

# Universal basic income as a source of inspiration for the future of social protection systems? A counter-agenda

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## Abstract

The case for a universal basic income helps to reflect on what could be done to bring social protection into the 21st century, but, it is argued, does not itself provide the most convincing solution to the difficulties rightly pointed out by its proponents. However, this plea constitutes a fruitful source of inspiration for other developments than that proposed. Three proposals are made here in this respect: reducing the influence of household composition on the amount of social benefits received, making the possibility of combining a social benefit with other financial resources more flexible, and relaxing the work integration requirements imposed in return for the granting of rights.

## Keywords

universal basic income, social protection systems, individualisation, universality, (un)conditionality

'Not every solution is an answer to a problem.' David Helbich (2015) *Belgian Solutions*. vol. 1, Antwerp: Luster, back cover.

## 1. Introduction: the universal basic income, the future of social protection?

The idea of a basic income is to guarantee all citizens a minimum income without any conditions, that is, regardless of their private and family situation, whatever their personal resources, and without the slightest work requirement (Van Parijs and Vanderborght, 2017: 1 and 8). Granted regardless of household composition, to the (very) rich and the (very) poor alike, and without

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any requirements in terms of efforts to integrate into the labour market, the income would be individual, universal and unconditional at the same time. The expression ‘universal basic income’ (UBI) has the advantage of highlighting both the second and third of these three key characteristics. For this reason, it will be referred to as such hereafter.

What should one think of this bold proposal, which is being passionately defended by its growing number of proponents, in a context of increasing inequality and the digitalisation of the economy?<sup>1</sup> Should we, for example, share the lyricism of the philosopher Philippe Van Parijs, its best-known contemporary promoter internationally, when he sees in UBI ‘a reform that legitimately carries hopes as crazy as the abolition of slavery or the establishment of universal suffrage, a mobilising utopia that is in keeping with our times’ (2004: 249)? Or, with his co-author Yannick Vanderborght, in their reference book *Basic Income: A Radical Proposal for a Free Society and a Sane Economy*, ‘an essential element of a radical alternative to both old socialism and neoliberalism’ (Van Parijs and Vanderborght, 2017: 3)?

This contribution engages in the debate on the merits of the idea and takes a position on it, from a social security lawyer’s perspective. To date, legal scholars have remained almost totally outside the debate on UBI, which has been carried on mainly by philosophers, economists, sociologists and political scientists, as well as by political figures. There are a few notable exceptions,<sup>2</sup> but some of them have been marked by misunderstandings about the concept, which in turn have prevented the debate from really finding its footing in the legal sciences (see below, section 2). It is also true that legal scholars are certainly not the best-equipped to make pronouncements on the desirability of a universal basic income, its economic sustainability, its social effects or its political feasibility. Nevertheless, knowledge of the maze of regulations that make up social security law, their *raison d’être*, evolution over time, and contemporary turmoils, is not without relevance for the academic but also political discussion. Moreover, this discussion too often remains confined, strikingly, to exchanges that are not always very fruitful between, on the one hand, defences of UBI that are sometimes a bit out of touch and which tend to caricature what exists and, on the other hand, hasty disqualifications of the idea that are unconcerned with hearing and responding to the arguments that support it.<sup>3</sup>

Based on these findings, the discussion that follows focuses more on the practical implications of UBI than on the philosophical principles on which it is based. It attempts to identify the pros and cons of the proposal in a primarily pragmatic way, by reflecting on the concrete impacts on social protection systems that would result from its implementation. In order to contribute to assess the appropriateness of a UBI, it will elaborate by starting from the European social protection systems as they are, that is, inherited from a long history, to be credited with undeniable achievements, but also confronted with

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1. For an overview of the debates, see the anthology by Widerquist, Noguera, Vanderborght and De Wispelaere (2013). On the genesis and national receptions of the idea, see Sloman, Zamora Vargas and Ramos Pinto (2021), as well as Jäger and Zamora Vargas (2023).
  2. Mainly see the studies co-authored by administrative law specialist Lindsay Stirton on the difficulty to concretely implementing a UBI (De Wispelaere and Stirton, 2011, 2012). See also the pro-UBI plea published by public international lawyer Philip Alston (2019) when he was UN Special Rapporteur on Human Rights and Extreme Poverty (2014–2020). See the draft legislation establishing a Citizen’s Basic Income for the United Kingdom by Malcom Torry (2020: 263–270). In a different vein, Zamboni (2021) has investigated the cultural-political reasons why the UBI proposal has so far failed to receive any significant attention in Sweden’s legislative agenda on the future of social protection, even though – or precisely because – the welfare state is particularly developed there.
  3. For a good counter-example, see Martinelli and Vanderborght’s nuanced discussion of the respective advantages and disadvantages of UBI and the ‘social investment’ perspective: Martinelli and Vanderborght (2022).

