden and Richard Wyn Jones, “Marxist Theories of International Relations,” in Baylis et al., *The Globalisation of World Politics*, 123.

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- ³⁵³ David Spencer, “Six centuries of vilifying the poor: Stigmatisation of welfare recipients and a lack of concern about low wages has origins in early mercantilist thought,” LSE Blogs, September 25, 2013, <https://blogs.lse.ac.uk/politicsandpolicy/six-centuries-of-vilifying-the-poor/>.
- ³⁵⁴ Ibid.
- ³⁵⁵ See notes 131, 572.
- ³⁵⁶ John Baylis and Steve Smith, *The Globalization of World Politics: An Introduction to International Relations*, 3rd ed. (Oxford University Press, 2004), 238.
- ³⁵⁷ Jamie Peck and Adam Tickell, “Neoliberalizing Space,” *Antipode* 34, no. 3 (2002): 381, <http://dx.doi.org/10.1111/1467-8330.00247>.
- ³⁵⁸ Ha-Joon Chang, ed., *Rethinking Development Economics* (Anthem Press, 2006), 1.
- ³⁵⁹ Jan Aart Scholte, *Globalization: A Critical Introduction* (Palgrave Macmillan, 2000), 35.
- ³⁶⁰ Alex Kirkup and Tony Evans, “The Myth of Western Opposition to Economic, Social, and Cultural Rights? A Reply to Whelan and Donnelly,” *Human Rights Quarterly* 31, no. 1 (February 2009): 238, (*emphasis added*).
- ³⁶¹ Wolfgang Streek, *Buying Time: The Delayed Crisis of Democratic Capitalism* (Verso, 2014).
- ³⁶² Margot E. Salomon, “Poverty, Privilege and International Law: The Millennium Development Goals and the Guise of Humanitarianism,” *German Yearbook of International Law* 51, no. 1 (2008): 45.
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- ³⁶⁴ Debi Barker and Jerry Mander, *Invisible Government: The World Trade Organization: Global Government for the Millenium?* (International Forum on Globalization, 1999), 4.
- ³⁶⁵ Baylis and Smith, *The Globalization of World Politics*, 238.
- ³⁶⁶ Joseph Stiglitz, *Globalization and its Discontents* (Norton, 2002), xiv.
- ³⁶⁷ Salomon, “Poverty, Privilege and International Law,” 52–53, (*emphasis added*).
- ³⁶⁸ Peck and Tickell, “Neoliberalizing Space,” 382.
- ³⁶⁹ Peck and Tickell.

