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The Obligation to Work*

Lawrence C. Becker

Many of the putative obligations of citizenship are nonvoluntary. The obligation to obey the law applies to children well before the law itself declares them capable of making enforceable, voluntary agreements. And every existing state enforces obligations on adults who never consented to those obligations—or even to any second-level procedure (such as majority rule or judicial review) which they imagined might produce such obligations. (I am not thinking here of the sweeping tacit agreements one might attribute to good-spirited, thoughtful, civic-minded people. I am thinking instead of the more meager agreements we must be content with in the case of mean-spirited, shortsighted, resolute free riders. At least for them, it is true that many putative citizenship obligations are nonvoluntary.) My purpose here is to explore one such putative obligation: the obligation to do socially useful work. It is an interesting case because people who agree that work is a good thing differ sharply over whether it is a social obligation,¹ and people who agree that it is an obligation differ sharply and vehemently over whether the obligation to work should be enforced by law. I shall argue that work *is* a social obligation, but that the work requirement should *not* be enforced by law, except in cases where it counts as reciprocity for a special benefit. But I want to begin by describing a striking example of enforcement: the work obligation imposed by law in the Soviet Union. In addition to its intrinsic interest, the example provides a practical context against which to assess the theoretical arguments to follow.

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1. By “obligation” I mean an act that is required, as opposed to one that is merely good or permitted. A “social” obligation is a requirement whose beneficiaries are all the members of the group which imposes the obligation. Alternatively, social obligations are requirements whose fulfillment produces (or contributes to) a public good—a good like clean air which, if available at all, is equally available to all.

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PARASITE LAWS

“Socially useful work” is a constitutional duty in the USSR. The 1936 constitution put it as follows (in article 12): “Work in the U.S.S.R. is a duty and a matter of honour for every able-bodied citizen, in accordance with the principle: ‘He who does not work, neither shall he eat.’ . . . The principle applied in the U.S.S.R. is that of socialism: ‘From each according to his ability, to each according to his work.’ ”² The new constitution puts it this way (in article 60): “Conscientious labor in one’s chosen field of socially useful activity and observance of labor discipline is the duty and a matter of honor for every Soviet citizen who is able to work. Avoiding socially useful work is incompatible with the principles of a socialist society.”³ And from article 14: “The labor of Soviet people, free from exploitation, is the source of the growth of public wealth and of the well-being of the people and of every Soviet citizen. . . . In accordance with the principle of socialism: ‘From each according to his abilities, to each according to his work,’ the state supervises performance and consumption.”

It should be noted, of course, that the Soviet constitution also contains a commitment to full employment: the *right-to-work* provision of article 40. In fact, quoting some other relevant passages helps to put the work obligation in context. For example, from article 13: “Property in the personal possession or use of citizens must not serve for the derivation of unearned income or be used to the detriment of the interests of society.” From article 14 again: “Socially useful labor and its

2. *Constitution (Fundamental Law) of the Union of Soviet Socialist Republics* (1936) (Moscow: Progress Publishers, 1969). This constitution is also reprinted in Jan F. Triska, ed., *Constitutions of the Communist Party States* (Stanford, Calif.: Hoover Institution on War, Revolution and Peace, Stanford University Press, 1968). Although a number of the documents in the Triska volume are out of date (e.g., the ones on Cuba and the USSR), and of course several nations (notably in Africa) have joined the list of Communist party states since 1968, it is nonetheless interesting to compare the constitutions with respect to work obligations. The duty to work is explicit in the constitutions of China (1954; article 16), Bulgaria (1948; article 73), Hungary (1949; article 7), North Korea (1948; article 30), Poland (1952; article 14), and Rumania (1965; article 5). It is implicit in passages of the constitutions of Mongolia (1961; articles 17 and 89), Czechoslovakia (1960; article 13), and Yugoslavia (1963; articles 6, 7, and 62). It does not seem to be in the Albanian constitution (1964). An updating of the Triska volume is scheduled for publication in the summer of 1980 as William B. Simons, ed., *The Constitutions of the Communist World* (Alphen aan den Rijn, Netherlands: Sijthoff & Noordhoff). Simons has kindly supplied me with some of the newly translated texts. The duty to work is explicit in the new constitutions of China (1978; article 10), Albania (1977; article 44), North Korea (1972; article 69), Cuba (1975; article 44), Hungary (1972; sec. 14), Rumania (1965; article 5), Bulgaria (1971; article 59), and Poland (1976; article 19). It is implicit in the current constitutions of Czechoslovakia (1960; article 13) and Yugoslavia (1974; articles 159 and 195).

