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Building the case for Universal Basic Income- a basic human right?

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ABSTRACT

As India's interest in using cash to alleviate poverty has grown, the concept of a universal basic income (UBI) has garnered renewed attention in advanced economies elsewhere in the world". India has long relied on economic growth policies, supply side policies like subsidies and welfare schemes like pensions and transfer payments in order to address and alleviate hunger and poverty. As Nehru had said, "it is generally recognized now, even by our critics in India or abroad, that we plan well and we lay down the most excellent of principles. The difficulty comes in implementation", universal basic income is one such scheme that has always been debated and deliberated upon but has also been considered ridden with overwhelming obstacles and impractical methods of implementation. Creating a right to basic income has potential in not only alleviating existing issues that plague the underprivileged and downtrodden sections of Indian society but also in securing a higher standard of living for India's enormous middle class. Additionally, introducing and enacting a UBI scheme can do more than pay lip service to values enshrined in the Indian Constitution that are reiterated time and again by the judicial wing by undertaking judicial activism. In a country like India, where individuals place value on land and gold, those deprived of the same find it harder to elevate themselves in society and achieve their esteem needs. UBI, as a universal equalizer of sorts to level the playing field and mould society so as to foster economic growth and development in line with social justice has been discussed in this paper.

I. INTRODUCTION

Philippe van Parijs, a renowned Belgian philosopher, economist and champion of universal basic income claims that basic income is the vehicle of social justice, an increasingly rare facet of modern-day governance. The current atmosphere created by the pandemic is characterized by mass lay-offs, homelessness, food shortage, evictions and the call for better welfare programmes in place. UBI is one such welfare scheme, first discussed on a national

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level due to its inclusion by the Government of India in the Economic Survey of 2016-2017² wherein a chapter identifying the “radical idea” of UBI was proposed as a prospective solution for poverty and inequality in India.³ Abhijit Banerjee, the 2019 Nobel Laureate for Economics has reaffirmed the need for “universal ultra-basic income” especially during such times as the present affected by COVID-19.⁴

What makes the concept so “radical” is that it is essentially a cash payment made to members of society notwithstanding their employment status. Philippe van Parijs defines it as “*an income paid by a government, at a uniform level and at regular intervals, to each adult member of society*”⁵. It can also be defined as “*income paid to every member of the society without means and work testing*”⁶. The salient feature of UBI is the fact that it is paid to every individual and does not take into consideration an individual’s income or *means* or employability or *work test*. UBI is distinct in the sense that it is not a monetary reward or compensation for labour, skill or resources and is not concerned with generational wealth, property or other material possessions. Most importantly, what is arguably the most controversial feature of UBI is that under a welfare-state model, the state is obliged to provide a UBI to its citizens. It can be argued that the achievement of social justice, and its aspects including the right to an adequate standard of living, substantive dignity, freedom and autonomy and mental health are well-within the reach of UBI.

II. UNIVERSAL BASIC INCOME: TOWARDS ACHIEVING SUBSTANTIVE DIGNITY

Dignity may be defined as the “intrinsic worth of a person or the inherent value of a human being which entitles one to respect”.⁷ While the traditional notions of “dignity” simply bestow certain inalienable rights upon individuals, substantive dignity belongs to the positive school of dignity which involves state assistance to citizens by providing the necessities required to live a life of dignity and providing its citizens with conditions that foster personal growth and contributions to society. Substantive dignity implies that the mere granting of rights is insufficient for the realization and actualisation of goals and stresses on the need for upliftment and welfare activities by the state. UBI has the potential to bestow on individuals from economically extreme backward sections of the society, such freedom that provides

²Economic Survey 2016-17, Department of Economic Affairs, Ministry of Finance (2017).

³*Id.* at 173.

⁴An excerpt from the book, ‘Good economics for hard times’ authored by Abhijit Banerjee and Esther Duflo, available at <https://thewire.in/books/abhiji-banerjee-esther-duflo-ubi-excerpt-nobel-prize> (last visited June 14, 2020).

⁵Philippe Van Parijs, *Basic Income for All: If You Really Care about Freedom, Give People an Unconditional Income*, <http://bostonreview.net/archives/BR25.5/vanparijs.html> (last visited June.20, 2020).

⁶S. Upadhyaya, Sukriti, *A Case for Universal Basic Income in India*, 11 NUJS L. REV. 261 (2018).

⁷E. L. Pierce, *Human Dignity: Useless Rhetoric or Substantive Concept?*(2015).

them dignity and takes away the necessity to depend on a landlord or moneylender.

