

Mutual Obligation: A Reasonable Policy?

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1 Introduction

According to Fox's (2000) recent history of the Great Depression in Victoria, efforts to assist the unemployed were characterised by an overarching desire to 'remoralise' unemployed people and promote a 'reinvigorated work ethic'. Book reviewer, Brian Dickey summarises Fox's argument saying that 'the notion that the unemployed had lost their moral standing and hence their rights to full participation [was] the central proposition guiding the responses of the middle class people who wanted to be involved. It justified blame, coercion, management, rationed resources, and permitted them to treat the unemployed as other' (Dickey, 2001: 244).

This statement could be mistaken as a contemporary critique of modern welfare reform, echoing sentiments expressed by academics and others in contemporary debates about the policy of Mutual Obligation.¹ Even during the Great Depression, it seems, when major economic collapse left vast numbers of people facing insurmountable structural barriers to employment and economic participation, the argument that unemployment was a function of the failure of individual responsibility was dominant.

There is an eerie similarity in the beliefs of the 're-moralisers' during the 1930s with the 're-moralisers' of today. They are linked by a common denominator: the belief that poverty and unemployment is a result of the failure of personal morality. However, this basic idea has become increasingly veiled by more high-minded supporting arguments over recent years. The shift of modern Western countries away from 'entitlement' based social security systems and towards 'conditional' welfare programs is based on a range of arguments:

- that they are consistent with fundamental and longstanding principles of liberal democratic traditions;
- that entitlement systems counterproductively create 'welfare dependency', and over-emphasise citizens' rights at the expense of their responsibilities; and
- that they are just plain common sense: that if the community has an obligation to provide income support for some members, then those who are being supported have corresponding obligations to the community.

1 The capitalised form of the term 'Mutual Obligation' will be used when referring to the specific Government program that applies to certain groups of social security recipients. Otherwise the lower case form is used to refer to the more generic concept of mutual obligation.

Kinnear, P. (2002), 'Mutual obligation a reasonable policy?', in T. Eardley and B. Bradbury, eds, *Competing Visions: Refereed Proceedings of the National Social Policy Conference 2001*, SPRC Report 1/02, Social Policy Research Centre, University of New South Wales, Sydney, 248-263.

In its simplest form, conditional welfare, manifest most clearly in the Australian context in the policy of Mutual Obligation, is based on the idea that people should not get something for nothing – an idea that the Howard Government consistently maintains is ‘simple yet compelling’ (Newman, 1999: 3).

The popular appeal of these arguments has meant that in recent times the concept of mutual obligation as applied to welfare policy has attained ‘motherhood’ status and is accepted largely uncritically as a reasonable basis for social security policy; as one policy commentator has said, mutual obligation is ‘here to stay’ (Curtain, 1999: 4). The consequence is that the concept and policy framework of mutual obligation now defines the boundaries within which those committed to better policy must operate; it seems to be a step too far for agencies or individuals to criticise the concept of mutual obligation itself. This is despite the fact that, when the philosophy and ‘common sense’ that support the contemporary idea of mutual obligation are stripped away, it becomes clear that the policy relies on the belief that a selected group of social security recipients are not trying sufficiently hard to be self-reliant and, when left to their own devices, will ‘free-ride’ on the backs of the rest of the community.

2 Reform and the Policy Process

In part, the ‘motherhood’ quality of mutual obligation is generated from its intuitive, surface appeal and the success of arguments about its links to democratic tradition, issues which are tackled in the remainder of this paper. However, it has also come about because, whilst criticism of how the idea is *implemented* in government policy has been vigorous, going further to critique the concept itself places critics ‘outside the tent’ where they run the risk of being characterised as non-cooperative ideologues and subsequently shut out of the policy process.

Social policy reform is an uneasy melting-pot of ideology, empiricism, compromise and critique. To make a difference – to be ‘in the tent’ as it were – academics, advocates and community workers find that they must often engage in uncomfortable compromise. As the chair of the Reference Group on Welfare Reform, Patrick McClure, has recently said in response to criticism in the media, often those in the tent have to be satisfied that ‘half a loaf is better than no loaf at all’ (McClure, 2001; see also the critique; Kinnear, 2001).

