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The Unemployment Crisis — A Comment on Christina Romer’s Analysis

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April 12, 2011

It is refreshing to see Christina Romer’s direct focus on the problem of unemployment as a crisis worthy of analysis and government action. We are, at last, talking about jobs as if they matter. However, there is a real risk that policy efforts to address the problem could be sidelined as overall unemployment figures decline and the budget deficit looms larger in political and public dialogue, as Romer has observed.

I want to begin by asking this question: Why is employment so easily sidelined in matters of public policy? Few would debate the importance of work in our lives: Work lies at the core of the American Dream. For most of us, work is the means for achieving a better social and economic condition; for ensuring that our children have a better life and more opportunities than we had. Most importantly, work means autonomy and independence. Jobs, after all, are the entry tickets to provisions—health insurance, pension benefits, social security. Our political system, our cultural values, and our law are predicated on the assumption that full citizens contribute to the country through waged work. As many scholars have explained, work confers not only self-sufficiency, then, but dignity, standing in society, and membership in the social structure. The absence of work in American society means not only a loss of income and skills erosion, but personal failure; it means that one’s social station is either fixed or in decline; it signals family insecurity; if work signals esteem and station in the eyes of others, then its absence means shame.¹

In the modern era, work has even emerged as the substitute for the historical cultural sites of engagement where Americans formed social bonds. In his famous work *BOWLING ALONE*, Robert Putnam invoked the forlorn image of the solitary bowler as emblematic of our diminishing involvement in fraternal organizations, community groups, religion, labor unions,

¹ See, e.g., Marion Crain, *Work Matters*, 19 KAN. J.L. & PUB. POL’Y 365, 370-74 (2010).

and even bowling leagues.² As another scholar put it, “we may be bowling alone, but we are still working together.”³

Historically, our government has understood and appreciated the significance of work. Work-related legislation and government programs epitomized the government’s response to the financial crisis of the Great Depression.⁴ The centerpieces of the New Deal-era legislation included the National Labor Relations Act (1935), with its commitment to labor unionism as a vehicle for worker leverage, representation and voice in the workplace—designed to improve workers’ wages and standard of living; and wage and hour legislation, particularly the Fair Labor Standards Act of 1938, establishing minimum wage rates and overtime premiums to encourage employers to spread work and create new jobs. The labor movement, then relatively strong, was a key player in the enactment of this legislation.

Now, however, the labor movement is in decline. Private sector union density has dropped below 8%,⁵ and with the recent attacks on public sector unionism, once the stronghold of the labor movement, overall union density is in a freefall. Without a strong labor movement to make the case for work—and not just any work, but good jobs with living wages and benefits—the persistent high unemployment numbers may catch our attention, but the policy response becomes a numbers game—focusing on how to get unemployment figures down rather than on what the spiraling numbers actually mean to real people struggling to survive. The status of the unemployed thus becomes relevant at a policy level only because the unemployed are unable to participate in the market and cannot support the consumer-led economic recovery.

With the structural link between investment and jobs severed, announcements of layoffs trigger dramatic jumps in stock prices as labor costs shrink and profitability soars. Each economic recovery seems to produce fewer jobs than the one that came before, and the recovery from each is measured by growth in GDP even as the unemployment rate rises. In the most recent recessions prior to this one (1990-91 and 2001), unemployment continued to increase even after the recessions had officially ended and the GDP had resumed its growth.⁶ Hence the phrase “jobless recovery” acquired empirical meaning: investment and productivity rise while unemployment increases.

This sidelining of work in public policy discussions and legislative reform agendas is both dangerous and short-sighted, not to mention out of step with the lived experience of everyday people. I want to briefly sketch how our framing of the problem, and thus the solutions

² See ROBERT B. PUTNAM, *BOWLING ALONE: THE COLLAPSE AND REVIVAL OF AMERICAN COMMUNITY* 275 (2000).

³ CYNTHIA ESTLUND, *WORKING TOGETHER: HOW WORKPLACE BONDS STRENGTHEN A DIVERSE DEMOCRACY* 5-7 (2003).

⁴ See MARION G. CRAIN, PAULINE T. KIM & MICHAEL SELMI, *WORK LAW: CASES AND MATERIALS* 21-22 (2d ed. 2010).

⁵ See Bureau of Labor Statistics, www.bls.gov.

⁶ See Edward S. Knotek II & Stephen Terry, *How Will Unemployment Fare Following the Recession?*, 94 FED. RES. BANK OF KAN. CITY ECON. REV. 5, 10 (2009).

to it, might be different if we focused on the real-world context of unemployment instead of just the numbers.

