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in welfare-to-work policies[1]

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Abstract

The article, having characterised present European work-welfare policies in terms of a process of re-commodification, considers the consequences both from a capabilities and a rights perspective. Drawing on recent empirical research it seeks to bring these two perspectives together in order to illustrate an alternative 'life-first' approach to work-welfare policy, an approach that would reach beyond both work-first and human capital approaches and expand the possibilities presented by the policy concept of 'work-life balance'.

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The purpose of this article is to consider the extent to which European work-welfare policies – variously characterised as 'workfare', 'welfare-to-work', 're-insertion' and 'active labour market policy' – should be reassessed against social justice criteria. To this end, we bring both a capabilities and a rights perspective to bear. Our contention is that such perspectives may be construed as complementary and, together, can bring added value to the analysis of labour market policies and their efficacy.

The paper begins from the premise that the co-ordinated European Employment Strategy (EES) of the European Union (EU) is best understood as a strategy for the 're-commodification' of labour and is dominated by work-welfare objectives. It then applies analytical perspectives based on the concept of capabilities (initially developed by Amartya Sen), and upon a critical approach to the scope of human rights. It is argued that the re-commodification approach implicit in the EES crowds out a concept of capabilities in favour of a concept of human capital, while restricting the concept of human rights to a liberal-individualist interpretation. The alternative, the authors contend, would be an approach that envisages a constructive role for state welfare institutions in promoting human capabilities – not only to

1

'work'[3], but to care and to deliberate – and in expanding human rights as a medium for the expression of a politics of needs interpretation. A practical example, drawn from the findings of an empirical study conducted in the UK of the labour market experiences of people with multiple problems and needs, demonstrates how these approaches may be constructively combined to advocate a 'life-first' rather than a 'work-first' approach to welfare-to-work.

Re-commodification and the EES

In the European context, employment policy lies at the heart of the transition from what has been characterised as 'the golden age' of the welfare state (Esping Andersen 1999) to the age of the 'active social state' (e.g. Rosanvallon 1995) and of 'positive welfare' (Giddens 1998, and see Pierson 1998). Depite this, analysis of the responses by differing welfare regimes to the challenges of globalisation continues to be dominated by a model initially espoused by Esping-Andersen (1990), which classifies welfare regimes in terms of the extent to which labour power is *de*-commodified. Though Esping-Andersen claimed that social stratification and employment levels were equally relevant, it was de-commodification – the extent to which welfare provision makes it possible to subsist independently of the labour market – that became the foundational criterion of the typology (cf. Bonvin and Vielle 2002). Implicitly, therefore, this method of comparison had a normative element in so far that, following Polanyi (1944), Esping-Andersen believed that labour power was not the same as any other commodity. Welfare state capitalism depended as much upon the legitimacy of state power as the universality of the wage labour system, and individual regimes were to be judged by the manner in which state power was used to secure social protection.

And yet, the world has changed. While the legitimacy of state power at the national level is widely questioned (e.g. Horsman and Marshall 1994), the penetration of the wage labour system is attaining global proportions (e.g. Jordan 1998). What is

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[3] Throughout this paper, where the word 'work' – whether used as a verb or a noun – appears in inverted commas, this signifies that the term is being used in the prevailing restrictive sense that equates 'work' with paid employment. Where the word is used without inverted commas, this signifies that the term is being used in its broadest sense to refer to the full range of productive, re-productive and creative human activities – paid and unpaid – that may constitute work.

more, the de-commodifying effects of social policy had always to some extent co-existed with other processes, such as de-familialisation – the provision of benefits and services that make it possible to limit dependency on or within the traditionally constituted male-breadwinner household. One effect of de-familialisation could be to help commodify women's labour (Lewis 1992). Esping-Andersen (1999) – while acknowledging, for example, the significance of changes within the household economy – suggests we are witnessing not a substantive paradigm shift, but merely a shift in welfare discourse. Other commentators have observed the resilience of welfare regimes in the face of global pressures. They suggest we are witnessing, perhaps, some influence of the liberal model over other welfare regimes, but also a degree of 'path dependency', as welfare regimes adhere to their own traditions (e.g. Boyer 2000). An alternative approach is to acknowledge that we are witnessing a process of re-commodification.

Following the so called 'crisis' of the welfare state in the 1970s Claus Offe (1984) contended that advanced capitalist states were experiencing a fundamental conflict between commodifying and de-commodifying tendencies that would lead to a paralysis of the commodity form. Neither inaction, and a return to economic *laissez-faire*, nor the further development of a fiscally unviable welfare state would be tenable. He predicted, with some prescience, a process he called 'administrative re-commodification' (1984: 12). With the demise of Keynesianism, the administrative powers remaining to governments would be used to sustain the commodity form – first, by judicious regulation; second, by investment in the economic supply-side; and third, in new kinds of decision making – or what we might now describe as new modes of de-centralised governance (the precise nature of which, it must be said, was not accurately foreseen by Offe). In practice the de-commodifying and commodifying effects and aspirations of social policy continue to co-exist and we need a more complex model for interpreting the dynamics of current processes of welfare 'reform'.