But it is increasingly the case that the ‘tent’ is becoming more and more crowded. This is particularly so as governments require charitable agencies to be more accountable for their public funds and as they pass more government-based work through charities (such as providers of Job Network services) and university departments (program evaluations and policy analysis). Moreover, those standing on the outside looking in are a diminishing force.² Whilst there is undoubtedly a role for

2 Traditionally the responsibility for social critique has been accepted by academics who, with the protection of academic freedom, have been able to speak strongly and in an informed manner about contentious social and political issues. Many, in fact, still do this, but tend to confine their often strident and well-argued critiques to academic journals rather than placing their critique in the public arena and help to swell the ranks of the so-called ‘side-line’ critics. However, as recent work on the demise of academic freedom amongst Australian social scientists has demonstrated, academics are experiencing considerable constraints on their freedom to say uncomfortable things (Kayrooz, Kinnear and Preston, 2001).

compromise and cooperation, the task of careful but strident critique based on independent research and observation is an equally, if not more, important role in the melting pot of social policy. The outsider is able to say the things that those engaged in active policy compromises cannot, or choose not, to say. Often this will involve challenging not just specific details of social policies, but also going a step further to examine policies in their wider social, political and economic context as well as the presuppositions about the nature of society and human nature that underpin policy options.

There is little doubt that it is possible to make the policy of Mutual Obligation fairer, less intrusive and less punitive. To some extent, the Welfare Reform process which resulted in the new welfare regime now called '*Australians Working Together*' has achieved some improvements in the operation of Mutual Obligation, making it (at least on paper) a little fairer, a little less intrusive and a little less punitive. There is also no doubt that even more can be done in terms of such improvements. But the reform process stopped short of challenging the idea of mutual obligation as a reasonable basis for welfare policy.

This paper issues such a challenge. The following sections argue that despite its popular appeal, the idea of mutual obligation is neither simple nor compelling. Rather, the idea as applied to welfare policy is built on loose philosophical foundations and on a number of popular misconceptions about the nature of unemployment and poverty.

3 Philosophical Premises: Mutual Obligation as a 'Social Contract'

The placing of specific obligations on recipients of income support is frequently justified by the language of 'social contract': that the government of a society is based on an actual or implied contract between citizens and the state. Indeed, the idea of the 'social contract' is the basis of mutual obligation's popular appeal. Proponents argue that the policy is fair and reasonable, because it has its origins in liberal democratic philosophical traditions.

The OECD has noted that 'the principle of mutual obligation as it applies in Australia can be viewed as part of the implicit social contract that underlies the income support system' (cited in Curtin, 1999: 4). Others have noted the contractual nature of the Mutual Obligation scheme and have argued that, as such, it constitutes a 'reworking of the idea of social contract' (Yeatman, 1999: 255). Proponents of the Third Way approach to welfare also champion the idea of renewing the social contract (Latham, 1998, 1999).

The idea of the social contract is particularly useful for proponents of conditional welfare, as it is able to generate support across traditional ideological divisions. Not only does this idea tap beliefs that 'dole bludgers' are cheating or abusing the goodwill of taxpaying citizens, but it also appeals to those who are critical of governments for not providing adequate assistance to people who may be trapped in cycles of poverty and long-term reliance on income support.

So, does a social contract exist between citizens and the state? If so, what are the obligations on the part of citizens, especially those who are disadvantaged? To answer

these questions, we must return to the original social contract philosophers and their contemporary followers.

