

Fellow Citizenship and U.S. Welfare Policy
Steven Daskal

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In 1996, federal welfare policy in the U.S. underwent a dramatic change. The old entitlement model, according to which simply in virtue of being poor one was entitled to social assistance, was rejected in favor of a new model, developed most extensively by Lawrence Mead, which focused on ideas of mutual obligation and reciprocal responsibility.¹ Under this new model, which was institutionalized through a program called Temporary Assistance to Needy Families (TANF), receipt of welfare benefits is conditional on participation in society through the fulfillment of a work requirement. The purpose of this paper is first to follow through on Mead's general line of thought by determining the extent to which obligations owed between fellow citizens genuinely constrain or justify U.S. welfare policy and then to evaluate current welfare programs in light of these conclusions.

Some progress has been made in this regard by Amy Wax, who has adopted Mead's basic approach to welfare and gone on to identify more precisely a set of reciprocal obligations that she sees as underwriting the welfare reform movement.² Specifically, Wax argues that the welfare reform movement is best understood as institutionalizing an obligation to provide for other members of society when they are in need that is paired with an obligation to minimize one's own claims for assistance.

Where, though, do these obligations come from? Wax suggests an evolutionary story that she thinks can explain the widespread appeal of a welfare policy grounded in these obligations, but she recognizes that an evolutionary explanation like the one she offers neither vindicates the obligations as genuine nor provides a justification for using them as the basis for

our welfare policy.³ Her ultimate conclusion is that she can find no principled way to defend Mead's claim that welfare policy ought to incorporate work requirements in order to reflect reciprocal obligations between members of society.⁴

In this paper, I argue that Wax has overlooked certain critical features of modern American society that can be used to vindicate a revised version of Mead's view. In Section 1, I defend the existence of genuine reciprocal obligations owed between fellow U.S. citizens and I provide a sketch of two such obligations that have the potential to impose constraints on acceptable welfare programs. In the following sections I flesh out these obligations and argue that they effectively translate into both a duty and a right to work. More precisely, my argument in Section 2 is that potential welfare recipients generally have an obligation to seek employment outside of the home as a way of minimizing their claims for assistance. In Section 3, I go on to argue that those capable of providing assistance have an obligation to do so, and to do so in a way that preserves the recipients' status as fellow citizens. I further argue that this requires providing jobs of last resort for those unable to find traditional employment. I then, in Section 4, evaluate current U.S. welfare policy in light of my analysis of these obligations of fellow citizenship. Broadly speaking, my conclusion is that in the process of designing new welfare programs that would accurately reflect the obligations owed by potential welfare recipients, not enough attention was paid to the obligations owed to them. The need to correct for this skewed emphasis leads me to recommend a set of fairly substantial changes to current U.S. welfare policy, including the elimination of time limits on the receipt of welfare benefits and the creation of publicly funded jobs of last resort.

1. Fellow Citizenship and Reciprocal Obligations

The view I will be defending is that there are genuine obligations owed between fellow citizens that are directly relevant to the justice of welfare policy in the United States. The notion of fellow citizenship I am appealing to is intended to capture a fairly complex network of interactions. Ideally, fellow citizens live side by side and work together on cooperative projects. More importantly, they share responsibility for meeting public, collective needs and establish some form of government with authority to make and enforce rules of conduct.

This ideal of fellow citizenship is admittedly vague, but it is roughly captured in the United States by the official designation of citizenship. There is, of course, room for debate over issues of immigration and naturalization, and such matters become particularly important if, as I suggest, welfare policy is to be based on obligations between fellow citizens. Let me, however, set aside those questions and focus instead on the claim that there is a bond of fellow citizenship that exists in contemporary American society. This bond is reflected in the fact that America is a community founded on the ideas of collective endeavor and popular sovereignty. It can be seen in the commitment to a government of the people, by the people, and for the people, a government whose Constitution purports to have been established by “We the people.” It is this central feature of American culture that Mead has tapped into when he insists that modern welfare programs be based on a recognition of mutual obligation and reciprocal responsibility.

This emphasis on the notion of fellow citizenship is, of course, not new in political philosophy. It has even been suggested as the basis for social welfare programs, most notably by Jean-Jacques Rousseau.⁵ On Rousseau’s view, the reason to care about economic inequality is that great disparities in wealth have the potential to undermine the effective freedom of citizens.⁶ His demand in this regard is that “no citizen be so very rich that he can buy another, and none so

poor that he is compelled to sell himself.”⁷ He then adds the following injunction: “Bring the extremes as close together as possible; tolerate neither very rich people nor beggars. ...It is always between these two that there is trafficking in public freedom; one buys it, the other sells it.”⁸

Rousseau’s fundamental insight in these passages is that properly designed welfare policies are an important way to ensure that all members of society are able to retain and use effectively their rights as citizens. Welfare programs should aim to prevent poverty not because being poor is unpleasant, or at least not primarily so, but rather because poverty interferes with one’s status as a full and equal citizen.

This is the same idea that T. H. Marshall develops at length, first in “Citizenship and Social Class” and also in his later writings.⁹ As Marshall recognizes, the challenge is to determine just what degrees or types of material inequality are significant enough to interfere with the rights of citizenship. He is committed to the value of a competitive market and general economic freedoms, but he is also concerned that if capitalistic processes are left unchecked they threaten the equality of people as citizens.¹⁰ In principle, at least, he admits that “the inequality of the social class system may be acceptable provided the equality of citizenship is recognized.”¹¹ The catch, according to Marshall, is that the scope of citizenship rights have gradually expanded in ways that place significant limits on permissible inequalities.¹²

More recently, this sort of view has been advocated by Elizabeth Anderson in her endorsement of what she calls democratic equality.¹³ What distinguishes democratic equality from other forms of contemporary egalitarianism is that Anderson takes equal capacity to act as a citizen, rather than anything like equal distribution of resources or opportunities, as the proper egalitarian goal.

My own view belongs to this general tradition shared by Rousseau, Marshall and Anderson. The argument I am pursuing, in virtue of my focus on the notion of fellow citizenship, is at least roughly compatibly with each of theirs. Nonetheless, I develop the line of thought differently than they do, and reach conclusions they may or may not endorse.

The perennial difficulty for views that focus on fellow citizenship lies in finding some way to specify the content of this ideal of fellow citizenship in order to substantiate precise claims about the obligations owed between fellow citizens. I will not attempt to provide a full account of the obligations owed between fellow citizens, but I do think I can give a partial answer, one that will provide insight into how to design welfare programs. This can be done, or so I claim, by means of a reasonable rejection test.

