CAN DYSTOPIA BE AVOIDED? INCREASING ECONOMIC INEQUALITY CAN LEAD TO DISASTER

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It always seems impossible until it's done.[π]

— *Nelson Mandela*

Thomas Piketty, in *Capital in the Twenty-First Century*,[1] demonstrates the long-term trend of ever increasing economic inequality.[2] If that trend continues unabated, the entire economy will be owned by capital, leaving little or no participation by labor.[3] A present example of what that future dystopia could look like can be found in Equatorial Guinea.[4] Based on the discovery of oil in 1996, "[b]y 2006, Equatoguineans had the third highest per capita income *in the world*."[5] But most citizens remain very poor with "nearly half of all children under five . . . malnourished[] and even major cities lack[ing] clean water and basic sanitation."[6] The entire economy is based almost exclusively on capital with little labor value contributing to the overall economy.[7] Most of the capital, and therefore

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π Jessica Durando, *15 of Nelson Mandela's Best Quotes*, USA TODAY NETWORK (Dec. 6, 2013, 8:26 AM), http://www.usatoday.com/story/news/nation-now/2013/12/05/nelson-mandela-quotes/3775255/.

1. THOMAS PIKETTY, CAPITAL IN THE TWENTY-FIRST CENTURY (Arthur Goldhammer trans., Belknap Press of Harvard Univ. Press 2014).

2. The exception from some two hundred years of data is the period from World War I through the post-World War II period, ending in the latter part of the 1970s. *Id.* at 15, 41.

3. *See id.* at 195–96 (predicting that by the end of the twenty-first century the world capital/income ratio could be close to 700%).

4. Frank Pasquale, *Capital's Offense: Law's Entrenchment of Inequality*, BOUNDARY2 (Oct. 1, 2014), http://boundary2.org/2014/10/01/capitals-offense-laws-entrenchment-of-inequality/.

5. *Id.* As of 2014, Equatorial Guinea's gross domestic product per capita was an estimated $32,300. Cent. Intelligence Agency, *The World Factbook*, CIA.GOV, https://www.cia.gov/library/publications/the-world-factbook/fields/2004.html (last visited Dec. 13, 2015).

6. Pasquale, *supra* note 4 (internal quotation marks and alterations omitted).

7. *See* AFR. ECON. OUTLOOK 2012, EQUATORIAL GUINEA 2012, at 2, 11, *available at* http://www.afdb.org/fileadmin/uploads/afdb/Documents/Publications/Equatorial%20Guinea%

most of the economy, is controlled by the President, Teodoro Obiang, and his small group of associates.[8] If the present status of Equatorial Guinea is the future for the world economy, that future is grim—a dystopia in the making.[9]

At the worldwide level, economic inequality is extreme and growing worse, so the world economy appears to be continuing on its path to dystopia.[10]

In 2014, the richest 1% of people in the world owned 48% of global wealth, leaving just 52% to be shared between the other 99% of adults on the planet. Almost all of that 52% is owned by those included in the richest 20%, leaving just 5.5% for the remaining 80% of people in the world.[11]

In two-thirds of countries that are part of the Organisation for Economic Co-operation and Development (OECD), "[t]he inequality of capital income has increased sharply over the past two decades."[12] Since the end of the Great Recession in 2009, economic inequality continues to worsen in the United States. From 2009 to 2012, "incomes actually fell for the bottom 90[%] of earners, even as they rose nicely for the top 10[%].

20Full%20PDF%20Country%20Note.pdf (stating that, in 2006, "the chief cause of poverty was the lack of jobs" and reporting that "[o]il accounts for 78% of GDP, but employs only 4% of the [labor] force").

8. *See* Pasquale, *supra* note 4 (noting that, while President Obiang's "salary was reported to be $60,000 a year, he had a net worth of roughly $600 million by 2011" and that a "[U.S.] Senate report blasted him for personally taking $96 million of his nation's $130 million in oil revenue in 1998, when a majority of his subjects were malnourished").

