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Building an adequate U.S. labor and social protection system for the 21st century

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Abstract

This paper reviews the erosion of labor and social protections for U.S. workers and households over recent decades. It discusses the causes and the relative weight of different elements of the erosion in order to bring clarity to the discussion of needed reforms. It proposes a framework of policy objectives and principles to guide choices for reform among policy alternatives in the specific U.S. context. The paper also explores the relative merits of some alternative proposals to address these challenges. The prospects for political and legislative action to create a viable modern social and labor protection system are discussed. The paper concludes that updating and strengthening existing elements of the U.S. system provides a firm foundation for creating an adequate U.S. labor and social protection floor for the 21st century, if critical additional rights and programs are built on and integrated into this foundation.

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Contents

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Introduction

Over the last several decades the economic prospects facing U.S. workers and households have changed in substantial ways. For most, it has been a change for the worse. The average pre-tax, inflation-adjusted income of the bottom 50 per cent of individual income earners stagnated from 1980 to 2014 (Piketty, Saez, Zucman, 2017). Recent years have been particularly harsh: one study found that 81 per cent of U.S. households had flat or falling market income between 2005 and 2014 (Dobbs et al., 2016). These unfavorable financial outcomes have been amplified and aggravated by increasing job insecurity, fears about future employment prospects, the erosion of employment-based pensions and health care and fears about the solvency of Social Security and Medicare. The causes have been widely analysed and the growth of data and computing power have gradually enabled a better understanding of what has been driving the changes. However there is still no universal consensus among economists on the relative weight of different factors and the most appropriate policy responses. Among politicians, views are highly polarized along ideological and party lines.

With this decades-long evolution as a backdrop, the advent of new forms of work and services arranged through the internet have added a new element and – for some – a new urgency to the question of how society and policy makers should respond. Further into the future, questions loom about the impact of artificial intelligence and robotization on overall employment levels.

Thus, longstanding debates in the U.S. – over inequality, the declining share of national wealth going to labor rather than to capital, the future of Social Security, the need for labor law reform – have now been stirred and expanded by debates over the future of work and the on-demand economy. To some extent, the addition of these new elements has served to confuse rather than illuminate the longer-term trends and the underlying causes.

This paper is intended to bring analytical clarity and focus to the issues that currently confront workers, households and policy makers in the spheres of employment and social protection. It addresses the issues from a U.S. perspective, but includes references to other advanced economies and the global economy to illuminate broader forces at work, while distinguishing what is specific to the U.S.

The organization of the paper is as follows. First, the key policy challenges are identified and available evidence is used to estimate the size of the component elements. The second section identifies the key objectives that would have to be met to address these challenges effectively and proposes a framework of principles or elements to guide choices among policy alternatives. It provides illustrations of how these principles could be applied in practice within the specific U.S. context. A third section discusses the prospects for political and legislative action to create a viable modern social and labor protection system in the short- and medium-term and concludes. An annex considers the relative merits of some alternative proposals to address the challenges.

1. What is the nature, size and character of the policy challenge?

It has been widely noted that the U.S. social and labor protection systems built over the course of the 20th century have eroded in terms of coverage and adequacy and that the erosion has contributed to stagnation of incomes for middle- and lower-income groups and to widening inequality. [1] This in turn has had negative impacts on aggregate demand by reducing household consumption – the main motor of the U.S. economy – and on macroeconomic stability through unsustainable borrowing as households attempt to maintain their consumption. [2] It also reduces investment, as firms do not see the demand or future markets that would justify expanded productive capacity. The changes have also had the effect of transferring economic risk from firms and investors to households and workers. [3]

Causes and impacts

These broad changes are the result of numerous forces, not only the erosion of U.S. labor laws and social protection systems. They include the expansion of the globally available labor force after the Cold War ended, China entered the global economy and trade was widely liberalized (Polaski, 2004). This large expansion of global labor supply tilted bargaining power away from workers and toward owners of capital. Changes in technology also changed the demand for various types of labor skills, improving prospects for some and worsening them for others. [4] Changes in the overall incentives facing firms also shifted, with an increasing emphasis on maximizing short-term shareholder returns, stock prices and executive compensation at the expense of workers' wages and benefits. [5]

While these forces have also affected other advanced industrialized economies, their impact on wages and social protection has differed significantly across countries. These differing outcomes can be traced in large part to the differences in legal regimes governing labor markets, the structure of national social protection systems and the norms governing distribution of economic risk. They also reflect the social and political views in different countries on what is fair and politically acceptable, sometimes called the social contract.

In the U.S. the federal government has adopted a deregulatory stance and policies that favor owners of capital rather than labor for most of the last four decades. Among many instances of this policy stance, obvious examples include financial deregulation that benefits investors and lower taxation on capital earnings than on earnings from labor. Meanwhile, labor laws have been eroded through judicial interpretation, evasion and weak enforcement.

[1] This has been discussed in a range of popular and scholarly works over the last decade, e.g. Polaski (2007), Weil (2014).

[2] Mian and Sufi (2018) summarize the evidence. IMF (2017) explains the contribution to macroeconomic instability. A discussion that places this in a global context can be found in ILO et al. (2015).

[3] An overview of the shifting burden of risk can be found in Hacker, 2006 and a discussion of risk in retirement in Hacker, 2011.

[4] Dabla-Norris et al. (2015) provide a recent overview of this factor at the global level and for advanced economies.

[5] A review of analytical work on these topics can be found in Davis and Kim, 2015.

The expansion of the U.S. social safety net came to a virtual halt after the 1960s, with rollbacks in existing programs from the 1980s. The one major exception – the expansion of health care coverage by the Obama Administration – was contested from the beginning and has since been significantly rolled back. Increasingly unequal economic power has translated into increasingly unequal political power as corporate and investor interests dominate executive and legislative action and skew elections. Taken together, a wide range of U.S. government action and inaction has reinforced rather than countered the global and technological forces that have tilted economic power toward investors and firms and away from working households.

The purpose of a social and economic floor

In modern economies employment and labor rights laws, social insurance systems and other publicly provided or mandated benefits for workers and households constitute a nationally-defined set of minimum guarantees – a social floor or social contract – that households can count on in terms of income security and labor rights, access to health care, income in old age and general principles of fairness. While the level of the social floor and balance of rights and obligations vary widely, all advanced economies have constructed such floors over the nineteenth and twentieth centuries and many developing countries are building them as well. [6]

A social floor serves numerous social policy and economic purposes. It can smooth income across economic cycles or individual setbacks and thus prevent or reduce poverty. It can insure individuals and households against risks that could otherwise have long-term deleterious effects on their incomes, well-being and productivity. It enables workers to invest in education and training and make decisions on employment and mobility based on a set of expectations about the likely returns to their effort. It constrains firms to respect certain rights and standards and prevents externalization of their costs to society or beggar-thy-neighbor approaches toward competitor firms. It can help ensure that wages and living standards rise in line with productivity growth for the broad population. These microeconomic effects then contribute to macroeconomic outcomes by way of channels that include income distribution, consumption and further productivity increases. [7] An adequate and credible social floor also builds social and political cohesion by fostering public confidence that government and society can be counted on to ensure basic economic fairness.

These policy objectives are compelling in social and political terms and they are supported by robust economic research showing that they are also factors in achieving and maintaining positive long-term economic performance (Berg and Ostry, 2011; Stiglitz, 2012; Ostry, Berg; and Tsangarides, 2014; Mian and Sufi, 2018; IMF, 2017). They are important components for growing, stabilizing and equalizing the foundations of modern economies. If existing U.S. labor and employment laws, social insurance arrangements, welfare benefits and other mechanisms no longer provide the population with an adequate social floor, they eventually must be reformed, both to avoid recurring economic crises, stagnation or decline

[6] As members of the International Labor Organization, 185 countries – including the U.S. – negotiated the Social Protection Floors Recommendation No. 202 (2012). The Universal Declaration of Human Rights, in particular Articles 22 and 25, and the International Covenant on Economic, Social and Cultural Rights, in particular Articles 9, 11 and 12, also establish the basic rights that make up a social floor.

[7] Dabla-Norris et al. (2015) provide a useful survey of the channels through which this occurs and add to current knowledge by evaluating the impacts on the middle class and the poor and their role in overall growth.

and to restore social and political cohesion. Indeed, the erosion of public confidence in the U.S. social contract has now been turned into a divisive and destabilizing political weapon.

The state of the U.S. social floor

To evaluate the need for reforms to the U.S. social floor, it is essential to understand the existing foundations, the extent of erosion and the extent of existing exclusions and gaps in the protection provided to workers and households. What do we know about the current state of the social floor?

We begin with coverage of employment laws, because they establish the basic rules under which the large majority of U.S. households gain most or all of their income and social benefits. These laws define whether or not a working person is considered an employee and thus entitled to key labor rights and minimum protections for wages, working time and working conditions. Employee status also provides access and employer contributions to most public social insurance systems, including Social Security, unemployment insurance and workers compensation in case of workplace illness or injury.