The Social Contract and Political Obligation

The idea that society is constituted by actual or implied contractual obligations has its origins in 17th and 18th century philosophers such as Locke, Hobbes and Rousseau. In the pursuit of a democratic alternative to the monarchical State, social contract theory was principally concerned with the duty of citizens to obey the authority of the State. Philosophers argued that because of the precarious and dangerous competition in pre-political society (the 'State of Nature'), individuals rationally decide to enter into political society and consent to the rule of the State, agreeing to sacrifice certain liberties in return for the State's protection of their lives and property. Citizens' duties to each other are acknowledged by the principle that if individuals sacrifice certain freedoms which yield mutual advantages, then others have a moral obligation to do the same.

Although it is undoubtedly true that the idea of a social contract has 'provided perhaps the single most influential image of societal government in the history of the modern West' (Hindess, 1997: 15), it is nevertheless far from a straightforward idea. Indeed, it is widely acknowledged to have significant problems and has never enjoyed a consensus amongst philosophers. Because of this, linking contemporary debates about welfare with this philosophical tradition is fraught with difficulty.

Despite centuries of debate, contract theorists have not been able to convincingly identify how, if at all, individuals express such consent. Nor have theorists been able to identify realistic alternatives for those who do not consent to political society. Locke's attempt to resolve the problem that people rarely, if ever, give express and clear consent to the rule of the state, was to develop the idea of *tacit* consent. Tacit consent is indicated simply by the fact that people reside in, use the resources of the state and accept its benefits (Locke [1704], 1984: 177). Moreover, he argued, people were free to leave a given state if they did not agree to its authority. However, as Hume (1711-1776) pointed out, this does not resolve the problem as consenting implies the possibility of doing otherwise, which is rarely available. Hume maintained that

... such an implied consent can only have place where a man imagines that the matter depends on his choice ... [c]an we seriously say that a poor peasant or artisan has a free choice to leave his country, when he knows no foreign language or manners and lives from day to day, by the small wages which he acquires? (Hume [1748] 1947: 155-6)

In summary, it is a fairly weak contract in which the time, place and nature of the initial agreement cannot be identified and in which no realistic alternatives to contractual membership are available.

The Social Contract and Moral Obligation

For traditional social contract theorists, the problem of inequality was largely irrelevant. Traditional theorists quite openly assumed that the principal parties to the 'social contract' were free, rational, property-owning men, for whom the motivation to enter political society was to ensure the protection of property from the dangerous and lawless 'State of Nature'. Women, slaves, children (themselves considered property) and non-property-owning members of society were thus irrelevant to the philosophical debates.

Contemporary contract theorists, however, have been more interested than their traditional counterparts to develop principles of social justice from the idea of the social contract. Theorists of this tradition have questioned the extent to which those who do not share equally in social benefits can be said to participate in a 'social contract', and on what basis they can be said to incur obligations. In doing so, the most prominent of contemporary contract theorists, John Rawls, placed important qualifiers and limitations upon the types of obligations that apply to disadvantaged people in an unequal society (Rawls, 1973). According to Rawls' 'principle of fairness' obligations can only be said to arise when two main conditions are met: when institutions are just and when individuals are able to freely accept social benefits in a context of meaningful alternatives (Rawls, 1973: 112).³

The implication of this is that once the principle of mutual obligation is translated into specific policy, vital questions arise about the equity, proportionality and distribution of obligations as well as how and under what circumstances such obligations can be enforced.

As the following section will discuss, with trends such as widening inequality and stubborn levels of structural unemployment, it is far from clear that Australian institutional arrangements are sufficiently just to generate specific and enforceable obligations on marginalised people. Nor do social security recipients freely accept benefits in a context of meaningful alternatives. Although mutual obligation is based on the belief that recipients choose to accept welfare benefits over paid employment, in reality choice is limited and few meaningful alternatives to welfare benefits exist.

In summary, because of its primary focus on political obligation, traditional contract theory is of marginal relevance to current debates about how to make fair welfare policy. Moreover, citizens' obligations to 'do their part' in the pursuit of mutual advantage is a non-specific ethical principle and is of little help in determining the nature and distribution of specific obligations amongst citizens in unequal societies (Hindess, 1997: 18). In the light of this, we need to seriously question the extent to which disadvantaged people who are dependent upon the community for basic provisions should have significant, legally binding obligations in return.