According to a reasonable rejection test, the rules governing a society ought to be ones that all reasonable citizens could accept. More precisely, if possible we are to avoid policies or institutions that some members of society could reasonably reject. Notice that this is the same test that T. M. Scanlon proposes as a tool for determining demands of morality that go well beyond questions of justice among fellow citizens.¹⁴ Regardless of whether he is successful in that more ambitious project, my claim is that a reasonable rejection test is particularly relevant here because fellow citizens of the United States, in virtue of recognizing one another as among “we the people” for whom and by whom the Constitution was ordained and established, are committed to avoiding policies that one another could reasonably reject.

The idea is that citizens of the United States are committed to treating one another as fellow agents in the collective project of living together in civil society. I take this to be a central feature of American culture, one that is expressed in the preamble to the Constitution and persists through the present. To acknowledge one another as fellow citizens requires treating one another

as agents, which is to say that it requires defending one's institutions and policies with justifying reasons. This is simply another way of saying that these institutions and policies are properly subject to a reasonable rejection test. If our social structure gives rise to reasonable objections, and we ignore the objections without denying their reasonableness, we are not treating one another as fellow citizens.

Nonetheless, a reasonable rejection test may not get one very far in evaluating American public policy. After all, such a test only functions if one can determine which instances of rejection count as reasonable. Even if I am right that public policy in the United States is genuinely constrained by a reasonable rejection test, so that any set of policies that none can reasonably reject is preferable to any alternative system that is open to reasonable rejection, such a constraint is impotent on its own. What, one must ask, constitutes a reasonable basis for rejection?

One might wonder, at this point, why even bother thinking in terms of a reasonable rejection test? If everything depends on a subsequent account of the reasonable, what does the test accomplish? For my purposes, the answer is that the test is nothing more than a heuristic device.¹⁵ It reformulates the problem, but does not itself provide a solution. The value of such a test is that by leading us to imagine fellow citizens in dialogue with one another, trying to avoid policies that could be reasonably rejected, it helps make the obligations of fellow citizenship more vivid.

As this suggests, I will therefore not proceed by offering a general method of ascertaining the reasonableness of any given rejection of a possible public policy. This is why I do not claim to be providing a comprehensive solution to the problem of articulating the specific demands of fellow citizenship. I do, however, think that I can identify two important ways in which a set of

welfare programs can give rise to reasonable rejection, thereby violating the obligations between fellow citizens. The first occurs when welfare programs condone demands for assistance from those who are unwilling to make any contribution to help themselves or others. Such demands constitute an attempt to free-ride on the effort of others, and I take it that such free-riding is *prima facie* unreasonable.¹⁶

The notion of free-riding is admittedly difficult to pin down, and I should point out that I am using it in a way that blurs a distinction that is sometimes made between what are called free-riders and parasites.¹⁷ For my purposes, though, a paradigmatic case of free-riding occurs when (1) someone purposefully benefits from the actions of others or purposefully imposes burdens on them, (2) that person is quite capable of contributing to the project that generates the benefits or otherwise assisting those who have created the benefits or compensating those who bear the burdens, and (3) the person refuses to do so. Less extreme cases of free-riding involve individuals who may make some effort to reciprocate the benefits they receive but nevertheless impose a greater burden than necessary on others by refusing to cooperate fully. There may be circumstances in which the best course of action all told permits some degree of this behavior, but absent any countervailing considerations it is reasonable to reject attempts at free-riding.

To see this, consider the interaction between a potential free-rider and the people from whom he or she wants a free ride. The free-rider can only say something like *I want to benefit from your efforts, but even though I'm capable of contributing I don't want to*. The others can respond by saying *Given that you're capable of contributing, we don't want to share the benefits with you unless you contribute to the collective effort*. I take it to be uncontroversial that it is the others who are being reasonable in this conversation, and that the free-rider has no reasonable basis for rejecting their attempts to deny him or her access to the benefits of their efforts.

Similarly, those who are opposing the free-rider can raise a reasonable objection against any system that forces them to permit him or her to have a free ride. To the extent that a potential welfare program countenances free-riding, it is therefore *prima facie* open to reasonable rejection.¹⁸

The second way in which welfare programs can incur reasonable rejection is when they deny some members of society the opportunity to participate in the collective endeavor or otherwise prevent them from maintaining their status as fellow citizens. Exclusion from the circle of fellow citizenship is a significant burden, and any social institution that leads to such exclusion is open to objection.

This again can be seen with perhaps greater clarity by imagining a dialogue someone being excluded and those who are excluding him or her. In this case, those who are excluding do not simply say something like *We don't want to share the benefits with you unless you contribute*, but must also add something like *We refuse to allow you to contribute*, or more generally *We refuse to allow you full status as one of us*. The person being excluded can respond by saying *I am not seeking to be a free-rider, but only asking for access to the network of contributions and benefits*, or more generally *I am only asking that I be a full member of the group*. The reasonableness of these opposing claims may be controversial in the context of questions about immigration, where non-citizens are seeking to become citizens.¹⁹ But if all involved are recognized as fellow citizens, I take it to be uncontroversial that the person being denied full status or denied an opportunity to contribute to the collective endeavor can reasonably reject that denial. More needs to be said, of course, about what is meant by full citizenship status, and I will address this question in the context of welfare policy in Section 3,

but for now the admittedly abstract conclusion is that a potential welfare program that fails to preserve full citizenship status for all is *prima facie* open to reasonable rejection.²⁰

Together, these two instances of reasonable rejection reveal a set of reciprocal obligations owed between potential welfare recipients and other members of society roughly like those identified by Mead and Wax. On the one hand, potential welfare recipients have an obligation to lessen their claims for aid if possible, in order to avoid free-riding.²¹ On the other hand, other members of society have an obligation to provide aid when necessary, and to do so in a way that preserves the recipients' status as full citizens.²²

What I intend to show in the next two sections is that when we flesh out these reciprocal obligations we see that a just welfare policy will have to reflect a widespread obligation to work that is paired with a similarly robust obligation to provide opportunities to work. In Section 4, I then evaluate current U.S. policy by considering how accurately it captures these obligations.

2. Duty to Work

The argument for an obligation to work is, at first blush, quite straightforward. After all, working just is a way of participating in society, and it constitutes an effort to generate income and thereby lessen one's claims for assistance.²³ The real issue, however, is whether work and work-related activities are the only ways for potential welfare recipients to fulfill their obligations as fellow citizens. In particular, why not count the activity of raising one's children as an acceptable means of satisfying these obligations?