3. Adopted October 7, 1977, published in *Izvestia* (October 8, 1977), pp. 3–6. The translated text quoted here is in *Review of Socialist Law* 4 (1978): 57–84. The translation is by F. J. M. Feldbrugge and William B. Simons.

results determine the position of man in society. The state, combining material and moral incentives, and encouraging inventiveness and a creative attitude to work, furthers the transformation of labor into the prime necessity of life of every Soviet man and woman." From article 40: "Citizens of the USSR have the right to work, that is, to guaranteed employment with remuneration in accordance with the quantity and quality of the work, . . . including the right to choose a profession, occupation, and work in accordance with their vocation, ability, vocational training, and education, taking into account the needs of society." From article 41: "Citizens of the USSR have the right to rest." And from article 59: "The exercise of rights and freedoms is inseparable from the performance by the citizen of his duties." Other constitutional duties of Soviet citizens include the duty to obey the law (article 59); to safeguard and strengthen socialist property (article 61); to help safeguard the state (article 62); to serve in the military (article 63); to respect the rights of others (article 65); to "show concern for the upbringing of children, to prepare them for socially useful labor, and to raise worthy members of a socialist society" (article 66); "to protect nature and safeguard its riches" (article 67); and "to promote the development of friendship and cooperation with the peoples of other countries and the maintenance and strengthening of world peace" (article 69).

The general constitutional obligation to work has been implemented in a number of ways, but perhaps the most notorious are the so-called parasite laws, versions of which were enacted in a number of the smaller Soviet republics in the late 1950s, and in the three largest republics in 1961. The version enacted in the Russian Republic soon became standard. It said, in part, "adult, able-bodied citizens who do not wish to perform a major constitutional duty—to work honestly according to their abilities—and who avoid socially useful work, derive unearned income from the exploitation of land plots, automobiles, or housing, or commit other antisocial acts which enable them to lead a parasitic way of life, shall be subject . . . to resettlement in specially designated localities for a period of from two to five years, with confiscation of the property acquired by non-labor means, and to obligatory enlistment in work at the place of resettlement."⁴ Considerable interpretation of the law was necessary, of course. Its provisions were not applicable to spouses "working at home and raising children."⁵ (My sources were not clear about childless spouses working at home.) And people pensioned for reasons of age or poor health were exempt. Furthermore, though the law was specifically aimed at people living from "unearned income," the

4. Quoted from Harold J. Berman, *Justice in the U.S.S.R.* (New York: Vintage Books, 1963), p. 292. The full text of the law is given here, on pp. 291–94.

5. *Ibid.*, p. 296.

definition of that term was tricky. It did not, for example, include the interest received from deposits in state savings banks.⁶

Nonetheless, the law cast a wide net and was at first vigorously enforced. It was reported by the Soviet Minister of Justice that in the first year of the law's administration in Moscow ten thousand people were tried for parasitism. Eight thousand were given warnings and sent to work in Moscow. Two thousand were expelled from Moscow to enforced labor.⁷

I put all the foregoing in the past tense because, though parasite laws still exist in the Soviet Union, they have been modified considerably over the years. For example, parasitism in the Russian Republic is now simply a straightforward criminal offense (along with vagrancy), and the penalties have been changed from resettlement in a labor colony to "deprivation of freedom." Furthermore, the length of sentence has been reduced from two to five years to a maximum of one year (for a first offense) and a maximum of two years (for recidivists).⁸ Nonetheless, parasite laws remain an important means of enforcing the constitutional obligation to work in the Soviet Union.