9. *See* Mark Bittman, Op-Ed., *Why Not Utopia?*, N.Y. TIMES (Mar. 20, 2015), http://www.nytimes.com/2015/03/22/opinion/sunday/why-not-utopia.html ("No one knows what the world will look like in [fifty] years, but if we resign ourselves to dystopia—in which capital has full control, as it nearly does now—[we will] surely have one.").

10. *See* OXFAM, WEALTH: HAVING IT ALL AND WANTING MORE 2 (Jan. 2015), *available at* https://www.oxfam.org/sites/www.oxfam.org/files/file_attachments/ib-wealth-having-all-wanting-more-190115-en.pdf (stating that "[i]f [the] trend continues of an increasing wealth share to the richest, the top 1% will have more wealth than the remaining 99% of people in just two years").

11. *Id.* (internal citations omitted). White men largely control that wealth. *See* Kathleen Geier et al., *How Gender Changes Piketty's 'Capital in the Twenty-First Century*,*'* NATION (Aug. 6, 2014, 12:50 PM EST), http://www.thenation.com/article/how-gender-changes-pikettys-capital-twenty-first-century/ ("[T]he wealth gap between black and white America has increased over the past few decades. . . . [We have] developed social markers for what makes a 'high-tier' worker. For example, big financial firms tend to hire and reward predominately white men from a small slice of the economic strata."). Additionally, "in 2014, only one in ten [U.S.] billionaires were women, but of those, women were more likely than men to inherit that wealth, as one-third of billionaires who inherited their wealth are women (34.1[%]). The female share of self-made billionaires is only 3.1[%]." *Id.*

12. Chris Pinney, *Economic Growth and Inequality: Why It Matters and What's Coming Next*, J. APPLIED CORP. FIN., Spring 2014, at 30, 35.

The result: [t]he top 10[%] captured an impossible-seeming 116[%] of income gains during that span."[13]

Economic growth has been weak in the developed world. "Europe's per capita growth dropped to just below 2[%] from 1980 to 2012; the United States' [per capita growth] was even slower, coming in at 1.3[%]."[14] In contrast, there has been significant economic growth in some parts of the developing world, particularly China and India.[15] Economic globalization has "lifted hundreds of millions of people in developing economies out of poverty as they have entered the global workforce":[16]

> [R]apid rates of economic growth in parts of the developing world, particularly China and India, have dragged many people out of abject poverty despite rising inequality. . . . [D]uring the past [thirty] years, the fraction of the world's population that survives on a dollar a day or less has fallen from an estimated 40% to under 15%.[17]

While China and India are catching up economically with the more developed world, their economic growth will probably slow down as their use of technology increases to levels that are similar to the more developed world.[18]

"All around the world, labor is losing out to capital."[19] Despite the rapid increase in wages in several developing countries,[20] "the [labor] income share [with capital of the total economy] in China has decreased since the early 2000s" because the growth in capital exceeds even the substantial gains of labor that is reflected in the total economic growth.[21] Looking back to the late 1970s, workers in the United States shared about 70% of total income while capital earned about 30%.[22] "[B]etween 1979

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13. Neil Irwin, *The Benefits of Economic Expansions Are Increasingly Going to the Richest Americans*, N.Y. TIMES (Sept. 26, 2014), http://www.nytimes.com/2014/09/27/upshot/the-benefits-of-economic-expansions-are-increasingly-going-to-the-richest-americans.html?abt=0002&abg=1.

14. Timothy Shenk, *Thomas Piketty and Millennial Marxists on the Scourge of Inequality*, NATION (Apr. 14, 2014), http://www.thenation.com/article/thomas-piketty-and-millennial-marxists-scourge-inequality/.

15. Pinney, *supra* note 12, at 33.

16. *Id.* at 31.

17. *Id.* at 33.

18. Shenk, *supra* note 14.

19. Pinney, *supra* note 12, at 37.

20. *See* INT'L LABOUR ORG., GLOBAL WAGE REPORT 2014/15: WAGES AND INCOME INEQUALITY xv (2015) [hereinafter GLOBAL WAGE REPORT 2014/15] ("Global wage growth in recent years was driven by emerging and developing economies, where real wages have been rising—sometimes rapidly—since 2007.").

21. *Id.* at 15.

