

Income Support for Unemployed People: Human Rights versus Utilitarian Rights. John Tomlinson

8th National Conference on Unemployment, Southern Cross University, Sept 2001

Abstract

This paper considers the treatment of unemployed people's rights and entitlements, focussing particularly on the last decade and a half. It places the debate about entitlements within the context of the historical development of the entire Australian social security income support system. It considers rights in relation to obligations from the perspectives of both Utilitarianism and universalism. It concludes that only the provision of a universal Basic Income can prevent Australian Governments undermining unemployed people's economic security and foisting socially destructive obligations upon them.

Introduction

The main components of the Australian income support system were put in place by the Chifflery Labor Government in its 1947 consolidation of much of its social security* legislation (Kewley 1973 Ch.14). In the four decades following the end of the Second World War Liberal and Labor Governments slowly expanded the scope and generosity of the income support system. A significant, gradual but relentless diminution in the entitlement of citizens to access a base level of income support has marked the period since the mid-1980s (Castles 2001 pp. 29-31).

Both Labor and Coalition Governments have designed their income support policies in such a way as to have a direct impact on unemployed people. The 'reciprocal / mutual' obligation strategy was directed, in the first instance, towards compelling the young unemployed to participate and was then extended to include older unemployed, single parents and some people with disabilities (Reference Group on Welfare Reform 2000). The significantly increased breaching regime waged by the current Coalition Government drastically changed the level of income insecurity experienced by people without paid work who are forced to rely on Federally provided income support (ACOSS 2000, Bessant 2000).

This paper will:

- reflect upon the ideologies which informed the construction of the welfare safety net,
- compare those ideologies with current hegemonic ideas which determine welfare outcomes at the start of the third millennium,
- argue that the constrained view of income support entitlements promoted by the Howard Government constitutes a retreat from a welfare state informed by human, social and economic rights as set out in the *United Nations Declaration of Human Rights* and associated Conventions (which Australia has signed and ratified).

*Though the Department and the legislation controlling it were known as Social Services I will use the title "Social Security" which was subsequently adopted.

The Howard Government has adopted a Utilitarian or traditional ethical perception of rights tied to complementary obligations which the unemployed are expected to meet (Rees 2000 pp. 296-297, Charlesworth 2001). These obligations are imposed on unemployed people at the very time when they are facing a huge challenge just trying to survive.

The imposition of Utilitarian rights, in preference to the adoption of a human rights stance, creates three socially undesirable outcomes.

- Firstly, it diminishes the attraction of universal income maintenance. This, in turn, constitutes a major impediment to the introduction of liberating income support policies such as a Basic Income.
- Secondly, the imposition of “mutual obligation” denigrates those who rely on income support programs by:
 - enforcing participation in a limited range of approved activities,
 - devaluing many of the family and civic contributions which income support recipients make, and
 - inverting the concept of ‘social capital’ (Cox 1995, Putnam 1993) from civic solidarity to one of compelled individual effort. This undermines the communal aspect of ‘social security’ by placing an excessive concentration on an individual’s contribution.
- Thirdly it devalues all permanent residents social citizenship through the erosion of pre-existing social and economic rights.

Foundations of the Post War Welfare State

The Australian welfare state grew out of the pre-federation welfare policies of the colonies and after 1908 was to be based on full employment plus assistance to those perceived to be ‘in need’ (Kewley 1973, Roe 1976, Kennedy 1982, Dickey 1980). Castles (1985, 1994) described it as a “workers welfare state”. Certainly the blend of a strong arbitration system, occupational welfare provisions and full employment in the early post Second World War period made the task of the Labor Party committed to expanding income support provisions for the most vulnerable easier to implement.

The British post war welfare state had an influence on social policy directions taken in Australia (Timmins 1995). The intense involvement of leading Labor Party figures, such as Evatt, in the United Nations and the International Labour Organisation imbued the expanding social security legislation with a concept of rights which drew heavily on ideologies which informed the *United Nations Universal Declaration on Human Rights*.

The widespread acceptance of such constructions arose out of Australians image of themselves as a people committed to egalitarianism. They conceived of the broad categorical system of income support and assistance to children via Child Endowment as a form of ‘universal’ assistance to all in need. Introduced in 1941 Child Endowment excluded the first child. By the early 1950s, it was widely regarded as having become a payment covering all children - though differential rates applied depending on the number of children under 16 years in a family. It was claimable by ‘mothers’ of children born in Australia, those who had lived here for 12 months or

earlier if they could establish the child intended to remain permanently; the Child Endowment was not regarded as taxable income (Kewley 1973 Chapter10). *Even* “non-nomadic” Aboriginal people not reliant on Commonwealth or State Government support were included (Kewley 1973 p. 195).