India is not new to the discourse revolving around ‘dignity’. The Indian Constitution is equipped with a plethora of provisions that recognise and encourage support for substantive dignity, in various forms and various degrees of enforceability. The Preamble to the Constitution stresses on ensuring that individuals are able to live a dignified life.⁸ Article 21⁹ provides that no one can deprive any individual of life and personal liberty by any method not established by law. Interpretations of Article 21 by the Supreme Court have recently been shaped by a positive approach that focuses on welfare and social justice, which in turn creates positive rights that can be considered offshoots of or implied rights under Article 21. In the same spirit of Article 21, but not nearly as justiciable, the Directive Principles of State Policy (DPSPs) encourage the state to recognise and provide socio-economic rights to its citizens.

The judiciary is not far behind in this line of thinking. Justice P. N. Bhagwati, in the case of *Francis Coralie Mullin v. UT of Delhi*¹⁰, opined that the “right to life includes the right to live with human dignity” and that the right to life is non exhaustive, and hence includes the basic amenities and necessities, namely food, water and shelter. These necessities are required in order to extend the “right to life” to “right to lead a dignified life”. In the case of *Maneka Gandhi v. Union of India*,¹¹ fundamental rights in Part III of the Indian Constitution were heralded as the protectors of dignity of individuals. Cases such as *Consumer Education & Research Centre v. Union of India*¹², *Unni Krishnan, J.P. v. State of A.P.*¹³ and *Olga Tellis v. Bombay Municipal Corpn.*¹⁴, elucidated upon the significance of health, education and the right to work or earn a livelihood, respectively. While these cases stress upon identifying and then subsequently mandating the provision of conditions necessary to lead a dignified life, they also agree on the fact that achieving substantive dignity is half the journey towards actualization of rights to be complete.

A consensus on the fact that in the event that an individual is unable to realise his/her rights, assistance, guidance and an approach close to *parens patriae*, which is materialised in the form of a basic income is the first step towards achieving universal social justice. This is not to say that monetary assistance is the universal approach for the actualisation of rights and

⁸Preamble to the Indian Constitution, providing for “fraternity assuring the dignity of the individual and the unity and integrity of the Nation”.

⁹INDIA CONST. art. 21.

¹⁰*Francis Coralie Mullin v. UT of Delhi*, AIR 1981 SC 746.

¹¹*Maneka Gandhi v. Union of India*, (1978) AIR 1978 SC 597.

¹²*Consumer Education & Research Centre v. Union of India*, (1995) 3 SCC 42.

¹³*Unni Krishnan, J.P. v. State of A.P.*, (1993) 1 SCC 645.

¹⁴*Olga Tellis v. Bombay Municipal Corpn.*, (1985) 3 SCC 545.

duties, but speaks more to the view that in cases where the exercising of rights itself requires a basic income and where the actualisation of rights involves a process of integrating several resources, provided by the state or otherwise. Additionally, a basic income would play a key role in enhancing the dignity and quality of life of those who are faced with the choice of fighting for one particular right as opposed to leading a life wherein all basic human rights are ensured.

III. UNIVERSAL BASIC INCOME: ENSURING THE RIGHT TO AN ADEQUATE STANDARD OF LIVING

An adequate standard of living can be expressed as a combination or culmination of basic human rights required for subsistence, such as food, water, shelter, medical services etc. Specifically, in the Universal Declaration of Human Rights, Article 25 (1) states that the “*right to adequate standard of living of a person*” includes “*adequate health, food, clothing, housing, medical care, social services, and social security in situations of deprivation of livelihood such as unemployment, sickness, old age or disability*”.¹⁵

What the critics of UBI usually fail to consider is the “cost of participating in everyday life” , or the fact that a minimum level of monetary expenditure is instrumental to exercising the basic human rights that are guaranteed by law. Living a life of adequate standards demands a “subsistence level of income” with which individuals will not be forced to choose from enforcing their fundamental rights or choose from basic necessities, due to scarcity.

IV. UNIVERSAL BASIC INCOME AS A FEMINIST APPROACH TO SOCIAL JUSTICE

Feminist perspectives towards UBI tend to centre around the autonomy, freedom of choice and increased bargaining power for women and challenging historically patriarchal notions of work, pay and duties of women. The redeeming feature of UBI in this aspect is that it is a payment made directly to a woman, as opposed to the head of the household or the closest male relative. What is usually not recognised as the first hurdle towards autonomy for the Indian woman is the familial constraints. The hurdle is to a great extent, eradicated by a UBI which might as well symbolise the beginning of economic freedom for women. UBI, in this aspect has great potential in having economic decision making be dependent on the woman herself.¹⁶

By decreasing the extent to which women in India are financially dependent on their

¹⁵G.A. Res. 217A, Universal Declaration of Human Rights (Dec. 10, 1948).