22. Pinney, *supra* note 12, at 30–31.

and 2007, the share of national income for the top 20[%] increased by 10% while other income groups saw their share fall by 2[–]3%."[23]

Ever increasing economic inequality has been bolstered by two main factors: expanding economic globalization[24] and technology.[25] The larger the geographic area and population within an economy, the greater the potential for growth overall and depth of interaction.[26] With neoliberal economic policies in place across the globalized economy, enterprise has the ability to organize its activities in ways that make the most business sense because the present legal order imposes few restraints on the ability of business to organize itself wherever across the globalized economy it finds desirable.[27] American businesses not only offshore operations with their own employees, but also frequently combine offshoring with outsourcing.[28] Apple, which is quite profitable,[29] is a good example. It combines offshoring and outsourcing.[30] "Apple employs 43,000 people in the United States and 20,000 overseas. . . . Many more people work for Apple's contractors: an additional 700,000 people engineer, build[,] and assemble iPads, iPhones[,] and Apple's other products."[31]

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23. *Id.* at 30.

24. JEFFREY D. SACHS, THE PRICE OF CIVILIZATION: REAWAKENING AMERICAN VIRTUE AND PROSPERITY 88 (2011).

25. Jeff Madrick, Op-Ed., *Our Misplaced Faith in Free Trade*, N.Y. TIMES (Oct. 3, 2014), http://www.nytimes.com/2014/10/04/opinion/sunday/our-misplaced-faith-in-free-trade.html?_ _r=0.

26. See Brian A. Langille, *Seeking Post-Seattle Clarity—and Inspiration*, *in* LABOUR LAW IN AN ERA OF GLOBALIZATION 137, 143 (Joanne Conaghan, Richard Michael Fischl & Karl Klare eds. 2002), which states:

> To get to the real phenomenon of globalization . . . we must shift from a world in which not only goods, but services, ideas, money, markets, and production are truly global and mobile by virtue of advances in communication and transportation technologies. We must move from the model of *shallow* economic integration to a model of *deep* economic integration in which advancements in transportation and technology enable capital to see the whole world as its stage.

27. Michael J. Zimmer, *Inequality, Individualized Risk, and Insecurity*, 2013 WIS. L. REV. 1, 9–10 (2012).

28. *Id.* at 13–14. Outsourcing involves the contracting out of a business function—commonly one previously performed in-house—to an external provider. *See Outsource*, MERRIAM-WEBSTER.COM, http://www.merriam-webster.com/dictionary/outsource (last visited Dec. 13, 2015) (defining "outsource" as "to send away (some of a company's work) to be done by people outside the company").

29. In 2011, Apple "earned over $400,000 in profit per employee." Charles Duhigg & Keith Bradsher, *How the U.S. Lost out on iPhone Work*, N.Y. TIMES (Jan. 21, 2012), http://www.nytimes.com/2012/01/22/businesss/apple-america-and-a-squeezed-middle-class .html?scp=2&sq=Apple%20profits%20&st=cse.

30. Zimmer, *supra* note 27, at 14.

31. Duhigg & Bradsher, *supra* note 29.

In deciding where to site different aspects of a company's operations, labor costs are only one factor and not always determinative.[32] Thus, even without free movement of labor across national boundaries, the labor market is coextensive with the globalized economy. Substituting lower cost labor in another country is one basic strategy of business. Thus, in the United States,

> half of the 7.5 million jobs lost during the Great Recession were in industries that pay middle-class wages, which are defined as ranging from $38,000 to $68,000. . . . [S]ince the "official" end of the recession . . . , only about 70,000, or 2%, of the 3.5 million jobs gained have been in such mid-paying industries. . . . [N]early 70% of the restored jobs have been in low-paying industries.[33]

A substantial portion of this loss of middle-class jobs involved manufacturing jobs. "The share of American employment in manufacturing has declined sharply since the 1950s, from almost 30% to less than 10%."[34]

As an alternative to outsourcing or offshoring jobs to take advantage of lower labor costs directly, businesses also rely on the substitution of capital for labor by implementing available technological changes.[35] "[S]ubstituting capital for [labor] through automation is increasingly attractive; as a result[,] owners of capital have captured ever more of the world's income since the 1980s, while the share going to [labor] has fallen."[36] This substitution is not a new trend. For example,