limitations or even failures. Adopting the approach called for in the Dutch context by Eleveld (2018: 242), I will question the ability of a UBI to provide a convincing response to these failures. However, the question of the cost and financing of the eventual implementation of the scheme will be largely left aside.<sup>4</sup> This is a major limitation, of course, but I assume it on the basis that the identification of the systemic effects that would be induced by a UBI is more important – at least in a first phase.

I will drop the pretense right away: as it stands, I am on the reluctant side. Not on the grounds, quite common among traditional social security advocates (Alaluf, 2014; Alaluf and Zamora Vargas, 2016), that the popularisation of UBI, including on the left, would necessarily be a new manifestation of the creeping conversion of social democracy to neo-liberalism; and that, correlatively, the device could not be anything other than the Trojan horse of the dismantling of social insurance programmes and the imaginary in which these programmes are rooted. Indeed, it is necessary to underline the very pluralistic character of the idea and to take note of the great diversity of its ethical legitimations, as of its practical declinations (Vandamme, 2021). There are very different scenarios in circulation, most notably concerning the amount of the allowance and its articulation with the existing social protection system. At least in the case where basic income is intended to complement rather than replace current protection schemes, the proposal does not deserve the dismissive rejections to which it is still often subjected (see for instance Palier, 2019: 129–130, evoking a ‘futile’ debate and a ‘distraction’). Moreover, the arguments in favour of it are solid (see, in particular, Van Parijs and Vanderborght, 2017): they obviously deserve careful consideration by all those who believe that the obstacles encountered by social protection are worrying and must imperatively be overcome. The idea must be taken more seriously.

Nevertheless, and with the hope of feeding the discussion, this article is intended to highlight several reasons for said persistent perplexity and even clear doubts. More specifically, the following lines are intended to suggest that while the arguments in favour of UBI may well put the finger ‘where it hurts’ today, the treatment advocated may not be the best way to solve the problems highlighted. Put another way, the pro-UBI argument helps us think about what could and should be done to bring social protection into the 21<sup>st</sup> century but does not itself provide the most convincing solution to the difficulties rightly demonstrated.

To this end, I will return in turn to the three key features of a basic income, namely, its individual (section 3), universal (section 4) and unconditional (section 5) dimensions. Each of these will lead me to explain why exactly the remedy on the table leaves a little sceptical, while at the same time – and this is the key message – constituting a fertile source of inspiration for different developments than that proposed. To paraphrase a well-known phrase in continental philosophy, I will thus venture to think ‘with basic income against basic income’,<sup>5</sup> that is, to show how one can seek to rethink social protection on the basis of the argument in favour of UBI while remaining reticent about the proposal itself.

Yet before doing so, it will be first argued that if one opts for the path that is now largely dominant, and in my view also the least risky, of introducing a basic income as a foundation rather than as a substitute for social protection, then one must resolve to accept a certain amount of complexity

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4. On this subject, see the simulations applied to different scenarios – and the sceptical conclusions – of Browne and Immervol (2017).

5. Allusion is made here to the formula popularised by the German philosopher Karl-Otto Apel in his discussions with his Frankfurt School colleague, Jürgen Habermas: see Apel (1992).

and simultaneously reject the mystification of radical simplification, with the latter often giving UBI defences a somewhat irritating ‘magic wand’ quality (section 2).

## 2. A prerequisite: getting rid of the myth of liberating simplification

UBI is an eminently plural idea, defended as staunchly by neo-liberal advocates as by radical ecologists, and is the subject of a wide range of variations. Among the few legal scholars who have examined the idea, the UBI proposal is often portrayed as simply replacing all current social transfer mechanisms with a single cash benefit.<sup>6</sup> But let us leave aside here the spectre popularised by the American economist Milton Friedman, that is, guaranteeing everyone an unconditional minimum income as the only form of social protection, and therefore as a substitute for the welfare state (Friedman, 1962: chapter XII. See also Murray, 2008).<sup>7</sup> It is the scenario of a basic income of a modest amount, introduced as a complement to current social protection, that is now clearly preferred in the majority of circles where the idea has percolated (Martinelli and Vanderborght, 2022: 47). And it is this scenario that will be the focus of my attention.