Even devotees of the social contract tradition admit that 'no fully satisfactory prescriptive form of contractarianism has been generated' (Hampton, 1995: 389). Until it is able to overcome its many difficulties, the idea of the social contract holds

3 I wish to acknowledge the contribution of Dr Jeremy Moss in identifying and elaborating the relevance of Rawls' 'principle of fairness' to the policy of Mutual Obligation.

more promise than practical usefulness as the basis of social policy in a complex world (Hampton, 1995: 389).

Contemporary Contractualism

Despite the problems with the philosophical idea of the ‘social contract’, at the most practical level contemporary societies are increasingly reliant upon contractual arrangements for the governance of economic and social affairs (Hindess, 1997: 22). As a result, contractual arrangements are being used in welfare policy to regulate the behaviour of income-support recipients. The Australian Mutual Obligation scheme is based upon a direct contract wherein the government agrees to provide income support and job-search assistance in return for which the unemployed person agrees to undertake a series of activities designed to maximise their employment chances.

A fundamental requirement of a contract is that the potential for exploitation is checked by a broadly equal balance of duties and obligations. Parties entering a contract are usually strongly encouraged by legal advisers and others to protect themselves from exploitation by ensuring an approximate equality of power and symmetry of dependence and vulnerability. Thus, for true mutuality to exist, dependency and vulnerability must be approximately equally shared between contracting parties and each must have the option to withdraw from, or not to enter, a contract if the possibility for exploitation is present. Under these conditions, contracts are morally unobjectionable. However, a contractual relationship in which one party is dependent upon the other for the provision of basic needs, and does not have the realistic option to withdraw from the relationship because of this dependence, is one of exploitation. Goodin argues that exploitation can be defined by a relationship in which the relations of power are ‘asymmetrical’ and the dependence is ‘unilateral’ (Goodin, 1985: 196). He argues

the most morally objectionable dependency or vulnerability relationship would exist where one party has discretionary control over resources that the other needs and cannot obtain elsewhere, yet no such dependency exists on the part of the first party to the second. (Goodin, 1985: 201)

The Mutual Obligation contract is at once asymmetrical – the individual is dependent upon the government to supply basic needs – and unilateral: the government has no corresponding dependency.

There is little doubt that the situation in which most welfare recipients find themselves in relation to the Mutual Obligation contract is of the exploitative type. People are ‘assisted’ through an inappropriate exercise of power (i.e. withholding of the means to satisfy basic needs) in an unequal relationship (Hindess, 1997: 24-5).

A strange logical inconsistency is also present in the idea that unemployed people take on obligations by signing a contract setting out the activities that they will undertake in the search for work. As will be discussed in the next section, according to advocates of conditional welfare, long-term welfare dependency causes a form of incapacitating demoralisation that prevents people from acting in their own best interests. As a result, it is the responsibility of government to reverse this situation by forcing people to act responsibly (Giddens, 1998; Latham, 1998; Mead, 1997a;

Yeatman, 1999). However, contractualism relies heavily upon ‘an internalised, subjective sense of obligation undertaken by those who are *in a position to act* upon this sense’ (Hindess, 1997: 18). In order to participate in a contract, people must be able to make rational choices about their own interests and have the capacity to adhere to contracts. At the same time as acknowledging that people do not possess the characteristics necessary to freely enter a contract, advocates of mutual obligation argue that people will attain these characteristics if compelled to enter a contract that prescribes socially responsible behaviour. Those who do not adhere to the terms of the contract are penalised. Penalties are applied despite the fact that their difficulty in complying may be directly due to their acknowledged incapacities.

Contractual welfare agreements, therefore, have all the hallmarks of a ‘sink or swim’ approach, i.e. people learn how to be contractual partners by participating in a contract. In other words, in the full knowledge that they cannot swim, they are thrown in the ‘deep end’ and told they must learn. If they sink, they are then penalised by being thrown in again. Instead, in a fair arrangement, the existence of incapacity should, in fact, negate the basis of the original contract.