This question is particularly pressing given the history of welfare in the United States. The cash assistance welfare program that was eliminated in 1996 began in the 1930s as a way to support widows and children. It was later expanded to cover all single-parent families, including

divorced and never married parents. The underlying assumption was that these single parent families, predominantly headed by women, ought to be supported so that the mothers would not need to work: their proper role in society was to raise their children.²⁴

Setting aside the idea that women ought to stay at home with their families, the real question here is whether a single parent who stays home and raises children is entitled to claim assistance from other members of society.²⁵ Such a parent is, surely, contributing to society – both by discharging the collective obligation to care for and raise children, and by providing the future benefit to society that the children embody, a benefit that is necessary for the society to persist. Nonetheless, insofar as combining child-rearing with employment can minimize the burdens imposed on the rest of society, there is at least *prima facie* support for adopting welfare policies that require recipients to be employed and thereby avoid being free-riders.

A significant concern here is that a work requirement applied to single parents may have harmful effects on their children. If that were the case, particularly if the harmful effects were large, the importance of the children's well-being would justify counting full-time parenting as satisfying the work requirement, or else giving single parents an exemption to the requirement. In other words, it might not be reasonable to demand that single parents find employment in order to lessen the burdens they impose on others if doing so were negatively to affect their children's well-being. Whether such work requirements are reasonable will therefore depend, at least to some extent, on the impact they have on the children of potential welfare recipients.

Unfortunately, there is not as much data as we might like on the effects of work requirements on children in single-parent households. What we do have, though, based primarily on the reform experiments implemented by individual states prior to 1996, indicates that the overall impacts are relatively small.²⁶ Very young children, those under the age of one, or

perhaps two, appear to do better with a full-time parent in the house, while for slightly older children there is evidence that work requirements actually produce positive overall effects, particularly in terms of behavior and achievement. Perhaps surprisingly, the worst effects have been found on adolescents. The available evidence indicates that adolescent children of single parents who are subject to a work requirement are more likely to engage in problem activities like drinking and smoking, and are more likely to have achievement and behavioral problems in school. On the other hand, these negative effects are minimized or eliminated altogether through participation in after-school activities or community programs that offer supervision and encourage constructive use of the critical block of time after school lets out but before a working parent returns home.

What does all of this tell us about the question of whether to count full-time parenting as satisfying a work requirement? Given the importance of forming secure attachments and parental bonds for very young children, it makes sense to be particularly cautious about the negative effects of subjecting single parents of infants or toddlers to a work requirement, especially since the worries here involve long term effects that might not show up in the studies that have been performed.²⁷

For somewhat older children, though, there is no indication that having a stay-at-home parent supported by cash assistance is more beneficial than having a parent who is subject to a work requirement. Instead the data point in the other direction. Ongoing, careful research is needed to confirm this result, but the best available evidence undermines the claim that poor single parents ought to be supported so that they can raise their children without needing to find employment. If they instead work, even though their income will very likely need to be supplemented, the overall burden they impose on the rest of society will be significantly smaller.

Single parents of adolescents have a slightly stronger claim, but if the evidence continues to show that extracurricular activities can compensate for the lack of parental supervision during the after school hours, and if such activities are available, they too will be in a position where they have an obligation to work in order to help provide for themselves and lessen their claims for assistance on their fellow citizens. In most cases, then, the appropriate conclusion is that single parents have an obligation to combine child rearing with employment.

This conclusion is reinforced when we shift perspective and consider the viewpoint of single parents who work, or two-parent households in which both parents work. It is quite reasonable for these people to reject a demand for the cash assistance necessary to enable a poor single parent to stay home and raise children. Full-time parenting is, for them, a luxury they cannot afford, so how can they be obligated to support others as full-time parents? Poor single parents who are both working and raising their children are able to make legitimate claims for assistance, because they are making an effort to support themselves and their children through regular income and thereby reduce the burdens imposed on other members of society. In contrast, unemployed single parents who seek welfare assistance are acting to some extent as free-riders, aiming to benefit from others while refusing to find employment that would constitute an effort to lessen the burdens they are imposing. Such claims for assistance can thus be reasonably rejected, unless, as indicated above, the children in question are very young, or suitable child care or after school programs are unavailable.

One might worry that this line of thought implicitly devalues the domestic labor traditionally performed by women.²⁸ Even recognizing the full value of such labor, however, the argument for requiring single parents to combine child-rearing with employment persists. The key is that maintaining a household requires both domestic labor and income. In a single parent

family, both of these tasks fall on the shoulders of the sole parent. If it were the case that full-time parenting were critical for the children's well-being, it might be true that a denial of assistance would involve placing an illegitimately low value on a single parent's domestic labor. As it stands, though, an acknowledgement of the full value of such domestic labor is compatible with a requirement that single parents find employment in order to minimize the burdens they impose on others.

It is important to notice that the appropriate conclusion is not that there is something wrong with being a full-time parent. Rather, the conclusion is that being a full-time parent is generally a luxury; it is not a role in which fellow citizens are obliged to support one another. On the other hand, single parents with the means to provide for themselves and their families, or, as is far more common, married parents who stay at home and are supported financially by working spouses, are not making any special claim on other members of society. When a couple agrees that one will work and one will raise the children, they are not imposing any significant burdens on their fellow citizens. They are, admittedly, contributing less to society than they would if both worked. But while it is reasonable to demand that others make an effort to avoid being a burden or to lessen their claims for assistance, the analogous demand that others work in order to produce benefits for the rest of society does not pass a reasonable rejection test. There is an asymmetry here between burdens and benefits. Given the importance of autonomy, particularly control over decisions about one's life path or career, it is unreasonable to demand that people design their lives in order to maximize the benefits they produce for others through increased tax revenue or a more productive economy, even if it is reasonable to demand that they strive to minimize the burdens they impose by finding some form of employment before asking for cash assistance.²⁹

One important objection at this point arises out of a concern that the only available jobs may be genuinely unacceptable, perhaps because the boss creates oppressive working conditions or perhaps because the job itself is degrading. The obligation to find employment would then appear to entail a duty to degrade oneself or submit oneself to oppression. This is a legitimate worry about the obligation to work that must be addressed, but it will turn out that it is naturally resolved by the elements of a just welfare system that arise out of the right to work. Let me, therefore, turn now to my defense of such a right.

3. Right to Work

The argument for a right to work focuses on the question of what to do about people who cannot find work. One possibility would be to deny them assistance on the grounds that they are not doing anything to contribute to society or to lessen their claims for aid. It should be clear, however, that this will run afoul of the obligation to ensure that all citizens have an opportunity to participate in the social order. In other words, it is reasonable for those who want to work but cannot find employment to reject a system under which they are denied any form of assistance. Another possibility is to provide benefits contingent on the demonstration of a legitimate, ongoing job search. This is certainly an improvement over the first suggestion, but I will argue that it too falls short of fulfilling the obligations owed to potential welfare recipients.