If it is indeed the path of improving social protection systems rather than that of a *tabula rasa* that one must continue to explore, then one persistent myth about basic income must already be expelled: the idea, omnipresent in the supportive arguments, that it would be an extremely ‘simple’ system and that a plethora of advantages would flow from this simplicity, in contrast to the incredibly bureaucratic quagmire that the welfare state would constitute.<sup>8</sup> If the idea itself is indeed very simple in its expression, its implementation would not fail to pose many delicate problems, which should not be underestimated. Most notably, in order to make it operational it would require an exhaustive and up-to-date register of the entire eligible population, a reliable payment system that would effectively reach all those entitled to it – by creating a new administration in addition to the existing ones? – and a control system to monitor the system and rectify any errors (De Wispelaere and Stirton, 2012). The link to be conceived and concretised between UBI and social protection is even more delicate. While the basic income itself is simple in principle, linking it to other social benefits will not make the regulations and administration of the latter less complex – not in the least when integrating the basic income into the calculation of personal resources.

One must take account of the difficulties in achieving effective universal healthcare coverage, for example, or in automating access to a number of social benefits – all things that sometimes look simple on the surface – to realise that administrative complexity is often difficult to avoid. This complexity is not a feature of a social protection system plagued by absurd rules in the hands of hordes of evil bureaucrats, as opposed to a UBI that is adorned with all the virtues and looks

6. For a sample, see Pieters (2006: 7) (‘A basic income would make all benefits in cash granted by social security redundant’); Harris (2013: 242) (‘Such a system [a universal basic income] would operate in place of the current basic welfare benefits’); Stevens and Werbrouck (2019: 192) (‘By condensing the existing forms of social protection into one benefit, there would no longer be any need for a multitude of different laws, institutions and benefits: citizens can rely on one benefit for all their primary social protection needs’).

7. More specifically, in order to alleviate poverty without distorting the market Friedman advocated the introduction of a negative income tax, i.e. a refundable tax credit, financed by a linear rather than progressive income tax. By hypothesis, such a system gives people on low and very low incomes the right to a sum of money. The key difference with a true UBI is that it operates *ex post*, on the basis of tax data, and not upfront. For a detailed look back at the intellectual genesis of Friedman’s proposal, see Zamora Vargas (2023).

8. For one example among many, Alston wrote that the ‘simplicity of design promises minimal bureaucracy and low administrative costs’, where one would currently be dealing with ‘a large and inefficient bureaucracy’ (2019:382 and 401).

like a miracle solution. In short, unless we embrace the complete scrapping of the welfare state, the drastic simplification that is regularly touted will not take place.<sup>9</sup>

That said, let us return to basic income and the challenges it poses to social protection. Should we individualise, universalise and unconditionalise social rights? If so, which ones, and to what extent?

### **3. Reducing family modulation without completely individualising the amounts**

Firstly, we need to address the strictly individual dimension of the basic income. A similar question concerns other social benefits: should they remain modulated according to the family situation of the beneficiaries, or should we instead aim to individualise them as well? This is perhaps the one of the proposal's three dimensions on which consensus can most easily be identified: it concerns the abolition of the 'cohabitant' category, or equivalent, in the countries and the different branches, means-tested or contributory, of social protection in which it features; this being the reduced allowance often allocated to recipients living in couples or in communities (3.1). On the other hand, it is not clear that all family modulation should be abolished, both for the basic income as for other entitlements (3.2). A more nuanced scenario is maybe possible (3.3).

#### **3.1. Ending the cohabitant status**

Many observers have long noted and denounced the perverse effects of family selectivity. These effects are well-known: regulatory and administrative complexity, gender bias, significant interference in personal life choices, etc. (Roman, 2014). In this context, the abolition of the 'infamous' cohabitant status, on both sides of the insurance/assistance divide, must become a priority. Whether one lives alone or in a household, the rate or amount received should be the same. The integration of all cohabitants into the category of single persons would stop discouraging informal solidarity and would, at the same time, put an end to the increasingly intrusive and even vexatious control of private living situations and places, as well as the legal challenges that all such control entails.