A GENERAL SOCIAL OBLIGATION TO WORK

The questions I want to explore are, first, whether a general citizenship obligation to work can be justified and, second, whether such an obligation, once justified, ought to be enforced by law. These are uncomfortable questions for most citizens of the United States. Here, of course, there is no constitutional duty to work. In fact, the U.S. Constitution does not specifically enumerate a citizen's duties at all. It enumerates the powers of state and federal governments, powers which logically entail the existence of liabilities of the form: "If the state makes

6. See John N. Hazard, *Communists and Their Law* (Chicago: University of Chicago Press, 1969), p. 214.

7. See Berman, p. 85, and George Feifer, *Justice in Moscow* (New York: Simon & Schuster, 1964), pp. 196–97. Feifer's chapter on the parasite law contains an interesting eyewitness account of a trial for parasitism. He maintains that most of the cases seem to involve pimps, prostitutes, alcoholics, and chronic offenders against labor discipline. But, of course, the law has been used against writers who are out of favor (e.g., Brodsky; see an English translation, by Collyer Bowen, of the transcript of his trial in "The Trial of Iosif Brodsky," *New Leader* [August 31, 1964], pp. 6–17); and it is, in principle, aimed at the variety of ways of getting a little income "on the side," as described in Hedrick Smith's book, *The Russians* (New York: Quadrangle Books, New York Times Book Co., 1976), chap. 3.

8. I am grateful to Williams B. Simons for providing me with the relevant English translations. See *Review of Socialist Law* 2 (1976): 262–63, which reports changes in article 209 of the criminal code of the Russian Republic of the USSR. See also Harold J. Berman, ed., *Soviet Criminal Law and Procedure: the RSFSR Codes*, 2d ed. (Cambridge, Mass.: Harvard University Press, 1972), pp. 77–81. The Soviet Union is not the only socialist country to have (or have had) such laws. Simons has pointed out to me similar passages in the criminal codes of Hungary (1962; sec. 214) and Rumania (article 327).

a law . . . then citizens have the duty to . . .” And, of course, the rights granted to citizens clearly imply corresponding duties in everyone to respect those rights. But the only obligations explicitly mentioned in the Constitution are those on governments and governmental officials. Furthermore, anything like the USSR’s parasite law is politically unthinkable here.

On the other hand, a “work ethic” has considerable power. Some opponents of welfare argue vigorously that work requirements should be made a condition for receipt of the benefits; and even opponents of such strings on welfare do not argue that people should not work if they are able.

Nonetheless, people who are brought up, politically, on the liberal theory of justice are likely to find the parasite laws deeply offensive. One source of offense is the actual implementation of the laws in the Soviet Union: the regime of labor camps, the paternalistic methods of enforcement, and the occasional abuse of the laws to get at political dissidents. Another source is the conviction that work obligations should not be made a matter of law at all. So far, the general Western antipathy to these laws (which I certainly share) seems unremarkable.

But another source of offense is clearly regrettable: the unreflective bias against certain citizenship obligations—work being among them—that liberalism tends to produce. Liberalism teaches that there is something natural, fundamental, and inescapable about people’s right to liberty. Consequently, the duty to respect others’ liberties (though derivative) is equally natural and inescapable. But an obligation to work for the benefit of others is seen as artificial rather than natural and as something which—if it can ever be justified at all—must be subordinate to the demands of liberty.

This is a simple non sequitur. It must be granted that nonvoluntary obligations to pay taxes and to do socially useful work are artificial, that is, that their moral basis lies in the ongoing human artifacts known as social institutions rather than in an imaginary state of nature. But it does not follow that their justification is any more difficult than the justification of the (equal) right to liberty or that they must be subordinate to liberty.

The Reciprocity Argument

I wish to argue that there is at least one nonvoluntary social obligation, namely, reciprocity: the obligation to make a proportional return of good for a good received. In outline, the argument runs as follows.⁹

No one is self-made. Whatever good there is in our lives is, in part, a product of the acts of others. Moreover, it is also the product of others’ fulfilling their putative social obligations: obligations of restraint (such as

9. See my “Reciprocity and Social Obligations,” *Pacific Philosophical Quarterly* (1980), in press.

are found in the criminal laws against murder and theft), of care (as found in the law of negligence), of effort ("trying" to help), or of contribution (paying taxes).

All the standard theories of justice support a requirement (obligation) of reciprocity, that is, a proportional return of good for good. (Returning bad for bad is a more complex problem and may be ignored here.)¹⁰ Such a practice has obvious social utility and would be adopted by utilitarians either as a rule or as part of a "role."¹¹ A society in which people returned good for good seems likely to be preferred by rational contractors to one which differed only in the respect that reciprocity was not observed. And the concept of reciprocity seems embedded in natural rights theory as well, for example, in the reciprocal relationship between rights and obligations. (When I respect your right to liberty, you must respect mine. When I invade your right, you may invade mine to protect yours.)