Some argue, however, that the Mutual Obligation contract, although unequal, is defensible, as the function of the imbalance is for the benefit of the less powerful party – to assist him or her to realise their ‘deeper preference’, even though he or she may not yet be conscious of what this is. Moreover, the contract really is reciprocal, since the service provider is under an obligation to provide the service (Yeatman, 1999: 264). However, as long as compelling people under threat of the withdrawal of their means of support remains the strategy by which disadvantaged people are to find the path to their ‘deeper preference’, the contract with income support recipients, despite its intentions, remains coercive and inconsistent with principles of justice.

There are a number of other assumptions underpinning policies of Mutual Obligation that are not so directly related to traditional philosophical arguments, but are equally influential in the public debate. They are equally loosely argued. The next section analyses these assumptions.

4 Mutual Obligation and Social Structure

Mutual Obligation policies are based on a number of popular misconceptions about the nature of unemployment and social structure. These misconceptions are largely induced by the focus on individual responsibility that underpins the policy of Mutual Obligation.

Structural Unemployment and the Issue of Choice

The policy of Mutual Obligation gives little recognition to the fact that the way our economy is structured limits the extent to which the exercise of personal responsibility is able to produce better outcomes for marginalised people. In fact, over recent decades, the Australian economy has relied on the creation of joblessness through microeconomic reform and trading off employment growth for inflation control.

Since the downturn in the global economy that began in the 1970s, governments have experienced difficulty in living up to the goal of full employment (Langmore and

Quiggin, 1994). Indeed, in practice Australian governments essentially abandoned the commitment to full employment in the mid-1970s, favouring low inflation in the trade-off between price stability and unemployment (Argy, 1998). As a result, during the 1980s and 1990s, because Australian governments accepted quite high levels of unemployment for the sake of what they considered to be 'good economic management', long-term unemployment in particular has remained stubbornly high. The policy of deliberately slowing employment growth when the economy is at risk of overheating is based on the belief that pursuing full employment can be poor economic management.

Moreover, it is precisely under conditions of structural unemployment that entitlement-based benefits are more reasonable than conditional benefits. It is rather ironic that the entitlement-based unemployment benefit was at its uncontested height when it was least needed, that is, when the economy was never very far from full employment, while conditions have been placed on benefits when unemployment is high and jobs are not available for all. Under full-employment conditions, expecting unemployed people to improve their chances of obtaining jobs that really existed would be much less controversial and a truly 'mutual' exchange.⁴

When viewed in this light, it is evident that unemployed people have made an involuntary sacrifice for the economic well-being of employed people. Until a new commitment to full employment is made, it is fair to argue that the obligations are reversed: Australians in positions of advantage should feel gratefully obliged to those less advantaged for their considerable contribution to the well-being of the economy. Although justified on the basis that contemporary culture is characterised by 'too much taking and not enough giving', the call for disadvantaged people to make social repayments under threat of their only means of support may itself be evidence of the moral crisis of taking without giving.

The recognition that unemployment and other causes of welfare reciprocity are rarely a result of the failure of individual motivation, and are more usually the result of economic management and structural impediments to economic participation, undermines the belief so fundamental to policies of Mutual Obligation: that people are obliged to make social repayments in return for their acceptance of benefits. But as Rawls has pointed out, for the acceptance of benefits to generate obligations, such acceptance must be freely chosen within a context of meaningful alternatives. The reality of structural unemployment means that unemployed people have only a limited degree of choice. Few meaningful alternatives to welfare benefits exist in contemporary societies.

4 Although this contradiction may be partly due to affordability (i.e. entitlement based welfare was affordable when few were claiming it), it is also explained by the fact that the state 'must be seen to be fulfilling its part of the work/welfare bargain' even though it acknowledges its inability to do so (Kerr and Savelsberg, 1999: 239).