- ³⁷⁰ James A. Chamberlain, *Undoing Work, Rethinking Community: A Critique on the Social Function of Work* (Cornell University Press, 2018), 48.
- ³⁷¹ Henning Meyer, “Left Out: How Europe’s Social Democrats Can Fight Back,” *Foreign Affairs* 92, no. 6 (2013): 17.
- ³⁷² Tim Jackson, “The Trouble with Productivity,” in Coote and Franklin, *Time on Our Side*, 27.
- ³⁷³ Michael J. Sandel, “Why we shouldn’t trust markets with our civic life,” TED, June 2013, https://www.ted.com/talks/michael_sandel_why_we_shouldn_t_trust_markets_with_our_civic_life.
- ³⁷⁴ Max Weber, *The Protestant Ethic and the Spirit of Capitalism with Other Writings on the Rise of the West*, trans. Stephen Kalberg, 4th ed. (Oxford University Press, 2009).
- ³⁷⁵ Scialabba, “Class and the Classroom,” 167.
- ³⁷⁶ See note 367.
- ³⁷⁷ Michael Freeden, “Ideology,” in *Routledge Encyclopedia of Philosophy* (Taylor and Francis, 1998), <https://www.rep.routledge.com/articles/thematic/ideology/v-1>.
- ³⁷⁸ Elizabeth Anderson, *Private Government: How Employers Rule Our Lives (and Why We Don’t Talk about It)* (Princeton University Press, 2017), xxii.
- ³⁷⁹ Baylis and Smith, 3.
- ³⁸⁰ Ibid. NB, Baylis and Smith uses the term “theory” instead of ideology in their text.
- ³⁸¹ Anderson, *Private Government*, xxi.
- ³⁸² Ibid., xxi—xxii.
- ³⁸³ Ibid.
- ³⁸⁴ Terence Ball and Richard Dagger, *Political Ideologies and the Democratic Ideal*, 8th ed. (Longman, 2011), 4.
- ³⁸⁵ Kirsty Styles and James Meadway (hosts), *A Beginner’s Guide to Neoliberalism*, podcast, New Economics Foundation, <https://neweconomics.org/2019/05/a-beginners-guide-to-neoliberalism>.
- ³⁸⁶ Wendy Larner, “Neo-liberalism: Policy, Ideology, Governmentality,” *Studies in Political Economy* 63, no. 1 (2000): 5, <https://doi.org/10.1080/19187033.2000.11675231>.
- ³⁸⁷ Jessica Whyte, *The Morals of the Market: Human Rights and the Rise of Neoliberalism* (Verso, 2019), 22.
- ³⁸⁸ George Monbiot and Peter Hutchison, *The Invisible Doctrine: The Secret History of Neoliberalism* (Crown, 2024), chap. 4, EPUB.
- ³⁸⁹ David Harvey, *A Brief History of Neoliberalism* (Oxford University Press, 2007), 2.

- ³⁹⁰ Harvey (2005, 2): “The state has to guarantee, for example, the quality and integrity of money. It must also set up those military, defence, police, and legal structures and functions required to secure private property rights and to guarantee, by force if need be, the proper functioning of markets.”
- ³⁹¹ Harvey, *A Brief History of Neoliberalism*, 2.
- ³⁹² Meadway, *A Beginner’s Guide*, episode 1.
- ³⁹³ Ibid.
- ³⁹⁴ Springer et al. (eds.), *The Handbook of Neoliberalism*, 2, (*emphasis added*).
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- ³⁹⁶ Margaret Thatcher Foundation, “Interview for *Sunday Times*,” May 1, 1981, <https://www.margaretthatcher.org/document/104475>.
- ³⁹⁷ Maddy Power, *Hunger, Whiteness and Religion in Neoliberal Britain: An Inequality of Power* (Policy Press, 2022), 16.
- ³⁹⁸ Ibid., 21.
- ³⁹⁹ Michel Foucault, “The ethic of care for the self as a practice of freedom,” in *The Final Foucault*, eds. James William Bernauer and David M. Rasmussen (MIT Press, 1988), 11, quoted in Power, *Hunger, Whiteness and Religion*, 21.
- ⁴⁰⁰ Power, *Hunger, Whiteness and Religion*, 21.
- ⁴⁰¹ Allan Bloom, *The Closing of the American Mind: How Higher Education has Failed Democracy and Impoverished the Souls of Today’s Students* (Simon and Schuster, 1987), 26.
- ⁴⁰² Power, 21.
- ⁴⁰³ William Deresiewicz, *Excellent Sheep: The Miseducation of the American Elite and the Way to a Meaningful Life* (New York: Free Press, 2014). Deresiewicz argues that in recent decades American universities “have reflected and reinforced the ascendance of neoliberalism, which has served as the organizing principle of American society for the past 30 years or so.” They have “replaced the traditional quest for liberal enlightenment with the goals and demands of late capitalism: consumer sovereignty, labor-market flexibility, debt financing, ‘scientific management and marketing, and technologically driven increases in productivity.” What was once the primary goal of universities—the making of souls and challenging students to question their own beliefs—Deresiewicz argues has now been all but abandoned. The American educational system is now producing “bright, healthy, knowledgeable, hard-working, well-behaved young adults with undeveloped moral imaginations and a disinclination to question authority”, or “excellent sheep” (Scialabba 2015).