Fulfilling the requirement of reciprocity sometimes involves meeting the demands of one's benefactors because sometimes only that will count as a "fitting and proportional" return of good for good. (Think of a friend asking for a favor in return for past good deeds: "No, I don't want the money back. What I need is the use of your car for the day.") Citizenship obligations may be thought of as the institutionalized demands of our benefactors for reciprocity. Thus, an important class of nonvoluntary social obligations is justified.

Now, of course, there are severe limits to the obligations which can be so established. In particular, the requirement here is only that we return good for *good* and then only in proportion to the good received. Thus, we need not reciprocate for malicious acts which accidentally produce good (unless it is by being ineptly malicious in return). And we need not reciprocate for the "good" done by speculators in reciprocity—people who shower us with unwanted benefits to put us in their debt. At least, to the extent that such speculation is a bad thing, we need not return good for it. The requirement of reciprocity is not strong enough to justify Christian charity. In short, although there are interesting complications left to be explored, the reciprocity argument, as I shall call it, is a promising avenue for the justification of nonvoluntary citizenship obligations. For the sake of the argument to follow, I shall simply assume that it is sound.

10. See Plato, *Republic*, bk. 1 at 335. And for a recent discussion, see Joel Kidder, "Requital and Criminal Justice," *International Philosophical Quarterly* 15 (1975): 255–78.

11. In order to promote the goods derivable only from habit, reflex, spontaneous emotion, and cooperative action (in, e.g., prisoner's dilemma situations), even the most thoroughgoing act-utilitarian must cultivate traits of character which foreclose rational calculation in certain circumstances. (Think of the reflexes needed to drive a car well.) It is my contention that the propensity to reciprocate is among the "noncalculative" dispositions the utilitarian must cultivate. See my "The Priority of Human Interests," unpublished manuscript.

The question then becomes whether it is possible to derive a general work obligation from the requirement of reciprocity. By a “general” obligation, I mean a nonvoluntary obligation which applies “generally” or “equally” across the whole class of members of society. And in one sense of ‘equal obligation’ this is obviously impossible. Obligations must be scaled to competence, ability, and benefits.¹² People differ widely along those three dimensions, so widely that it is obvious that it would be impossible to justify any proposal to require the same work from everyone. (Similarly, it would be unreasonable to require everyone to pay the same dollar amount of taxes.)

But I shall use another sense of equal obligation here, one which makes it clear that a work obligation could in principle apply equally to all members of society. I shall say that work obligations are equal if, after they are scaled to competence, ability, and benefits, they apply to everyone. Thus, all members of a society may be said to be equally obligated to work even though the quality and quantity of required work varies widely from member to member.

The question now is whether there is any reason to conclude that people do have a social obligation to work. Here, two things can be shown: first, that the form of a justification is easily available, but that, second, whether the form can be filled in and applied to a given society depends on contingent truths about that society. As a result, it is not possible to show, from purely conceptual considerations alone, that an equal obligation to work exists. The best one can do is to establish a presumption in favor of it.

The form of a justification is not difficult to see, once the requirement of reciprocity is granted. Each of us is the product, in part, of the work done by others, work which creates an environment in which whatever happiness we have is possible. It is true that we did not ask to be born; we did not (at least at first) intentionally make demands on others; we did not invite the nourishment they gave and continue to give us. But it is also true that most of our benefactors had no part in bringing us into their midst. Yet their work continues to benefit us, whether they like it or not.

I have assumed that reciprocity is required for the good provided to us by the restraint, care, efforts, and contributions of others. Reciprocity requires the return of benefits which are fitting and proportional to the ones received. When the benefits we receive come from the work others do—rather than just from their restraint or carefulness—a purely

12. If it is unjustifiable to require people to do things that they are unable to do, then obligations can only be imposed on the “competent,” and then only to a degree commensurate with their ability to perform. Hence the necessity for scaling obligations to competence and ability. Furthermore, since my arguments here are based only on the assumption that one is required to reciprocate—to make a proportional return of good for good received—obligations must be scaled to benefits received as well.

passive response from us (i.e., restraint or care) may not be fitting or proportional to the benefits we have received. Work may have to be reciprocated by work. This is one source of a general social obligation to work, which can, in principle, be institutionalized as a citizenship obligation.

