

CONSTITUTIONMAKING.ORG

OPTION REPORTS

DUTY TO PROVIDE WORK

January 20, 2011

The following report is one of a series produced by the Constitutional Design Group, a group of scholars dedicated to distributing data and analysis useful to those engaged in constitutional design. The primary intent of the reports is to provide current and historical information about design options in written constitutions as well as representative and illustrative text for important constitutional provisions. Most of the information in these reports comes from data from the Comparative Constitutions Project (CCP), a project sponsored by the National Science Foundation. Interested readers are encouraged to visit constitutionmaking.org for further resources for scholars and practitioners of constitutional design.

Note that the dates provided herein for constitutional texts reflect either the year of initial promulgation or of a subsequent amendment, depending on which version was used for analysis. For example, Brazil 2005 refers to the Brazilian Constitution of 1988, as amended through 2005.

1. INTRODUCTION

The state duty to provide employment is commonly associated with communist or socialist governments, and reflects a nominal desire for a fully productive society. We describe below the range of constitutional provisions for the duty to provide work.

2. DATA SOURCE(S)

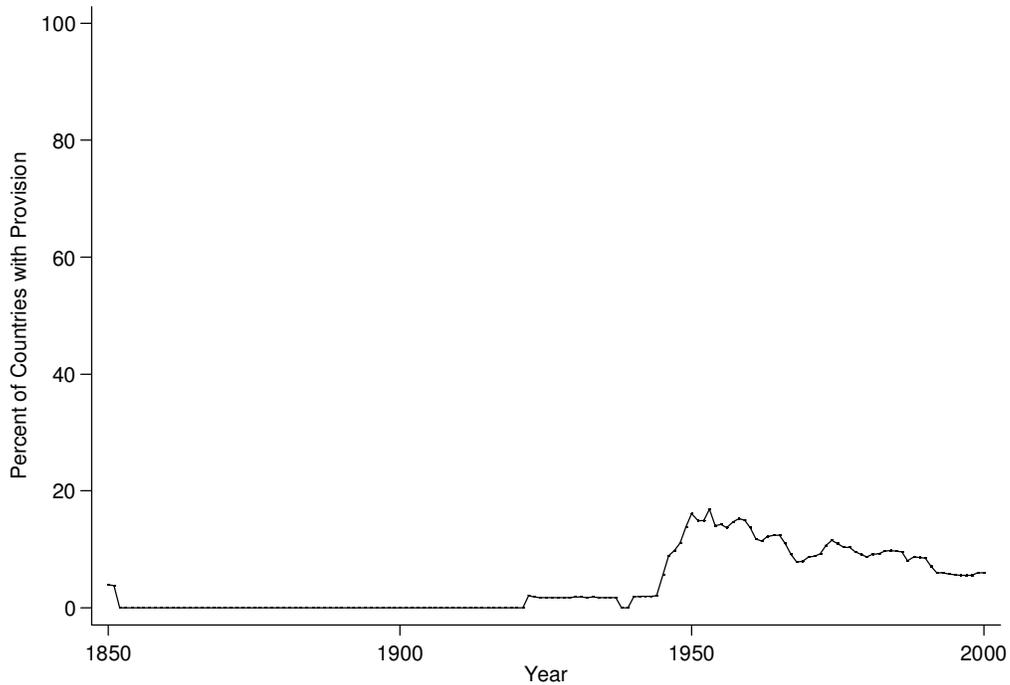
The analysis reported below is based on data the Comparative Constitutions Project (please see the appendix to view the question text). As of this writing, the project's sample includes 668 of the roughly 800 constitutions put in force since 1789, including more than 90% of constitutions written since World War II.

3. CLASSIFICATION AND HISTORICAL TRENDS

Overall, only 6% of constitutions explicitly mention state duty to provide employment. Figure 1 shows the percent of constitutions that mention a state duty to provide employment overtime. As Figure 1 suggests, such a provision is a post-World War II phenomenon and may be declining in popularity. Because the duty to provide work to citizens is a fairly costly constitutional guarantee, it is not very common.

It is important to note that many constitutions offer promises that suggest a desire to facilitate employment opportunities, without imposing a strict duty on state actors. These cases have been classified in our dataset as "other." Additionally, a provision for the citizens' right to work has been included as "other." Overall, 42% of constitution in our dataset either offer such promises or mention citizens' right to work.

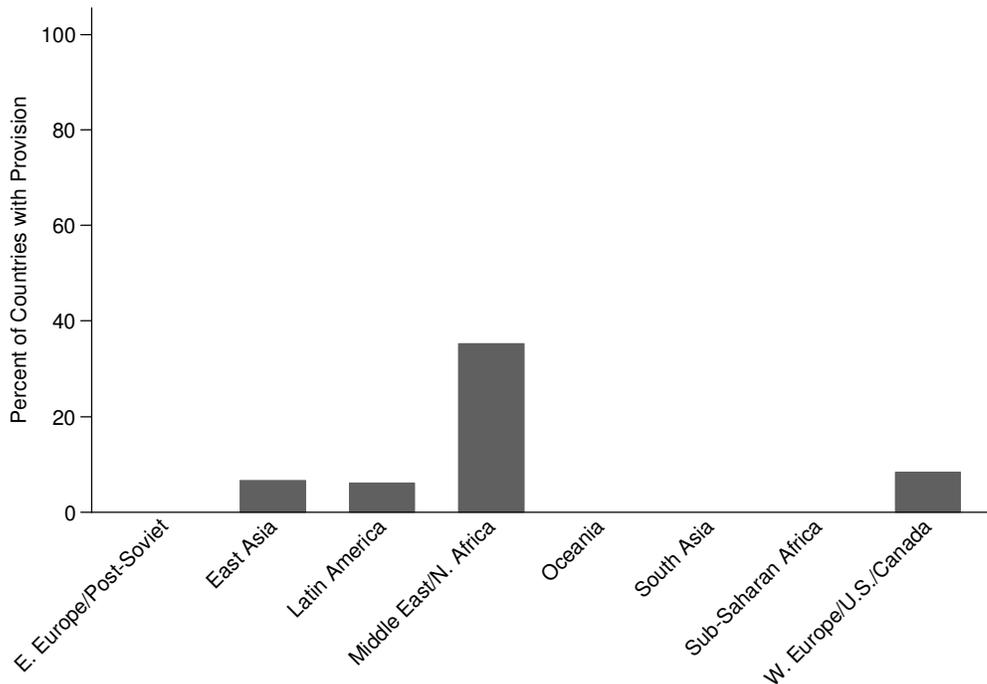
Figure 1. Percent of the Constitutions that Mention State Duty to Provide Work by Year (N=668)