However, we believe that the notion of re-commodification is especially apt objectively to capture the underlying rationale of the EES. Whether, of course, the development of work-welfare policies across Europe is to be interpreted as a response to enjoinders by EU institutions and the EES is very much a moot point. In certain countries key shifts in employment policy probably owe more to the example of the United States than to EU influences and largely preceded the EES. The EES, none the less, encapsulates the orthodoxy of administrative re-commodification.

Launched in 1997, it has lead to the publication of annual Employment Policy Guidelines for member states of the EU and an annual reporting round based on the evaluation of National Action Plans (EC 1997, Geyer 2000). In the early years of the strategy the guidelines were substantially pre-occupied with the first of its original four 'pillars', namely the improvement of 'employability' within the member states (van Riel and van Meer 2002). The primary concern was with welfare-to-work type policies by which to re-commodify a range of workers otherwise excluded from the labour market. The other pillars of the strategy – which were concerned with developing entrepreneurship, labour force adaptability and equal opportunities – appeared to be subservient to this overarching priority. The latest version of the guidelines (EC 2003) is ostensibly more holistic. It emphasises three inter-related objectives: *full employment*, which may require demand as well as supply side measures; *quality and productivity at work*, though significantly the former is presented as much as a means to the latter, as an end in itself; *social cohesion and inclusion*, on the premise that 'employment is a key means to social inclusion' (2003: 17). In pursuit of such objectives, guidance is offered under ten specific headings, of which eight may be observed to relate directly or indirectly to issues of employability and the re-commodification of labour:

- The first guideline is explicitly concerned with 'active and preventative measures for the unemployed and inactive'. Particular emphasis is placed upon the need to 'offer jobseekers access to effective and efficient measures to enhance their employability and chances of integration, with special attention to people facing the greatest difficulties in the labour market' (2003: 18)

- The third and fourth guidelines are concerned respectively to 'address change and promote adaptability and mobility in the labour market' and to 'promote development of human capital and lifelong learning'. The explicit object is to ensure that workers can remain competitively employable in the context of global change.

- The fifth, sixth and seventh guidelines are concerned to 'increase labour supply and promote active ageing', with 'gender equality', and to 'promote the integration of and combat discrimination against people at a disadvantage in the labour market'. The principal focus in each instance is on the employability and

re-commodification of older people, women and those – such as 'early school-leavers, low-skilled workers, people with disabilities, immigrants and ethnic minorities' (2003: 20) – with particular difficulties.

- The eighth and ninth guidelines are concerned to 'make work pay through incentives to enhance work attractiveness' and to 'transform undeclared work into regular employment'. The object here is to entice those for whom economic incentives are currently ineffective into participation – i.e. self-commodification – within the formal labour market.

The implementation of the EES is being advanced through the European Employment Pact (endorsed in 1999) and the open method of co-ordination (OMC – formulated in 2000). The former embodies a consensus regarding the perceived need to co-ordinate economic, fiscal and employment objectives and so address the strictures of the global economic policy 'trilemma' (Iversen and Wren 1998). The latter represents an importation of managerialist doctrine (cf. Clarke and Newman 1997) to EU governance, by which to: fix timetables; establish indicators to measure progress in relation to best practice; set specific targets; and institute periodic monitoring and evaluation.

In so far that administrative re-commodification represents a compromise between free-market liberalism and state protectionism, it is complemented by a technocratic approach to governance that represents a compromise between subsidiarity and federalism. Work-welfare policy has been situated at the heart of wider supranational strategy. However, this article is concerned less with the sustainability of the EES as a practical strategy than with its conceptual limitations.

Capabilities *versus* human capital

On their own the concepts of re-commodification and de-commodification tell us little about the efficacy of welfare regimes in promoting human well-being or social justice. For that we must turn to other concepts.

That to which we shall turn first is Sen's (1982, 1984, 1985, 1999) concept of capabilities, a notion that has as much *potential* meaning for the logic of re-commodification as for the logic of de-commodification. The capabilities approach

has been important in debates about the nature of relative poverty. Sen's argument is that poverty is an objective curtailment of a person's capabilities; of her capacity and freedom to choose and to act. This notion has been extended through the development of theories of human need (e.g. Doyal and Gough 1991). In so far that the capacity and freedom to work – but not, necessarily, to 'labour' – is a definitive human capability, it has special salience for the ways in which human beings may themselves become commodified or de-commodified in relation to the labour market.