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- ⁴⁰⁵ Birch, "How to think like a neoliberal."
- ⁴⁰⁶ Power, 21–22.
- ⁴⁰⁷ Whyte, *The Morals of the Market*, 22–23.
- ⁴⁰⁸ Ibid., 23, (*emphasis added*).
- ⁴⁰⁹ Ibid.
- ⁴¹⁰ George Monbiot, "Neoliberalism—the ideology at the root of all our problems," *The Guardian*, April 15, 2016, <https://www.theguardian.com/books/2016/apr/15/neoliberalism-ideology-problem-george-monbiot>.
- ⁴¹¹ Whyte, 23.
- ⁴¹² Ibid., 23–24, (*emphasis added*).
- ⁴¹³ Mihnea Tănăsescu, *Understanding the Rights of Nature: A Critical Introduction* (Transcript, 2022), 12.
- ⁴¹⁴ Ibid., 11.
- ⁴¹⁵ Ibid., 13.
- ⁴¹⁶ Ibid., 14.
- ⁴¹⁷ Whyte, 33.
- ⁴¹⁸ Whyte.
- ⁴¹⁹ James Ferguson, *The Anti-Politics Machine: Development, Depoliticization, and Bureaucratic Power in Lesotho* (University of Minnesota: 1994).
- ⁴²⁰ Whyte, 14, 214, 227.
- ⁴²¹ Ibid., 238, 242.
- ⁴²² Fred Block and Margaret R. Somers, *The Power of Market Fundamentalism: Karl Polanyi's Critique* (Harvard University Press, 2014), 3.
- ⁴²³ Paul Krugman, "Who Was Milton Friedman?," *New York Review of Books*, February 15, 2007, quoted in Stedman Jones, *Masters of the Universe*, 20, (*emphasis added*).
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- ⁴²⁵ Ibid., 345.

- ⁴²⁶ Vox, “I’m 38 and I Can’t Support Myself Anymore,” Substack, June 3, 2026, <https://itsmevox.substack.com/p/im-38-and-i-cant-support-myself-anymore>.
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- ⁴²⁸ Power, 22.
- ⁴²⁹ Ibid.
- ⁴³⁰ Manfred B. Steger and Ravi K. Roy, *Neoliberalism: A Very Short Introduction* (Oxford University Press, 2010), x.
- ⁴³¹ Taylor C. Boas and Jordan Gans-Morse, “Neoliberalism: From New Liberal Philosophy to Anti-Liberal Slogan,” *Studies in Comparative International Development* 44 (2009): 138, (*emphasis in original*), <https://doi.org/10.1007/s12116-009-9040-5>.
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- ⁴³³ Ibid.
- ⁴³⁴ James Kirchick, “I’m a neoliberal and I’m proud,” *LA Times*, June 4, 2017, latimes.com/opinion/op-ed/la-oe-kirchick-neoliberalism-defense-20170604-story.html.
- ⁴³⁵ Jason Reed, “I’m a Conservative neoliberal—but right now, the state needs to spend big on helping people,” *Prospect*, March 20, 2020, <https://www.prospectmagazine.co.uk/politics/39989/im-a-conservative-neoliberalbut-right-now-the-state-needs-to-spend-big-on-helping-people>.
- ⁴³⁶ Styles and Meadway (hosts), *A Beginner’s Guide*, episode 2, “The House that Hayek Built.”
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- ⁴³⁸ Radha D’Souza, *What’s Wrong with Rights? Social Movements, Law and Liberal Imaginations* (Pluto Press, 2018), (*emphasis in original*), 46.
- ⁴³⁹ For example, see Peter A. Hall and David Soskice, eds., *Varieties of Capitalism: The Institutional Foundations of Comparative Advantage* (Oxford University Press, 2001).
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⁴⁴² See, for example, Aaron Bastani. *Fully Automated Luxury Communism: A Manifesto*. Verso, 2020.