¹⁶Sara Cantillon, Caitlin McLean, *Basic Income Guarantee: The Gender Impact Within Households*, 43(3) J. SOC. & SOC. WELFARE(2016).

spouses¹⁷, UBI can be an alternative or a ‘fail-safe’, providing them with the *freedom* to leave abusive relationships, homes or environments.¹⁸ Some also view UBI as a sort of compensation for the emotional and physical labour involved in motherhood and parenting. Women who leave their workplaces indefinitely due to pregnancies can benefit from UBI which can lower the burden of childcare, cost-wise and otherwise.¹⁹

Transgender persons who have transitioned, or are in the process of transitioning may also benefit from UBI as a “fund”. In this case, UBI could be instrumental in the actualisation of needs relatively higher on Maslow’s hierarchy, but important to lead a quality of life nevertheless.

V. UBI: A WELFARE- BASED APPROACH TOWARDS THE ALLEVIATION OF MENTAL HEALTH PROBLEMS

Studies have found links between increasingly poor mental health and income inequality and poverty.²⁰ Research has shown that those afflicted with mental health problems tend to take part in impulsive spending and are also less likely to secure long term, salaried employment due to low productivity and quality of work. In the Indian scenario itself, poverty has been proved to be a factor causing depression and encouraging drug and tobacco and leading to criminal activity.²¹ The Poverty and Mental Health Report asserts the need for “*tailored actions to tackle the mental health problems of people living in poverty, especially the elderly, and to secure their independence and well-being.*”²²

The potential that UBI carries with respect to alleviating mental health issues affecting poorer sections of society is game-changing. Research has shown that cash payments can have positively impacting drug use and abuse, malnutrition, stress and fatigue, social anxiety and so on.²³ Organisations studying the direct impact of cash payments on mental health have also found that cash recipients felt a lesser burden, a “greater sense of dignity”, independence

¹⁷Yannick Vanderborght, Karl Winderquist, ‘The Feminist Response to Basic Income in Basic Income: An Anthology of Contemporary Research’ (2013).

¹⁸Julieta Elgarte, *Good for Women? Advantages and Risks of a Basic Income from a Gender Perspective*, available at <http://www.basicincome.org/bien/pdf/JulietaElgarteFullpaper.pdf> (last visited June.16, 2020).

¹⁹Almaz Zelleke, *Feminist Political Theory and the Argument for an Unconditional Basic Income*, 39 POLICY & POLITICS 27(2011).

²⁰A. Kuruvila, K.S. Jacob, *Poverty, Social Stress and Mental Health*, 126 INDIAN J MED. RES. 273, 274 (OCT. 2007).

²¹ Fiona Imlach et al., *Income and Individual Deprivation as Predictors of Health Over Time*, 58 INT. J. PUBLIC HEALTH 501, 502 (2013).

²²Money and Mental Health Policy Institute, ‘*Money on Your Mind: The Money and Mental Health*’, <https://www.moneyandmentalhealth.org/money-on-your-mindrelease/> (last visited June.19, 2020).

²³L. Hjelm, *Poverty and Perceived Stress: Evidence from Two Unconditional Cash Transfer Programs in Zambia*, SOCIAL SCIENCE AND MEDICINE 177 (2017).

and had a relatively more positive attitude.²⁴

The theory behind using UBI to address mental health comes from shifting the mindset of individuals from that of “psychology of scarcity” to that of “abundance”²⁵. It involves the advancement of UBI as a way out of the poverty and debt traps and into security, health and well-being.

VI. UBI AS A SAVIOUR IN THE CONTEXT OF PANDEMIC CRISIS

UBI could also be of immense assistance, financially, to those who have been laid off during the current pandemic crisis. Especially, migrant workers who were driven to penury were forced to walk all the way back home as they had nothing to live on in the urban centres, where they had been working as construction workers, mechanics, security personnel, hotel staff. If only they had been rendered assistance under the scheme, India would not have witnessed deaths on its roads.

VII. CONCLUSION

The call for UBI is not a novel one. Proponents of UBI have long argued that correcting historical, systematic injustice, wealth and income inequality and the poverty trap will involve welfare schemes that are similar to UBI, such as the MGNREGA. The call for implementing judicial pronouncements surrounding dignity and the quality of life must be undying, which requires first and foremost, the realisation of constitutional aims and values.

While the problems in implementing any kind of welfare scheme persist, whether due to the sheer size of the population of India or administrative ‘red tape’ and corruption, UBI presents additional hurdles of managing huge numbers of cash-only payments, doubts as to the preparedness of the country’s financial institutions and lack of clarity on the distribution and monitoring system. Nevertheless, it can only be hoped that the idea of universal basic income is de-radicalized and deliberated upon without prejudice.

²⁴United Nations Children’s Fund (UNICEF), *Cash Transfer as a Social Protection Intervention: Evidence from UNICEF Evaluations 2010-2014*, (June. 2015).

²⁵E. Fromm, *The Psychological Aspects of the Guaranteed Income in The Guaranteed income*(1967).