Sen distinguishes between capabilities and:

- On the one hand, *actual* **commodities** (that is, the goods, services or other resources to which people have access) and the essential **characteristics** of those commodities (that is the properties which define their purpose or utility).
- And on the other hand, **functionings** (that is, the full range of activities – including productive, re-productive, caring, expressive and deliberative kinds of functioning that human beings may achieve) and subjective **end states** (that is, the happiness or sense of well-being that are the final outcome).

Capabilities, therefore, represent the essential fulcrum between primary resources and human achievements; or, more crudely, between welfare inputs and welfare outputs. Sen's argument has been that equal inputs do not necessarily give rise to equal outputs because human capabilities – the real freedoms that people have to fashion their own way of living – may be objectively constrained (cf. Walzer 1983, Held 1994). The substantive utility of particular commodities and the well-being that results from particular kinds of functioning are determined or mediated by a host of socio-economic, cultural/historical, geographical/climatic factors. The process of human development, Sen contends, is the enhancement of human capabilities (see UNDP 2000: ch.1). Our humanity is defined not merely by our capacity to function or such formal opportunities as may hypothetically be on offer, but by our capabilities for action, our substantive freedoms and practical life chances.

In wider global debates about social policy, however, the concept of human capabilities has been largely conflated with or misappropriated to the economic term, human capital (see Dean 2002a). Sen himself diplomatically makes the point that:

The use of the concept of 'human capital', which concentrates on only one part of the picture (an important part, relayed to broadening the account of 'productive resources', is certainly an enriching move. But it does need supplementation. This is because human beings are not merely means of production, but also the end of the exercise. (1999: 295-6)

Certainly, in the European context it is the notion of human capital that has predominated and that clearly informs the notion of 'employability' at the heart of the EES. The notion of human capital implies that investment in a person's skills and training may produce a return that will benefit both the welfare of the individual and the productivity of the economy. This is the ideological commitment that underpins both work-welfare policy and the wider context of the EES. What is entailed is a managerialist approach that is pre-occupied not with enhancing human capabilities, but with maximising economic incentives and individual self-sufficiency. The provision of skills training may well improve a person's functioning as an economic actor, but it will not of itself enhance her capacity to choose how she lives or to achieve happiness. Skills and knowledge that may be exploited in the labour market are not the same things as capabilities.

While Sen did not explicitly define what essential human capabilities might consist of, Nussbaum (2000) has endeavoured to generate an extensive list that includes not only life, bodily health and bodily integrity, but such things as emotions and affiliation. It is a list that in many instances resonates with the list of items that Williams (1999) identifies as 'good-enough principles of welfare', several of which might be defined in terms of constitutive human capabilities. We do not propose to engage in a listing of human capabilities. For our own purposes it is enough to posit just two: capability for **care** and capability for **voice** (see also Bonvin and Farvaque, forthcoming).

The re-commodification approach has been constructed upon a reinvigorated interpretation of the work ethic, whereby 'work' is conceptualised solely in terms of labour market activity. This is most clearly illustrated in the UK, where the government's stated aim has been 'to rebuild the welfare state around work' (DSS 1998: 23). Critics claim it has paid insufficient attention not only to ensuring security for those who cannot engage with the labour market (e.g. Thornton 2000), but also to the significance of care-work and care in general (e.g. Lewis 2000). Sevenhuissen has argued that 'everybody needs care and is (in principle at least) capable of care giving'

(2000: 15). Our freedom to find and to accept care and our ability ourselves to provide it are as much a part of our capabilities as our freedom and ability to work. Caring as a kind of 'functioning' (in Sen's sense) is as much a form of work as any other – whether it is paid or unpaid. This is the basis of recent arguments for a new political ethics of care; a project that would seek to achieve the recognition of care and 'instate an ethics of care alongside an ethic of work as the basis of welfare citizenship' (Williams 2001: 486). One of the openings through which this might be developed, it is suggested, is provided by the development across the EU of 'work-life balance' policies. Such policies are intended to make it easier for workers to combine or reconcile paid employment with responsibilities in respect of childcare provision or the provision of care for elderly or disabled family members (see Vielle 2001). This is an issue to which we shall return.

In so far that the re-commodification approach purports explicitly to enhance the capacity for voice, it seeks to empower the welfare subject primarily as a consumer of (sometimes privatised) welfare goods and services, or through the promotion of limited participation initiatives. Once again, this may be illustrated with reference to the UK, where the introduction of performance target regimes across the public services have been associated with a proliferation of customer charters, individual complaints procedures and consultation mechanisms. Additionally, an array of area regeneration initiatives requiring community based partnerships have been associated with the co-option of local representatives into centrally monitored action programmes (e.g. Clarke et al. 2000). Primarily, however, re-commodification is supposed to enhance the capacity for voice through the mechanism of market regulation. Re-commodification, it is supposed, gives economic incentives in response to autonomous preferences revealed by market forces. Voice is therefore misconstrued in terms of functioning, not capability, and once again the active welfare subject is conceived of primarily as an economic actor, rather than as a citizen. Beyond this, her capacity for voice extends barely, if at all. Her capacity publicly to deliberate as to how she herself might live, and as to how that might be accommodated to the common good, is subordinated to economic imperatives.