Under various labor laws at the federal and state level, whether a working person is covered by the law depends on whether he or she is an employee. [8] An *employee* is protected by the Fair Labor Standards Act (FLSA), which sets minimum wages, regulates hours, mandates overtime payments and sets other basic workplace standards; the National Labor Relations Act (NLRA), which establishes the right to form unions and engage in collective bargaining; and laws prohibiting employment discrimination based on race, gender, age, and other personal characteristics. An *employee* also enjoys coverage of Social Security, Medicare, unemployment insurance and workers compensation based on payroll contributions to these social insurance systems by the employer and employee. Working persons who are not employees are categorized in different ways, with the status of "independent contractor" being a predominant one. [9] A working person who is not an *employee* does not enjoy the rights listed above (although they may have some anti-discrimination protection under other laws) and is solely responsible for all contributions to social insurance schemes, if they are entitled to participate at all. This distinction makes clear that in terms of labor protections, social benefits and exposure to economic and other risks, there is a sharp difference between working as an employee and not being accorded that status. It suggests that this is an important area of policy to be addressed. We will return to this issue in the section on policy principles and responses.

The difference in rights, entitlements and the wage bill for employees compared to those who lack this status has led some U.S. employers to misclassify employees as independent contractors in order to avoid these obligations. Misclassification is enabled in part by differences in the definition of employee status under different labor and social insurance laws and the subsequent, often complex tests created by courts when applying those definitions. It has expanded as a result of the evolution of complicated subcontracting, third-party hiring practices and other arrangements that can be used to blur the employment relationship and disguise the employee status of those providing their labor.

[8] Different employment laws may have slightly different definitions of "employee" and "employment" depending on the purpose of the law.

[9] Those found not to be employees have been characterized as independent contractors, self-employed, or "in business for him or herself" according to various court applications.

This complexity is also reflected in statistical measures designed to assess employment status and its evolution over time. Public survey instruments such as those carried out by the Bureau of Labor Statistics (BLS) utilize a wide array of categories regarding working status, including employee and independent contractor, but also the categories of self-employed, contract employee, temporary agency worker and on-call worker. There are numerous relevant sources of data in addition to the surveys undertaken by the BLS, including U.S. Census Bureau data, private surveys and administrative data such as tax records and contributions to social insurance programs. The table below presents a sample of findings on the changes in the share of working people in each of these categories over time as recorded by different surveys and studies.

Employees, independent contractors and others as per cent of the employed U.S. labor force

Status/data source	1990	1995	2005	2010	2015	2017
Employee, standard full-time/CWS,CPS [1]	–	67.9	69.4	–	–	–
Employee, standard part- time/CWS,CPS	–	13.6	13.2	–	–	13.5 [2]
Part-time for economic reasons [3]	–	–	–	–	–	3.8
Part-time, all [4]	19.0	–	–	–	19.2 (2013)	17.3 [5]
Independent contractor/CWS	–	6.7	7.4	–	–	–
Independent contractor/GSS [6]	–	–	13.5 (2006)	12.9	–	–
Self-employed [7]	11.4	11.8	11.1	10.9	10.1	–
Self-employed, unincorporated [8]	8.5	8.4	7.4	7.0	6.4	6.2 [9]
Direct hire temps [10]	–	2.8	2.1	–	–	–
Temporary agency workers	–	1.0 [11]	0.9 [12]	–	1.6 [13]	–
On-call and day laborers	–	1.6	1.8	–	2.6 [14]	–
Contract company workers [15]	–	0.5	0.6	–	–	–
Alternative work arrangements [16] of which contract workers	–	–	–	–	15.8-17.2 3.1-3.3	–
Core contingent/ GAO [17]	–	–	5.6 7.1 (2006)	7.9	–	–
On-line platform on-call workers	–	–	–	–	0.4 [18] 0.5 [19] (2016)	0.7 [20]

[1] U.S. General Accountability Office (GAO) 2006, calculations based on U.S. Bureau of Labor Statistics Contingent Work Survey (CWS) a special supplement and Current Population Survey (CPS). [2] CPS January 2017 "part-time for non-economic reasons". [3] CPS January 2017 "slack work or business conditions or could only find part-time work". [4] Bernhardt, 2014 calculations based on CPS. [5] CPS January 2017. [6] 2010 General Social Survey (GSS), a project of the independent research organization NORC at the University of Chicago. Available at: http://gss.norc.org/ [18 May 2018]. [7] Hipple, 2010; Hipple and Hammond, 2016. [8] Ibid. [9] CPS January 2017. [10] U.S. Bureau of Labor Statistics 1995, 2005. [11] U.S. Bureau of Labor Statistics, 1995. [12] U.S. Bureau of Labor Statistics, 2005. [13] Katz and Krueger, 2016. [14] Ibid. [15] GAO 2006 calculations based on CWS and CPS. [16] Katz and Krueger, 2016. [17] GAO 2015, calculations based on CWS 2005, GSS 2006 and GSS 2010. [18] Farrell and Greig, 2016a. [19] Katz and Krueger, 2016. [20] Jackson, Looney and Ramnath, 2017.

Finding a clear pattern in the results of these surveys and studies is complicated by the different definitions and aggregations and also by a lack of consistently available time series data and other measurement problems. There have been various efforts to combine these different categories into broader groupings that capture common elements, including "non-standard forms of work", "contingent employment" or "core contingent employment". [10] The purpose of these efforts is to make sense of the complex information that is available, in order to detect changes and trends and to assess possible impacts on the affected workers. Understanding the significance of the different categories of work is also complicated by the lack of close alignment of the existing categories with clear indications of vulnerability or other disadvantage. [11]

Despite the difficulties, it is at least possible to gain a sense of the order of magnitude of different categories of work relationships and employment status from the currently available data and studies. What emerges is a rough portrait of a labor market in which the large majority of the U.S. working population – about 83 per cent – still works in a standard full-time or part-time employment relationship. However up to 17 per cent of workers have either no direct employer, an intermediary employer or a temporary or on-call relationship to employment. While the component elements of this aggregate group of non-standard work have shifted over time, with some growing and some declining, the overall proportion of the workforce in these arrangements appears to have been growing slowly over recent decades. This suggests that a substantial and gradually increasing sub-segment of the U.S. workforce may be excluded from the protections of labor laws and public social insurance systems.

It is interesting to note that various attempts to measure the extent of new online work arrangements (the so-called "gig" or "platform" economy) find that only about 0.4-0.7 per cent of U.S. workers engage in this type of work. [12] This arrangement has emerged only

[10] Bernhardt summarizes non-standard employment as "departing from the standard employment relationship on at least one dimension: (1) the job is temporary; (2) the job is part-time; (3) the worker is employed by an intermediary; or (4) there is no employer at all" (Bernhardt, 2014). The BLS definition of contingent work is "any work arrangement which does not contain an explicit or implicit contract for long-term employment" (Polivka and Nardone, 1989). GAO notes that "no clear consensus exists among labor experts as to whether contingent workers should include independent contractors, self-employed workers, and standard part-time workers, since many of these workers may have long-term employment stability. There is more agreement that workers who lack job security and those with work schedules that are variable, unpredictable or both – such as agency temps, direct-hire temps, on-call workers and day laborers – should be included. We refer to this group as the 'core contingent' workforce. We estimate that this core contingent workforce comprised about 7.9 per cent of employed workers in the 2010 GSS and also made up similar proportions of employed respondents in the roughly comparable 2005 CWS and 2006 GSS – 5.6 per cent and 7.1 per cent, respectively" (GAO, 2015).

[11] For example, some independent contractors (who may also be described in surveys as self-employed or "in business for themselves") are highly skilled professionals or technicians whose work is in demand and who choose to create their own businesses. Others may be self-employed (or misclassified as such) as a result of lack of opportunities for (or denial of) a standard employee-employer relationship and may face low wages, few or no benefits and income instability. Contract workers, a relatively small but rapidly growing group, includes workers with a wide range of skill levels. They may or may not have a steady employment relationship with the contracting company that deploys them and such contracting firms may or may not provide all required labor law protections and the full range of social insurance.

[12] Katz and Krueger find that about 0.5 per cent of all workers identify customers through an online intermediary (Katz and Krueger, 2016). Farrell and Greig estimate the group at about 0.4 per cent of the workforce based on the frequency of bank deposits from online work platforms (Farrell and Greig, 2016a). A survey by the McKinsey Global Institute extrapolated that up to 68 million U.S. workers could be categorized as independent workers, but of those only 15 per cent found work through online platforms, amounting to about 0.6 per cent of the U.S. workforce (Manyika et al., 2016). A study by analysts at the Office of Tax Analysis of the U.S. Department of Treasury based on tax filings for 2014 found that about 109,700 tax filers, amounting to 0.7 per cent of all workers, reported income based on participation in the gig economy (Jackson, Looney and Ramnath, 2017).

recently and may grow in the future. However, it currently involves a very small part of the overall workforce and even of the segment of the workforce involved in non-standard, contingent or vulnerable employment. A recent study of growth patterns in the gig economy found that after a short period of rapid growth the number of new entrants typically levels off and more than half of participants exit within 12 months (Farrell and Grieg, 2016b). Nonetheless, the advent of this new form of precarious work can be seen as an extension of the longer-term erosion of the employment relationship.

With regard to part-time work, about 17.5–19.2 per cent of the U.S. workforce works less than full-time, including both voluntary and involuntary part-time work. This proportion has been very stable over the long-term, with short-term fluctuations in involuntary part-time work around recessions. While the large majority who work part-time do so by choice, this is a significant share of the workforce and so it is also necessary to examine part-time workers' access to labor protections and social insurance. This is addressed in the section on policy principles.