The central point here is that it is reasonable to reject a welfare system if it precludes one from securing and preserving the status of full citizen. This generates a right to work because in modern American society employment itself is often necessary for one to be accepted as a fellow citizen. The unemployed, particularly the chronically unemployed who subsist on welfare, are seen as second-class citizens. Judith Shklar makes this point quite forcefully in her 1989 Tanner

Lectures.³⁰ She traces the American understanding of work back to Madison's *Federalist Papers*, up through the gradual shift in attitudes towards slavery during and after the Civil War, then through the widespread phenomenon of unemployment in the Great Depression, and finally into modern times. The result of this long process is a somewhat conflicted set of attitudes towards work. As Shklar puts it, "You can think the boss is a slave-driver, but you may feel more like a real slave when you are unemployed. And there is nothing illusory about these experiences. You have been expelled from civil society, reduced to second-class citizenship."³¹ Later she adds that without work, "Americans lose their standing in their communities. It is irrational and unfair, but it is a fundamental fact of life constituted of enduring and deeply entrenched social beliefs."³²

What underwrites the phenomenon Shklar has identified, I would argue, is that Americans tend to define themselves largely in terms of their occupation. It is only natural for those who have constructed their self-identity around their career to lose their sense of self-worth when they become unemployed. A similar phenomenon often occurs at retirement, but there it is abated by the understanding of oneself as, say, a retired electrician or a retired teacher. A self-conception of that sort is acceptable in a culture focused on career and employment, whereas thinking of oneself as an unemployed electrician or unemployed teacher is not. Moreover, these widely accepted norms regarding what constitutes an estimable self-identity are mirrored by norms governing esteem for others. Just as Americans tend to identify themselves by their own occupations, they tend to identify others by theirs. What Shklar has discovered is that this emphasis on one's job is pervasive enough that Americans not only lose esteem for the chronically unemployed, but often fail to respect them as fellow citizens.

The upshot is that full citizenship status in the United States is not possible for long-term recipients of cash assistance welfare programs.³³ This indicates that welfare recipients who cannot find work must either be provided with job training or offered some sort of publicly funded employment that will allow them to retain their status as full citizens.³⁴ It is important to recognize that this obligation to provide job training or publicly funded employment rather than mere cash assistance, which is the practical manifestation of a right to work, hinges on the contingent facts about American society that Shklar has identified.³⁵ As long as employment remains a central element of public respect, however, the right to work will persist.³⁶

At this point, one might wonder whether my argument for a right to work gets things backwards. I am, after all, grounding the right to work in the continued existence of certain cultural norms. One might, therefore, concede that in the presence of these norms one ought to recognize a right to work, yet argue that the norms themselves are perverse. In that case, what would really be needed would be a more radical solution that would bring about cultural change that would eliminate or undermine the importance of work for public respect. Moreover, programs that institutionalize a right to work on the grounds that work is necessary for public respect could be seen as granting legitimacy to the current cultural norms. Implementing such programs could therefore constitute the worst kind of minor tinkering: in the process of fixing little problems and making small improvements we would be making it harder to enact the large changes that justice truly demands.

There are two reasons why this line of objection is unconvincing. The first stems from the fact that it is a difficult and time consuming process to enact cultural change. It is not even clear how to go about doing it. This leads to the conclusion that even if such cultural change is genuinely called for, and even if recognizing a right to work in the meantime would prolong the

process of instigating this change, the interests of those who live under the current, persistent norms compel us to recognize a right to work up until the point at which those norms begin to erode.

The second, and more important, response to this objection is that the cultural emphasis on work has a reasonable basis. It is not at all clear that it would be a good idea to eliminate it even if we could. After all, it makes sense for public respect to be contingent on fulfilling one's obligations to others in society and avoiding the role of a free-rider. Moreover, if my analysis in Section 2 is correct, employment is generally necessary to avoid being a free-rider, at least when the alternative is reliance on support from welfare programs. It is therefore appropriate in these cases for public respect to be contingent on working, and current norms that reflect this provide a firm foundation for a right to work.

Another natural objection at this point is that a system of publicly funded employment will be expensive – more expensive than cash assistance alone. There is certainly some truth to this objection, in that for any given welfare recipient in any given month it would be cheaper to supply cash assistance alone rather than also providing a publicly funded job. There are, however, two responses to this objection as well. The first is that the concern about costs is somewhat short-sighted. After all, one of the purposes of a publicly funded jobs program is eventually to shift welfare recipients into the traditional workforce. In the long run, even moderate success will make such programs cost effective in comparison to offering long term cash assistance.

In any case, the more important response to the worry about program costs is that the objection misses the main thrust of my argument. My claim is that potential welfare recipients can reasonably reject a system that offers only cash assistance, on the grounds that such a system

relegates them to the role of second-class citizen. In this context the significance of increased program costs is relatively minor. Unless expenses were great enough to generate burdens or sacrifices similar in magnitude to the loss of full citizenship that comes with chronic unemployment, publicly funded job programs will be necessary even if they require additional spending. Moreover, a well designed set of programs should not be in danger of reaching this threshold.³⁷

Still, there is a related worry that merits further attention. It is a safe assumption that at least some of the potential welfare recipients who, under the programs I am advocating, would be required to perform a job of last resort in order to qualify for benefits would prefer to have cash assistance without any strings attached. Why not, then, make participation in publicly funded employment programs voluntary?

The answer here is that publicly funded jobs serve a dual purpose. First, if designed properly, they benefit the workers by drawing them into, or at least closer to, the realm of full citizenship. Like other jobs, they give the workers a role in society and serve to structure their time constructively, and thereby restore at least some of the public respect lost during unemployment. This is a benefit that workers could, perhaps, choose not to receive without violating the obligations of fellow citizenship. The second purpose of jobs of last resort, however, is to benefit other members in society. This occurs directly through the services provided when the jobs are performed, and also indirectly to the extent that the experience in publicly funded jobs ultimately enables their holders to enter the traditional labor force and, as suggested above, lessen their long term claims for assistance upon other members of society. The upshot of this is that it is reasonable for other members of society to reject a potential

welfare recipient's preference for cash assistance over participation in a publicly funded job of last resort.

A further potential concern stems from the likelihood that at least some welfare recipients will be unable to find traditional employment and will therefore remain in publicly funded jobs of last resort long enough that, for them, it will end up being more costly in the long run to provide employment than cash assistance. It seems that other members of society could reasonably accept a set of welfare policies that exempts these people from participation in publicly funded employment programs. Moreover, some in this group might reasonably prefer cash assistance to publicly funded jobs, in spite of the benefits associated with working. Again, the question arises: why not make participation in publicly funded employment voluntary for these people?