> in 1900, 41% of Americans were employed in agriculture. Today, less than 2% of Americans work in an agricultural industry that now feeds a population four times as large as in 1900. At the same time, the price

32. *See The Future of Jobs: The Onrushing Wave*, ECONOMIST (Jan. 18, 2014), http://www.economist.com/news/briefing/21594264-previous-technological-innovation-has-always-delivered-more-long-run-employment-not-less [hereinafter *The Future of Jobs*] ("[T]he mere fact that a job can be automated does not mean that it will be; relative costs also matter. When Nissan produces cars in Japan, . . . it relies heavily on robots. At plants in India, by contrast, the firm relies more heavily on cheap local [labor].").

33. Pinney, *supra* note 12, at 31; *see also* MICHAEL E. PORTER & JAN W. RIVKIN, AN ECONOMY DOING HALF ITS JOB: FINDINGS OF HARVARD BUSINESS SCHOOL'S 2013–14 SURVEY ON U.S. COMPETITIVENESS 3 (2014), *available at* http://www.hbs.edu/competitiveness/ Documents/an-economy-doing-half-its-job.pdf ("[J]obs lost during the 2008–10 employment contraction were disproportionately in higher-wage industries such as construction and electronics manufacturing, while jobs gained during the recovery have been concentrated in low-wage industries such as food service and nursing home care.").

34. *The Future of Jobs*, *supra* note 32.

35. *Id.*

36. *Id.*

> of food as percentage of the average American[']s budget has declined dramatically.[37]

The net impact of offshoring, outsourcing, and substituting capital for labor is that productivity has been unlinked from employment:

> [D]uring the 80-year period from 1929[–]2009, the relationship between productivity growth and private sector employment (in terms of numbers of jobs) was overwhelmingly positive. . . .
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> Starting in the 1970s, we saw the beginnings of a disconnect between productivity and wages in developed countries; while productivity continued to increase, wages stagnated and in some cases fell.[38]

Beth Macy, in *Factory Man*, describes in concrete detail the effect of economic globalization and technological change on the United States' furniture industry and traces the industry's transformation in response to it.[39] In the 1980s, Chinese manufacturers started to export furniture to the United States to compete based, in part, on the lower labor costs paid to Chinese workers.[40] In general, the response of the American manufacturers was to largely give up making furniture.[41] They instead transformed themselves into importers and retailers of the less expensive Chinese furniture.[42] As part of this transformation, the United States manufacturers shared technology with their Chinese suppliers, thus hastening the demise of much of American furniture manufacturing.[43] This all had a devastating effect on the economies in parts of Virginia and North Carolina that had long been the focus of American furniture production.[44] What is unusual about the story is that it focuses on an heir to the American furniture business who fought back and has been able to sustain the manufacturing capacity, and the American employment, of the company he ran.[45] The *Factory Man* story is the exception that proves the rule.

The substitution of capital through implementation of automation has not stopped at manufacturing but has also extended to service

37. Pinney, *supra* note 12, at 38 (internal citations omitted).
38. *Id.* at 36–37.
39. BETH MACY, FACTORY MAN ch. 12 (2014).
40. *Id.* at 161–63.
41. *Id.* at 166.
42. *Id.* at 162–63, 165.
43. *Id.* at 163.
44. *Id.*
45. *Id.* at 388.

industries where almost 70% of American workers are now employed.[46] This substitution will obviously continue as long as technological developments present new and ever more efficient ways to provide goods and services.[47] And, the substitution of lower cost labor and capital will continue in both the developed and the developing worlds.[48] Where capital substitutes for labor, the owners of capital increase their share of the total economy even in the absence of growth in the overall economy.[49]

Even some in America's business world are concerned about excessive and growing economic inequality. A recent survey by the Harvard Business School of its MBA alumni concluded that ever increasing economic inequality is "unsustainable."[50] While the Harvard report did not specify what the consequences would be if this trend continued, one can infer that the survival of a capitalist economy is at stake.[51] From another point of view, the continued existence of democracy—in those places where it presently exists—may be at risk if increased inequality undermines a robust middle class that is thought to

46. *The Future of Jobs*, *supra* note 32.