Have these patterns or changes in work relationships had differential impacts on different groups of workers, for example by age or gender? One study in late 2015 found that the percentage of workers engaged as independent contractors, freelancers, temporary help agency workers, on-call workers or contract workers was highest among older workers (aged 55–74), at 23.9 per cent, lowest among young workers (aged 16–24), at 6.4 per cent, and that workers in the 25–54 age group were in the middle, at 14.3 per cent (Katz and Krueger, 2016). The study also found that the incidence of these alternative work relationships was growing fastest among older workers. This runs counter to a common perception that contingent work disproportionately affects young workers and that growth in non-standard work is most rapid among the young. It serves to illustrate the crucial importance of obtaining good information before drawing conclusions about changes in the labor market, their impacts and appropriate policy responses. The same study found that in 2015 women were more likely than men to be employed in these alternative work relationships, reversing an earlier pattern when such workers were more likely to be men.

Non-standard employment is an area of active current investigation in the U.S. and the greater availability of data and computing power will likely produce much better information on the distribution and changes in these categories of work over the next few years. [13]

How do the work arrangements in the U.S. labor market compare to those in other advanced economies? It is difficult to make a precise comparison because the status of employee and other categories of work are based on different legal definitions and data gathering practices in other countries. Nonetheless it is possible to compare broad patterns based on national data that is then adjusted for comparability by international organizations. For example, the rate of *self-employment* as a share of the total working population ranges from about 6 per cent to about 25 per cent in the high-income countries that belong to the Organization for Economic Co-operation and Development (OECD), with Greece an outlier at 36.9 per cent, compared to an adjusted estimate for the U.S. of 6.6 per cent. [14] The percentage of workers in *temporary employment* as a share of all employees varies from 5.6 per cent in Australia to 23.1 per cent in Spain, compared to a U.S. rate of about 5 per

[13] The BLS is once again conducting the survey on contingent and alternative employment as part of the May 2017 CPS, the first update since 2005. Abramson et al. (2016) have undertaken a project to link records for CPS respondents to administrative data derived from federal income tax filings for wage and salary workers (Abramson et al., 2016). Bernhardt provides a careful assessment of available data and identifies specific gaps to be filled by future research (Bernhardt, 2014).

[14] OECD Self-employment rate indicator for 2013 (OECD, 2017a).

cent. [15] The share of workers in *part-time employment* ranges from about 10 per cent to 26 per cent in advanced economies, with the Netherlands as an outlier at 38.7 per cent and the U.S. in the middle at about 17.5 per cent. [16] These substantial differences in patterns of employment suggest that government policies and laws as well as social attitudes, preferences and the availability of acceptable economic options can lead to a broad range of outcomes.

Beyond the fundamental question of employment status, it is important to note that the *quality* of employment in terms of pay and employer-provided benefits has eroded for many U.S. workers over recent decades. Wages have basically stagnated for more than half of the workforce for almost four decades (Piketty, Saez and Zucman, 2017). Real (inflation-adjusted) median wages for U.S. workers grew by less than 10 per cent in total over the 39 year period from 1979 to 2017, that is, an average of less than a quarter of 1 per cent per year. [17] Real wages for the lowest-paid 10 per cent of employees increased by a total of only 4.5 per cent over those decades, a negligible one-tenth of 1 per cent per year (Gordon, 2018). The weakness of wage growth for all but the very highest earners can be traced to many of the factors mentioned above. However a strong driver of the stagnation or decline of wages for low-paid workers has been the erosion of the federal minimum wage. The federal minimum wage was established by the FLSA in 1938 and has been increased through legislative action 22 times since then. In terms of real purchasing power and as a percentage of the average wage it reached its highest level in 1968, when it stood at US$11.68 in terms of 2018 price levels and at 54 per cent of the average wage (Elwell, 2014, BLS CPI Inflation Calculator). Sporadic increases since then have failed to keep pace with the cost of living and today the federal minimum wage of US$7.25 is only 27 per cent of the average wage.

The availability and quality of some employer-provided benefits, which can supplement public social insurance, has also eroded. For example, employer-provided pension benefits were available to 66 per cent of workers in the private sector in 2017. [18] A quarter of those eligible did not participate, primarily due to the cost of contributions, with the result that only 50 per cent of private sector workers had private employment-based pensions. For part-time workers coverage was only 21 per cent. The share of covered workers has drifted down over recent decades, while the nature of the pensions provided has changed more dramatically, from predominantly defined-benefit plans to defined-contribution plans. This change reduces the level of retirement income and shifts the risk of outliving savings to the worker. The coverage of employment-based health insurance has fluctuated recently due to the passage of the Affordable Care Act during the Obama administration and subsequent erosion during the Trump administration. This is discussed in more detail below.

It is also important to note that the share of the U.S. working age population that does not participate in the labor market at all has increased over the last two decades (Hipple and Hammond, 2016). Labor force participation hovered at about 58 per cent from the late 1940s through the mid-1960s, when it began to grow as women increasingly entered the labor force. That growth peaked with labor force participation at 67.3 per cent in 2000. It has since

[15] OECD Temporary employment indicator for 2013 (OECD, 2017b); the U.S. rate is for 2005, from the BLS CWS 2005.

[16] OECD Part-time employment rate indicator for 2013 (OECD, 2017c); the U.S. rate is from BLS CPS, April 2016.

[17] Economic Policy Institute (2018), State of Working America Data Library based on analysis of Bureau of Labor Statistics and Bureau of Economic Analysis data.

[18] BLS National Compensation Survey, March 2017.

been on a declining trend, to about 63 per cent as of February 2018, with most of the decline due to lower participation by working age men. Recent BLS household surveys identify about 5 million people who are currently out of the labor force but want a job, in addition to the 7 million counted as unemployed and actively searching for work.

Finally, it must be taken into account that the erosion of employment and social protection has affected different regions of the U.S. and different segments of the labor force quite differently. To cite one widely-noted example, the process of deindustrialization due to a combination of forces including global competition and technology has had a disproportionately negative impact on regions that previously had a high share of manufacturing employment. [19] This has led to relatively large declines in wage growth or even absolute declines in wages for those in areas and industries where the effects are concentrated and to lower rates of participation in the labor market for affected workers with less education. [20] The negative wage impacts extend to workers beyond the sectors directly affected, as service sector workers compete with unemployed industrial workers. The impact of economic stresses on hard hit regions is felt not only through declining employment and wages but also through more broadly declining economic activity and reduced property values. The revenues available to local and state governments, which are primarily based on sales and local property taxes, therefore decline as well (Feler and Senses, 2016). As a result, spending on education, public health, policing, recreation and other public services also declines and reinforces a vicious cycle in which needs increase but go unmet. This leads to worse health outcomes, increases in crime and lower educational attainment, which transmits the negative economic shock to the next generation. The interstate mobility of labor has also declined in recent decades, amplifying these disparities (Dao et al., 2016).

* * *

Taken together, this overview of the U.S. labor and social protection system indicates that the social floor has deteriorated to the point that it is no longer a sound foundation for a stable and prosperous economy that provides opportunity to all and creates social cohesion based on shared values, opportunities and risks.

[19] See for example the seminal work of Autor et al., 2013.

[20] Hakobyan and McLaren (2016) find that while the impact of NAFTA on overall U.S. employment and wages is close to zero, the negative wage impacts on the most affected localities and industries are very substantial.

2. Policy objectives and a framework to address the challenges

When seeking to achieve broad objectives such as fairness, adequate social protection and equitable apportionment of risk, those who design actual policies must make detailed choices on a range of questions and policy options. These include, for example, how to assign rights and obligations to different economic actors; how to correct for market failures; how to establish public social insurance systems that are adequate, efficient, and affordable; and how to decide between contributory and non-contributory sources of funding for various aspects of social protection.

Given this complexity it is clearly necessary to establish priorities, based on the specific national context and the nature, size and distribution of the challenges. In the U.S., the current context includes rising inequality; stagnant or declining incomes for middle and lower income groups; changes in the structure of the economy; a gradual increase in non-standard forms of employment; regional disparities in employment opportunities and wages; and the need to adapt social protection to be sustainable in light of changing demographics. Against this complex background, the following objectives emerge as priority goals to achieve fair social outcomes and a sustainable economy that provides opportunity to all:

– Provide income security at adequate levels across the life cycle;

– Mitigate economic risks to individuals and households;

– Improve overall income distribution, given high and increasing inequality;

– Correct existing exclusion of particular groups;

– Ensure the adequacy of protections for more vulnerable or disadvantaged regions, groups and individuals.

These broad objectives can be pursued through various combinations of labor, social and tax policies. Each policy area offers specific advantages and no single area will provide a full solution to the existing challenges.

Labor protection policies: The extent of coverage of labor laws in different sectors, types of establishments and work relationships is a fundamental issue that can determine the reach and effectiveness of labor policy. Specific policies on terms of employment, minimum wages, regulations on hours of work and paid leave, acceptable minimum working conditions, including safety and health, the rights of workers to organize and bargain and protection against discrimination can address the objectives of fairness and income security.

Social protection policies: These provide support across the life cycle including childhood and old age and in case of need such as unemployment or illness. They include guaranteed income programs such as pensions, unemployment benefits, welfare benefits and compensation in case of workplace injury or illness, as well as access to affordable health care. They should be structured to address any exclusion of particular groups and should improve the distributional impact of these social programs. Their credibility and long-term economic viability are also important considerations.