A possible answer is that there is no good way to know in advance who will be unable to shift into the traditional workforce. After the fact we may be able to identify individuals for whom a publicly funded employment program ended up being more costly than straightforward cash assistance, but what we need is a prospective judgment.

We might wonder, though, whether our epistemic situation is as bad as this suggests. Is it really impossible to tell who will have the hardest time finding and holding a traditional job? After all, there are well-known and documented barriers to employment that afflict segments of the current population of welfare recipients in the U.S., and it is clear that these barriers do function as indicators of success in finding work.³⁸ Still, it is important to notice what these barriers are. Most involve exceptionally low work-related abilities or poor physical or mental health. Others include drug and alcohol dependence, domestic abuse, and lack of transportation or child care.³⁹

In some cases, particularly when poor health is involved, these barriers may be great enough that a work expectation is unrealistic and participation in a publicly funded jobs program should therefore not be mandatory. In most cases, however, these barriers indicate a need for additional assistance in the form of specialized service programs that provide training or treatment. Such programs are critical if we take seriously the idea that fellow citizens ought not be condemned to second class citizenship. Once the barriers have been dealt with or minimized, the right to work and the duty to work combine, in the manner discussed above for those without significant barriers to employment, to make participation in a publicly funded job of last resort mandatory.

4. Improving Current U.S. Welfare Policy

I have, up to this point, argued that there are genuine obligations owed between fellow U.S. citizens that support both a duty and a right to work. In other words, I am endorsing the idea, developed initially by Mead, that U.S. welfare policy ought to be designed in order to reflect the reciprocal obligations of citizenship. Nonetheless, I will now argue that proper attention to the obligations identified in the previous sections reveals significant shortcomings in the programs that resulted from the 1996 welfare reform.

Scope

One important point to notice at the outset has to do with the scope of current U.S. welfare programs. TANF, like the cash assistance program it replaced, provides benefits only to families with children. This is a serious flaw. Adults without children are also fellow citizens, and can also reasonably reject an incomplete social safety net that condemns them to poverty or denies

them an opportunity to retain their status as full citizens. It is worth recognizing that other elements of the social safety net in the U.S., such as Food Stamps, already extend to all citizens. This is a good thing, but justice also demands that the benefits provided by TANF, as well as access to publicly funded employment, be available to all citizens.⁴⁰

Work Requirements

The central feature of TANF, which was to make receipt of welfare benefits contingent on satisfaction of a work requirement, is appropriate given the obligations owed between fellow citizens. Current law also does relatively well on the issue of whether parenting satisfies one's obligations to the rest of society. TANF allows states to exempt parents of children less than one year old from the work requirement,⁴¹ lessens the work requirement from 30 hours per week to 20 for parents of children under the age of 6,⁴² and eliminates the work requirement altogether for parents of children under the age of 6 who cannot obtain suitable child care within a reasonable distance from home at an affordable rate.⁴³

More should be done, though, to strengthen these accommodations for single parents who are combining work with child-rearing. For instance, states ought to be required, rather than merely permitted, to exempt parents of infants from work requirements. This is particularly important given that, under the current regulations, seventeen states require parents whose youngest child is over four months old to meet work requirements, and in four of these states there is no exemption at all for parents of young children, regardless of the child's age.⁴⁴ Depending on the results of further research, it may also be best to extend the mandatory exemption for parents of young children through some or all of the second year of a child's life, as is currently done in just six states.

The language providing exemptions for parents of slightly older children, up to age 6, who cannot find adequate child care is somewhat stronger, but again the states have a great deal of discretion in determining what constitutes adequate child care and how accessible it must be. Here, too, more stringent rules, as well as an expansion in public funding for child care, may be necessary to protect the legitimate interests of welfare recipients and their children. In addition, as noted earlier, there is a need for supplemental programs that will prevent harmful effects on adolescents by providing structure during the after school hours. Perhaps most importantly, there should be funding for further research to determine more definitively the effects of work requirements on children and allow the requirements to be fine tuned in ways that minimize negative effects.

There is also another category of care-givers who ought to have access to TANF benefits without necessarily meeting full work requirements. I have in mind people who are providing care for extremely dependent adults, such as those with severe impairments or health problems. It makes sense to reduce the work requirements for such caretakers, or in some cases eliminate them altogether, when caring for the dependent adult requires constant attention similar to what is involved in caring for a very young child.

Sanctions and Time Limits

More problems arise when we turn to the issue of sanctions that are applied to potential welfare recipients who violate the work requirements. The logic of reciprocal obligations indicates that such sanctions are necessary, but that they should be designed in such a way as to encourage and facilitate future compliance. In contrast to this, some states have adopted long-term sanctions, with first instances of non-compliance resulting in sanctions of three months and subsequent

failures to comply leading to lifelong disqualification from welfare benefits.⁴⁵ These severe sanctions may be effective in ensuring that potential welfare recipients fulfill their obligations to society, but they do so at the cost of neglecting the obligations owed back in the other direction. Two or three months' failure to participate in society by satisfying a work requirement does not justify being cut off from welfare programs for the rest of one's life.

A related, and potentially more significant, flaw in current policy is the inclusion of lifetime limits on the receipt of benefits. Under TANF, states cannot spend federal money on welfare benefits for anyone who has reached a 60 month, or 5 year, time limit.⁴⁶ This limit applies over the course of an entire life, and although states are allowed to extend the time limits by allocating additional, non-federal resources, they are also permitted to set shorter limits that cut off assistance more rapidly. The fundamental problem here is that the obligations of fellow citizenship do not expire. It is true that potential welfare recipients who do an inadequate job of meeting legitimate work requirements ought to be sanctioned. Time limits, however, are expressly designed to penalize those who are continuing to meet work requirements. A welfare recipient who continues to minimize his or her claims for assistance through employment cannot be legitimately cut off simply because he or she has reached an arbitrary time limit.⁴⁷

Publicly Funded Jobs and Exemptions to Work Requirements

Shifting attention to the implications of a right to work, current policy is again in need of significant improvement. It is important to recognize that TANF does allow states to use federal money to develop publicly funded job programs, and that several states and municipalities have taken advantage of this possibility.⁴⁸ Nonetheless, even where such programs exist, program slots are limited, and in most of the country there is no such program at all.

Designing more comprehensive programs is admittedly tricky. Care is needed to avoid displacing already existing low-income positions, and it is also important to maintain a long-term emphasis on obtaining unsubsidized employment rather than remaining in a publicly funded job indefinitely. Along these lines, publicly funded jobs ought to be designed to provide valuable experience and training that will make welfare recipients more employable. In addition, these jobs of last resort ought to lift their holders out of poverty and thereby provide an acceptable alternative when the only available positions in the traditional workforce are demeaning or degrading, or when no such jobs are available at all.