47. Bittman, *supra* note 9.

> [W]e face the challenge of decreasing real wages resulting, among other factors, from automation and outsourcing, which will itself be automated before long. . . .
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> The result is that [we are] looking at fewer jobs that pay the equivalent of what an autoworker or a teacher made in the '60s and '70s.

Id.

48. *See* Pinney, *supra* note 12, at 31 ("The transformation of our economy by globalization and machine intelligence will increasingly pose fundamental challenges to our current public policy and fiscal model, which is premised on maintaining a strong consumer economy and 'full employment.'").

49. *The Future of Jobs*, *supra* note 32.

50. PORTER & RIVKIN, *supra* note 33, at 2. While Piketty, in *Capital in the Twenty-First Century*, did not connect the period from the beginning of World War I through the Great Recession as the result of the preceding extreme economic inequality of the Gilded Age, these events should caution policy makers to conclude there is no downside to ever increasing economic inequality.

51. *See* Benjamin Kunkel, *Paupers and Richlings*, LONDON REVIEW OF BOOKS (July 3, 2014), http://www.lrb.co.uk/v36/n13/benjamin-kunkel/paupers-and-richlings ("Socialist revolution frankly seems more likely. . . . The notion of such a revolution—first in one country, then gatheringly international but not yet universal—is fanciful right now. But . . . [t]he longer global capitalism goes unreformed the more likely nations and regions are to reject it.").

be an essential condition for democracy.[52] Equatorial Guinea is not a democracy.[53]

What is clear is that increased economic inequality correlates with lowered economic growth. The OECD recently published a report titled *In It Together: Why Less Inequality Benefits All*.[54] "[G]rowing inequality is harmful for long-term economic growth. The rise of income inequality between 1985 and 2005, for example, is estimated to have knocked 4.7 percentage points off cumulative growth between 1990 and 2010, on average across OECD countries for which long time series are available."[55] The International Labour Organization has concluded: "Inequality has . . . been shown to undermine economic growth."[56]

Increased economic inequality also correlates with increases in a wide variety of problems faced by society that are not always seen as related to the distribution of economic resources.[57] The range of social problems that worsen as economic inequality increases includes: lowered levels of trust; higher levels of mental illness; lowered life expectancy and higher rates of infant mortality; more obesity; lowered levels of educational performance in children; more teenage births; homicides and imprisonments; and lower levels of social mobility.[58] For example, the United States, which is highly unequal economically, has increasingly low levels of social mobility:

> The probability that a child of a poor American family will be in the poorest group upon reaching adulthood is nearly 50%. The probability that he will end up in the second poorest group stands at about 27%; then a child from a family in the lowest income quintile in the United States has three out of four chances . . . of ending up in

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52. Joseph Fishkin & William E. Forbath, *Wealth, Commonwealth, & the Constitution of Opportunity: A Story of Two Traditions* (Apr. 1, 2015) (forthcoming) (manuscript at 1), *available at* http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2620920 ("[W]e cannot keep our constitutional democracy—our 'republican form of government'—without two essentials: constitutional restraints against oligarchy; and a political economy that maintains a broad middle class, accessible to everyone.").

53. *Equatorial Guinea: Freedom in the World 2013*, FREEDOM HOUSE, https://freedomhouse.org/report/freedom-world/2013/equatorial-guinea#.VZFOR_1VhBc (last visited Dec. 19, 2015).

54. OECD, IN IT TOGETHER: WHY LESS INEQUALITY BENEFITS ALL (2015) [hereinafter OECD REPORT].

55. *Id.* at 15.

56. GLOBAL WAGE REPORT 2014/15, *supra* note 20, at 19; *see also* Bittman, *supra* note 9 ("[A]s you have more and more people who are getting paid relatively little, the question in most economic heads is, where is the aggregate demand going to come from? If no one can buy, [there is] very little to sell; again, relative to their income, rich people [do not] buy much." (internal quotations omitted)).

57. RICHARD WILKINSON & KATE PICKETT, THE SPIRIT LEVEL: WHY GREATER EQUALITY MAKES SOCIETIES STRONGER 18 (2009).

58. *Id.* at 19.