⁴⁴³ See note 34.

⁴⁴⁴ David Garland, *The Welfare State: A Very Short Introduction* (Oxford University Press, 2016), 52 (*emphasis added*).

⁴⁴⁵ James McWhinney, “The Nordic Model: Capitalism Meets Welfare,” Investopedia, March 24, 2026, <https://www.investopedia.com/articles/investing/100714/nordic-model-pros-and-cons.asp>; Nordic Health and Welfare Statistics, “About the Nordic welfare model,” April 1, 2024, <https://nhwstat.org/welfare/about-nordic-welfare-model-0>; Simone Rensch, “The evolving Scandinavian social welfare system,” Public Finance Focus, May 13, 2019, <https://www.publicfinancefocus.org/depth/2019/05/evolving-scandinavian-social-welfare-system>; Kiel Institute, “Scandinavian Countries Enjoy the Most Successful Welfare Systems in Europe,” March 6, 2015, <https://www.kielinstitut.de/publications/news/scandinavian-countries-enjoy-the-most-successful-welfare-systems-in-europe/>; Erik Bjørsted and Signe Dahl, “Why are the Nordic Countries Doing so Well?: The case of Denmark and Sweden,” Economic Council of the Labour Movement, December 2015, <https://feps-europe.eu/wp-content/uploads/2016/01/Why-are-the-nordic-countries-doing-so-well-The-case-of-Denmark-and-Sweden.pdf>; See also Stefan Hedlund, “Myths and realities of the Nordic welfare state,” Geopolitical Intelligence Services (GIS), March 22, 2021, <https://www.gisreportsonline.com/r/nordic-welfare-state/>.

⁴⁴⁶ Bjørsted and Dahl, “Why are the Nordic Countries Doing so Well?,” 2, 4.

⁴⁴⁷ See note 440.

⁴⁴⁸ Andrei Lankov, “What’s in it for the working man? Why North Koreans show up for low-wage jobs,” NK News, February 16, 2022, <https://www.nknews.org/2022/02/whats-in-it-for-the-working-man-why-north-koreans-show-up-for-low-wage-jobs/>.

⁴⁴⁹ And idolising work as a society, or seen as a duty by government, obviously has problems of its own. See Shklar’s arguments on pages 165–66 and note 466; Eleanor Roosevelt’s reason for rejecting the proposal to put in that there is a duty to work in the UDHR on page 107.

⁴⁵⁰ Stephen Lukes, *The Curious Enlightenment of Professor Caritas: A Comedy of Ideas* (Verso, 1995), 59.

⁴⁵¹ Ibid., 54.

⁴⁵² Ibid., 84.

⁴⁵³ QALY stands for Quality-Adjusted Life Year. As Cohen (2003, 188) explicates, “The adjustment is, for example, that if you will make only a partial recovery, then your remaining years are ‘not so valuable’. As babies have a lot of ‘life years’ ahead of them, usually considered to be ‘quality’ ones too, the budgets tend to favour younger patients over older ones, not so much in terms of emergency treatment but in terms of things like transplants and replacements.” For a full definition of QALY, see “Quality-adjusted life year (QALY),” York Health Economics Consortium, October 2025, <https://www.yhec.co.uk/glossary-term/quality-adjusted-life-year-qaly/>.

⁴⁵⁴ Ruth Patrick, “Work as the primary ‘duty’ of the responsible citizen: a critique of the his work-centric approach,” *People, Place & Policy Online* 6, no. 1 (2012): 5–15, <https://doi.org/10.3351/ppp.0006.0001.0002>.

⁴⁵⁵ Power, *Hunger, Whiteness and Religion*.

⁴⁵⁶ Lukes, 59.

⁴⁵⁷ Ibid., 112, (*emphasis added*).