It was never utopia

In Australia there have always been people, with little or no income, who were excluded from the beneficence of the Federal welfare system:

- Asians until the 1940s,
- city Aborigines until the 1960s,
- rural and remote Indigenous people until the 1970s,
- people out of work as a result of industrial action (Barwick 1997),
- those who could not pass the work test,
- until 1973 those deemed ‘unworthy’ by the Department,
- those the Department deemed dependent upon a spouse, whose income precluded payment,
- single mothers until 1973, and
- single fathers until 1976.

There were others who could not meet the eligibility requirements for particular benefits or pensions. Yet this did not stop a series of ministers of social security consistently proclaiming that the ‘social security safety net assists everyone in need through no fault of their own’. Goodin (2000 p.58, 1988) explains that, whilst the commanding ethos of the post war welfare state relied on the assumption that the collective would meet the basic needs of vulnerable individuals, it was not however intended that any individual should totally escape the need to be self supporting, when-ever possible, and to impose the condition that the State not be the automatic first point of call for help.

Nevertheless, when I worked for the Department of Social Security in the 1960s and 70s, officers generally assumed that nearly everyone, without access to other income, had an entitlement to some form of benefit or pension. Certainly some officers were less committed to this notion than others. Some were concerned to weed out: ‘work shy’ applicants for unemployment benefit, ‘malingerers’ from the ranks of the ‘Invalid Pensioner’ applicants, and were ever watchful for the possibility that a ‘Widow’s Pensioner’ was secretly living in a ‘bona fide domestic relationship’ with some bloke or in the case of ‘Widow Pensioner’ applicant (who had left the matrimonial home) the possibility that she did not have ‘just cause’ for leaving.

Prior to 1972 the Department under Coalition administrations concentrated on the question of *personal* entitlement (as specified under the Federal legislation as interpreted by an individual official). The incoming Whitlam administration, with Bill Hayden as Minister, changed this personal perception of entitlement towards one of right to payment except in situations which were specifically precluded by social security legislation. This was done by legislative change, policy pronouncement and by setting up administrative appeal processes *to ensure people received their entitlement* as specified in the legislation. Hayden abolished the provision which allowed the Department to deem someone ‘unworthy’ and extended income support provision to single parents who were female. This expansion of income support

entitlement was further extended to include lone fathers by the Fraser Government's Minister for Social Security Margaret Guilfoyle.

The last major policy extension to income support entitlement was the introduction, during the Fraser administration, of the Family Allowance Supplement. This scheme was expanded, improved, and renamed the Family Income Supplement by the incoming Hawke Labor Government. The Family Assistance Office currently administers the Australian family payments system. It has, in recent years, undergone a series of administrative changes and is not dissimilar, in aim, to the United States and British working families tax credits (Goodin 2000, pp 63-64).

The retreat

Incremental improvements and extensions to income support policy, which had occurred steadily from 1947, halted in 1986. Commenting on "the policy shift from entitlement to obligation" Eardley & Matheson (2000, p. 182) suggest "The first distinct elements of the new framework of support for unemployed people emerge from Labor's Social Security Review (Cass 1988)." There were some minor changes such as allowing ex-prisoners to gain immediate access to social security still to come. But in large part the 'political' concentration became one of *ensuring no one received more than the amount to which they were entitled*, and crackdowns designed to ensure people were meeting *every requirement for eligibility* became more frequent (Castles 2001 p.31). The unemployed and lone parents were singled out for particular surveillance by the Department (Nolan 1997).

The Department of Social Security's Annual Report 1986-87 (p.99) revealed how targeting was used to decrease the number of low income people who were paid income security:

With the progressive introduction of new administrative measures during 1986-87, there was a substantial decline in the number of people receiving benefits. At the time of the 1986-87 Budget the Treasury estimated that there would have been an average of 605,000 beneficiaries had the measures not been implemented....In short, there was a substantial increase in the number of unemployed over the year but a substantial decrease in the number of unemployment beneficiaries.

This was not an entirely new tactic. Windschuttle (1981 p. 187) notes that the Fraser Government in 1976 achieved a decrease in the number of unemployment beneficiaries during a time of rising unemployment by pressuring CES officers to take a tougher interpretation of the existing regulations.

Targeted welfare benefits can never deliver benefits equitably *even* to those who meet all the eligibility requirements (Boston & St. John 1998). The high point of the rights orientation in the administration of social security was during Bill Hayden's reign. But, by the time Hayden was Treasurer, unemployment had risen to 4% and youth unemployment had dramatically increased. He and Clyde Cameron claimed the ranks of the Unemployed were swelled by 'work shy lion tamers' and 'dole bludgers' (Windschuttle 1981 pp. 180-190). Guilfoyle's administration of the Department did not dismantle many of the gains made under Labor. But the prevailing ethos in the Department began the drift back towards a view of personal eligibility.