Whereas Sen's concept of capabilities can be applied in a highly individualistic way, Nussbaum (2000) makes an important distinction between basic, internal and combined capabilities. Whereas internal capabilities relate to personal capacities, combined capabilities result from combining those internal capabilities

with suitable external conditions in order for capability to be realised through functionings. This extension of the concept enables us to situate capabilities in relation to their institutional context. To evaluate such institutional contexts, we suggest, it is necessary to move beyond welfare regime typologies. We might instead contemplate the different kinds of co-ordinating 'conventions' (see Storper and Salais 1997) by which the state, as an institution, interprets the common good in response to the expectations of social, as well as economic, actors. By so doing we may envisage a convention for the promotion of capabilities (see Farvaque and Raveaud 2002) that would, amongst other things, enhance a capacity for voice. Storper and Salais have proposed three ideal-typical conventions of the state: first, the paradoxically named 'absent state', which interprets the common good as the outcome of the ordered pursuit of selfish individual goals, but which requires the imposition of such rules as may be minimally necessary to regulate the counterproductive effects of unbridled competition; second, the technocratic 'external state', which interprets the common good in terms of collective interests, and which intervenes with expert solutions that are imposed upon a largely passive citizenry; third, the facilitative 'situated state', which 'views the general common good as a situation in which actors have autonomy to develop whatever world they find compatible with their frameworks of action' (1997: 212). There is a case, however, for extending this model to account for two quite different kinds of situated state (Farvaque and Raveaud 2002). One might be called the 'incentive giving state' and would be consistent with the re-commodification approach of the EES: the welfare subject is assumed to be individually responsible and her aspirations may be fulfilled through the provision of appropriate opportunities and incentives. The other, although it is a counterfactual type, might be called the 'capability state': the welfare subject may achieve autonomy through a collective politics of capabilities. The co-ordinating convention that would inform the capability state would be sustained by, and oriented towards, the capabilities of its citizens. The provision of resources and the interpretation of outcomes would be determined through the welfare subject's capacity for voice and with reference to the full range of her capabilities.

The distinction between the incentive giving state and the capability state may be illustrated in relation to work-welfare policy. Under the former, the capabilities of the job-seeker are constrained and, in particular, her capacity for voice. Though she can be offered training (that may or may not enhance her internal capabilities), the

9

institutional context denies combined capabilities. Her choices as to the kind of training or job opportunities that may be made available will be administratively constrained, and she may be liable to sanctions for non-compliance. Under a capability state, on the other hand, though it might not be possible to allow complete freedom of choice, the job-seeker might expect not only to have her internal capabilities enhanced, but to be able to give voice to her aspirations with a view to realising combined capabilities.

Under the capability state, what Sen would define as the 'informational basis' of work-welfare interventions would be determined not through the rationality of statistically determined and managerially enforced performance targets, but by what might be described as 'capability intuition' (Farvaque 2000). This is a process through which state institutions at the local level mediate rather than prescribe, and in which jobseekers – whether individually or by means of collective forums – formulate, argue for and realise their life plans. Though elements of this might, for example, have recently been prefigured in French approaches to social and vocational inclusion, the trend portended by the EES lies in an altogether different direction.

What are required, we contend, are mechanisms for negotiation around human capabilities and the procurement of rights in negotiation. We shall see below that the concept of the capability state has resonance with another concept derived from a rights-based approach.

Rights *versus* opportunities

The human rights approach differs from the human capabilities approach not only because it is older, but because its fluidity has been both its weakness and its strength. While lawyers may prioritise the kind of 'black letter' rights that are prescribed in legal codes and statutes over rhetorical or 'moral' rights, social scientific accounts emphasise that all our rights are ideologically constructed. The idea of rights has evolved through a dialectical relationship between doctrinal rights based on principles prescribed 'from above' and claims-based rights based on demands voiced 'from below' (see Dean 2002b). Parochial conceptions of citizen rights – dating back to the Athenean city state – have informed our more global notions of human rights (Clarke 1996), which according to some commentators (e.g. Klug 2000) evolved in three

waves: the first being associated with the French and American Revolutions; the second with the United Nations Declaration of Human Rights (UNDHR) following the Second World War; and the third with the processes of economic, political and cultural globalisation that have characterised the turn of the twenty-first century (e.g. Held et al. 1999).