> either the poorest group, or the group of those who are just slightly less poor. Obviously, the phenomenon also plays a similar role for the children of rich families.[59]

So what can be done to turn back the long-term trend of ever increasing economic inequality? First, it is necessary to realize that "[t]he evolution of inequality is not a natural process."[60] That the level of economic inequality is a question of politics becomes clear by looking at the United States experience in the period starting with World War II and ending in the early 1980s. While economic inequality was being reduced until the late 1970s, the Reagan Revolution that radically reduced taxes at the high end of the income pyramid also resulted in the reversal of the trend toward less inequality and replaced it with the ever increasing inequality seen since then.[61]

No matter how impossible it seems at the moment, new politics could reverse the present trends. That the problem is political does not, of course, make it simple to solve. Added to the political challenges within any particular country that is active in the globalized economy is the fact that the problem of economic inequality is essentially a worldwide problem, requiring at least a coordinated, if not uniform, response by the major countries.[62] Some proposals, beyond the scope of this Article, would reduce the growth of capital holdings at the top end of the economic pyramid. For example, in order to begin to reduce extreme economic inequality, Piketty has proposed a "global tax on

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59. YVAN ALLAIRE & MIHAELA FIRSIROTU, INEQUALITY AND EXECUTIVE COMPENSATION: WHY THOMAS PIKETTY IS WRONG? 25 (2014), *available at* http://igopp.org/wp-content/uploads/2014/06/Allaire_et_Firsirotu-Economic-Inequality-Why-Piketty-is-wrong-June-25-2014-YA-30-juin.pdf.

60. James K. Galbraith, Kapital *for the Twenty-First Century?*, DISSENT (Spring 2014), https://www.dissentmagazine.org/article/kapital-for-the-twenty-first-century.

61. *See id.* ("The massive equalization in the United States between 1941 and 1945 was due to mobilization conducted under strict price controls alongside confiscatory top tax rates. The purpose was to double output without creating wartime millionaires. Conversely, the purpose of supply-side economics after 1980 was (mainly) to enrich the rich. In both cases, policy largely achieved the effect intended."). See also Roger L. Martin, *The Rise (and Likely Fall) of the Talent Economy*, HARV. BUS. REV. (Oct. 2014), https://hbr.org/2014/10/the-rise-and-likely-fall-of-the-talent-economy, which states:

> [S]upply-side thinking justified a major shift in tax policy. The top marginal rate plummeted from 70% in 1981, to 50% in 1982, to 38.5% in 1987, to 28% in 1988. Thus, in a mere seven years, $1 million earners saw the amount they kept after federal taxes increase from $340,000 to $725,000, while the $3.0 million that $10 million earners had been keeping grew to $7.2 million.

62. PIKETTY, *supra* note 1, at 515.

capital."[63] Even in absence of any coordinated attempt to reduce economic inequality at the global level, individual countries could adopt policies directed at the specific causes of inequality in their societies. For example, the United States could reduce its comparatively high rate of economic inequality by returning to pre-Reagan era tax policies that impose higher rates on top earners.[64] Another way to reduce growing inequality would be to undertake policies to promote economic growth to such an extent that it exceeds the growth in capital.[65]

More appropriate for a symposium devoted to inequality and employment are policy changes that directly impact employment. The OECD report describes the problem of increasing economic inequality as the result of what is happening at the bottom, not the top, of the wealth and income pyramid.[66] "The key driver is the growing gap between lower-income households—the bottom 40% of the distribution—and the rest of the population."[67] The first recommendation that the OECD makes is that "governments need to pursue policies to eliminate the unequal treatment of men and women in the [labor] market and to remove barriers to female employment and career progression."[68]

In addition to reducing the economic impact of gender and race discrimination, a policy of imposing an obligation on government to create full employment would help the economy generally and would particularly aid those near the bottom of the economic pyramid who are most vulnerable to the loss of jobs. The International Labour