Demoralisation

It is regularly asserted that long-term poverty and 'welfare dependence' have a 'demoralising'⁵ effect. It is argued that despite being well-intentioned, passive entitlement-based programs 'kill with kindness', paralysing individuals and preventing them from being able, or sufficiently motivated, to act in their own best interests: to continue the search for work, to seek out training options or to otherwise work towards improving their life circumstances. This belief justifies compulsory activity testing regimes, the application of penalties for non-compliance and, in some cases, the withdrawal of benefits. The most influential justification for this can be found in what has become known as 'new paternalism', most clearly and formally articulated by US academic Lawrence Mead (see Mead, 1997a and 1997b). Mead provides a succinct summary.

People who live without limits soon sacrifice their own interests to immediate gratifications. To live effectively, people need personal restraint to achieve their own long-run goals. In this sense, obligation is the precondition of freedom. Those who would be free must first be bound. And if people have not been effectively bound by functioning families and neighbourhoods in their formative years, government must attempt to provide the limits later, imperfect though they must be. (Mead, 1997: 23)

According to Government policy, conditional welfare regimes are designed to make it 'harder for demoralised job seekers to give up' the search for work (Abbott, 2000) and sends a positive message to unemployed people that they can control their situation, counteracting the stifling hopelessness of being told that the problem is beyond their control (Abbott, 2000).

However, research on unemployed people has quite consistently found that depression and 'demoralisation' sets in after a considerable period of unsuccessful job-searching. (see for example, Scholzman and Verba, 1979; Jahoda, 1982; Feather, 1982; Fineman, 1987). People may begin their period of unemployment believing that their personal efforts will eventually succeed, but this optimism fades with repeated failure.⁶ Although there is ongoing debate about the exact causes of 'demoralisation', the research literature has repeatedly demonstrated the psychological impact of constantly frustrated job-searching efforts and the hopelessness that unemployment creates, that 'drains energy and initiative [and] makes effort seem pointless' so that eventually lack of effort becomes a rational response (Allan, 1997: 8).

⁵ The word 'demoralisation' is quite ambiguous. On the one hand, it may be taken to mean a sense of frustration and disappointment to the point of a lack of desire to persevere; on the other hand, it may mean a degeneration of moral values. Current political rhetoric as well as some academic writing on the subject appears to play on the ambiguity, attributing both meanings, in undefined ways, to the term.

⁶ See especially, Jahoda, 1982: 92, 97; Turner, 1983; Lane, 1991: 170. Although some may continue to believe that this is due to their own personal deficit, others attribute the cause to factors outside themselves. The research literature has yet to settle on whether internal or externalisation of blame has greater effect. Furnham provides a useful discussion of the literature relating to the internal/external attribution of blame and social psychological responses to unemployment (Furnham, 1988: 170, 629). Either way, damage is initiated by the personal experience of frustrated hopes and efforts.

‘Making it harder to give up’ the demoralising, frustrating and depressing search for work under threat of the reduction or withdrawal of basic income support sends a very clear message to unemployed people that they only have themselves to blame for their personal situation: that unemployment is caused by the failure of individual motivation. Doing so ignores and dismisses the very real frustrations that unemployed people face and shows a distinct lack of targeted or creative policy-making.

Discriminatory Application

The policy of Mutual Obligation imposes specific obligations enforceable by compulsion on certain categories of welfare recipients but does not apply similar standards to others who have benefited from public resources. Unemployed people are singled out as the group required to ‘give something back’ whilst others who rely upon public resources do not. This is nowhere better illustrated than in the 2001-02 Federal budget which announced the extension of some Mutual Obligation programs and requirements to people up to the age of 49 and the application of new conditions under a mutual obligation framework to people over 50 but not yet of pensionable age.⁷ These changes were announced concurrently with a raft of new advantageous policies for pensioners and pension-aged Australians. In the words of the Treasurer, older Australians ‘deserve’ such benefits because of their lifetime’s contribution to nation-building. Thus, Australians of pensionable age are deemed to have already made their contribution and thus ‘deserve’ their benefits, whilst Australians only a few years younger are deemed to have not yet made their contribution. On reaching pensionable age however, the ‘undeserving’ suddenly become ‘deserving’.