Given the complexity of the issue and the internal tension between some of these constraints, this is an area of policy where experimentation on the local level, which has already begun with some success, is likely to be the best approach. Nonetheless, this does not mean that nothing can be done on the federal level. On the contrary, state experimentation ought to be required by TANF, rather than merely permitted, and federal funding ought to be increased to reflect the additional up front costs of implementing programs that acknowledge the right to work.

In the ongoing experimentation with publicly funded job programs, much can be learned by studying programs such as Georgia GoodWorks!, which is targeted at individuals with minimal work experience and documented barriers to employment. The aim of the program is to provide temporary subsidized employment that will be a stepping stone from which program recipients can enter the traditional workforce. In spite of the focus on a hard-to-employ subset of welfare recipients, GoodWorks! has been remarkably successful in this aim, with one site achieving non-subsidized employment for 70 percent of program recipients after nine months in the program.⁴⁹ This was accomplished through a great deal of personal support and job

coaching, with attention to the individual needs and abilities of program recipients, and long-term follow up to assist in job retention for those leaving the program for traditional employment.

Among other things, the GoodWorks! program demonstrates that publicly funded employment can be implemented in such a way that it secures public respect and avoids the trap of institutionalizing second-class citizenship for program recipients.⁵⁰ Interviews with GoodWorks! recipients reveal that they have increased self-esteem, personal satisfaction and pride, as well as an improved sense of self-confidence and healthier aspirations for the future.⁵¹ Overall, the program is a model for other states that have not yet developed publicly funded job programs of their own.

Even under a program such as Georgia GoodWorks!, however, some potential welfare recipients will have barriers to work that are sufficiently severe to make successful participation impossible.⁵² Some of these barriers can be ameliorated or overcome through more extensive treatment programs. In at least some cases, however, the barriers to employment are great enough that a work expectation is inappropriate, and, the potential welfare recipients should be given an exemption.

When barriers to work are related to long-term problems, the best solution may be to shift recipients into the Supplemental Security Income (SSI) program that is designed to provide support for those who are unable to work. To some extent, this sort of shifting is already occurring, but facilitating the transition may require more extensive coordination between TANF and SSI than currently exists.

In some cases, though, TANF recipients will have significant short-term barriers that undermine work expectations without appropriately qualifying the recipients for enrollment in

SSI. Here the best solution, which some states have already adopted, is to grant temporary excuses from participation.⁵³

One upshot of this approach to handling exemptions and reductions of the work requirements is that it relies on the discretion of case managers. There is a legitimate worry here that welfare recipients can slip into the role of second-class citizens as case workers get increasing discretion over their benefits.⁵⁴ This worry, however, must be balanced against the inefficiency that results when case workers are constrained by strict decision procedures, inefficiency that arises both because the decision procedures inevitably get some cases wrong, and because the case workers themselves are more productive and successful when they are personally engaged with the welfare recipients.⁵⁵

How exactly to strike a proper balance regarding discretion is a difficult question, but the aim should be to design a system that is responsive to the relevant differences between potential welfare recipients, yet avoids subjecting them to the arbitrary whim of a case worker. One way to make at least some progress here is to include opportunities for welfare recipients to appeal decisions within the system, although designing an effective appeals system is a difficult project as well.⁵⁶

5. Conclusion

There is a great deal more to be said about welfare policy. For instance, I have not even broached the difficult question of where to set benefit levels for those who qualify for assistance. My view is that attention to the obligations owed between fellow citizens sheds light on this issue as well, but defending that claim goes beyond the scope of this paper.

My focus has instead been on the combination of a right and a duty to work that I have argued arises out of a consideration of the relationship of fellow citizenship. The idea has been that in modern American society there is a collective obligation to provide avenues of employment for all citizens paired with an obligation to seek employment on the part of those who wish to benefit from welfare programs. In light of this, I have then argued that although the 1996 welfare reform was born out of an appeal to the ideas of reciprocal responsibility and mutual obligation, the resulting programs fail in many ways to live up to the actual obligations owed between fellow citizens.

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¹ Lawrence M. Mead, *Beyond Entitlement* (New York: The Free Press, 1986).

² Amy Wax, "Social Welfare, Human Dignity, and The Puzzle of What We Owe Each Other," *Harvard Journal of Law and Public Policy*, 27 (2003), 121-136.

³ The most complete account of Wax's evolutionary story is in Wax, "Rethinking Welfare Rights: Reciprocity Norms, Reactive Attitudes, and the Political Economy of Welfare Reform," *Law and Contemporary Problems*, 63 (2000), 257-297. Her acknowledgement that such a story is explanatory rather than justificatory is in Wax, "Something for Nothing: Liberal Justice and Welfare Work Requirements," *Emory Law Journal*, 52 (2003), 1-70. The key point is that a genetic predisposition to accept a given norm that exists because acceptance of the norm was advantageous in the environment in which modern humans evolved has no bearing on the (normative) question of whether one ought to accept the norm.

⁴ Wax, "Something for Nothing," (2003), at pp. 67-70.

⁵ Jean-Jacques Rousseau, *Of the Social Contract, The Social Contract and other later political writings*, ed. Victor Gourevitch (Cambridge, Mass.: Cambridge University Press, 1997), pp. 39-152.

⁶ In this context, effective freedom means something like freedom from domination, or what Philip Pettit has called “antipower,” rather than freedom from interference. Rousseau’s worry is that substantial economic inequality will lead to domination of the poor by the rich. For more on this sense of freedom and how it differs from freedom from interference, see Pettit, “Freedom as Antipower,” *Ethics*, 106 (1996), 576-604.

⁷ Rousseau 1997, p. 78 (Bk. II, Ch. 11, par. 2).

⁸ *Ibid.*, p. 78 (note to Bk. II, Ch. 11, par. 2).

⁹ In a discussion of the arguments used to defend welfare reform in the U.S. and Britain, Stuart White also suggests that the ideas of mutual obligation can be traced back to the focus on citizenship found in Marshall’s work. See White, “Review Article: Social Rights and the Social Contract—Political Theory and the New Welfare Politics,” *British Journal of Political Science*, 30 (2000), 507-532.

¹⁰ For a clear statement of the dilemma Marshall wants to address, see T. H. Marshall, “*Afterthought on ‘Value Problems of Welfare-Capitalism’*,” *The Right to Welfare and other essays* (New York: The Free Press, 1981), pp. 123-136 at p. 135.

¹¹ Marshall, “Citizenship and Social Class,” *Citizenship and Social Class and other essays* (Cambridge: Cambridge University Press, 1950), pp. 1-85 at p. 8.