63. *Id.* In the 1970s, Nobel-prize-winning economist James Tobin proposed a small tax—for example, 1% to be levied on every currency exchange across the world. Paul Bernd Spahn, *The Tobin Tax and Exchange Rate Stability*, GLOBAL POL'Y F. (June 1996), https://www.globalpolicy.org/social-and-economic-policy/global-taxes-1-79/currency-transaction-taxes/45999-the-tobin-tax-and-exchange-rate-stability.html. The purpose was to create stability in currency during a period of time when countries could not regulate their economies because of excessive volatility. *Id.* The Tobin Tax has yet to come to pass. *Id.*

64. The recent OECD report states: "Adequately designed redistribution via taxes and transfers is a powerful instrument to contribute to more equality and more growth. . . . Policies need to ensure that wealthier individuals but also multinational firms pay their share of the tax burden." OECD REPORT, *supra* note 54, at 17.

65. Two cautionary points: first, China has had stunning economic growth, yet the growth of capital has still exceeded the rate of overall economic growth; second, unconstrained economic growth may further endanger the health of the planet. *See* NAOMI KLEIN, THIS CHANGES EVERYTHING: CAPITALISM VS. THE CLIMATE 186 (2014) (arguing that capitalism is inconsistent with a healthy planet). Nevertheless, policies promoting economic growth need to be sustainable. GLOBAL WAGE REPORT 2014/15, *supra* note 20, at xix.

66. OECD REPORT, *supra* note 54, at 15.

67. *Id.*

68. *Id.* at 16. "This includes measures for increasing the earnings potential of women on low salaries and to address the glass ceiling." *Id.* In countries like the United States where there are substantial differences in the earning capacities of people of color from the rest of the population, diminishing employment discrimination based on race is another step to be taken to reduce overall economic inequality.

Organization supports creating full employment policies: "[P]ursuit of full-employment policies is an important aspect of reducing inequality. The promotion of sustainable enterprises is key in this regard."[69] In the United States, the proposed Full Employment Act of 1945 would have created such an obligation on the government, and the mechanisms by which full employment was to be achieved, if the economy faltered.[70] Needless to say, that Act never passed but instead was replaced by a toothless version in the Full Employment Act of 1946.[71]

More directly raising minimum wages would increase the income of workers near the bottom of the economic pyramid that would reduce inequality and help move people out of poverty and into the lower middle class. While some micro-economists believe that imposing minimum wages reduces economic growth and therefore employment opportunities, the International Labour Organization counters that conclusion and supports raising minimum wages:

> Recent research suggests that governments have considerable space for using minimum wages as a policy tool. On the one hand, research shows that there is either no trade-off between increased minimum wages and employment levels or that such increases have very limited effects on employment, which can be either positive or negative. On the other, it shows that minimum wages do contribute effectively to reducing wage inequality.[72]

Because economic inequality is an issue across the globalized economy, raising the minimum wage levels in any particular country faces challenges.[73] None of the developing countries want to sacrifice their comparative advantage based on lower labor costs, which might be at risk if labor costs rose.[74] Perhaps a better concept at the broad international

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69. GLOBAL WAGE REPORT 2014/15, *supra* note 20, at xix.

70. *See generally* G.J. Santoni, *The Employment Act of 1946: Some History Notes*, FED. RES. BANK OF ST. LOUIS (Nov. 1986), *available at* https://research.stlouisfed.org/publications/review/article/2977 (providing a synopsis of the Full Employment Act of 1945).

71. *See id.* at 11–12 (criticizing the Full Employment Act of 1946). See also ROGER BLANPAIN ET AL., THE GLOBAL WORKPLACE: INTERNATIONAL AND COMPARATIVE EMPLOYMENT LAW 69 (2d ed. 2012) for a description of the way the Full Employment Act would supposedly work.

72. GLOBAL WAGE REPORT 2014/15, *supra* note 20, at xix. The ILO Minimum Wage Fixing Convention, 1970 (No. 131) has been available to its member states as a standard for establishing minimum wages, and it has been adopted by fifty-one countries, but it seems not to have had a significant impact.

73. See *Minimum Wage Systems*, INT'L LABOUR OFF. 177–78 (2014), *available at* http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_235287.pdf, for a full report on the minimum wage convention and a discussion on the obstacles of implementing minimum wage reforms.