The strength of the human rights approach is that it has made it possible to formulate claims for social justice. The UNDHR embodied not only civil and political rights, but also economic, social and cultural rights – including a right to work and to social security. These rights have also found expression at a regional level. The Council of Europe, for example, not only promulgated its own European Convention on Human Rights (ECHR), but also in 1961 a Social Charter. The weakness of the human rights approach has been that, in practice, claims to economic, social and cultural rights have always been subordinate to the civil and political rights agenda. Both at the United Nations and the European level mechanisms for the effective monitoring and enforcement of the former have been far weaker than those for the latter. Liberal-contractarian interpretations of rights as negative freedoms intended for the protection of property ownership have generally triumphed over republican-solidaristic interpretations of rights as positive entitlements intended for the promotion of social justice (see Dean 2002b). This has, if anything, been exacerbated by the so-called 'third wave' in human rights development. A globalised concept of human rights conflicts with notions of national sovereignty and the human rights agenda has to an extent been implicated in the end of the 'golden age' of the welfare state and the onset of re-commodification. It is associated at the national level with a transition from social protection for workers to the activation of the self-provisioning global subject. It has promoted abstract notions of rights that are largely detached from local understandings of need, of belonging and identity (Soysal 1994).

One of the foundations for modern human rights was a prohibition upon slavery and forced labour. Claims based on human rights have been important in resisting practices that once imposed a forced labour requirement as a condition for the receipt of poor relief. As we have seen, however, associated with the re-commodification approach has been the development of work-welfare regimes across Europe. Article 4 of the ECHR indicates that forced labour does not include 'work which forms part of normal civic obligation', and it may be that this excuses the attempts by European governments to impose work or training requirements upon the

11

recipients of welfare benefits. In the event, European work-welfare regimes tend not to go so far as those in the USA, which are explicitly premised on the promotion of civic obligation through a strict 'work-first' approach, by which claimants are hassled into jobs. At the other extreme, few aspire to the French approach, which is ostensibly premised on a 'right to work' and to inclusion in the labour force. The dominant model entails a compromise that seeks to promote opportunities rather than rights and adopts a managerially inspired 'human capital' approach (see above) to enhance the employability or job-readiness of welfare benefit claimants. The approach which, arguably, accords most closely to the requirements of the EES is what Lodemel and Trickey (2001) call the 'European centralised welfare model',that applies in the Netherlands, Denmark and the UK . This entails a significant element of coercion: benefits claimants who refuse the 'work' or training placements they are offered face sanctions. Article 15 of the EU's Charter of Fundamental Rights of 2000 confers on EU citizens 'the freedom to choose an occupation and the right to engage in work'. The EES, however, appears to promote a work-welfare regime that at best allows a highly restricted choice of occupation and very limited rights to subsistence without 'working'.

In current debates about employment policy, the language of rights is frequently eclipsed by a language of opportunities. This is well illustrated by the UK Prime Minister who, having once argued for 'a modern welfare state based on *rights* and duties going together' (Blair 1997b, emphases added), has more recently insisted upon a 'covenant of *opportunities* and responsibilities' (Blair 2000, emphases added). Even in the promising sphere of work-life balance policies, to which we have alluded above, it is significant that Article 34 of EU Charter of Fundamental Rights is framed in terms of 'equal opportunities' for workers with family responsibilities. It is not assumed that people have a right to organise their lives as well as a right to 'work', but that they should merely have an *opportunity* to accommodate their lives to 'work'. One interpretation of the current trend is that social rights are being reduced to labour market opportunities (see Dean 2002a). The restrictive, top-down interpretation of human rights that is ascendant neglects two critical issues: first, the extent to which human rights provide the medium through which to struggle for, and give expression to, human needs; second, the fundamental ethical basis of human rights.

The enduring controversy as to whether human need is an absolute or a relative concept can to an extent be resolved by resorting to Sen's notion of

capabilities (see above), or more pragmatically by interpreting needs as claims (e.g. Spicker 1993). Drawing on a modified version of the capabilities approach Doyal and Gough (1991) have sought to define universal or basic human needs in terms of the 'satisfiers' necessary for people to survive and autonomously function, but this does not necessarily specify the needs that people must satisfy if they are truly to 'flourish' (cf. Ignatieff 1984: 11). Nancy Fraser (1989) suggests that the former definition may be understood as a 'thin' and the latter as a 'thick' definition (see also Drover and Kerans 1993: 11-13). Interpreting thick needs requires an understanding of the cultural context in which people articulate their needs. With this in mind Fraser makes the case for a 'politics of needs interpretation'. This would constitute an oppositional form of politics by which to give 'publicity' to the locally or privately experienced needs of the oppressed. It would serve to thicken or expand our understanding of human needs and human rights. A politics of needs interpretation would have much in common with a political ethics of care (see above), in so far that it would entail demands for recognition as well as redistribution (cf. Honneth 1995). It would call for recognition of the needs and identities of individuals and groups both in and out of the labour market. It would entail not only demands for opportunities, but for safety or 'asylum' (in the original sense of that word) against exploitation. It would call for ontological as well as bare material security.