¹² This is the central argument of Marshall 1950. See p. 77 for a nice summary of his view.

¹³ Elizabeth S. Anderson, “What is the Point of Equality?” *Ethics*, 109 (1999), 287-337.

¹⁴ T. M. Scanlon, *What We Owe Each Other* (Cambridge, Mass.: Harvard University Press, 1998). See, in particular, Chapter 5. For a discussion of reasonable agreement as a model for an ideal form of compromise, see Theodore M. Benditt, “Compromising Interests and Principles,” *Compromise in Ethics, Law, and Politics*, eds. J. Roland Pennock and John W. Chapman (New York: NYU Press, 1979), pp. 26-37 at pp. 28-31.

¹⁵ Although my discussion of reasonable rejection is influenced by Scanlon 1998, it is important to recognize that the idea of reasonable rejection plays a much more modest role in my analysis than it does in his. For Scanlon, reasonable rejection is basic, which is to say that failure to pass a reasonable rejection test is itself what *makes* an action wrong. Scanlon’s defense of this controversial position is interesting and provocative, but my own use of reasonable rejection as a heuristic device is not hostage to the success of his argument.

¹⁶ As I see it, the idea of reasonable rejection only makes sense against a background of alternatives that are less objectionable. This is why I say that free-riding is *prima facie* objectionable. Whether or not this *prima facie* basis

for rejection amounts to a genuine basis for rejection depends on whether there is an alternative that precludes free-riding that is not itself even more objectionable. This is also why all I can hope to do in this section is sketch out the reciprocal obligations that I claim constrain U.S. welfare policy. Only in the subsequent sections, in which I consider actual policy alternatives, can I determine the significance of these *prima facie* obligations.

¹⁷ David Gauthier, for instance, distinguishes free-riders, who benefit from the actions of others, from parasites, who impose burdens on others. In the context of this paper, though, such a distinction is irrelevant. For this distinction, see Gauthier, *Morals by Agreement* (Oxford: Oxford University Press, 1986), pp. 96-7.

¹⁸ This is not to say that all free-riding must be eliminated at any cost, but simply that there is no obligation to tolerate or facilitate free-riding when doing so does not provide indirect benefits to the community as a whole.

¹⁹ Questions of immigration and naturalization are quite important, especially if welfare policy is to be based on obligations between fellow citizens, but for the purposes of this paper I will bracket these issues and focus primarily on the substance rather than the scope of U.S. welfare programs.

²⁰ Here it is particularly important to recognize that this is a *prima facie* claim. It may be that maintaining full citizenship status for all is quite costly, and if these costs are great enough they may make it reasonable for others to reject this demand. I will say more about this question of costs, and argue that the associated costs are far from reaching this threshold, in Section 3.

²¹ It is worth noting that this free-riding has two aspects. Most straightforwardly, individuals who claim unnecessary assistance free-ride on others who provide them that assistance. This is the element of free-riding on which I will focus. There is also, though, a further sense in which such individuals are acting as free-riders. Namely, they are shirking their own obligations to provide assistance to those who truly need it. They are therefore free-riding not only by asking for assistance without minimizing their claims, but also by relying on others to provide assistance to those who have minimized their claims but still need aid. This latter form of free-riding, however, is a much less pressing concern than the former, given that at most a small fraction of one's earned income goes towards providing aid to others, whereas for potential welfare recipients nearly all of it goes towards reducing the amount of aid one requires for oneself.

²² J. Donald Moon identifies roughly similar ideas as the underlying justification for the welfare state, but he does not seem to recognize that they lead to either a duty or a right to work. See Moon, "Introduction: Responsibility, Rights, and Welfare," *Responsibility, Rights, and Welfare: The Theory of the Welfare State*, ed. J. Donald Moon

(Boulder: Westview Press 1988), pp. 1-15 at pp. 5-6. Similarly, White places reciprocal obligations like these at the heart of welfare reform movements. In contrast to the argument I am developing, however, White takes the reciprocal obligations owed to potential welfare recipients to be relatively minimal and insists that they be bolstered by separate background claims about the just distribution of resources. See White 2000, pp. 512-516.

²³ Notice that the idea here is that working is necessary to qualify as a citizen who can make a legitimate claim for assistance. Work, in other words, is what prevents one from being a free-rider. This is not the same as the claim that welfare recipients ought to be required to work because such a requirement will teach them a sense of civic responsibility. For a discussion and criticism of that argument, see Robert K. Fullinwider, "Citizenship and Welfare," *Democracy and the Welfare State*, ed. Amy Gutmann (Princeton: Princeton University Press, 1988), pp. 261-278 at pp. 270-273.

²⁴ For an account of the history of welfare programs that highlights the role of assumptions about gender roles, see Carole Pateman, "The Patriarchal Welfare State," *Democracy and the Welfare State*, ed. Amy Gutmann 1988, pp. 231-260.

²⁵ In setting aside this issue I am not denying the importance of changing perceptions of women as potential workers in the development of welfare reform. Although in many ways women are still not treated equally in the workforce, work oriented programs like those included in TANF would never have been implemented were it not for the enormous strides made by the feminist movement that have allowed society to recognize women as potential workers. Nonetheless, for my purposes it makes sense to set aside issues of the "proper role" of women (as opposed to men) because I am arguing that the morally relevant role of both women and men is the role of fellow citizen. If one were interested in describing the actual rationale or motivation of those who advocated welfare reform, it may be that attention to gender roles, and perhaps also racial stereotypes and racial animosity, would be revealing. My aim, however, is not to recount the history leading up to welfare reform but to evaluate the justice of the resulting programs.

²⁶ My discussion of the effects of work requirements on children relies on Greg J. Duncan and P. Lindsay Chase-Lansdale, "Welfare Reform and Children's Well-Being," *The New World of Welfare*, eds. Rebecca M. Blank and Ron Haskins (Washington, D.C.: Brookings Institution Press, 2001), pp. 391-412.

²⁷ See John Bowlby, *A Secure Base: Parent-Child Attachment and Healthy Human Development* (New York: Basic Books, 1988).

²⁸ For an example of a broad criticism of welfare policies along these lines, see Pateman 1988.

²⁹ One way to amplify the worry here is to point out that those who are full-time parents but not claiming assistance are free-riding in the second sense identified in note 21, which is to say that they are relying on others to fulfill their obligation to assist those in need. If, as is often the case, they are supported by working spouses who have increased their amount of paid labor in order to provide this financial support, then such free-riding is minimized, given that the spouses' increased earnings also finance assistance programs through taxation. If, on the other hand, the full-time parents' source of income or wealth does not make any such indirect contribution, they may be guilty of this form of free-riding. At worst, though, such parents are generally less guilty of free-riding than the idle rich, who also do not contribute financially to the assistance owed to those in need and in many cases are making no other contribution to society that can match the social value of child-rearing performed by full-time parents.