In 1977 a school leaver Karen Green successfully challenged in the High Court the blanket decision, announced in March 1976 by the then Employment Minister, that school leavers would have to wait six weeks before they were entitled to unemployment benefit (Kewley 1980 pp.136-138). The Director General of the Department of Social Security then individually determined her case and found that she had made insufficient effort to seek work in the 6 weeks immediately after leaving school and rejected her claim (Kewley 1980 p.138). Windschuttle (1981 p. 191) asserts that “ The Liberal government openly ignored Justice Steven’s (of the High Court) interpretation and imposed its own on the case”. Lengthy waiting periods for school leavers and unemployed people who are breached or fail in other regards to meet their ‘mutual obligations’ are now enshrined in the social security legislation.

Coming to power the Hawke Labor Government, with Don Grimes as Minister, improved a range of disability programs but in terms of income support policies there was little improvement. The re-imposition of the pension assets test “was announced in the Budget of 1983-84. The Social Security Minister at the time was Don Grimes. The Legislation was not passed until September 1984 and was not implemented until March 1985, by which time Brian Howe was the Minister” (personal communication with David Stanton a former senior officer in the Department of Social Security). The search for *savings* in this portfolio was on in earnest. Mendes (1998, pp.34-35) describing Labor’s social policy directions suggests:

Targeting enabled Labor to provide substantial increases in real incomes to most social security beneficiaries....(but) had little or no impact on inequalities within the paid workforce.... The increases in social security were financed not by a redistribution of income from the rich to the poor, but rather by a redirection....within the social security system....the gains for beneficiaries were too often at the expense of the living standards and rights of other disadvantaged groups.

In a recent book Edwards et al. (2001) discuss unifying income support schemes for young people, the introduction of the Child Support Agency, the imposition of the Higher Education Contribution Scheme (HECS) and ‘solving’ unemployment via Working Nation. Edwards et al. (2001) note each of these policy debates “started with a fairly simple idea: a single youth allowance, a child support levy, a graduate tax and a job compact”(p.10) and that “A common overriding constraint on ministers was the budget ‘bottom line’” (p.181). Edwards was involved in the development of each of these policies. A major weakness of the book is that it largely ignores the way ‘equity’ debates concerning such things as: what constitutes a suitable amount of income and the imposition of ‘reciprocal obligation’ initiated by Hawke/Keating Labor paved the way for the Howard Government to compel: ‘Dole Diaries’, literacy training, ‘Work for the Dole’ and other ‘mutual obligations’. The Hawk and Keating Government’s social welfare ministers ardently advanced the proposition that in order to promote equity between those whose taxes paid for social welfare and those who received it there needed to be some reciprocity demonstrated by the recipients.

Semantics

At a simple semantic level the Howard Government's claim to be enforcing a policy of 'mutual' obligation is misleading. The *Macquarie Dictionary* defines *mutual* as:

1. possessed, experienced, performed, etc. by each of two or more with respect to other or others; reciprocal: *mutual aid*.
2. having the same relation each towards the other or others: *mutual foes*.
3. of or pertaining to each of two or more or common: *mutual acquaintance* (1987 p.1175 italics in original).

There is no *reciprocity* in the relationship between the Howard Government and unemployed people. The opinions of unemployed people were not sought; their interests are not considered. The Government unilaterally imposed the policy; the Government unilaterally extended the policy in the 2001/2002 Budget. There is no *respect* for unemployed people implicit or explicit in compelling them to engage in 'Work for the Dole'. Unemployed people are (until the election) powerless to amend this policy or mitigate its impacts. The power differential extant between unemployed people and the Government is huge. As a result of this, unemployed people and the Government can't have *the same relation each towards the other*. The only sense in which the Government policy of 'mutual obligation' is *common* is in the sense that the policy is ordinary, mundane and lacking sophistication. The Government *imposes* 'mutual obligation' on the unemployed, they have few ways of affecting the Government. There was never any deal done between the Government and unemployed people to seek mutual acceptance of the policy. 'Mutual obligation' is a compact between the Government and all citizens – one which (hopefully) will be undone in the 2001 election.

Utilitarianism

Utilitarianism began in the 18th Century as a movement within the British liberal tradition. The liberal tradition is closely associated with the ideas of the John Locke and John Stuart Mill, and a liberal collectivist stream with Hobbes, Jeremy Bentham and other Utilitarians. Bentham developed a complex calculus of pleasure (good) and pain (bad) with the intention of introducing enlightened social legislation in line with morality (Sills 1968 pp.226-227). Whilst there are elements of egalitarian principles present in the writings of Bentham, they are tentative steps towards equality as understood by socialists. The liberal collectivists' link with conservative ideas about the common good is a major point of disjunction with the individualist strand of liberal thought.