⁴⁵⁸ Joanne J. Myers (host) et al., “How Much is Enough?: Money and the Good Life,” Public Affairs podcast, Carnegie Council, June 18, 2012, <http://carnegiecouncil.org/media/series/39/20120612-how-much-is-enough-money-and-the-good-life>.

⁴⁵⁹ I addressed this question in my first response to corrections, but as my examiners clearly did not take the time to read the thesis, in response to their loaded question, I have made it a long section in this chapter so they cannot miss it. It is one thing for me to address their challenge and them not liking it. They should then give reasons as to why they did not like it. But to claim I did not address it at all, when I did the first time, is a different matter entirely and just laziness and a mark of how they did not read the thesis very carefully, or gave it the time it deserved, or took any of my arguments seriously. At best, from the quality of comments I received, they skimmed it. The Head of Department in his email to me admitted as much that the examiners were pushed for time to read it (this was because University Central Exams forgot to send my examiners my thesis and I had to remind them months after I had submitted). The examiners in emails themselves also told me they didn’t have much time, and in the FOI request I made, they were also emailing each other saying because of other commitments, they had little time. But as Central Exams forgot to send the thesis, and students are required to see their vivas within three months of submission, my examiners rushed to skim my thesis and made comments that were factually untrue, debatable but stated as an absolute, or made comments that I could have addressed had I seen the viva. It was clear they did not much care other than to get this off their plates so they could both start their research leave. A research leave is not a holiday by the way. You shouldn’t be treating it as such.

⁴⁶⁰ “With labour I am fed, with labour I am punished.”

⁴⁶¹ This comes from 2 Thessalonians 3:10. It was later cited by the Communist revolutionary Vladimir Lenin during the early 1900s Russian Revolution, as well as others throughout history.

⁴⁶² “Constitution (Fundamental law) of the Union of Soviet Socialist Republics, 5 December 1936” Marxist Internet Archive, 2008, <https://www.marxists.org/reference/archive/stalin/works/1936/12/05.htm>.

⁴⁶³ Department for Work and Pensions, “Raising expectations and increasing support: reforming welfare for the future, Cmnd. 7506” (Department for Work and Pensions, 2008), 38.

⁴⁶⁴ See note 449.

⁴⁶⁵ Anca Gheaus and Lisa Herzog, “The Goods of Work (Other Than Money!),” *The Journal of Social Philosophy* 47, no. 1 (2016): 70–89, <https://doi.org/10.1111/josp.12140>.

⁴⁶⁶ Linda Bosniak, notes for example, that “[S]everal scholars have linked this conception of citizenship as rights, or equal citizenship, to the subject of work. A number of commentators have begun to argue that work is something that a person has to have in order to enjoy equal citizenship. Kenneth Karst, William Forbath, Vicki Schultz, and others have contended that equal citizenship requires access to good jobs, or what they call ‘decent work.’ They echo an idea set out by the political theorist Judith Shklar a decade ago, that the right to earn is fundamental to the enjoyment of citizenship. They also draw on broader ideas of a number of theorists who have been arguing on behalf of rights to ‘economic citizenship,’ by which they mean the right to a decent quality of life and basic economic empowerment. In these accounts, the relationship of work to citizenship is one of necessity; a person needs to have access to decent work in order to enjoy equal citizenship” (2002, 501). This is not to say that work itself is inherently good, but that it is necessary to have work in order to have a level of economic power to access full citizenship.

⁴⁶⁷ Valerie Bryson, “Time, care and gender inequalities,” in Coote and Franklin, *Time on Our Side*.

⁴⁶⁸ Derek Thompson, “A World Without Work,” *The Atlantic*, June 22, 2015, <https://www.theatlantic.com/magazine/archive/2015/07/world-without-work/395294/>.

⁴⁶⁹ Helen Hester, “Care Under Capitalism: The Crisis of ‘Women’s Work,’” *IPPR Progressive Review* 24, no. 4 (Spring 2018): 343–52, <https://onlinelibrary.wiley.com/doi/full/10.1111/newe.12074>.