³⁰ Reprinted as Judith N. Shklar, *American Citizenship: The Quest for Inclusion* (Cambridge, Mass.: Harvard University Press, 1991).

³¹ *Ibid.*, p. 93.

³² *Ibid.*, p. 98.

³³ Notice that this is not equivalent to the stronger claim that employment is always a precondition of full citizenship status. Those who are not employed but have some means of support other than cash welfare assistance, including those who are supported through pensions or Social Security, do not suffer the loss of public respect that Shklar describes.

³⁴ There is a legitimate worry that publicly funded employment may not secure public respect in the way that traditional employment does. I will address this briefly in Section 4.

³⁵ For the remainder of this discussion I will set aside the issue of job training and focus on the more controversial idea of publicly funded employment.

³⁶ For a somewhat similar argument, see Moon, "The Moral Basis of the Democratic Welfare State," *Democracy and the Welfare State*, ed. Amy Gutmann 1988, pp. 27-52.

³⁷ For example, at the least effective site of implementation of the Georgia GoodWorks! program, which was targeted at hard to serve welfare recipients with barriers to employment, clients participated for an average of five months, at a cost of \$785 per month, with a 35% success rate for eventual placement in an unsubsidized job. Better run sites had job placement success rates of up to 70%. Even though this program cost slightly more than double the

median TANF benefit at the time (\$389 in New Mexico), the success at job placement makes it difficult to determine whether, in the long run, the program cost more than cash assistance alone. More data about job retention, among other things, would be necessary to make such a comparison. Nonetheless, it should be clear that any additional program costs are not great enough to overwhelm the obligation to ensure that all members of society have opportunities to retain their status as full citizens. For a full analysis of the Georgia GoodWorks! program, see Michelle K. Derr, LaDonna Pavetti and Angelina KewalRamani, *Georgia GoodWorks!: Transitional Work and Intensive Support for TANF Recipients Nearing the Time Limit* (Washington D.C.: Mathematica Policy Research, 2002).

³⁸ See Sheila R. Zedlewski and Pamela Loprest, “Will TANF Work for the Most Disadvantaged Families?” *The New World of Welfare*, eds. Rebecca M. Blank and Ron Haskins 2001, pp. 311-328.

³⁹ See Danziger, “Comment on Sheila R. Zedlewski and Pamela Loprest, ‘Will TANF Work for the Most Disadvantaged Families?’” *The New World of Welfare*, eds. Rebecca M. Blank and Ron Haskins 2001, pp. 328-334. It may be worth pointing out that drug and alcohol dependence, which get a great deal of attention, were the two least common barriers found in the study, affecting 3.2% and 2.2% of the welfare population respectively. In contrast, most of the 19 barriers included in the study affected between 10% and 20% of the welfare population. Even if, as we might expect, drug and alcohol dependence are concentrated among long-term welfare recipients, they still do not appear to be the most prevalent barriers involved in cases of chronic unemployment.

⁴⁰ This discussion of extending benefits to all citizens once again raises the questions mentioned earlier about citizenship status. These are important issues that call for serious attention, but for the purposes of this discussion I will continue to set them aside and instead focus on the details of TANF as it applies to those who are recognized as citizens.

⁴¹ 42 U.S.C. § 607(b.5) (2005).

⁴² 42 U.S.C. § 607(c.2.B) (2005).

⁴³ 42 U.S.C. § 607(e.2) (2005).

⁴⁴ LaDonna Pavetti, Michelle K. Derr and Heather Hesketh, *Review of Sanction Policies and Research Studies* (Washington, D.C.: Mathematica Policy Research, 2003), p. 5.

⁴⁵ LaDonna Pavetti and Dan Bloom, “State Sanctions and Time Limits,” *The New World of Welfare*, eds. Rebecca M. Blank and Ron Haskins 2001, pp. 245-264.

⁴⁶ 42 U.S.C. § 608(a.7) (2004). The statute provides for certain exceptions, at the state's discretion, but the time limits are intended to have broad, general application.

⁴⁷ One might argue that a lifetime exclusion from welfare programs is appropriate for those who repeatedly violate work requirements, but such an argument would at most justify a severe sanction applied to repeat offenders, not a general time limit on receipt of welfare benefits.

⁴⁸ States and cities with some sort of publicly funded jobs program include Wisconsin, Washington, Vermont, Illinois, Georgia, Missouri, Oregon and Philadelphia.

⁴⁹ As indicated in note 37, success rates for achieving unsubsidized employment within nine months ranged from 35 to 70 percent. See Derr, Pavetti and KewalRamani 2002, p. 34.

⁵⁰ For an example of this concern, see Jon Elster, "Is There (or Should There Be) a Right to Work?" *Democracy and the Welfare State*, ed. Amy Gutmann 1988, pp. 53-78.

⁵¹ Derr, Pavetti and KewalRamani 2002, pp. 38-39.

⁵² *Ibid.*, pp. 60-61.

⁵³ See Pavetti, Derr and Hesketh 2003, p. 7.

⁵⁴ For a recent expression of this worry, see Robert E. Goodin, "Reasons for Welfare: Economic, Sociological, and Political—but Ultimately Moral," *Responsibility, Rights, and Welfare: The Theory of the Welfare State*, ed. J. Donald Moon 1988, pp. 19-54 at pp. 34-38. Concerns about discretion become particularly salient if it turns out that case workers systematically treat welfare recipients differently according to race. This possibility is raised by Ariel Kalil, Kristin S. Seefeldt and Hui-chen Wang, "Sanctions and Material Hardship under TANF," *Social Service Review*, 76 (2002), 642-662 at pp. 655-658. They ultimately conclude that there is no evidence of a statistically significant bias against African Americans. Nonetheless, more research is needed here, and depending on the results it may be necessary to reign in discretion more tightly.

⁵⁵ For a discussion of the effect of the office environment on the success of welfare-to-work programs, see Mead, "Citizenship and Social Policy: T. H. Marshall and Poverty," *Social Philosophy and Policy*, 14 (1997), 197-230. See also Derr, Pavetti and KewalRamani 2002, pp. 15-17, 27-31, and 48, for an explanation of the importance of case worker involvement and discretion in the success of Georgia GoodWorks!

⁵⁶ For more on the necessity of discretion, and the value of an appeals system in limiting its negative side-effects, see Marshall, "The Right to Welfare," *The Right to Welfare and other essays* 1981, pp. 83-94 at pp. 85-90.