Tax policies: Sound, progressive tax policies are essential both for addressing questions of unequal distribution of market income and for raising adequate funding for social protection systems and other public goods. They can also provide incentives or disincentives to workers and firms that can affect behaviors and outcomes and assist governments in achieving desired objectives.

Labor, social protection and tax policies address different aspects of the overall economic reality faced by workers and households and can have interacting and cumulative effects. Policies and reforms must be considered in this comprehensive and dynamic context. The following section articulates a set of principles to guide policy choices.

Principles that should guide policy reform

A brief look at the history of the existing U.S. social and labor protection system provides an important starting point for any reform going forward. The U.S. system was built over the course of the 20th century, with some additions in this century. Major elements were enacted in the 1930s as part of the New Deal (basic labor rights under the Fair Labor Standards Act and National Labor Relations Act, Social Security, etc.) and during a period of concentrated policy innovation in the turbulent 1960s (civil rights, Medicare, etc.). In both periods public awareness, political movements and activism had built a demand for change over many years. Nonetheless, sharp economic or social crises were still required to provide the final push that led to legislative action. This history provides a fundamental principle and insight for contemporary reform.

First principle: *Preserve, defend and improve hard-won rights and public social protection systems*

It is extremely difficult for governments to rebalance markets and change economic and social behavior by providing major legal rights to less powerful actors. In the labor market, the employee has substantially less power than the employer. In contemporary U.S. democracy, wealthy individuals and corporations have much more power and influence than the middle class and the poor. Because they are so difficult to establish, legislatively created rights for employees (as under the FLSA, NLRB and civil rights legislation) should be maintained and extended. Any reform that could erode access to and protection of rights acquired through one's status as an employee should be avoided. This fundamental political economic reality is reinforced by other advantages of employment-based rights and benefits, discussed below.

Similarly, major public social insurance systems such as pensions and health care are extremely difficult to create due to their complexity, expense and shifting of risk. Once established they will need to be adapted and reinforced; but changes that fundamentally weaken their nature as broad-based social insurance should be avoided. Thus, changes which would shift the risk for basic retirement income security from society as a whole (as currently achieved through payroll-based financial contributions to Social Security by both employees and employers) to the individual (by privatizing the system) would be historically regressive and economically undesirable. This is particularly the case given the erosion of private employer-provided pensions and their conversion to defined contribution plans that shift all risk for income in old age to the employee. Similarly, changes which would eliminate the administrative efficiencies of a single fund and the benefits of a large risk pool (as is the case with both Social Security and Medicare) and instead create multiple entities with separate financing arrangements and fragmented risk pools would sacrifice fundamental advantages and undermine historically effortful achievements. This would be the case with privatization or creation of alternative, more fragmented arrangements for Social Security or Medicare. In addition, ex post studies confirm the ex-ante intuition that management by a not-for-profit entity such as the government is far less expensive than management by private for-profit entities. [21]

This starting principle on the need to preserve established employment rights and social protection systems cannot be overstated. The historical foundation should be adapted or expanded to address gaps or erosion in coverage or other weaknesses in existing labor and social protections but it should not be weakened or replaced. Alternative proposals for reforms that limit access to rights for some workers, reduce funding for public social insurance programs or divert it to private experiments or shift additional risk to the individual should be rejected because of their adverse effect on the core of the existing labor and social protection system.

Second principle: *Start the process of addressing gaps or erosion in coverage by eliminating existing exclusions and closing existing loopholes in employment laws*

A first step should be to eliminate inappropriate existing exclusions from coverage of employment laws. By way of illustration, some labor laws exclude coverage of agricultural or domestic workers. There is no economic logic to these sectoral or occupational exclusions and they disproportionately affect vulnerable groups of workers, such as the low-skilled, women and migrant workers. Part-time workers are often excluded from coverage or protection if they work below certain thresholds of working hours, but again there is no economic logic to denying equal rights and pro-rated benefits to these workers. Extending coverage of labor laws to part-time workers and establishing their right to prorated benefits can also eliminate perverse incentives to keep workers below the designated hours' thresholds. Similarly, coverage of labor laws should extend to all firms, regardless of size. Exclusions for small firms introduce perverse incentives to stay small and create uneven playing fields between different firms. Eliminating these existing exclusions would bring very substantial numbers of workers under the protection of existing laws.

Beyond ending these explicit legal exclusions, there is a clear need to close loopholes or constrain practices that have been exploited to exclude workers from coverage, evade their rights and deny them benefits. The most fundamental step is to reaffirm and reestablish the definition of *employer* as all those who "suffer or permit" an individual to work for their benefit; and to accord the status of *employee* to all who perform such work. This is the clear and expansive definition of employer and employee in the FLSA and it is still the law; however it has been blurred by subsequent practice and court applications. [22] A 2015 interpretation by the Department of Labor's Wage and Hour Administrator addressed the de facto erosion of the FLSA's protections as a result of employer claims that workers fall outside the scope of its coverage. [23] The interpretation reasserted that the terms *employ* and in turn *employer* and *employee* were intended to be broadly construed, consistent with the meaning of "suffer or permit" to work. The interpretation provided guidance to employers

[21] For example, a 2004 study by the Congressional Budget Office compared the administrative costs of four systems for funding retirement in the U. S.: Social Security, the federal government's Thrift Savings Plan, private retail mutual funds and private defined-contribution plans. It found that the administrative costs of the Social Security system reduced assets available to beneficiaries in retirement by 2 per cent whereas mutual funds and private defined contribution funds reduced assets available to beneficiaries by 21-30 per cent, depending on the size of the plan (CBO, 2004).

[22] The Fair Labor Standards Act of 1938, as amended 29 U.S.C. 201, et seq. para. 203. Definitions: (g) "Employ" includes to suffer or permit to work.

[23] U.S. Department of Labor Wage and Hour Division Administrator's Interpretation No. 2015-1 was issued by Administrator David Weil on 15 July 2015.

and workers regarding the Act's broad application and the limited circumstances in which a working person can be excluded from its protections. Unfortunately, the interpretation was withdrawn by the Department under the Trump Administration in 2017. It should be reinstated and an eventual clear declaration by Congress that affirms the breadth and inclusiveness of employee status would be desirable in order to correct and prevent misinterpretation by the courts.

Reestablishing the definition of employer and employee as clearly as originally intended is hence one essential step required to address gaps and erosion of coverage and the effect could be substantial. One area of impact would be to reign in the misclassification of employees as independent contractors. [24] A credible estimate of misclassification based on numerous sources suggests that as much as 1–2 per cent of the U.S. labor force is misclassified. [25] At current employment levels, this would mean that 1.5 to 3 million workers would benefit from consistent application of the clear and intended definition of employer and employee in the FLSA. It could also help to clarify the status of workers engaged in new forms of online work platforms. Such platforms often classify those providing labor for digitally arranged services as independent contractors. Challenges to this status are currently wending through U.S. courts. An unambiguous application of the "suffer or permit" definition would suggest that firms that provide such platforms and charge a fixed fee or percentage of the payment for transport or other services provided are clearly "permitting" the work to be done for the firm's financial benefit and as such are employing those who provide the labor.

Reinforcement and expansion of employee status to more workers is also a part of the solution to the funding of public social insurance systems. Payroll withholding of income taxes and contributions to Social Security and Medicare is a highly effective and efficient method of ensuring required payments.

A number of states have begun to address the gaps in coverage of state labor and employment laws through new legislation that clarifies the duties of employers and/or the status of employees. [26] For example, Massachusetts, Indiana and New Hampshire have created a presumption of employee status with regard to employer compliance with minimum wages and wage payments. Some states have legislatively established joint employer responsibility for compliance with some labor laws, for example, between contractors and their sub-contractors in heavily subcontracted industries (New York and California) or between temporary labor agencies and their clients (Illinois). As often happens in the U.S., the states can serve as laboratories by providing experience with different policy innovations. They can also serve as natural experiments that provide evidence of the relative impacts of different approaches across the states. The application of state employment laws by state courts is also relevant. A positive recent example can be found in a California

[24] Misclassification is by definition in contravention of legal requirements, so as with any non-legal behavior reliable data is difficult to obtain.

[25] Bernhardt notes: "In 1984, the IRS made its last misclassification estimate, finding that 15 per cent of employers misclassified 3.4 million workers as independent contractors (U.S. Government Accountability Office, 2006). Since then, a number of states have conducted their own audits, of varying quality; Planmatics (2000) extrapolated a range of 1–2 per cent based on these" (Bernhardt, 2014).

[26] A useful discussion of state level initiatives can be found in Weil (2014).

Supreme Court decision that finds that delivery drivers are employees, not independent contractors. [27]

Third principle: *Strengthen, adapt and innovate enforcement strategies to achieve compliance with labor laws and participation in social insurance systems*

One factor contributing to the erosion of protections provided by labor laws and coverage under payroll-based social insurance has been the mismatch between the challenge of enforcing these rights and entitlements compared to available enforcement resources. U.S. federal and state enforcement budgets have been reduced or frozen while the number of workplaces has increased through overall growth of the economy and they have grown in complexity due to the use of contracting and other business strategies that disperse or disguise employment relationships.