Others who receive community assistance in times of need are also not required to ‘give something back’ in return: accident victims who require emergency treatment in a hospital are granted assistance without incurring a debt to society; those who rely upon public health because they cannot afford private cover are not required to give something back in return for their assistance; the right of adventurers to expensive, publicly funded rescue operations is rarely questioned, despite the fact that in such cases, although the vagaries of nature are blamed, the decision of individuals to place themselves at risk is a particularly personal one.

In addition, public subsidies are extended to the corporate world to encourage investment or to promote and sustain certain industries, with very few obligations or accountability mechanisms in return. So extensive is this subsidisation, and so minimal are the associated obligations that such activities have been dubbed ‘corporate welfare’ (Baragwanath and Howe, 2000; Whitfield, 2001).

Whilst the idea of mutual obligation implies that all citizens have obligations to ‘do their part’, under the policy of Mutual Obligation, income support recipients are the only citizens who are selected out for the enforcement of obligations. Other citizens

7 From July 2003, claimants over 50, but not yet of pensionable age, will be placed on Newstart instead of the current Mature Age Allowance or Partner Allowance. Whilst in many respects, this is a step forward in that it allows older unemployed people access to Jobsearch services not previously available to them, it also means that these individuals become subject to requirements under a mutual obligation framework: specifically, Mature Age people on Newstart will be required to submit Jobsearch diaries every three months. At the same time, new claimants for the Widows Allowance will be required to attend an annual interview with a Centrelink Personal Adviser.

are either left free to exercise discretion in relation to their social obligations, or are provided with significant incentives to encourage them to do so. The selection of the 'stick' rather than the 'carrot' as a regulatory device in social security policy contrasts with neo-liberal regulatory philosophy applied elsewhere. Self-regulation through persuasion and incentive (the 'carrot') rather than punishment ('the stick') is the strategy of choice for most governments in many contemporary situations. In occupational health and safety, or environmental protection, for example, government policy generally favours strategies of self-regulation or persuasion over immediate resort to direct penalties. Regulatory theory has developed sophisticated 'enforcement pyramids' which move through a large number of steps, beginning with persuasion and ending, as a last and reluctant resort, with the full enforcement of penalties (Braithwaite and Ayres, 1992). Moreover, voluntary schemes are increasingly relied upon in environmental regulation and in proposals to replace corporate tax with corporate philanthropy.

In summary, the broad ethical ideal of mutual obligation – that citizenship is a shared journey in which everyone does their part for the mutual benefit of all – is distorted when attempts are made to match benefits with a corresponding obligation in a *quid pro quo* manner. This is especially true when this is selectively enforced in specific and intrusive ways for income support recipients.

In the light of these difficulties, one must conclude that the motivation behind imposing mandatory conditions upon unemployed people is the assumption that they are disproportionately irresponsible and liable to abuse the benefit system.

False Dichotomy

The idea that people on unemployment benefits should give something back to the community in return for their benefit is based on a false distinction between 'givers' (working taxpayers) and 'receivers' (non-working, non-taxpayers). It is hard to go beyond Senator Jocelyn Newman's description in her 1999 address announcing Welfare Reform of an 'indulgent welfare mentality' that the 'hard working men and women of this country cannot be expected to underwrite' (Newman, 1999: 5).

In fact, however, not only have income support recipients paid income taxes in the past and are likely to do so in the future, they are also current tax-payers due to various forms of indirect taxation and the GST, as well as through direct taxation of some benefits. The historical decision to finance Australia's social security system from public revenue rather than from wage-based contributions was an explicit recognition of these essential interdependencies.