This brings us to consider whether our rights – whether in 'work' or out of 'work' – are informed by moral norms on the one hand or by ethical values on the other: whether they are customary, or whether they can become reflexive. It is a distinction that may be brought to bear upon the taxonomy of state conventions discussed in the section above[4]. That taxonomy posited four ideal-typical ways in which interpretations of the common good may be mediated between the state and the individual. The first, which Storper and Salais called the 'absent state', would require only 'negative' rights (i.e. freedom from interference by others). It would be concerned with the extent of the obedience that is required of the individual to moral norms specified and enforced by the state. The second, which Storper and Salais called the 'external state', would require protective rights (i.e. including some established by custom and practice and others brokered by remote corporate powers

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[4] Although it is differently constructed, there are similarities between the following, adapted version of the taxonomy and that developed in relation to competing interpretations of 'responsibility' in Dean 2002b: 199-202.

or mediated by state experts). It would be concerned with the correlative moral obligations that flow from such rights. The third – and the first of two types of ethically 'situated state' – is the incentive-giving or re-commodifying state. This would be concerned, as we have seen, not with rights, but with opportunities and the promotion of a self-governing ethos by which individuals commit themselves to civic duties: including and particularly a duty to 'work' (cf. Rose 1996). The fourth we previously called the capability state, but here we might characterise it rather differently as the 'ethical state'. This too is a counterfactual type in as much that it represents the convention within which it might be possible to achieve what Honneth (1995) would call 'ethical life' and Apel would call an 'ethic of co-responsibility' (1980). The contention of this paper is that rights and capabilities, respectively, provide ethical principles and normative standards by which to appraise social policies – and that *neither* may be reduced to the concept of 'opportunities'. The ethical state could permit no such conflation. Opportunities – for example, to 'work' or to learn – may or may not achieve the realisation of substantive capabilities. Opportunities may be so contrived as to promote particular kinds of commodities or to elicit particular kinds of functioning. Rights, however, may be framed with an ethical purpose and with no other end in view than to allow people to determine their own lives: that is, to realise their capabilities.

The term, ethical state, was once coined by Gramsci (1933: 244), who posited the possibility of a regulated society in which coercion is superseded and law subsumed. In such a society the state would represent an organism with a collective consciousness and, by implication, human rights and human capabilities would be co-terminous, since they would be consensually conferred and collectively guaranteed. Rights – as socially negotiated claims *on* particular resources, and as claims *to* particular functionings – are pivotal to the realisation of capabilities.

It cannot be emphasised too strongly that the above typology is as much a heuristic device as any of the established welfare regime typologies and that actual state conventions and policy regimes will tend to be hybrids, combining contradictory features of more than one type. Additionally, while such notions as the 'capability state' or the 'ethical state' may appear abstract, if not utopian, our primary purpose is to illustrate those principles that are omitted from the compromise represented by the EES. The implicit ideological consensus, with its focus on opportunities and employability, has marginalised discussion of rights and capabilities; concepts that

14

can and should have a place in the development of welfare-to-work policies. We shall endeavour to illustrate this with reference to a concrete example.

Work-first or life-first?

It is when addressing the cases of those who are hardest to help in terms of their capacity for labour market engagement that we can see the potential limitations of existing policy and the conceptual contribution that both a capabilities and a rights approach might make. A recently completed study in the UK[5] has investigated the labour market experiences of people with multiple problems and needs. Included in this definition are people who not only lack jobs, but may also be homeless, have learning difficulties, physical or mental health or substance dependency problems, have experienced public care or custody, have experienced abusive or disrupted family relationships – and who have experienced a *combination* of *at least* three such problems. It is widely recognised that this is a group that is poorly served by the government's current welfare-to-work or 'New Deal' policies (Millar 2000, SSAC 2002). It is, in the nature of things, a group that poses an extreme test for work-welfare policy. Current guidelines under the EES (EC 2003: 20) would appear to recognise that there are people with particular disadvantages in relation to the labour market, but address the problem in terms of the need to increase their employability on the one hand and to reduce the discrimination they suffer on the other. We shall seek to demonstrate, however, that the capabilities and rights perspectives can, together, provide a more effective insight.

The study entailed in-depth interviews with a disparate sample of 50 people, drawn from two urban locations (one in the South and the other in the North of England), most of whom had experienced at least five, and some of whom had experienced all the above problems. The sample covered the full working age range, it was evenly distributed between men and women and almost half the participants were from minority ethnic groups. The thing the participants had in common was the complex, difficult and sometimes frightening nature of the lives they had led. Most had had a history of intermittent and temporary jobs, often entailing unsocial hours.

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By and large participants embraced a desire – often a strong desire – to access the labour market, though many were also conscious of the need to address their other problems and needs, including and particularly needs for housing, medical treatment or health care. However, the formal systems available for their support lacked the flexibility needed to cope with unsettled life-styles and the fragile health status that many of the participants had been experiencing. In this respect the initial findings (Dean and MacNeill 2002) tended to confirm the observations and recommendations made in other studies (e.g. Lakey et al. 2001), although two major issues stood out.