In response, some labor enforcement agencies have tried to optimize their use of the limited budgets available to them by strategically targeting resource use. For example, they have focused on particular localities, sectors and business models that have high occurrences of non-compliance and on vulnerable workforces that are often exploited. They have worked to identify industry structures and business strategies that suggest points of influence and leverage, in order to seek voluntary compliance or pursue enforcement action. These approaches have been developed and improved over time, and the increasing availability of data and computing power has contributed to progress. But clearly, much remains to be done and enforcement and compliance strategies are only effective with sufficient budgets for staff and technological capabilities to implement them. It goes without saying that consistent political will is also essential to achieve acceptable levels of compliance.

There is also great scope for progress through better linking of regulatory systems and sources of leverage and data that are available to different parts of the government, ranging from enforcement agencies (such as the Department of Labor’s Wage and Hour Division and Occupational Safety and Health Administration) to the Internal Revenue Service, Social Security Administration, Commerce Department and state regulatory agencies. Effective linking of government data and enforcement systems would also create additional and powerful incentives for voluntary compliance, since some of these agencies have more effective remedies than others.

Fourth principle: *Adapt and expand existing contributory social insurance systems to increase coverage, participation and sustainability*

The major public social insurance programs built in the 1930s and 1960s – Social Security and Medicare – have largely achieved the objectives of such systems: the elimination of poverty among elders, universal coverage, large risk pools, broad-based

[27] In Dynamex Operations West Inc. v. Superior Court of Los Angeles, the California Supreme Court found that under California employment law the company’s drivers, who deliver goods for other companies, are employees rather than independent contractors because contractor status would require “(A) that the worker is free from the control and direction of the hiring entity in connection with the performance of the work, both under the contract for the performance of the work and in fact; and (B) that the worker performs work that is outside the usual course of the hiring entity’s business; and (C) that the worker is customarily engaged in an independently established trade, occupation, or business of the same nature as the work performed.” The decision also reaffirms that the burden of proof is borne by the employer (Supreme Court of California, 2018). This decision has implications for the status of drivers for firms such as Uber, Lyft and Deliveroo.

contributory financing and portability across different employers and employment relationships. They also benefit from the relative ease of collecting contributions through employer payroll deductions and transmission to government. As such, they should be preserved and reinforced. However, as is evident, increasing life expectancies increase their costs and therefore their financing must be strengthened.

The obvious place to start is to raise the limit on annual earnings subject to Social Security contributions, which is currently set at US$128,400. (A similar cap on the earnings limit for contributions to Medicare's hospital insurance was completely eliminated in 1994.) When the current approach to limiting Social Security contributions was instituted in 1977, the expressed congressional intent was to make 90 per cent of wages subject to Social Security contributions. The earnings limit set at the time achieved that target and Congress mandated inflation-based adjustments to the cap that were intended to maintain coverage of about 90 per cent of all wages in the future. Over the intervening years, however, the disproportionate and above-inflation growth of income for high earners has led to the result that the system currently requires contributions on only 83 per cent of all wages (AARP, 2015). This both weakens the financial sufficiency of the system and further expands the rising inequality from which it stems, as the top 17 per cent of earnings are exempted. While workers earning less than the cap pay 6.2 per cent of their wages as Social Security contributions, higher earners pay less as a percentage: at earnings of US$200,000 per year the contribution rate is less than 4 per cent and at the highest salaries it drops even more dramatically, resulting in a regressive structure (Liou, 2017). Raising the earnings limit to once again cover 90 per cent of wages would translate to a contributions cap of about US$274,200 at 2016 earnings levels (AARP 2015). Alternatively, the cap could be eliminated entirely, as Congress did for Medicare in 1994, which would largely erase the deficit in funding of the system caused by the retirement of the large baby boom generation. An argument against eliminating the cap is that Social Security funding has historically been based on the combination of two principles: social adequacy and individual equity. To achieve social adequacy, the system redistributes contributions to provide pensions to all that are sufficient to avoid poverty among the elderly. Individual equity means that the size of an individual's pension bears a relationship to the level of his or her contributions over the course of working years. Because Social Security pensions are capped for high earners the cap on contributions can be seen as an element of the individual equity aspect of the system. On the other hand, those earning more than the current cap of US$128,400 constitute only 6 per cent of the working population, those who have captured the lion's share of benefits from changes in the economy and rising inequality. It is also relevant that higher earners live longer than lower earners on average and therefore collect benefits longer. One way to address both the adequacy and equity aspects of Social Security would be to increase the retirement benefits to high earners, either according to the current benefit formula or a modified one. In either case removing the cap on contributions would extend the solvency of the system, which is currently estimated to lack sufficient funds beginning in 2034, to 2067 or beyond (Liou, 2017).

If the funding deficit is addressed, Social Security will continue to be largely fit for purpose, given its full portability, individual equity and social redistribution. In addition to raising the contribution cap, an important policy principle to be pursued is to make more workers eligible to participate as *employees*, with contributions shared by their employers. This can be achieved in part by clarifying the definition of employee status as discussed above. Misclassification of employees as independent contractors shifts the full burden of contributions – which amounts to 12.4 per cent of earnings for Social Security and 2.9 per cent for Medicare – to the worker, along with the administrative responsibility for payment. For low-paid workers in particular this can be a significant burden. Those engaged in new online forms of work would benefit if their status as employees were recognized. In that case, the contributions would be shared by the firm organizing the provision of service and the worker providing the service. This is technologically feasible, as evidenced by the fact that payments by customers and the division of those revenues between the platform firm and the workers providing the service are done through online financial transfers. Adding a function that deducts the platform firm and on-line worker contributions to Social Security and Medicare (as well as income tax withholding) and transmitting them to the government is no more burdensome than payroll practices required of other firms. [28]

Similar considerations apply to eligibility for and contributions to the federal and state unemployment insurance systems and to workers' compensation systems covering occupational injury and disease. Reestablishing the definitions of employer and employee as originally intended is an essential step to address gaps and erosion of coverage of these social protection systems and would also help shore up their finances. Extending this status to workers whose labor is dispatched online would update the system to include this currently small but potentially growing group.

With respect to health and medical coverage, employment-based insurance programs provide this coverage to about 44 per cent of the working age population (Gallup-Healthways Well-Being Index, 2017). Employment-based health insurance is the largest single source of such coverage in the U.S. for those below the Medicare eligibility age of 65, but it also gives rise to large gaps in the U.S. social protection system. It is not portable, meaning that a worker changing jobs loses coverage at some point and must rely on finding new employment with health coverage or purchasing insurance as an individual in the market. Medicaid, the public health care system funded out of general tax revenues, provides coverage only for low-income workers and households, for the disabled and for the long-term care of the low-income elderly (which is not covered by Medicare). The gaps in coverage were partly addressed by the Affordable Care Act of 2010 (ACA), which expanded access to health insurance, including for those with existing conditions. It created a mandate for employers with more than 50 employees to provide health insurance; required everyone to obtain coverage or suffer a tax penalty; provided subsidies for those with moderate to low-incomes but who exceed the Medicaid eligibility thresholds; and expanded Medicaid coverage in states that chose to participate. The ACA expanded health care coverage to roughly 20 million previously uninsured individuals and reduced the share of uninsured from 15.7 to 9.2 per cent of the population as of the first quarter of 2015 (U.S. Department of Health and Human Services, 2016). [29] However, this new social protection program has been politically controversial and the current Administration and Congress have tried to repeal it. While overall repeal has failed to date, the mandate for individuals to maintain health insurance was eliminated effective in 2019 and this is likely to increase the number of uninsured in the future.

The combination of Medicare, Medicaid, employer-provided plans and access to health insurance through the ACA provide major elements of health care to the majority of the population but millions remain uninsured. The fragmentation of plans and coverage is also a major cause of the high cost of the existing system, which is significantly higher than health care in other advanced economies. This places strain on the federal and state budgets, households and the overall economy.

By contrast, most advanced economies organize health care coverage through a single large public social insurance system that covers almost everyone and is based on payroll or other tax contributions. This approach provides the greatest advantages in terms of universality, efficiency, cost-containment and risk-sharing. Some such systems provide

[28] Similar challenges related to the collection of sales taxes on online transactions have been effectively addressed.

[29] The figure of roughly 20 million is the total number estimated to have gained coverage through the ACA "marketplace" of insurance for purchase, expansion of Medicaid eligibility, young adults staying on their parents' plans, employer mandate and other coverage provisions (ObamaCare Facts, 2017).

medical and health care services directly as a public function (for example the National Health Service in the UK) while others allow for a mix of public and private hospitals, clinics and doctors but maintain control of costs through the government's status as the single payer of health care charges. This allows governments to contain costs through negotiation or mandates. The result is that these advanced economies provide health outcomes that are as good as or better than those in the U.S. while devoting a much smaller share of their overall economies to health care costs.

In the U.S., there have long been advocates for such a "single payer" system but political and vested interest opposition had managed to keep that option outside of the mainstream debate. However now a number of political candidates and officials at state and federal levels have called for "Medicare for All". This has brought the single payer option into the policy debate in a credible manner, since Medicare is a highly popular and effective system. It also suggests the possibility of a phased approach, extending coverage gradually to age groups in addition to those 65 and over. As U.S. health care costs continue to increase as a result of population aging, new treatment options and increasing concentration in the health care industry, the search for an affordable solution will add to the momentum for a single payer approach.