Here is another source: Each of us is a burden on others. Our mere existence diminishes natural resources; we pollute; we consume the time and energy of those who have to deal with us. We are a net burden on others if we do not make an offsetting contribution to their welfare. Now, it is a fact that some people do make an effort to offset these burdens and succeed in offsetting them. Reciprocity to them is as much in order as it is for people who produce "positive" good for us. And reciprocity here may also require a contribution produced by effort.

Obligations based on the reciprocity argument are in principle directed only to one's benefactors, a set of people which need not be coextensive with society, or the nation, or the family as a whole. Yet social obligations, as defined at the outset, are those whose beneficiaries "of record" are all the members of the group. So how is it that the reciprocity argument can create a social obligation?

There are two ways. For one thing, some goods are not partitionable; they are public goods—goods which, if they are available at all, are equally available to everyone. If the requirement of reciprocity yields an obligation to produce or contribute to the production of a public good, then it has yielded what is in effect a social obligation. But more importantly, reciprocity may require compliance with the demands of one's benefactors, demands institutionalized as membership obligations designed by one's benefactors to benefit all members. Hence, reciprocity may yield social obligations directly, as well as obligations which are merely inescapably social ones "in effect."

Showing how an equal work obligation might be justified does not take us very far, however. What we want to know is whether such a social obligation is justified—here and now. More generally, we want to know when work is the form of reciprocity which can be required of us. One obvious answer is that when reciprocity is required, and when work is the only way reciprocity can be given, then work is required. But when is that the case? When is it that nothing but work will do? Here, a purely conceptual analysis fails to yield detailed guidance, because so much depends on empirical findings about existing social conditions. But a few things of interest can be said. For one thing, the justifiability of producing various social goods is a logically prior question. It may have been evident to the Soviets that in order to achieve the goals of rapid industrialization, a stable socialist economy, and an improved standard of living for all, work would have to be made a citizenship obligation. But the logically prior question is whether it is justifiable to require people to contribute to producing those social goods.

Second, after the social goals are decided, one needs to know whether work from everyone is needed or just needed from a subset of the population. If it is just the latter, then the general work obligation could at most be a conditional one, similar to the obligation to serve in the military. If more workers are needed (due to a lack of volunteers or a temporary crisis), then a work obligation may be imposed.

Finally, before a general work obligation is imposed, the question of acceptable substitutes for work must be carefully considered. Even if a given quantity of political party activity is a social necessity, and even if an obligation to produce such activity falls equally on all citizens, it does not quite follow that the obligation must actually be to work in party politics. Money contributions might be an acceptable substitute. Some of the relevant concerns here are simply about efficiency: Can the job be done if some people offer only substitutes for work? Can the job be done well if they offer substitutes? Will there be a net loss of social good if they do so? And so on.

But there are questions of fairness and fittingness here too. Just as it is inappropriate (unfitting) to make a cash payment in place of returning a friend's dinner invitation, so too it may sometimes be unfitting to buy one's way out of socially useful work. And it may even be unfair, as when the wealthy were once permitted to buy their way out of the draft, effectively shifting the risks of war inequitably onto the poor.

Beyond these very general remarks, however, I cannot deduce any further guidance on when a social obligation to work is justifiable. To get conclusions about specific obligations, specific social conditions will have to be considered in detail. It seems reasonable, however, to assume that a general obligation to do socially useful work is justifiable in the case of contemporary, "developed" societies. So much work is required to keep them going, and we all profit so much from the work of others in these societies, that it certainly seems reasonable to put the burden of proof on people who claim that they themselves (or any others they mention) have no obligation to work. People who are able to work, and do not work, are parasites, however unattractive and emotionally loaded that label is. People in this society all live, in part, off the labor of others. And there is a chronic oversupply of jobs which need to be done to sustain and improve the quality of life for us all. (I am not speaking here of simply income-producing jobs.) So reciprocity in the form of work seems not only appropriate but necessary in our present circumstances. At least, it seems reasonable to adopt a rebuttable presumption in favor of the obligation to work.

THE EQUAL-WORK OBLIGATION SHOULD NOT BE ENFORCED BY LAW

Even so, however, it can be shown that a general social obligation to work ought not to be enforced legally. Parasite laws are unjustifiable. This

follows directly from two things: first, the moral requirements of certainty and advance notice within the law and, second, our inability to define a general work obligation precisely enough to conform to these moral requirements.