First, it was clear that it was not possible to address the question of labour market attachment for participants without also acknowledging that their multiple problems and needs were intimately bound up with the nature of the familial and social milieus that had shaped their lives. Most striking was that the lives of three-quarters of the participants had been touched – sometimes repeatedly – by violence, whether at home during childhood, at school, in the course of adult relationships, or in some other way. Their fundamental sense of identity and well-being had been quite literally assaulted.

Second, the current policy regime is consistent with, if not actually conducive to, a culture of self-blame that appeared to be counterproductive so far as the participants were concerned. It was striking that many participants already blamed themselves for the failures of their families, for educational failures and for their failure in the labour market. However, we do not need to characterise these participants as blameless victims (some indeed were guilty of serious crimes) to acknowledge that many of the factors that had objectively shaped their lives had been beyond their control. Allowing or encouraging them to blame themselves was potentially de-motivating. It made it more difficult for them to attain their goals, and often it constrained their ability to assess whether they were physically, mentally and emotionally ready to 'work'.

In order further to explore these issues, an additional analysis of the discursive data from the study was undertaken. The assumption informing that analysis was that holistic policy intervention should be about more than addressing social problems. It should also be about promoting well-being, where 'well-being refers to the totality of an individual's social relations' (Hoggett 2000:145). The British workfare model (Lodemel and Trickey 2001; Theodore and Peck 2001) represents something of a hybrid between a 'work-first' and a 'human capital' approach: it is a centrally directed

national scheme that places considerable emphasis on moving participants rapidly into jobs but, in the case of the compulsory schemes for young and long-term unemployed people, it also offers education and training options aimed at modestly enhancing the participants' human capital. The two elements of the approach seem to bear upon the individual in rather different ways, which were mirrored in the interview transcripts through the presence of two principal discursive repertoires or strategies upon which most participants seemed to some extent to draw, albeit to varying degrees (see Dean2003):

- The work-first approach may on the one hand compound the sense of dislocation that individuals experience, while on the other inducing compliance with a Hobbesian view of social relations. This was reflected in a **self-assertion** strategy born out of anger, intolerance of authority, impatience and a drive for personal survival. Participants for whom this was a dominant discursive strategy had 'attitude' and, rather than endure the ministrations of the Job Centre, they would, if needs be, take work in the informal economy or, for example, in exploitative fringe labour markets served by unscrupulous private employment agencies or 'gang-masters'. In spite of their vulnerability, they were exposed to the chronic insecurity of the low-pay, no-pay cycle (Stewart 1998). The policy succeeded in getting the participants off welfare, but failed to protect them from exploitation.

- The human capital approach may on the one hand reinforce in the individual notions of self-blame, while on the other inducing compliance to a managerialist notion of 'personal development'. This was reflected in a **self-development** strategy, which was commensurate with notions of personal progress and development. Persons for whom this was a dominant strategy engaged willingly in building portfolios of virtually meaningless qualifications and, for example, the continual re-crafting of their curriculum vitae. Not only were most of these participants doomed to continual frustration and repeated disappointment, but the processes into which they were drawn focused attention on the many failures they had experienced and served to nourish the corrosive pressures of their own and society's expectations. The policy succeeded in controlling the participants' behaviour, but failed to address their needs.

It is not easy to identify the kinds of continuing support (from welfare agencies and employers) that would sustain the people featured in this study in permanent paid jobs. None of the participants could be described as ideal employees. If they were to be employed at all they would have to be permitted a margin of tolerance that would allow them to work through their practical and personal troubles. The findings suggest that in designing support services, the following criteria are important. First, support needs to be long-term and sustained. Second, the workers who provide the service would need to be both 'street-wise' and highly knowledgeable about the full-range of services and entitlements available and about the specific vagaries of local labour markets. Third, though they would need to liase closely with statutory agencies and employers, it is probably preferable that such workers should be independently based in adequately funded voluntary sector agencies. Fourth, engagement with such support would have to be voluntary. Finally, the nature of the service provided would have to be flexible and able sensitively to adapt itself to the very particular problems and needs of its clientele.

The concept of 'work-life balance' that we have discussed above is not one that is usually applied to a group such as this, none of whom were in stable personal relationships and most of whom had experienced traumatic family relationships in the course of their lives. The depressing reality wasthat nobody in this group was being allowed the space to deal with their problems or address their needs. What they needed was neither a work-first nor a human capital approach, but a 'life-first' approach to welfare-to-work; a holistic approach that would prioritise their life needs, *including* their need to work. Work, however, should be more than the dull compulsion of labour market participation to which human life must be accommodated.