⁴⁷⁰ Nick Srnicek and Helen Hester, “The Crisis of Social Reproduction and the End of Work,” in *The Age of Perplexity: Rethinking the World we Knew*, BBVA, OpenMind, Penguin Random House Grupo Editorial, 2017, <https://www.bbvaopenmind.com/wp-content/uploads/2018/03/BBVA-OpenMind-Helen-Hester-Nick-Srnicek-The-Crisis-of-Social-Reproduction-and-the-End-of-Work.pdf>.

⁴⁷¹ Andy Beckett, “Post-work: the radical idea of a world without jobs,” *The Guardian*, January 19, 2018, <https://www.theguardian.com/news/2018/jan/19/post-work-the-radical-idea-of-a-world-without-jobs>.

⁴⁷² Thompson, “A World Without Work.”

⁴⁷³ Ibid.

⁴⁷⁴ David Frayne, *The Refusal of Work: The Theory and Practice of Resistance to Work* (Zed Books, 2015).

⁴⁷⁵ Mareile Pfannebecker and J.A. Smith, “What Will We Do in the Post-Work Utopia?,” LSE Review of Books, June 17, 2016, <https://blogs.lse.ac.uk/lsereviewofbooks/2016/06/17/the-long-read-what-will-we-do-in-the-post-work-utopia-by-mareile-pfannebecker-and-j-a-smith/>.

⁴⁷⁶ Eva Swidler, “Radical Leisure,” *Monthly Review*, June 1, 2016, <https://monthlyreview.org/2016/06/01/radical-leisure/>.

⁴⁷⁷ Virginia Mantouvalou, ed., *The Right to Work: Legal and Philosophical Perspectives* (Hart, 2015), 1.

⁴⁷⁸ Global Justice Now, “10 biggest corporations make more money than most countries in the world combined,” September 12, 2016, <https://www.globaljustice.org.uk/news/2016/sep/12/10-biggest-corporations-make-more-money-most-countries-world-combined>.

⁴⁷⁹ Fernando Belinchón and Qayyah Moynihan, “25 giant companies that are bigger than entire countries,” *Business Insider*, July 25, 2018, <https://www.businessinsider.com/25-giant-companies-that-earn-more-than-entire-countries-2018-7?r=US&IR=T#walmarts-revenues-exceed-belgiums-gdp-25>.

⁴⁸⁰ Linsey McGoe and Darren Thiel, “Charismatic violence and the sanctification of the super-rich,” *Economy and Society* 47, no. 1 (2010): 111–34, <https://doi.org/10.1080/03085147.2018.1448543>.

⁴⁸¹ Tyler Sonnemaker, “Jeff Bezos is on track to become a trillionaire by 2026—despite an economy-killing pandemic and losing \$38 billion in his recent divorce,” *Business Insider*, May 14, 2020, <https://www.businessinsider.com/jeff-bezos-on-track-to-become-trillionaire-by-2026-2020-5?r=US&IR=T>.

⁴⁸² Rosa Silverman, “The psychology of panic-buying loo roll—again,” *The Telegraph*, September 22, 2020, <https://www.telegraph.co.uk/family/life/psychology-panic-buying-loo-roll/>.

⁴⁸³ Stephen Jones, “Who should pay for a home worker’s skinny latte?,” *Management Today*, October 19, 2020, <https://www.managementtoday.co.uk/pay-home-workers-skinny-latte/food-for-thought/article/1697544>.

⁴⁸⁴ John Knox, “Horizontal Human Rights Law,” *American Journal of International Law* 102, no. 1 (2008): 1–47, doi:10.1017/S0002930000039828.

⁴⁸⁵ *Ibid.*, 2.