In recent times Utilitarianism is best known for one of its central ideas summed up in the phrase "the greatest good for the greatest number". A problem with such an idea if rigidly enforced is that it can degenerate into rule by 50% plus one. Alex de Torqueville (1862) pointed out this form of 'democracy' can result in what he termed the "Tyranny of the Majority". The protection of minorities can never be safeguarded under regimes which impose a 50% plus one rule. One has only to look at the deplorable way asylum seekers are treated in Australia or to consider the treatment of Indigenous citizens' property rights in this country to see the level of viciousness that

can be applied to minority interests by a democratically elected government (Cunneen 2001, Reynolds 1998).

The Howard Government has imposed a 'majority rules' regime in relation to the unemployed. Unemployment income support policies are not assessed against the measure of the greatest good of all unemployed people, the greatest good of all recipients of income support, or the greatest good of all poor people. They are measured against an economic liberalist interpretation of the greatest good of the entire population. This account of the 'greater good' makes explicit the 'benefits' received by unemployed people but does not take any account the costs born by unemployed people. It converts *ipso facto* all employed into givers, providers –indeed benefactors if not genuine philanthropists. The underlining of the division between the productive and the non-productive, the giver and the receiver, the socially valued and the socially devalued does not enhance a unified civil society. It divides the society between the included and the marginalised.

Prime Minister Howard (1999, 2000) has set out the central ideological features of his approach to government. In these two papers he lays bare his conception of a social coalition consisting of government, business, church agencies, families and individuals. He also portrays his amalgam of a socially conservative agenda and his radical liberal economic policies. Such an approach was adopted with alacrity by a former welfare minister in his Government. In her paper on 'welfare dependency' she said "In short, good economic policy is good welfare policy" (Newman 1999 p.10).

The way rights are conceived affects who benefits

Stuart Rees (2000) comments that when a government "emphasises that rights have to be earned, that people can only insist on their rights if they have carried out their social responsibilities...It softens a general public for the idea that rights are conditional, not universal (pp.296-297)."

By contrast, the tradition of human rights which contributed to the *Universal Declaration of Human Rights* (1948) advocates a universal standard to protect against the tyranny of the state....In the *Rights of Man* (1791) Thomas Paine identified a universalist tradition with reference to conditions which gave security to citizens and thereby facilitated a civil society....Advocates of universal rights do not reject the ethicists' (Utilitarians') regard for duties and obligations but they do emphasise that duties and obligations serve to enhance rights; *they are not a precondition for them*. The universalist argument relies on the assumption that rights are accorded to people because they are human beings. In 1948 the universal declaration was designed to represent the highest aspirations of a *common people* (Rees pp.297-298 *italics not in original*).

Arguments which go to solidarity and inclusion are based on a universalist conception of rights and are centred around ideas of mutuality and reciprocity rather than reciprocal or *mutual obligation*. Universalists base their views on a far more optimistic understanding of humankind than that which informs those addicted to the idea that even the right to sustainable income support is conditional. Much of the motivation which underpins the Utilitarian view of rights revolves around the way risk is assessed (Sztompka 1999). Conservatives have a belief in the inherent imperfection of human beings (Tomlinson 1999, 2000). This preoccupation with the

unemployed to 'disappoint' finds voice the current 'dependency' debates (Tomlinson 2001) being waged by members of the Howard Government and by the conservative Indigenous lawyer Noel Pearson (1999 [a], [b] *contra* Tomlinson 1999). Minister Vanstone (2001) commenting on a *three* year longitudinal study put out a press statement with the misleading heading "Research confirms transgenerational welfare dependence" seemingly oblivious to the fact that a three year longitudinal study is incapable of establishing evidence about intergeneration impacts (Goodin et al. 1999). Three years is but a small part of even one human generation.

Whether the dependency rhetoric about 'mutual obligation' is dressed up in the language of the 'active society' (Cass 1988), the Reference Group on Welfare Reform's (2000) notion of 'participation income'; by Pearson who suggests: "The first step in leeching out the poison from welfare is to ensure that Government stops dealing poison to individuals in our society, through sending cheques in the mail" (p. 59) or by Minister Abbot who accuses many unemployed people of being 'job snobs', it denigrates those who are forced to rely on income support. Diana Bagnall (1999) wrote "the phrase 'mutual obligation' (is) jargon for the notion that you don't get something for nothing" (p.47) and went on to point out: "This is not about affordability so much as morality....the immorality of welfare dependency" (p.48).