First, the unemployment crisis has not been evenly or fairly distributed across our populace. Some sectors—particularly manufacturing—and some regions—particularly the industrial heartland—have felt the losses most keenly. Perhaps most striking, though, is the disproportionate impact of the recession along social class lines. Those at the bottom of the income strata suffered unemployment rates that rivaled or exceeded depression-era rates, while those at the top of the strata emerged relatively unscathed. According to the Center for Labor Market Studies at Northeastern University, the unemployment rate during the fourth quarter of 2009 was 30.8 percent for households with income of under \$12,500 and 19.1 percent for those earning between \$12,500 and \$20,000, compared with a rate of 3.2 percent for those earning \$150,000 or more and a 4 percent rate for those earning between \$100,000 and \$150,000.⁷ This dramatic difference in impact is new for our age, and it tracks income and wealth inequality patterns that have carved deeper and deeper ruts into our social structure in recent years.

Second, this recession continues structural patterns of unemployment. A high proportion of job losses are attributable to permanent changes in the labor market, particularly losses in manufacturing, construction, transportation and finance. Experience suggests that as the economy recovers, some lost jobs will return, albeit slowly. Others, however, will never return. Workers displaced by these job losses are “structurally unemployed”: they lack the skills to obtain re-employment in sectors where jobs do exist.⁸ Worse, the jobs lost in these industries were disproportionately “good jobs” –jobs that paid a living wage and boasted generous benefits including health insurance and pension benefits. This is no accident: manufacturing, construction and transportation industries are heavily unionized. Dislocated workers in these industries must deal not only with skills mismatches, but with a smaller pool of jobs with lower wages, few or no benefits, and often less than full-time hours. Small wonder that the average duration of unemployment during this recession was the highest on record, extending to more than six months.⁹

Part of the reason for this delayed and soft recovery is that firms increasingly substitute more flexible labor for less flexible labor in response to volatile market cycles. That is, they respond to recessions with permanent layoffs, and to fluctuations in product demand by turning to “just-in-time” labor, meaning that they add overtime hours for existing workers and hire temporary and part-time workers or outsource work to respond to upticks in demand for their products or services rather than hiring new permanent workers. These “just-in-time” strategies

⁷ Andrew Sum *et al.*, *Labor Underutilization Problems of U.S. Workers Across Household Income Groups at the End of the Great Recession: A Truly Great Depression Among the Nation’s Low Income Workers Amidst Full Employment Among the Most Affluent* 7-8 (2010), available at http://www.clms.neu.edu/publication/documents/Labor_Underutilization_Problems_of_U.pdf.

⁸ Sum, *supra* note 7 at 24; see Study Finds Economic Shifts, Recession Erode Job Prospects in Many Industries, Daily Lab. Rep. (BNA) No. 162, at A-11, A-12 (Aug. 25, 2009).

⁹ Kelly Evans *et al.*, *Jobs Data Lift Recovery Hopes*, WALL ST. J., Dec. 5, 2009, at A-1, A-6.

afford companies more flexibility and allow them to take a “wait-and-see” approach: to wait until demand actually materializes in the wake of a recession, rather than hiring in anticipation thereof. It also means slower rehiring, since firms must rehire and train new workers rather than recalling laid-off workers. This strategic shift explains why employment levels take longer with each recovery to return to their previous levels. [Prior to 1990, it typically took twenty-one months for the economy to gain back jobs lost during a recession. After 1990, it took thirty-one months (after the recession in 1990) and forty-six months (after the recession in 2001) for job markets to recover.]¹⁰

This Sunday’s New York Times featured an eloquent op-ed by Professor Romer making some of the same points that she made today: that high unemployment is not the new normal, that it is predominantly cyclical rather than structural, and that macroeconomic policy and the tools that we have at our disposal to further are our best hope for a solution.¹¹ Yet the same section included an article reporting on the broad income and wealth gains enjoyed by CEOs, whose stock options soared as the financial markets recovered, and a piece describing the challenges faced by still-employed workers who are struggling to do the work that larger numbers of workers had done in the past.¹² These articles together detail the direction in which we are moving: fewer good jobs, a major time squeeze for those who are employed, and more income inequality.

Solutions?

If we accept that work is important to social engagement and a healthy democracy, why hasn’t there been more consideration of strategies designed to incentivize work-spreading and work-saving measures in lieu of layoffs? Wouldn’t furloughs (periods of compelled time off without pay, or at lower pay) be preferable to layoffs for workers as a class? Furloughs preserve business flexibility to respond to market upturns more efficiently than layoffs followed by new hiring and retraining. Many European countries have responded to economic downturns by cushioning workers against unemployment, eschewing layoffs in favor of work-sharing, reduced hours and furloughs. Such labor-hoarding policies preserve jobs and keep unemployment rates down. Some countries have established relief work programs that allow workers who have exhausted their unemployment benefits to work part-time, yet receive full compensation through government subsidies.¹³

¹⁰ PETER S. GOODMAN, PAST DUE: THE END OF EASY MONEY AND THE RENEWAL OF THE AMERICAN ECONOMY 162 (2009).