Summing up, some major elements of the U.S. social protection system are basically sound but in need of adaptations to address both long-existing gaps and erosion of coverage over time; to make their financing adequate and sustainable; and to extend them to cover new ways of working, including online work. Because of the complexity and size of these large public social insurance programs, it would be extremely unwise to eliminate them and substitute other systems rather than adapting existing programs to deal with contemporary labor market and demographic circumstances. Any new approaches should be treated as controlled experiments that are piloted, tested and evaluated for efficacy, equity, efficiency and any unintended consequences or externalities. In any case, to the extent that some existing programs (notably Social Security and Medicare) already satisfy basic principles of social insurance – including portability, scale efficiencies, large risk pools and near-universality – it is difficult to envision alternatives that would perform better.

Fifth principle: *Fill the remaining gaps in the U.S. labor and social floor*

Creating an adequate 21st century labor and social protection system in the U.S. obviously requires work to fill the existing gaps in coverage and reverse the erosion of the 20th century system discussed above. However, the U.S. has always lacked important elements of social protection that are typically provided – indeed mandated – in many other advanced economies. Adequate paid time off for vacation, sickness, maternity and family leave stand out as major gaps in U.S. social benefits compared to those in peer economies. The lack of such benefits also serves as a constraint to the full participation of women in the labor market. They should be established at the federal level through legislative action that mandates broad and inclusive coverage from the beginning. These benefits are typically pre-funded through employer and/or employee contributions and to the extent that they are organized by government can offer the advantages of large pools, risk sharing and relatively low administrative costs. A number of U.S. states are currently initiating such benefit requirements and these provide welcome laboratories and models for action elsewhere. The experience of other advanced economies is also a useful source of guidance.

In terms of protection of labor rights, U.S. laws that enable workers to organize and defend their own interests through collective bargaining have long been in need of reform. The original National Labor Relations Act of 1935 created a reasonably robust, workable approach that achieved impressive progress toward its goal of encouraging collective bargaining. However, it was dramatically weakened through amendments in the late 1940s and 1950s and has suffered further erosion through administrative and court decisions and employer evasion in subsequent decades. [30] Reforms are needed to eliminate gaps in coverage, reverse the major weakening amendments and the further erosion of the law in practice and eliminate waivers that allow states to compete with each other by weakening rights. Additional progress should be made in terms of streamlining procedures and rules that are unnecessarily difficult and time-consuming.

Beyond these badly-needed repairs to restore the ability of workers to organize, the U.S. would benefit from establishing and protecting a wider range of collective bargaining options. For example, some other advanced economies permit or encourage sector-wide or national collective bargaining over pay and other issues. This allows workers to coordinate their efforts, strengthen their bargaining power and negotiate agreements with employers that take into account sectoral and macroeconomic factors. It can also prevent beggar-thy-neighbor behaviors by those employers who resist unionization, if the sectoral agreements are extended by government to all firms in the sector, as happens in some countries. A number of studies have shown that economies with coordinated sector-wide or national collective bargaining have better resisted the trend toward rising wage inequality and achieve better results in terms of firm productivity (Hayter, 2015; Braakmann and Brandl, 2016). De facto sector-wide bargaining occurred in some U.S. industries through pattern bargaining, whereby terms were set with a lead firm and then extended through bargaining with other firms. However this practice has been seriously eroded over recent decades and never extended to service sectors. The right to strike also needs attention. It is the most basic tool of employees to assert their rights. While protected by law, the right to strike has been radically weakened by court decisions and practice and should be restored. A starting point could be legislative action to ban the ability of employers to hire striker replacements.

Restoring and buttressing workers' right to organize and mechanisms that allow unions to improve wages, working conditions and terms of employment are key elements in an overall strategy to address the erosion of living standards for middle- and lower-income workers in the U.S. and to counter rising inequality and exclusion.

Such a strategy also requires that the U.S. federal minimum wage be raised and a sound system for setting such wages should be established. The federal minimum wage has been raised irregularly according to erratic political conditions. It currently provides a wage of US$7.25 per hour, which is only 27 per cent of the average wage, as noted above. This contributes to rising inequality and to poverty, as a household with two or more members supported by a full-time worker earning the minimum wage would still be below the poverty line. Arguments that a higher minimum wage reduces employment are not supported by evidence, as meta-analysis (surveys of all studies) show that depending on the methodology used, the impact on employment may be very slightly positive or negative but is close to zero (Belman and Wolfson, 2014). This is in part due to the macroeconomic general equilibrium effects of higher demand due to higher income for low-paid workers and also due to productivity increases through channels such as worker effort, reduced turnover, additional worker training provided by firms and the replacement of less productive firms

[30] It is worth noting that the other major law governing organizing and collective bargaining, the Railway Labor Act covering air, rail, and other transport sectors, has been eroded less.

by more productive firms. [31] The minimum wage should be reviewed on a regular basis and raised to provide a much higher ratio of minimum to average or median wages in order to help reduce inequality.

Sixth principle: *Repair and rebuild the welfare safety net and establish a public employment guarantee*

Social and income protection that is funded by general tax revenues (as distinguished from social insurance that is funded through contributions by employers and workers), often referred to as “welfare” in the U.S., constitutes the social assistance or safety net of last resort for workers and households, including when contributory, employment-based income protection fails to cover them or is exhausted. The current U.S. social assistance safety net is so flawed and incomplete that many individuals and families fall through, with 40.6 million people living in poverty in 2016, almost half in deep poverty (Semega, Fontenot and Kollar, 2017). [32] If employment laws and public social insurance systems were strengthened as discussed above, the resulting improvements in income and benefits would lift many vulnerable households above the poverty line and relieve pressure on the safety net programs. Eliminating lifetime limits on receipt of income support is also an essential step, as shown by the spikes in poverty that occurred during every recession after the enactment of these limits in the 1990s. However, this aspect of social protection is in need of profound rethinking and much more must be done, including to ensure that work is available as a way out of poverty.

One promising area for policy innovation is the concept of guaranteed employment, with either the government serving as the direct employer of last resort for those who want work or through public financial support for employment by programs run by non-profit organizations. Such programs have been used at times of high unemployment in the U.S. and other advanced economies and were an important aspect of poverty mitigation during the depression of the 1930s. More recent experiments have also shown positive results. [33] Guaranteed employment programs are currently being used in emerging economies such as India with impressive success. Public employment programs can both provide incomes to those in need who cannot find adequate employment in the private sector and also furnish important and useful public goods and services.

In the U.S. a national public employment program could be built gradually, with initial pilots in those regions and localities that have been hardest hit by globalization, technology and/or the erosion of the existing social floor and safety net. As noted above, regions that have suffered concentrated negative impacts are hit not only by declining employment and wages but also by follow-on effects such as declining property values and lost local revenues. This in turn leads to reductions in local public goods and services at the same time that needs

[31] Several studies find these microeconomic effects after minimum wage increases in the United States and United Kingdom (Owens and Kagel, 2010; Dube, Lester and Reich, 2014; Georgiadis, 2013; Riley and Bondibene, 2015; Croucher and Rizov, 2012). At the macroeconomic level, minimum wage increases force firms to become more efficient and lead to more productive firms replacing the less productive, with overall productivity increases. A study of 11 OECD countries, including the United States, found that a 10 percentage point increase in the ratio of the minimum wage to the median wage was associated with an increase in the long-run level of both labor and multifactor productivity of between 1.7 and 2 percentage points (Bassanini and Venn, 2007). Mayneris, Poncet and Zhang (2014) find similar productivity effects in China.

[32] Deep poverty is defined as living in a household with a total cash income below 50 per cent of its poverty threshold. According to the Census Bureau 18.5 million people lived in deep poverty in 2016.

[33] Haskins provides an overview and summary of current examples and analysis of costs and benefits of such programs (Haskins, 2017).

are increasing. As in the past in the U.S. and in current programs elsewhere, the funding would come from the federal government and serve as a redistributive transfer to hard hit areas. Those desiring jobs who were unable to find them in the private sector would be guaranteed a job in the public employment program, matched to their abilities and with training as needed. The wage should be set at a living wage level and include coverage of public social insurance programs, with contributions paid by the public employer and the employee. The jobs created would provide public goods and services that could help to generate sustained recovery and growth, ranging from infrastructure creation and maintenance to environmental adaptation to publicly funded care for children and elderly to quality of life improvements such as arts, parks and recreational activities.

The determination of which geographical areas to target for initial programs could be based on a formula incorporating factors such as the levels of unemployment and labor force participation, poverty rates and recent economic growth/contraction rates. The determination of what jobs to create and what services to provide would be overseen by the federal government, but could be based on proposals from local or regional governments with strong input from the affected communities. The program could be delivered by state and local governments or by non-profit organizations with expertise in needed services, in either case under the oversight of the federal government to ensure that funds are spent for the intended purposes and to evaluate progress and results.