Data from the Comparative Constitutions Project - www.comparativeconstitutionsproject.org

Figure 2 shows the percentage of constitutions that explicitly mention state duty to provide work across region. The figure indicates that such provisions are most prevalent in Middle East/North Africa.

Figure 2. Percent of the Constitutions that Mention State Duty to Provide Work in 2000 by Region (N=184)



Data from the Comparative Constitutions Project - www.comparativeconstitutionsproject.org

4. SAMPLE CONSTITUTIONAL PROVISIONS

(Note: dates provided reflect the version of the constitution used to obtain sample provisions, and represent either initial year of promulgation or year through which subsequent amendments are included.)

The State shall ensure that work is made available to the citizens and that its terms are equitable.

- *Bahrain 1973, Article 13.b*

Everyone is assured work that enables a dignified existence.

- *Brazil 1946, Article 145*

Citizens have a right to work. The State guarantees this right to all citizens by planned economy, by systematically and continually developing the productive forces of the country, and creating public works.

- *Bulgaria 1947, Article 73*

The strategic objectives of the Revolution in the social and cultural fields are to assure free health and education to all, employment for all. . . . The Popular Front, anxious to guarantee each Burkinese a source of revenue sufficient to permit him to live decently and to maintain his family satisfactorily, will be attached to [t]he struggle against unemployment in cities as well as villages through the creation of employment in the economic and social sectors of life, particularly in productive sectors.

- *Burkina Faso (Upper Volta) 1988, Article 10*

Citizens have the right to work. To ensure that citizens enjoy this right, the state provides employment in accordance with the principle of overall consideration, and on the basis of increased production, the state gradually increases payment for labor, improves working conditions, strengthens labor protection and expands collective welfare.

- *China 1978, Article 48*

Labor is an inalienable right of the individual. The Nation shall employ the resources within its reach to furnish employment to every one who lacks it and shall assure to every manual or intellectual worker the economic conditions necessary to a fitting existence.

- *Cuba 1940, Article 60*

The following are also duties of the State. (a) To find work for the unemployed.

- *Ecuador 1946, Article 174*

The right to work is guaranteed. By its guiding of the economy the state ensures work and the means of livelihood for every citizen. Where a suitable place of work cannot be made available the citizen will be provided with the necessary means of subsistence.

- *German Democratic Republic 1960, Article 15*

The State will employ the resources at its disposal to provide employment to all those who lack it and to assure them the economic conditions necessary to a decent existence.

- *Guatemala 1945, Article 57*

Accordingly, it is the duty of the Islamic government to furnish all citizens with equal and appropriate opportunities, to provide them with work, and to satisfy their essential needs, so that the course of their progress may be assured.

- *Iran 1989, Preamble*

Work is a right, which is ensured to be available for every able citizen.

- *Iraq 1990, Article 32*

The Government shall ensure work and education, within the limits of its possibilities, and shall ensure a state of tranquility and equal opportunities, to all Jordanians.

- *Jordan 1984, Article 6.2*

The State shall make work available to citizens and shall see to the equity of its conditions.

- *Kuwait 1962, Article 41*

The State guarantees the freedom of economic activities on the basis of social justice and balanced cooperation between public and private activity, to achieve economic and social development, production increase, realizing prosperity for the citizens, raising their living standard, providing work opportunities for them, according to the provisions of the law.

- *Qatar 2003, Article 28*

Work is a right and duty of every citizen. The state undertakes to provide work for all citizens.

- *Syria 2000, Article 36*

The State shall provide suitable opportunities for work to those persons who have the ability to work.

- *Taiwan 1947, Article 152*

6. APPENDIX

This report is based on the following question(s) from the Comparative Constitution Project's "survey instrument":

[PROVWORK]-Does the Constitution mention a state duty to provide work or employment?

1. Yes

2. No

96. other, please specify in the comments section

97. Unable to Determine

Instructions: Please code mentions of the right, freedom, or liberty to work as "other" with the comment "right to work." Note that the right to

work is distinct from the right to choose one's employment and the right to safe/healthy working conditions. Provisions related to the latter two issues should be coded using the appropriate questions in the rights section (questions 590 and 591, respectively). Similarly, provisions related to anti-discrimination or equal opportunity for public, civil, or state employment should be coded in question 475.

For additional documentation on the Comparative Constitutions Project, (including the full codebook, the sample, the sources of constitutional texts and translation issues related to those texts, coding procedures, publicly available data, etc.) please visit the project website at www.comparativeconstitutionsproject.org.