I shall consider the relevant problems of definition first. For one thing, it is notoriously difficult to distinguish work from other human activities. By any definition, I suppose, work of the sort that concerns us here is positive effort, rather than mere self-restraint, or being careful, or making a contribution. It is also sustained effort, rather than momentary exertion. Furthermore, the sustained effort must be consciously directed at accomplishing tasks, in the sense that it is designed to yield a "product" over and above the satisfactions derived from the activity (sustained effort) itself.¹³ Play, for example, as distinguished from competitive sports and physical conditioning, is not typically aimed at a product other than the pleasures of the moment.

So work is sustained, purposively productive effort. But it is clear that every element of this definition can be subjected to destructive analysis. Problematic borderline cases can be produced in great numbers. Is personal grooming work? Trying to go to sleep? Making a peanut butter sandwich? All of these activities—and many more like them—appear to fit the definition of work, at least under some imaginable conditions.

Clarifying what counts as *socially beneficial* work is not easy either. It is analytic, of course, that work required (by a social obligation) must be socially beneficial—at least potentially. Otherwise, the point of requiring it as a social obligation evaporates. (A social obligation is one whose beneficiaries of record are all the members of the [relevant] group.)

The requirement of social beneficiality, however, produces another definitional muddle. The requirement means, obviously enough, that productive efforts which are purely self-regarding in value do not qualify. But it also means that productive efforts of value to only a subset of the relevant group do not qualify. The social benefits of one's work can be very indirect, of course (as is the case with good philosophy); but if society at large realizes no benefits at all from one's work, then that work cannot satisfy a social obligation to work. The definitional problem here is just that it is hard to think of any work at all which is entirely without some potential for some indirect social value. The problem is analogous to the difficulty of finding examples of purely self-regarding acts. Even purely private pleasures may make people happier, saner, better citizens.

13. The *Oxford English Dictionary* devotes some nine pages to the word "work," but its relevant definition there is very close to the one I offer here. The notion of sustained effort is missing in the *OED*, but is present in some other dictionaries—e.g., *Webster's Third International Dictionary*. Both the noun and the verb are contrasted with the corresponding forms of the word "play," but the dictionaries do not give a definition of play which is useful for my purposes.

So what is the cash value of the requirement that work be socially beneficial? It must not be confused with claims that all the work one does be socially beneficial, or that any of it be the most beneficial work one can do. Neither of these claims is analytic to the notion of a social obligation to work.

Further, it is clear that the social benefit requirement does not entail that one's work be income producing (at least in the usual sense of income). This is so because sometimes the market cannot or does not pay for all the work society can justifiably require of its citizens. (Think of all the work women have traditionally been required to do in the home.) And sometimes an economy is designed to require a certain level of unemployment. Where this is so, we can hardly hold that everyone is morally obligated to do income-producing work.

In short, the requirement that work be socially beneficial merely rules out devoting oneself exclusively to labor with purely "subsocial" value and labor which has net negative or neutral social value. But what will count as positive social value is in principle so wide ranging that practically nothing of any importance follows from the bare idea. Concrete conclusions about social benefits depend heavily on empirical details about the sort of society at issue. Is it a market economy? A nonindustrial society? What are its needs? What do its members do?

Further, a mere showing that our work yields some social benefits will not show that it satisfies our social obligation to work. There is still the question of the amount of work required. And that raises further definitional problems about which very little of interest can be said on this purely conceptual level.

Consider: Incompetence yields an exemption from work obligations.¹⁴ And competent workers differ in both their ability to work and the level of benefits they have received from society. Equal work obligations, as defined here, must be scaled to all three factors.

Consequently, once competence to work has been established, the ability and benefit principles, taken together, will set a ceiling on the amount of work which can justifiably be required. And that ceiling will be set by the lower of the two relevant figures: No matter how high one's abilities, work out of proportion to benefits received (i.e., "above" those benefits) cannot be required. Similarly, no matter how high one's benefits, work beyond one's abilities cannot be required.

Now when one is dealing with taxable income, one can confidently make some rough judgments about these matters. But in the case of work, such judgments (about levels of ability and benefits) are much more problematic. I do not say that reasonable rough assessments are

14. For the sake of completeness, it should be noted that incompetence with respect to some sorts of work does not necessarily exempt people from all work obligations. And if people are competent to learn to work, they may be obligated to do that first, in order to be obligated to work.

impossible, just that they are very problematic. This adds to the problem of getting a precise definition of people's work obligations.