Such a guaranteed employment program could then be built out from hard hit areas over time to be available across the entire country, creating a core federal program and capacity that could expand or contract as needed. The need for expansion could arise through future technology or trade shocks or when the inevitable next recession arrives. Once established as a national program, the job guarantee would serve as an automatic stabilizer, with additional funding allocated when unemployment rises. [34]

While public employment programs have a positive record in the U.S. and elsewhere, they have been at the margins of public policy debate in the U.S. until recently. However now a number of detailed proposals have been put forward and some political candidates and elected officials have embraced the idea. [35] Why is this idea re-emerging now? It is part of a broader shift in political and economic discourse in the U.S. as the result of several converging elements. These include the very slow and incomplete economic recovery from the financial crisis; the unequal effects of the recession and recovery; depressed labor market participation rates; robust emerging evidence of the long persistence of negative economic effects on areas hard hit by technology, globalization and the erosion of the social contract; evidence that uneven economic effects have had adverse social effects on physical, mental and social health, reflected in the opioid crisis, suicide and crime rates and actual declines in life expectancy in some areas; and perhaps equally significant, the now evident political repercussions that have arisen from leaving regions, localities and groups behind and failing to address their needs through economic and social policy. The merit of the guaranteed employment approach compared to more modest proposals for dealing with inequality, unemployment and social stress is that it combines several desirable facets. It creates a mechanism for redistribution across regions and income levels; provides the dignity of work and job experience to individuals who cannot find adequate employment in the private

[34] Fullwiler (2016) and Mitchell and Muysken (2008) discuss the macroeconomic implications of a job guarantee program. Harvey (2011) contrasts the impact of such a program with the fiscal and monetary stimulus undertaken in response to the 2008-2009 recession and reviews the effects of the job creation programs of the Roosevelt Administration during the depression of the 1930s.

[35] Recent proposals from academic and think tank authors include Wray et al., 2018; Paul et al., 2018; Paul, Darity and Hamilton, 2018; Tcherneva, 2018 and Tanden et al., 2017. Senators Bernie Sanders, Kirsten Gillibrand and Cory Booker have publicly endorsed the idea.

sector; and meets otherwise unmet needs of vulnerable households and communities for public goods and services.

In terms of costs, various estimates have been generated. Some take into account only the costs of such a program while others also estimate likely cost reductions to other social programs. [36] The estimated annual gross costs to create about 10 million jobs, which is a reasonable estimate of the current number of potential applicants for a national scale jobs program, range from about US$350 billion to US$550 billion, depending on whether supplies and materials are included. A separate estimate suggests that the likely savings to other social welfare and anti-poverty programs could offset as much as 40 per cent of the gross costs, yielding estimates of net cost ranging from roughly US$200 billion to US$340 billion for 10 million jobs. [37] The cost would be half or less that if the demand were in the lower range estimates of 4 to 5 million jobs. The program would also have the multiplier effects of any fiscal stimulus, leading to additional job creation in the private sector to meet the demand generated by the incomes of the newly employed and would increase tax revenues at local, state and federal levels. If the approach of building the program gradually beginning with hard hit areas were adopted, the cost would be substantially less. None of the estimates for the *cost* of a job guarantee attempt to gauge the *value* of the goods and services created and their spillover effects on local economies, although that is the only sound way to evaluate the overall cost and benefit of investment in such a program. The benefits, as noted above, would include public goods such as infrastructure and public services such as child and elderly care that both enhance the quality of life for the recipients and allow additional people to hold jobs outside the home. [38] To put the cost in the current political context, the Tax Cuts and Jobs Act of 2017 is estimated by official and other sources to cost between US$1 trillion and US$2 trillion over the 10 years of its life. [39] There is no expectation that the tax cuts will reduce poverty or produce public goods. Most of the cuts flow to corporations and high-income households. Even before the recent tax cuts the overall U.S. tax burden was lower, at 26 per cent of GDP, than the OECD average of 34.3 per cent. [40] Reversing the recent cuts and establishing corporate and income taxes at the average level of comparable high-income countries would generate resources far beyond those needed to fund a job guarantee.

A public employment program would not eliminate all poverty, as some people would not work due to health, family care responsibilities, severe disability or other constraints. To the extent that these are low-income individuals and households social income assistance and other support programs would still be needed. However the need would be greatly reduced if all those who wanted to work could find decent jobs through an employment guarantee. By way of illustration, an individual earning US$12 per hour in such a full-time

[36] For example, Harvey (2011) estimates an annual net cost of US$147 billion for a program creating about 5 million jobs. Tanden et al. (2017) estimate an annual cost gross cost of US$158 billion for a program of 4.4 million jobs. Paul, Darity and Hamilton (2018) estimate an annual gross cost of US$543 billion for a program that creates 9.7 million full-time equivalent positions, including the costs of supplies and capital goods. These estimates are necessarily imprecise and depend both on the specific design of the program and assumptions about demand for jobs. However they give a sense of the order of magnitude of costs.

[37] Harvey, 2011.

[38] While not estimating the value in financial terms, Harvey (2011) provides an illustrative list of the beneficial public goods created by the Roosevelt era jobs programs, including schools, roads, parks and public building repairs as well as public services in education, public health and the arts.

[39] See for example CBO, 2018 and Page et al., 2017.

[40] OECD, 2017d.

job would lift an entire household of four out of poverty; at US$15 per hour such a worker would lift a family of five out of poverty.

* * *

These six principles provide a systematic, element-by-element approach to updating and strengthening U.S. labor and social protection for 21st century conditions, using an appropriate combination of labor policies, social protection systems and tax and redistribution policies. They represent a careful, precautionary approach in that they do not destroy or weaken the rights and benefits enjoyed by current generations as a result of the efforts and struggles of earlier generations. They also recognize that U.S. labor and social protections have, in the past, provided relatively strong protection to much of the population and that the legal framework on which they rest has been and can once again be a sound foundation – if major gaps are filled. With the necessary corrections and additional measures outlined above, the key objectives of a social floor would be met: providing income security to all at adequate levels across the life cycle; mitigating economic risks to individuals and households; improving overall income distribution; and ensuring the adequacy of protections for more vulnerable groups, regions and individuals. The resulting updated system would also be better suited to cope with the impact of future technologies and global economic developments on work and employment relationships and the social protection system.

3. Political prospects for reform

As noted above, the major innovations in labor and social protection of the 20th century were the result of growing awareness of problems, public debate and expert analysis of options, protest over the need for solutions and – in most cases – social or economic crises. It was only then that electorates selected lawmakers who promised and then mustered the courage to act. Today, it is reasonable to assume that public discontent with stagnant incomes, economic insecurity and rising inequality will continue and will be reinforced by the sense that labor and social protections that they once enjoyed are slipping away from many in a winner-take-all economy. The 2016 election in the U.S. reflected a wide range of sentiments and views across the public, but a large and arguably decisive component was the economic angst experienced in large swaths of the country. It demonstrated that the economic grievances of middle and lower income groups are becoming an increasingly explicit political force. History provides abundant examples that this force can power progressive reforms to labor and social policy. Unfortunately, there are also abundant examples of candidates and parties that use it for scapegoating and diversionary policies that increase social conflict and leave problems to fester. Real progress depends upon public education and mobilization and political parties that offer sound strategies to address the underlying sources of discontent and the political will and leadership to undertake them.

In addition to political and electoral pressures to strengthen economic and social security for the broad population, there are compelling macroeconomic reasons to do so, which could provide additional pressure for reform. Perhaps most obvious is the relationship of wages and other sources of household income (such as pensions) and labor income security to aggregate demand. In the U.S., consumer demand makes up 68.6 per cent of gross domestic product (GDP), more than twice the contribution of private investment and government expenditure combined (U.S. Department of Commerce Bureau of Economic Analysis, 2017). Thus policies on wages, labor protections and social benefits that affect the level and stability of household income have major impacts on demand and help to determine whether the economy is growing, stagnating or contracting. [41] While business cycles, particularly the financial crisis of 2007–08 and severe recession, have cyclical impacts on consumer demand, the overall trend of income stagnation, rising inequality and erosion of income and social protection has persisted and worsened over the last forty years, indicating that structural factors are a major cause. [42] Policies that restore the purchasing power of households through adequate minimum wages, strengthened collective bargaining, the inclusion of more workers under legally mandated employee protections, access to social insurance and a job guarantee would have a significant positive impact on consumer demand and therefore on sustainable growth of the U.S. economy. When the next cyclical crisis hits and again exacerbates the long-term adverse trends, attention to these macroeconomic effects is likely to intensify.

In addition to these macroeconomic considerations, there is also robust evidence that labor and social protection can have positive impacts on productivity and innovation at the microeconomic level. U.S. productivity growth has been uneven, but generally much lower over the last 40 years than during the post-war years when labor and social protections were

[41] For example, the high growth of the U.S. economy in the quarter century after the Second World War was highly dependent on wage growth, income stability, private health and pension benefits negotiated by strong unions and public pensions, in addition to other factors.

[42] It is also well-documented that borrowing by lower- and middle-income households to sustain their consumption in the face of weak income growth, for example through sub-prime mortgages, was a major contributor to the financial crisis.

arguably at their peak. While many factors determine productivity growth, labor and social policies are important elements. For example, as noted above, minimum wage increases have been shown to increase both firm level and macroeconomic productivity growth and the replacement of less productive firms by more productive ones. [43] The same channels lead to higher productivity growth at wage levels above the minimum wage as well, particularly when wage structures are perceived as fair and thus lead to worker effort and retention. Other labor protections (such as regulation of working hours) and social protections (such as unemployment insurance) are also associated with higher levels of productivity. [44] A vibrant, productive and innovative U.S. economy cannot be achieved through precarious, low-paid employment, economic insecurity and high inequality.