Fortunately there still are in Australia a few writers, like Ray Cassin (2000 p.22) who remember the history of income support.

You can be 'on' social security in the literal sense of receiving benefits, but this usage does not carry the pejorative flavour of being 'on' welfare. The reason is not mysterious: we do not talk about social-security dependency, or social-services dependency because 'social security' and 'social services' are bound up with an older notion of entitlement, and an understanding of mutual obligation that goes beyond tit-for-tat reciprocity.....The ideal of mutual obligation underpinning a system of social security is not one of reciprocity, but of obligation borne by all of us to contribute to the support of people who would otherwise be destitute.

The resistance in Australia and in Britain to taking seriously the promise of the early post World War 2 welfare state exemplified in Beveridge's determination to abolish the five giants of 'squalor, want, ignorance, disease and idleness' (Timmins 1995), is clear in the current British Prime Minister's suggestion that what the socially excluded really need is "not money or welfare - but opportunities" (Morton 1999 p.1). Blair "believes that the best form of welfare is work, and like our own Federal Government, the rhetoric of the Blair Government is strong on the language of mutual obligation" (Morton 1999 p.2).

The oft repeated mantra of Howard and his ministers that "the best form of welfare is work" needs to be put alongside the labour market reality that there are in Australia 7 unemployed people for every job vacancy and in Queensland there are 16 unemployed people for every job vacancy (ABC TV News 27/4/2001, ACOSS 2001 [a]). The problem for many who are lucky enough to get one of these vacancies is that they find such work is often casualised, insecure, part-time and poorly remunerated. All it guarantees is a precarious existence and continuing poverty. Yes it is *work* but it is offered on such demeaning terms that it is *welfare*.

In the last decade and a half, Australians have witnessed:

- increasing deregulation of the labour market,
- attacks on the Arbitration system,
- expansion of precarious employment,
- undermining of award conditions through the expansion of individual work place contracts, and

these occupational features have proceeded along side:

- increased targeting of welfare benefits,
- tightening of eligibility, and
- diminution of social security provisions.

All of these features have undermined Australian citizens' sense of security. Yet this has not been sufficient to satisfy the Howard Government.

There has been an income support appeal process in place since Bill Hayden in 1973 began the process. Social security appeal mechanisms have for decades allowed income support recipients to challenge Departmental determinations of their entitlement. Such appeal mechanisms have provided an important bulwark against the unfettered power of government to discriminate against the least bureaucratically sophisticated citizens. It has been possible for illiterate clients to appear unassisted before the Social Security Tribunal and at least have their case reviewed by an independent panel of three. Early in 2001 the Howard Government announced its intention to amalgamate all Federal administrative appeal tribunals into one body. A single commissioner was to determine each case and appeal applications were to have been in writing (ABC TV 7.30 Report 21/2/ 2001). Such an approach would make it inordinately harder for income support recipients to obtain an appropriate appeal hearing. Labor and the minor parties disallowed this proposal in the Senate.

From then and now

The way Ministers speak about unemployed people affects the security of the income support they receive. Two examples exemplify how substantially attitudes have changed since the early 1970s.

In May 1973, for example, Hayden issued instructions that the work test be applied less strictly than formally. These instructions accorded with his view that most people wished to be employed and that it was preferable that a few people took advantage of the system and slipped through it than that people genuinely seeking work should be unfairly penalized (Kewley 1980 p.134).

In April 2001, Mal Brough, the Minister for Employment, Workplace Relations and Small Business commenting on his Department's (2001) assessment of the Job Network said:

“20,7000 welfare recipients referred to the Job Search Training and Intensive Assistance surrendered their benefit rather than undertake either program....the study confirmed the Government's mutual obligation program is working. Compliance is a strong motivator and it also flushes out dole cheats (Brough 2001 [a] p.2).”

In Appendix C of the Department of Employment, Workplace Relations and Small Business study (2001) it is acknowledged that in 20 to 30 % of cases it had no details as to why people left these programs.

A couple of weeks earlier at a conference of ‘Work for the Dole’ Co-ordinators, Mal Brough (2001[b] p. 7) commenting on those who left these programs said it was a savings to tax payers if people decided they no longer wanted to be on benefit “for what ever reason” and in a personal note said:

And if you’ve a genuine unemployed person you want to put as much resources into getting them back into work and assisting them as you can. The last thing I want to see is any dollar – let alone lots of them- being spent on people who shouldn’t be there in the first place (p.6).