¹¹ Christina D. Romer, *This Jobless Rate Isn’t the New Normal*, N.Y. TIMES, Apr. 10, 2011, at BU-5.

¹² See Daniel Costello, *The Drought Is Over (At Least for C.E.O.’s)*, N.Y. TIMES, Apr. 10, 2011, at BU-1; Eilene Zimmerman, *It’s Not Mount Everest, It’s My Workload*, N.Y. TIMES, Apr. 10, 2011, at BU-10.

¹³ See generally Clyde W. Summers, *Worker Dislocation: Who Bears the Burden? A Comparative Study of Social Values in Five Countries*, 70 NOTRE DAME L. REV. 1033, 1052 (1995).

The Dutch have been particularly successful: their unemployment rate of 3.7 percent near the end of 2009 was one of the lowest among developed nations.¹⁴ In the Netherlands, “short work” programs allow firms that can demonstrate a 30 percent reduction in revenue over a two-month period to claim a government subsidy for wages lost by workers due to reductions in hours. Workers reduce their hours and are paid at a lower (subsidized) rate for the hours not worked. The subsidy is limited to a six-month period.¹⁵

Nor need we look beyond our borders for these solutions. The Center for Law and Social Policy (CLASP) recently surveyed a short-hours compensation system successfully deployed in 17 states, and recommended creation of a federal program based upon it.¹⁶ In states that have adopted “short-time work sharing” programs, employers develop a plan, consult with the union representing their workforce (if any) and submit the plan to the state unemployment insurance agency for approval. If the plan is approved, workers can collect unemployment insurance benefits to compensate them for lost work hours caused by a financial downturn. Thus, workers might work four days out of five and collect unemployment benefits for the fifth day in partial compensation for the lost pay. Such programs encourage job-saving measures by firms, who can choose to cut all workers’ hours by 20% rather than laying off 20 percent of the workforce.¹⁷ Employers benefit by maintaining a skilled workforce, avoiding training and hiring costs when the economy recovers, and by retaining the ability to respond immediately to a change in product markets. Workers benefit by keeping their jobs and maintaining health and pension benefits, as well as continuing to build their skills while working.

These programs are not a panacea in recessionary times: they are available only for relatively short-term reductions in hours, not for permanent reductions; the employer must still bear disproportionate costs of maintaining health and pension insurance; and they tend to benefit more junior employees disproportionately since they might have more likely lost jobs in the event of a layoff along seniority lines. The downside risk of “labor-hoarding” policies is a slower recovery, since job preservation tends to stifle the reallocation of labor from industries that are declining to those that may be growing, and even within industries it can be difficult to separate the firms that are worth saving from those that should be allowed to fold.

Nevertheless, there is no doubt that work-sparing programs such as short-time compensation achieve significant social gains. Workers displaced during a recession sustain greater income losses even after they find new jobs than workers who are laid off during good economic times: those laid off during a recession sustained long-term earnings losses of 16-20%,

¹⁴ Adam Cohen, *A Dutch Formula Holds Down Joblessness*, WALL ST. J., Dec. 29, 2009, at A-10.

¹⁵ *Id.*

¹⁶ See Neil Ridley, *Work Sharing—An Alternative to Layoffs for Tough Times*, Center for Law and Social Policy, Mar. 26, 2009, at 3-4, available at <http://www.clasp.org/admin/site/publications/files/0481.pdf>. States that have adopted such programs include Arizona, California, Florida, New York, Rhode Island and Washington.

¹⁷ See *id.* at 1.

compared with 5-9% for those who lost jobs during good times.¹⁸ This is largely due to the fact that workers seeking reemployment during a recession are forced to seek work in sectors where their skills are not as strong a match, or where wages are lower overall. Thus, if workers can be maintained in their jobs until the recession passes, the transition to other employment is likely to be considerably smoother and the long-term earnings losses fewer.

These are not impossible dreams. They only seem impossible because their premises are at odds with the values that undergird U.S. labor market policy, particularly our sense of individual rather than collective responsibility for economic travails. Countries that see work as a fundamental right assume that both government and employers owe a responsibility to workers when the right is withdrawn or compromised by market events. By contrast, the U.S. system offers only peripheral and short-term support through unemployment insurance to individuals who, through no fault of their own, lose jobs. Without a strong labor movement to make the case for our collective responsibility for workers during economic downturns, it is hard to see how we can shift our policy frame. Yet the human costs of these policy choices—and our values—have never been clearer.

¹⁸ See *Workers Laid Off During Downturns Incur Greater Pay Losses in New Jobs, Studies Say*, DAILY LAB. REP. (BNA) No. 228, Dec. 1, 2009, at D-1 (discussing studies).