This conclusion may be extended to address the capabilities and rights of, on the one hand, people that welfare-to-work programmes palpably neglect, and on the other people who are already engaged in the labour market, but whose incomes and lack of security do not fulfil their life needs. For example, research by Benarrosh (2000) on youth focused work-welfare initiatives through the 'missions locales' in France has demonstrated that staff with knowledge of and the opportunity to address the needs of young people with health, housing and psychological problems, would instead give priority to assisting clients who already had the skills and attributes that would make them acceptable to employers. By contrast a recent study of the *Working*

Poor in Switzerland (Mader et al. 2003) concluded that their problems related not to a lack of qualifications or human capital. They lacked voice – not only within the democratic process (many of the workers were foreigners with no right to vote), but in relation to the institutions through which access to the labour market and the provision of welfare support is regulated. An expanded notion of work-life balance for groups such as these would similarly address both their failure to achieve combined capabilities and their lack of rights.

Conclusions

There have been attempts under the auspices of the EES to define indicators of 'employment quality' and, within several member states, to develop such ideas as 'flexicurity' as a means of accommodating the needs of workers to the imperatives of re-commodification (see, for example, Visser 2002). Such initiatives might be construed, for example, as a response to the orientation advocated by the International Labour Organisation (ILO) towards 'decent work' (e.g. Standing 2002). However they are perhaps more readily understood as a strictly economistic response to changing social and economic imperatives with negligible or merely incidental consequences for the enhancement of capabilities or the extension of rights. The emergence of the 'work-life balance' agenda may, in part, be attributed to such initiatives, but this has generally been carried forward with far greater timidity than has applied to the development of activation or work-welfare measures. This reflects, on the one hand, a tendency among several European nations to favour the objective of economic growth and the interests of business over the interests of workers and families. The kind of 'flexibility' that is valued by business is not the same as that which is valued by workers (e.g. Dean and Shah 2002). On the other hand it reflects the consequent effects of Engel's law – which holds that as productivity increases so will the extent of low-paid and menial forms of service sector employment (e.g. Jordan 1998). 'Valuable' high-skilled workers in core labour market jobs may benefit from rights to flexicurity, but 'expendable' low-skilled workers in peripheral service-sector jobs may have difficulty asserting such rights.

The main thrust of the EES appears to lie in work-welfare policy and not in concerns about the quality of 'work'. The interpretation is not necessarily as extreme

as in parts of the US where mandatory work-welfare programmes aim through compulsion to 'close the gap between norm and lifestyle'; where 'the combination of help and hassle promotes employment' (Mead 1997: 37). None the less, the focus is not upon the lives of workers so much as the harnessing of people's behaviour – whether as workers or entrepreneurs – to the imperative of economic growth. Standing characterises this as 'the new paternalism' (2002). He rails against work-welfare policies because a right to a job – if it is in practice chosen by somebody else – is no right at all; because being taught the 'tricks' necessary to remain competitive in the labour market does not amount to life-long learning; because the notion of 'empowerment' through labour market attachment is a deceit: 'Dignified work can only evolve if ordinary people have the capacity to say "No"' (2002: 277).

What we wish to argue for is an approach that bridges – or can at least build compromises between – a de-commodification and a re-commodification strategy, not least because it calls upon existing policy repertoires relating to work and welfare and 'work-life balance'. What we have alluded to above as a 'life-first' approach to work-welfare turns the 'work-first' approach on its head, by bringing rights rather than opportunities into the equation. A right to work – rather than the opportunity to 'work' or an implied obligation to labour – entails a combined capabilities approach. It requires a more holistic understanding of human capabilities and the resources and institutional context required for their realisation. 'Life-first', must therefore entail more than the opportunity to 'work', but the right to realise capabilities. A life-first approach is also a better alternative to a 'human capital' approach to welfare-to-work, because it accords recognition to human capabilities rather than prescribing particular modes of functioning. The 'life-first' approach requires both a politics of needs interpretation, focused on the re-definition of rights, and a politics of capabilities, focused on the re-definition of human autonomy. It implies a re-inflection of employment strategy towards a more holistic understanding of work and its ontological significance for the social subject.

In practice, this means:

- Resisting work-welfare policies premised on a work-first approach, because some people need time to establish their capabilities.

- Redesigning work-welfare policies premised on a human capital approach so as to recognise that everybody needs the space in which to realise their capabilities.

- Legislating for a genuine and substantive right to work, though not an obligation to 'work'. Such a right must also accommodate first, a right to care – that is, the right of everybody to be cared for and to spend time caring for others; and second, a right to voice – that is, a right to express choices regarding work.

These provisions have implications for the nature and extent of cash benefits provision and training programmes. More fundamentally, they have implications for the administrative culture within which provision is made, and for the frameworks through which job-seekers can negotiate their needs. Additionally, however, a life-first approach means accelerating and privileging the development of measures for enhancing the *quality* of 'work' and the kind of negotiated 'flexibility' that works to the advantage of employees, rather than employers. Most importantly, a life-first approach would entail a conceptual reorientation in employment strategy.

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