In less than 30 years Australian ministers have moved from an acceptance that the occasional person be paid even though perhaps not fully entitled to a benefit to a resolute disregard for the fact that many income support recipients leave the income support system “for what ever reason”. For many it is because they can’t hack the harassment. One of the most oppressive elements of this harassment are the ever present possibility of being breached, (ACOSS 2001[b]) notes there were 349,100 breaching penalties imposed in the 2000-01 year. People can be breached for not attending a Centrelink seminar or interview, inadequately completing their dole diaries, not applying for ten jobs a fortnight, or failing to comply with a directive given by a privatised job finding agency. The financial penalty for failing to attend a Centrelink interview can vary from between \$678 to \$1431. For unemployed people, whose income support payments are significantly below the Henderson Poverty Line, such penalties are inordinately punitive. The poem immediately below attempts to summarise the socially destructive impact of such breaching and the sense of futility such regimes evoke.

The Downsides of the Social Security Breaching Regime

Strike a light-it’s dark
Where ya living?
In the Park.
Going ok – so they say;
not like Ben, he sleeps on the railway roof
- failed to meet his mutual obligation
now he’s living above his station.

Categorical income support versus Basic Income

Whenever payment of income support is conditional upon the recipient fulfilling a particular social action then a government or its agents can use their discretion to determine whether the obligation to comply has been met. If the provider of the income support payment decides the recipient has failed to fully meet the imposed obligation it can withhold the payment. This removes the security from the social security system. From 1947 until the advent of the Howard Government unemployed people had only to establish they had very limited income and that they complied with the activity test, designed to assess their work search bona fides, in order to be paid. The Howard Government’s ‘mutual obligation’ regime has massively increased the hoops through which applicants for unemployment benefit now have to jump before they will be paid. The 349,100 breaching penalties imposed in 2000-01 attests to that (ACOSS 2001 [b]). This increases the level of insecurity recipients experience.

A Basic Income paid, without social requirements, to all permanent residents is the most efficient politically feasible method capable of ensuring that all unemployed people are guaranteed at least survival income (Tomlinson 2000).

Where does this leave us?

The Howard Government's addiction to an ethical or Utilitarian view of rights which is conditional upon first meeting obligations is a far cry from the form of rights expressed in the *Universal Declaration of Human Rights* or the associated Covenants. For instance, Article 11(1) of the *International Covenant on Economic, Social and Cultural Rights* recognises "the right of everyone to an adequate standard of living". Article 8(3)(a) of the *International Covenant on Civil and Political Rights* provides that "No one shall be required to perform forced or compulsory labour". Even allowing the qualification in section C(4) of this Article which excludes from the category of forced labour "work or service which forms part of normal civil obligations" much of the Howard Government's 'mutual obligation' agenda is in breach of these international agreements which Australia has signed and ratified.

The imposition of forced labour on one section of the Australian people undermines the citizenship of all citizens because it is uncertain when and to whom such compulsion will be extended. It downgrades the social and economic rights previously available to all citizens. By ignoring the citizenship rights of those who receive income support it separates them from other citizens – marking them off as less worthy.

The requirement that such people engage in certain specified activities before they will be paid income support ignores the contribution that many non-employed people already make to their neighbourhood, their families and their society. The Government devalues unemployed peoples' voluntary contribution through the suggestion that only approved forms of participation constitute a contribution. For instance, conservationists who sleep up trees for months on end in order to prevent their destruction are making a real contribution in the fight against the salination of Australia's farmlands. However the Government steadfastly refuses to accept their not inconsiderable efforts as an approved form of contribution to this society. Howard asserts that if the society makes a contribution to unemployed people it is only fair that they give something back to society. Such statements suggest unemployed people make no contribution unless they are compelled to meet their 'mutual obligation'. This separates unemployed citizens from 'productive' citizens. In one breath it brands unemployed people as less valued whilst forcing them to 'perform compulsory labour' thus undermining solidarity and civil society.

Perhaps the most damaging aspect of the Australian Government's imposition of 'mutual obligation' is that, as Rees (2000 p.297) points out, it reinforces the view that *all* rights are conditional and that universality has no place in the modern world. This has the effect of delegitimising universal income support policies such as Basic Income. An unconditional universal Basic Income could prevent a government imposing 'mutual obligation' policies on the least affluent. As such, it is a policy which has the capacity to enhance the liberty and productivity of all citizens (Tomlinson 2000). This feature of Basic Income has been recognised for 80 years (Milner (1920 ch.1).

Conclusion

Over the last decade and a half Australian governments have significantly modified the way in which they conceive of the income support system provided to unemployed and other low income people. The human rights / universalist approach which informed much of the administration of the post Second World War welfare state has been replaced by a Utilitarian emphasis. This change in orientation began under the Hawke/Keating Labor administration and been intensified by the Howard Liberal administration.