74. *See* World Trade Org., *Labour Standards: Consensus, Coherence and Controversy*, WTO.ORG, https://www.wto.org/english/thewto_e/whatis_e/tif_e/bey5_e.htm (last visited Dec. 13, 2015)

level is to attempt to establish a "living wage" for each country and use that to establish the appropriate minimum wage in each country. Even defining what constitutes a "living wage" has, however, been fraught so that even the International Labour Organization has yet to reach any kind of consensus about it.[75] It is clear, however, that setting a living wage as a minimum can be done, at least if the circumstances support it. For example, Burger King workers in Denmark earn a living wage—the equivalent of about $20 per hour—and that has not been shown to have had any negative economic impact on Burger King or the general economy of Denmark.[76]

Finally and perhaps most significantly, the best way to turn around the ever increasing economic inequality would be to turn around the virtually worldwide decline in the union movement or to create a new transnational social movement aimed at using the collective strength of workers to protect and enhance their employment opportunities. There are proposals to reform the labor laws of the United States to give workers a better chance of achieving the benefits of unionization. Former Labor Secretary Robert Reich has proposed several reforms to make it more likely that the choice of workers to organize a union will be implemented.[77] He suggests procedural reforms to diminish the ability of employers to delay recognition that a union represents its workers until support of the union dissipates.[78] To do that, he proposes imposing real penalties for employers that violate the labor laws so such violations are no longer viewed simply as the cost of doing business.[79] More substantively significant, he proposes the elimination of the provision in the national labor law that allows states to enact "right to work" or, more accurately, "right to free ride" laws that diminish the ability of unions to maintain their organizational strength.[80] Chicago labor lawyer and

(discussing the World Trade Organization's role in raising labor standards across the globe and noting that many developing countries are opposed to the WTO's involvement because it could "undermine [their] comparative advantage").

75. *See* RICHARD ANKER, ESTIMATING A LIVING WAGE: A METHODOLOGICAL REVIEW 11 (2011), *available at* http://is.muni.cz/repo/1131138/anker_2011_ilo.pdf (stating that "there is no such thing as a definitive estimate for a living wage").

76. *See* Liz Alderman & Steven Greenhouse, *Living Wages, Rarity for U.S. Fast-Food Workers, Served Up in Denmark*, N.Y. TIMES (Oct. 27, 2014), http://www.nytimes.com/2014/10/28/business/international/living-wages-served-in-denmark-fast-food-restaurants.html?_r=0 ("We see from Denmark that [it is] possible to run a profitable fast-food business while paying workers these kinds of wages." (internal quotation marks omitted)).

77. Robert Reich, *Strengthen Unions*, ROBERTREICH.ORG (May 28, 2015), http://robertreich.org/post/ 120107784670.

78. *Id.*

79. *Id.*

80. *Id.*

author, Thomas Geoghegan, in *Only One Thing Can Save Us: Why America Needs a New Kind of Labor Movement*,[81] would add more reforms to United States labor law by eliminating the "exclusive bargaining representative" rule that prevents a union from bargaining on behalf of its members working for an employer, when it does not represent a majority of them, and allowing the creation of works councils as they exist in Germany.[82]

Even if the United States reformed its labor laws to give workers a better chance at organizing a union, that is unlikely to do all that much to turn the worldwide decline in unionization around. The problem is that unions are all nationally based in terms of organization as well as laws and culture. Part of the decline of unionization across most of the globalized economy is the result of the weakening of all national institutions that results from the increased free market world of the present day. Beyond that, with national unions working to do the best for their members and the workers in their countries, it puts them in competition with each other: What is good for German workers and German union members may be at the cost of workers and their unions in other countries. What is needed is a new form of worker organization based on a collective sense of international identity across national borders.

In conclusion, the challenges facing the world with its downward plunge toward ever increasing economic inequality with potentially dire results are daunting. But, as Nelson Mandela said as to the challenge that apartheid presented, "It always seems impossible until it's done."[83]

81. THOMAS GEOGHEGAN, ONLY ONE THING CAN SAVE US: WHY AMERICA NEEDS A NEW KIND OF LABOR MOVEMENT (2014).

82. *Id.* at 223–24.

83. Durando, *supra* note π.