Even granting a solution to the foregoing problems does not get one out of the woods, however. The requireable level of work may be reduced still further by the level of social need. And that is an empirical issue. Given high technology, a stable social situation, and abundant labor, it may be possible to require only a low level of work. No matter what the level of social need, however, an increase in work obligations which violates the benefit and ability principles cannot be justified.

Against Parasite Laws

The consequence of all of these definitional problems, when they are combined with standard requirements of justice, is that the direct legal enforcement of a general work obligation is unjustifiable. Parasite laws immediately become embroiled in complex issues of substantive and procedural justice—issues which, given the indeterminacy of the definition of the nature and amount of socially useful work, present overwhelming objections to the administration of these laws.

Consider: All of our general remarks about the nature of work obligations still do not yield much in the way of concrete answers to the question, What counts toward the satisfaction of one's obligation to work? So much depends on existing social needs, individual competence, benefits, and abilities, and on what benefits it is reasonable to expect from a given activity, that drawing up a very specific or complete list *a priori* is out of the question. One can rule out most of the things we define as crime and rule in most of the job niches in a modern economy, but that exercise is neither very interesting nor very useful. This very indeterminacy figures importantly in arguments about enforcement, however.

Since *a priori* list making is rather pointless, the proper approach seems to be to adopt a sweeping but rebuttable presumption in favor of the adequacy (for meeting one's work obligations) of all of the commonly recognized "occupations."¹⁵ Disallowing any of these would then require argument; allowing novel occupations would also require argument; but without reason to the contrary, allowing any of the commonly recognized occupations would not need argument. This too has consequences for enforcement.

Specifically, all the indeterminacy in the notion of socially useful work appears to defeat two requirements of justice in the administration of the law: certainty and advance notice. Since the direct imposition of sanctions on delinquents inevitably compromises their liberty, one is

15. For convenience, "commonly recognized occupations" might be defined as the ones acceptable on official documents which require people to name their occupations. "Thinker" is presumably not acceptable; "philosopher" is problematic; "philosophy professor" is clearly acceptable.

under a stringent duty of care to see to it that the sanctions are justifiable. This involves being able to identify all and only those who are delinquent and to give people adequate advance notice of what will count as delinquency.

Consider: Selective enforcement of the law violates the principle of formal equality. Similar cases must be treated similarly. If one operates with an incomplete list of ways to meet and to fail to meet the work obligation, and then engages in affirmative efforts to find and prosecute delinquents, the result is inevitably a violation of formal equality. Some delinquents will “get by” just because no one had thought to put them on the list. Yet getting a complete list of “approved” occupations is an enormous task for any complex, industrial society.

Second, the imposition of criminal or civil penalties of the sort we are considering is generally agreed to require advance notice to potential offenders. This is another reason that a complete list is important. We can, of course, refuse to penalize people *ex post facto* and just keep adding to the list as novel cases come up. But this does not give people much assurance about what else might, in the future, be proscribed.

Now, the law often has to deal with concepts which are fuzzy along the borders. “Reasonable care” is a good example. So is competence. H. L. A. Hart is fond of remarking about such borderline problems (roughly) that in order to have problematic borderline cases you first have to have borderlines. And in many areas of the law, knowing those borderlines will settle the vast majority of cases. Accordingly, the requirements of certainty and advance notice—especially in tort law—are often compromised.

If defining a general work obligation only presented us with one more such problem, a similar compromise would be possible in the case of parasite laws. But the truth is that the concept of socially useful work is not just fuzzy around the edges. It is fuzzy through and through. Consequently, the hard cases—the ones which involve morally objectionable compromises with the requirements of certainty and advance notice—will not just be confined to a small percentage of bizarre events around the fringes. Hard cases are likely to dominate the field. Unless a convincing argument can be made for tolerating the quantity of compromise (with respect to justice) that this would entail, direct legal enforcement of a general obligation to work cannot be justified. I cannot construct such an argument. So I oppose the enactment of parasite laws.

WORK REQUIREMENTS ON SPECIAL BENEFITS

“Special,” as opposed to general, work obligations are a different matter, however. Attaching work requirements to socially provided special benefits does not present the same moral problems. In the first place, the state is not engaged here in affirmative efforts to find and penalize delinquents. So the urgency of having a complete list of approved occupations is significantly diminished.