Howard's Utilitarian approach has emphasised applicants need to meet imposed obligations as a prerequisite to benefit receipt. This concentration on obligations has undermined poor people's right to obtain at least a sufficient income to sustain them. This ideological shift has been underpinned by a punitive breaching regime. In the 2000-01 year 349,100 penalties were imposed on unemployed people nearly a 200% rise in three years (ACOSS 2001 [b]).

The expansion of the Howard Government's 'mutual obligation' regime has removed security from the social security system. The human rights / universalist concept of *entitlement* to sufficient income to sustain unemployed people during downturns in the economy has been considerably diminished. Entitlement to most income support benefits in post Second World War Australia were conditional but never before have so many unemployed Australians experienced so much uncertainty concerning the likelihood of their continuing to receive benefit payments.

Presently many of Australia's most important trading partners are facing recession. Global restructuring, driven by economic fundamentalist ideas,` is leading to downsizing, 'workplace flexibility', increasing part time work, and precarious employment. The diminution of social security entitlements and the imposition of 'mutual obligations' directly erodes the social and economic rights of those excluded from paid work but it also decreases the citizenship rights of the employed. The increasingly widespread insecurity of employment means that the majority of Australian workers now confront at least the prospect of unemployment at some stage in their lives.

Unless Australian people in sufficient numbers determine to reject the Utilitarian conception of income support and to replace it with a universalist approach then the introduction of a universal Basic Income will remain a distant hope. A universal Basic Income is the one form of income support which could ensure that no permanent resident in Australia was without sufficient income to sustain them because by its very nature it does not allow governments to impose any social obligations on recipients. A Basic Income is the epitome of a universalist human rights approach.

Bibliography

ABC TV News 27/4/2001.

ACOSS (2001 [a]) *Seven unemployed for every job vacancy — call for new strategy* 27th.April. drawing on ABS Cat.5364.0 & Cat. 6202.0

- ACOSS (2001 [b]) *New Research: hardship intensifies from rise in social security penalties*. 13th. August.
- ACOSS (2000) *Social Security Breaches: Penalising the most disadvantaged*. INFO 204, ACOSS, Sydney.
- Bagnall, D. (1999) "The State of Welfare." *The Bulletin*. July 13th.
- Barwick, L. (1997) "When is a Strike Not a Strike? Industrial Action and the Social Security Act." in Tomlinson, J. Patton, W. Creed, P. Hicks, R. (eds.) *Unemployment: Policy and Practice*. Academic, Brisbane.
- Bessant, J. (2000) "Civil Conscription or Mutual Obligation: The Ethics of 'Work for the Dole.'" *Australian Journal of Social Issues*. Vol. 35, No.1, Feb.
- Boston, J. & St. John, S. (1998) "Targeting versus Universality: Social Assistance for All or Just for the Poor. in Boston, J. Danziel, P and St. John, S. (eds.) *Redesigning the Welfare State in New Zealand*. Oxford University, Auckland.
- Brough, M. (2001[a]) "Job Network is producing results." Press Statement 11th. April
- Brough, M. (2001[b]) "Work for the Dole." Address to the Community work Co-ordinators, Canberra
<http://www.dewrsb.gov.au/ministers/mediaCentre/detail.asp?keywords=&title=&creator=&type=&month=&year=&index=&show=1488>
- Cass, B. (1988) *Income Support for the Unemployed in Australia: Towards a More Active System*. AGPS, Canberra.
- Cassin, R. (2000) "Let's just call them leeches and be done with it." *The Sunday Age* 27th. August, p.22.
- Castles, F. (2001) "A farewell to the Australian welfare state." in *Eureka Street*. Vol. 11, No. 1, Jan- Feb.
- Castles, F. (1994) "The Wage Earners Welfare State Revisited:" *Australian Journal of Social Issues*. Vol. 29, No. 2. May.
- Castles, F. (1985) *The Working Class and Welfare*. Allen & Unwin / Port Nicholson, Wellington.
- Cox, E. (1995) *A Truly Civil Society*. Australian Broadcasting Commission, Sydney.
- Charlesworth, H. (2001 forthcoming) *Human Rights and the Constitution*. University of NSW, Kensington.
- Cunneen, C. (2001) *Conflict, Politics and Crime: Aboriginal Communities and the Police*. Allen & Unwin, Crows Nest.
- Department of Employment, Workplace Relations and Small Business (2001) *Job Network: a net impact study*. Department of Employment, Workplace Relations and Small Business, Canberra, April.
- Department of Social Security (1987) *Annual Report 1986-87*. AGPS, Canberra.
- de Tocqueville, A. (1862) *Democracy in America*. trans. by Henry, R..
- Longman, Green, Longman & Roberts, London.
- Dickey, B. (1980) *No Charity There: A Short History of Social Welfare in Australia*. Thomas Nelson, Melbourne
- Eardley, T. & Matheson, G. (2000) "Australian Attitudes to Unemployment and Unemployed People." *Australian Journal of Social Issues*. Vol. 35, No. 3, August.
- Edwards, M. with Howard, C. & Robin Miller, R. (2001) *Social Policy, Public Policy: From Problem to Practice*. Allen & Unwin, Crows Nest.
- Goodin, R. (2000) "Whither the Welfare State." in Hancock, L. Howe, B. & O'Donnell, A. (eds.) *Reshaping Australian Social Policy in Growth* Vol. 48 November, Committee for Economic Development of Australia, Melbourne.
- Goodin, R. (1988) *Reasons for Welfare: The political theory of the Welfare State*. Princeton University, Princeton.