* * *

In conclusion, economic, social and recent political trends reveal the damage done by the erosion of the U.S. social contract. Reversing that damage and building an adequate framework of labor protections and social benefits for the 21st century is a complex and politically challenging project. However, it is one that is essential if we are to avoid further erosion of living standards for the majority and further fraying of social cohesion. The same forces that built earlier labor and social protections can again be harnessed to produce meaningful reform. It will take a combination of education, organization, public mobilization and courageous political leadership to achieve it.

[43] See footnote 30.

[44] Long hours produce fatigue that reduces productivity. Several studies find that increases in overtime or annual hours worked resulted in decreased productivity (Cette, Chang and Konte, 2011; Golden, 2012). In the realm of social protection, programs such as unemployment insurance can allow workers to invest in their skills or take the time to find employment that matches their abilities, thus contributing to productivity. Access to health care for all, along with adequate nutrition and basic education, make up the very foundations of human productivity.

Annex. Evaluating alternative proposals

Given the gaps in U.S. labor and social protection, the further exacerbation of inequality and wage stagnation by the financial crisis and long recession and the emergence of new forms of work, it is not surprising that a robust debate over suitable policy responses is emerging. We evaluate three alternative approaches that have been proposed that differ in important ways from those suggested in this paper and consider their efficacy, equity, costs and unintended but foreseeable consequences.

The first is the idea of establishing a universal basic income (UBI), an idea that is being debated not only in the U.S. but also in some European countries and Canada. A UBI would provide a single, uniform social welfare payment to every individual in a country, without income thresholds or any other eligibility requirements. Advocates claim that this approach would avoid the costs and inefficiency of means-tested welfare programs and would eliminate unintended consequences of current programs, such as discouraging recipients from working due to loss of benefits. Given the complexity of modern welfare systems and the real potential for adverse incentives based on means thresholds, this approach has attracted support from some progressive commentators as well as conservatives. However the UBI approach poses large challenges in terms of equity, adequacy and affordability. With regard to equity, giving tax-financed monthly payments to wealthy and upper-income individuals poses a clear issue of equity, particularly at a time when their incomes have grown enormously compared to middle- and lower-income groups and their tax payments have been reduced. Proponents argue that payments to the wealthy could be partly recovered through progressive taxation, ignoring that income tax systems have generally become less progressive and tax avoidance by the wealthy is a known problem. With respect to adequacy, monthly payments in the range of US$500 to US$1,000 are contemplated in current proposals or pilot versions of basic income. [1] For the poor, that would leave many households in poverty, while for the elderly it would represent a steep cut compared to current Social Security benefits. If a UBI of US$500–US$1,000 per person were intended to replace not only income support to the poor, but other federal social welfare payments, the impact would be to sharply worsen incomes for low- and middle-income retirees, the unemployed and many others. For example, the average monthly Social Security payment is US$1,341 and monthly unemployment payments range from about US$800 in low-income states to about US$1,800 in high-income states. Purchasing health insurance to replace lost Medicare, Medicaid and other coverage could consume most or all of the UBI for many households.

With respect to affordability, a system that provides substantial payments to 100 per cent of the adult population is obviously much more expensive than current welfare and income support programs that cover only the population below the poverty line, those experiencing unemployment, disability, etc. and retirees. A monthly UBI of US$1,000 for the entire U.S. adult population would cost about three trillion dollars per year, compared to a total U.S. federal budget of US$3.8 trillion in 2016. [2] Of that budget, social spending amounts to about US$2.3 trillion, including Social Security, unemployment insurance,

[1] The Netherlands has launched an experiment to provide a basic income of 900 euros (about US$1,000) per month to welfare recipients in several cities in the Netherlands. Finland is conducting a pilot program that provides 550 euros a month (about US$630) to a test group of 2,000 unemployed working-age adults with no work or job search requirements. Switzerland held a referendum in June 2016 on a universal basic income proposal that does not specify a level of benefits. It was rejected by voters by a large margin.

[2] U.S. Department of the Treasury Bureau of the Fiscal Service, 2016.

Medicare, Medicaid, ACA subsidies and other health care programs. Indeed, it is easy to discern in support for UBI by some conservatives and libertarians an end goal of reducing or even abolishing existing social insurance and other income support programs. If instead of replacing all social welfare spending, the UBI were to leave these important but relatively costly programs in place, it would be necessary to find additional funding for most of the three trillion dollars in additional annual cost, requiring massive, unprecedented increases in taxation.

It is instructive to compare the relative merits of providing a universal basic income with no requirement to work to a public employment program in which the government serves as the employer of last resort. There is a sharp contrast in the costs of the two approaches. Because a UBI would be paid to all 250 million adults in the U.S., whether employed or not, it would be far more expensive than providing jobs to an estimated 4 to 10 million individuals not currently employed who would likely claim such work, even though the cost of UBI per individual would be less. Unlike a job guarantee, a UBI would not serve as an automatic stabilizer during business cycles, because it would be paid regardless of economic activity and unemployment levels. Beyond the cost and macroeconomic effects, a guaranteed employment program is based on a preference for providing socially useful work in exchange for a guaranteed income. The contrast between the two approaches serves to illuminate fundamental questions such as the social and psychological importance of work to the individual and societal perceptions of rights and responsibilities as factors in creating and sustaining social solidarity. It is beyond the scope of this paper to fully discuss these profound questions.

UBI is often touted as a response to increasing digitization and online work platforms and the threat of massive job elimination by artificial intelligence and robotics. However, the notion of such a radical drop in employment is not supported by current data or trends in productivity and investment. [3] The actual extent of online work is very limited, as noted above.

Some countries are currently experimenting with pilots of basic income programs without work requirements and it will be interesting to observe the experience and lessons learned. It is worth noting that none of the current pilots are universal; instead, they replace either traditional welfare payments and/or unemployment benefits. Therefore, they still require targeting mechanisms. However, they may provide some insight on behavioral responses to the reduction of conditionalities.

A second approach that has been suggested to address the exclusion of some workers from labor protections and employment-based access to social insurance is to create a new category of work status falling between that of employee and independent contractor. The motivation is to partially cover the cohort of workers in working relationships that may not meet all current regulatory or judicial criteria for determining employee status but who are not fully independent of the firm that engages their labor. Such an intermediate category has some initial appeal as a way to partly address the exclusion of such workers from the benefits of employee status. However, as a new and intermediate category, this group would not be entitled to the full range of employee rights and benefits. For example, under a prominent current proposal, these "independent workers" would gain antitrust immunity to enable them to negotiate as a group and protection against discrimination based on sex, age or disability (Harris and Krueger, 2015). They would not be eligible for minimum wage guarantees, maximum hours and overtime pay protections, unemployment insurance, or workers' compensation. The proposal is problematic insofar as it would deny these benefits to some

[3] The impact of contemporary and emerging technologies on productivity, employment and wages is discussed and documented by Gordon, 2016; Autor, 2015; and Atkinson and Wu, 2017, among many others.

workers who would clearly be covered by the expansive definition of employee contained in the FLSA. There is also a risk of unintended consequences in creating a new category. As noted above, perhaps 1.5 to 3 million workers are currently misclassified as independent contractors. Given the extent of misclassification, it is quite foreseeable that some employers would find it even easier to misclassify employees into the new intermediate category, thus eliminating major obligations and costs by transferring existing employees to this new status.

A third alternative approach is the proposal to lower payroll-based taxes and contributions (sometimes called the "labor tax wedge") in order to reduce the overall cost of labor, with the expectation that this will encourage more hiring. (An extreme version calls for eliminating all payroll taxes for social insurance and breaking the link between employment and social protection altogether.) This approach is based on the standard partial equilibrium economic model of labor markets, in which employers will hire labor up to the point at which its marginal revenue product equals its marginal cost. Reducing employers' contributions to pensions and other social programs would reduce their labor costs.

The economists (and some international organizations such as the IMF and OECD) that have advocated this approach typically do not address the loss of revenue to the social insurance systems that are funded by the payroll taxes. They therefore hold out a gain – in terms of potential increase in labor demand – without addressing the loss in terms of income protections and therefore decrease in overall final demand. When advocates do address the loss to social insurance programs, they typically call for the revenue to be made up through increased consumption (e.g. value-added) taxes or property taxes. These alternatives pose several problems. First, payroll contributions to Social Security, Medicare and other social insurance programs are progressive, as contributions rise with income (up to the cap in the case of Social Security), whereas consumption taxes are regressive, since lower income groups spend a higher proportion of their incomes on consumption rather than savings. In the context of high and rising inequality, a shift from more to less progressive taxation is clearly undesirable. Second, property taxes are typically paid to sub-federal entities such as cities and counties, whereas payroll taxes support federal social programs. This mismatch between the entity accruing the revenues and the entity paying the benefits would be difficult or impossible to resolve. Third, payroll taxes fund social benefits such as unemployment insurance and workers' compensation as well as Social Security and Medicare, benefits that are enjoyed by or provide risk protection to those who pay the taxes. Increased consumption and property taxes would be paid by workers, but also by those outside the labor market, including retirees, and thus raise questions of fairness. Finally, in a macroeconomic context of weak aggregate demand, shifting taxation from production and income to consumption would seem to go in exactly the wrong direction.

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