The inconsistency of the idea that society is made up of contributors and non-contributors is again illustrated by the benefits provided to older Australians in the 2001-02 budget. The budget focused explicitly on the contribution of older Australians *as a group*: their *collective* contribution to national well-being. Regardless of their individual circumstances, Australians of pensionable age - rich or poor, employed or unemployed, single parents or not, able bodied or not - have been recognised for collectively making Australia what it is today. In contrast, however, Mutual Obligation policies focus on the extent of individual contributions of working-age citizens who currently rely on income support. These groups are not considered to be contributing to the collective effort of nation-building; instead, it is assumed that

they are ‘taking’ rather than ‘giving’. Because of this, these groups are forced to ‘give back’ through the activities required by Mutual Obligation.

5 Where To From Here?

In reviewing Fox’s (2000) historical account of unemployment in 1930s Victoria, outlined at the opening of this paper, Dickey (2001) concludes by saying that the book’s polemic against the ‘return of the modern re-moralisers’ is thoroughly justified and is a ‘timely call to be ever vigilant in the defense of a widely shared citizenship’. Stripping away the surface plausibility to the policy of ‘Mutual Obligation’ is an important step in this endeavour. Far from being a simple and compelling idea based on shared values of personal responsibility and fairness, the principle of mutual obligation applied to welfare is complex, replete with inconsistencies and ethical and logical flaws. The basis of the idea in the ‘social contract’ tradition is weak and is far from as ‘simple’ or ‘compelling’ as we are led to believe. Nor is the idea of the ‘contract’ a useful basis for establishing obligations under situations of unequal power. Moreover, the policy of Mutual Obligation does not take account of structural component of unemployment; it is applied in highly selective and discriminatory ways to welfare recipients; it is founded on a false distinction between taxpaying and non-taxpaying citizens; and it uncritically relies on compulsion as a regulatory device without considering other strategies that may be more creative, more just and more in keeping with broader principles of democratic freedom.

Rather than simply making policies of Mutual Obligation fairer and less punitive, these difficulties are of sufficient magnitude to warrant the removal of the idea of mutual obligation from its central place in modern welfare policy.

So what would serve as a better basis for fair welfare policy? The problems identified here suggest a number of guiding principles.

- Policies should assume that income support recipients are honest and upright citizens, a few of whom (as in society generally) may abuse the system.
- Policies should explicitly acknowledge that the need for support arises from the failure of society to provide opportunities for all, rather than the personal failings of individual recipients.
- Policies should acknowledge that those in work have benefited from the disadvantaged situation of the unemployed because unemployment results mainly from the failure of the economy and economic management.
- The mutuality should be balanced. Governments should undertake, on behalf of society, programs and policies designed to overcome structural disadvantage.
- Consent to any ‘contract’ between income support recipients and the Government can only be assumed where realistic alternatives to income support are widely available and accessible.
- Systems of monitoring income support recipients should focus on non-punitive methods of compliance management. Penalties should genuinely be an option of last resort.

- Accountability for, and enforcement of, obligations should be applied consistently to all parties to the contract.

6 Conclusion

It is hard to disagree with the argument that society needs to maintain a careful balance between rights and responsibilities. Allan argues that, however unpalatable it may be for those of liberal persuasions, the conservative critics have been right ... in detecting something amiss in the moral culture of the West ... some unbalancing of rights and entitlements to the neglect of social obligations and civic virtues. (Allan, 1997: 15)

Moreover, the father of modern communitarianism, Amitai Etzioni has claimed that 'to take and not to give is an amoral, self-centred predisposition that no society can tolerate' (Etzioni, 1995: 10).

These ideas go to the heart of our morality, whether secular or religious, and are a foundation stone of political philosophy. Indeed, it is difficult to imagine wishing to live in a society in which these qualities and commitments were absent. They speak of a just, caring and responsible society where self-interest is not the driving force, where people behave in ways that consider their own individual interests and desires in the context of the well-being of others and the collective good.

But it is difficult to see that the current policy of Mutual Obligation extends these principles or generates a social environment in which such ideals can find fulfilment. It could even be argued that the call of those in a position of advantage for those less advantaged to nevertheless make social repayments under threat of the withdrawal of their only means of support is itself evidence of the moral crisis of 'taking without giving'.

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