⁴⁸⁶ *Ibid.*

⁴⁸⁷ Knox (2008, 3) does not reject all duties or argue that private duties have no place in human rights law. He qualifies that “They do have an important role, and human rights law should do more to develop specific duties to promote and protect human rights. But advocates of new proposals for private duties should ensure that their proposals strengthen, rather than weaken, the existing system of horizontal human rights law”.

⁴⁸⁸ Bella M. DePaulo and Wendy L. Morris, “The Unrecognized Stereotyping and Discrimination Against Singles,” *Current Directions in Psychological Science* 15, no. 5 (2006): 251–54, DOI: 10.1111/j.1467-8721.2006.00446.x.; Emily Hill, “The hidden, horrifying costs of being single,” *The Guardian*, September 5, 2018, <https://www.theguardian.com/commentisfree/2018/sep/05/hidden-costs-being-single>.

⁴⁸⁹ Amir Paz-Fuchs, “The Right to Work and the Duty to Work,” in Mantouvalou, *The Right to Work*, 179.

⁴⁹⁰ *Ibid.*, 184.

⁴⁹¹ *Ibid.*, 177.

⁴⁹² *Ibid.*, 182–83.

⁴⁹³ *Ibid.*, 185–86.

⁴⁹⁴ See John Field, *Working Men’s Bodies: Work Camps in Britain, 1880–1940* (Manchester University Press, 2013); Chamberlain, *Undoing Work*, 4.

⁴⁹⁵ Paz-Fuchs, 186.

- ⁴⁹⁶ Ruth Lister, *The Exclusive Society: Citizenship and the Poor* (CPAG, 1989), 9.
- ⁴⁹⁷ Ibid., 10.
- ⁴⁹⁸ Owen Jones, *The Establishment: And How They Get Away With It* (Allen Lane, 2014), 7.
- ⁴⁹⁹ Paz-Fuchs, 189.
- ⁵⁰⁰ Frances Fox Piven and Richard A. Cloward, *Regulating the Poor: The Functions of Public Welfare* (Pantheon Books, 1971).
- ⁵⁰¹ Avi Brisman, “Ritualized Degradation in the Twenty-First Century: A Revisitation of Piven and Cloward's Regulating the Poor,” *Seattle Journal for Social Justice* 10, no. 2 (2012): 795, <https://digitalcommons.law.seattleu.edu/sjsj/vol10/iss2/4>.
- ⁵⁰² Paz-Fuchs, 178, (*emphasis in original*).
- ⁵⁰³ Ibid., 193.
- ⁵⁰⁴ Ibid., 178.
- ⁵⁰⁵ Ibid., 194.
- ⁵⁰⁶ David Graeber, *Bullshit Jobs: A Theory* (Simon and Schuster, 2018).
- ⁵⁰⁷ Johannes Morsink, *The Universal Declaration of Human Rights: Origins, Drafting and Intent* (University of Pennsylvania Press, 1999), 162.
- ⁵⁰⁸ Ibid., 168.
- ⁵⁰⁹ Graeber, *Bullshit Jobs*.
- ⁵¹⁰ Morsink, 162.
- ⁵¹¹ Ibid., 168.
- ⁵¹² Fred Twine, *Citizenship and Social Rights: The Interdependence of Self and Society* (Sage, 1994), 3.
- ⁵¹³ Johannes Morsink, *The Universal Declaration of Human Rights: Origins, Drafting and Intent* (University of Pennsylvania Press, 1999), 181–82.
- ⁵¹⁴ For example, see UN Economic and Social Council, Committee on Economic, Social and Cultural Rights, General Comment No. 18: The Right to Work (Art. 6 of the Covenant), E/C.12/GC/18 (Feb. 6, 2006), <https://www.refworld.org/legal/general/cescr/2006/en/32433>.
- ⁵¹⁵ Richard Lewis Siegel, *Employment and Human Rights: The International Dimension* (University of Pennsylvania Press, 1994); Virginia Mantouvalou, ed. *The Right to Work: Legal and Philosophical Perspectives* (Hart Publishing, 2015).