- Goodin, R., Headey, B., Muffels, R. & Dirven, H. (1999) *The Real Worlds of Welfare Capitalism*. Cambridge University, Cambridge.
- Howard, J. (1999) "Building a Stronger and Fairer Australia: Liberalisation in Economic Policy and Modern Conservatism in Social Policy." Address to 'Australia Unlimited Roundtable.' 4th May
www.gov.au/media/pressrel/AustralaiUnlimitedRoundtable.htm
- Howard, J. (2000) "Quest for a decent society" *The Australian* 12th Jan, p.11.
- Kennedy, R. (ed.) (1982) *Australian Welfare History: Critical Essays*. MacMillian, South Melbourne.
- Kewley, T. (1980) *Australian Social Security Today: Major developments from 1900 to 1978*. Sydney University, Sydney.
- Kewley, T. (1973) *Social Security in Australia 1900-72*. Sydney University, Sydney.
- Manning, I. (2000) "The Henderson Report: Still a Blueprint for Social Policy." in Hancock, L. Howe, B. & O'Donnell, A. (eds.) *Reshaping Australian Social Policy in Growth* Vol. 48 November, Committee for Economic Development of Australia, Melbourne.
- Mendes, P. (1998) "The Social Policy of the ALP: Past, Present and Future." *Social Alternatives*. Vol. 17, No. 3 July.
- Milner, D. (1920) *Higher Production by a Bonus on National Output: A proposal for a minimum income for all varying with national productivity*. George, Allen & Unwin, London.
- Morton, T. (1999) "Social Exclusion." Background Briefing ABC Radio National, 7th. February.
- Newman, J. (1999) *The Challenge of Welfare Dependency in the 21st Century*. Department of Family and Community Services, Canberra.
- Nolan, R. (1997) "Compliance and Control in the Newstart Program." in Tomlinson, J. Patton, W. Creed, P. Hicks, R. (eds.) *Unemployment: Policy and Practice*. Academic, Brisbane.
- Pearson, N. (1999[a]) "Our Right to Take Responsibility." Paper prepared for the Aboriginal leaders and community members of Cape York Peninsular. May.
- Pearson, N. (1999[b]) Untitled paper given at the Brisbane Institute 26th July. Brisbane.
- Putnam, R. (1993) *Making Democracy Work: Civic Traditions in Modern Italy*. Princeton University, Princeton.
- Reference Group on Welfare Reform (2000) *Participation Support for a More Equitable Society. Final Report*. (July) Department of Family and Community Services, Canberra.
- Rees, S. (2000) "Omissions in the Twentieth century – priorities in the twenty-first." in Rees, S. & Wright, S. (eds.) *Human Rights, Corporate Responsibility: A Dialogue*. Pluto, Annandale.
- Reynolds, H. (1998) *This Whispering in Our Hearts*. Allen & Unwin, St. Leonards.
- Roe, J. (1976) *Social Policy in Australia: Some Perspectives 1901-1975*. Cassell, Stanmore.
- Sills, D. (ed.) (1968) *International Encyclopedia of the Social Sciences*. Vol.17, MacMillian, New York
- Sztompka, P. (1999) *Trust: A Sociological Theory*. Cambridge University, Cambridge.
- Timmins, N. (1995) *The Five Giants: A Biography of the Welfare State*. Harper Collins, Hammersmith.

- Tomlinson, J. (2001) "Don't be despondent about 'dependency'. *Green Left*. 28th, March, p.10.
- Tomlinson, J. (2000) "The Basic Solution to Unemployment." Paper at the 7th National Conference on Unemployment, University of Western Sydney, November. <http://www.geocities.com/ubinz/JT/>
- Tomlinson, J. (1999). "The Importance of Trust." Paper at the 6th National Conference on Unemployment, University of Newcastle, 23 & 24 September <http://www.geocities.com/ubinz/JT/>
- Vanstone, A. (2001) "Research confirms transgenerational welfare dependence." 5th March