Second, attaching the requirements only to special benefits—that is, to those partitionable benefits provided only upon request—reduces the problem further. It is true that the general, nonpartitionable benefits we all receive from society (such as a stable monetary system) are difficult to attach to a hard and fast list of work obligations. Must I serve in the military to reciprocate for the benefits of national defense? Probably not—at least not in this country, now. But will being a full-time parent count? It is hard to say. Special benefits, however, are not so difficult to analyze. For example, suppose I request a special, low-interest loan from the government to help me rebuild my business after tornado damage. We are perfectly accustomed to asking for income-producing work in return—not only so that the loan can be repaid, but also so that its purpose (to stimulate business) can be fulfilled. And we are willing to make the guarantee of such work a condition of the loan.

Or suppose I ask for a zoning change for some land I own, a change which will benefit me but impose costs on others. Here we are still in the process of finding suitable general guidelines, but the principle is clear: I can justifiably be required to reduce others' costs to a minimum and/or to offset them with other, similar benefits. (If I have to cut down all the existing trees on my lot to build my building, it may be appropriate to require me to plant some trees. And so on.)

Or suppose I ask for income (or consumer goods) from the state. Surely it is no less reasonable here to attach conditions to receipt of the benefits—and at least one condition appropriate to these particular benefits is the undertaking to do income-producing work. This is appropriate not only so that the need for these special benefits can be reduced, but also because earning taxable income is reciprocation in kind for the benefits received. Reciprocity in kind is not the only appropriate sort, but it is an appropriate sort.

Work requirements must be scaled by the competence and ability principles. And in the case of income-producing work, that means that such work must be available—and at a reasonable cost to the individual. It is obviously not justifiable to refuse medical benefits to people with heart disease because they will not take outdoor jobs in severe cold. Similarly, parents cannot justifiably be asked to take jobs which destroy their ability to care for their children. The details in each case are complicated, but the principle is reasonably clear. When special benefits are sought—benefits produced by the work of others—an obligation to reciprocate in kind can usually be defined with enough precision to make its just enforcement by law at least possible.

It may be objected that there is something underhanded in all of this. First, we trot out examples of business loans and zoning problems and describe them as cases of imposing a special work obligation. That is unusual; we do not usually think of them that way. But then try to force an analogy between business loans and welfare payments—and merely

to assert without argument that income-producing work obligations are as justifiable for the latter as for the former—is highly suspect. It looks too much like the reaction of someone who simply begrudges an obligation to help the needy and is trying to find a way to “make them pay” after all.

The fact that tying work requirements to special benefits looks punitive with respect to the poor is due, I think, to three things. First, we know that some of the people who have proposed work requirements for welfare recipients have, in fact, been opponents of welfare, or at least grudging enough about it to insist on work as a way of venting their hostility to the whole system. Second, as I mentioned earlier, liberalism has left a legacy of repugnance toward direct interference with daily life, and work requirements (as opposed to taxes, e.g.) seem particularly direct—almost physically invasive of one’s person. Finally, the poor are a suspect class. That is, they have been systematically and unjustly harmed often enough in the past to place an especially stringent standard of proof on anyone who proposes to place more burdens on them.

All of this I acknowledge. But motives should not be confused with arguments, and a prejudice against work obligations per se is regrettable for reasons I have already given. The serious problem is whether there is a good argument for special work obligations.

Here I admit that the case I have made is a rather weak one. Essentially, all I have shown is that attaching work obligations to special benefits is not unusual (we do it in a variety of cases quite far removed from welfare), and that it is at least in principle appropriate in all these cases, including welfare. To show more than that—to show, for example, that an income-producing work requirement should actually be imposed on welfare recipients—I would have to canvass the possible alternatives (including non-income-producing work) and show that such a requirement was the best. I have not done that, and I cannot at present do it.

Changing the welfare system was not my concern in writing this essay, however. My purpose was simply to establish the general justifiability of an obligation to do socially useful work and to show where that might lead. In that regard, it is perhaps appropriate to close by mentioning that an effective system of work obligations, like any other citizenship obligation, requires more than enforcement measures. It also requires the acceptance, on the part of citizens, that they are obligated. (Otherwise, the costs of effective enforcement are prohibitive.) With regard to moral suasion, then, if it is true—as I think it is—that revolutionary socialist systems are unbearably paternalistic and meddling, it is also true that we are regrettably diffident.