Provided that the necessary resources can be made available, it is time to ensure that people at the bottom of the social ladder are no longer threatened with losing money – and sometimes a lot of it – because life circumstances lead them to form or join a household. Why would they have to suffer humiliating interference with the exercise of a freedom which is taken for granted by all other citizens? We must also put an end to the unhealthy game of cat and mouse that beneficiaries and administrations are led to play against their will. As a side effect, people choosing to live together, instead of being discouraged from doing so, would be better off than single people, *ceteris paribus*, due to household economies of scale.

#### **3.2. Giving up all family modulation?**

However, should we go so far as removing all family modulation? Despite the undeniable difficulties that this poses, it also allows for amounts to be adjusted according to needs, given that the latter

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9. For a critical look at the refrain of simplification in social security, see the lucid assessments by the socio-legal scholar Neville Harris (2008, 2015).

are objectively of very different magnitudes from one private configuration to another, as the empirical literature on 'reference budgets' indicates (Goedemé et al., 2019).

The first issue that springs to mind in this regard is, of course, the cost of childcare for families with children. Taking the logic of individualisation to its logical conclusion would mean it ceasing to be a concern, and this by treating all beneficiaries as single persons. Unless the entire burden of the cost of childcare is shifted to family allowances, this would be a significant step backwards for many beneficiaries, and especially for women. Accordingly, it seems difficult to bypass the status of 'head of household' or equivalent, at least for single-parent families. Similarly, the current scope of the categories regularly entitles one to an increased amount when the recipient pays child support or has joint custody of a child. It would be problematic to dismantle this technique of adjusting to the diversity of life situations. The price to pay for a complete individualisation of amounts would be a certain short-sightedness regarding the disparity of needs.

### **3.3. *Covering the family burden***

While the complexity of family categories is undeniable, there are reasons for this complexity, as is often the case. That does not mean one should not try to reduce this complexity. The contrary seems pertinent, in particular, by liquidating the category of person in a couple or in community. But it does imply that the pure and simple individualisation of basic income and other social benefits is perhaps too linear a solution.

In order to pursue the objective of ensuring livelihood security while at the same time respecting lifestyle diversity, another strategy could be to move towards making a bipartition between beneficiaries. This would involve distinguishing between, on the one hand, a basic monthly rate (for recipients of replacement income) or amount (for recipients of social assistance benefit) – the floor of which would ideally be raised to the European at-risk-of-poverty threshold for a single person, which would constitute the 'normal' case – and, on the other hand, an increased rate or amount, at least for single parents, including in the case of part-time accommodation. The package could be completed by various social corrections. One example would be the status of tenant, which tends to have a considerable impact on the standard of living, but which is currently very rarely taken into account by social protection.

## **4. Preferring universalism to selectivity without ceasing to differentiate between benefits**

Secondly, should universalism be preferred to selectivity? Should social rights, or at least basic income, be granted as much as possible without any means or income test? The arguments in favour of insurance over assistance in general, in order to improve the effective take-up of rights and avoid employment traps, are strong ones (4.1). However, it is not obvious that in order to better combat poverty and unemployment, we should go as far as systematically overlooking personal resources (4.2). On the contrary, it seems appropriate to continue to adjust benefits, including the insurance-type benefits, according to the size of the wallet of their recipients, and this through intelligent targeting (4.3).

#### 4.1. *Favouring insurance over assistance*

There is ample evidence that selective benefits are usually associated with high rates of non-take-up, that is, situations where a person is legally eligible for a benefit but does not actually receive it, due to the administrative complexity and the intrusive social enquiries involved (see the meta-analyses by Dubois and Ludwinek, 2015; Hernanz et al., 2004; van Oorschot, 2002. See also Janssens and Van Mechelen, 2022: 104 and 105). They can also generate significant employment traps (Jordan et al., 1992). These, then, are certainly serious reasons to be suspicious of means-testing mechanisms.

More generally, a key policy argument in favour of universalism concerns the well-known ‘redistribution paradox’ that was highlighted in the late 1990s by the Swedish sociologists Korpi and Palme (1998).<sup>10</sup> As a reminder, they argued that the welfare states that are most effective in the fight against poverty and inequality are not those that take from the rich to give to the poor, but those that take from all to give to all. Although the ‘Robin Hood’ logic has the apparent advantage of avoiding waste, by concentrating the resources allocated to social protection among those who need them most, it is empirically less effective. To be convinced of that, one needs only think of the emblematic case of the United States. To explain this, Korpi and Palme formulate the central hypothesis that political support for redistribution is much more vulnerable and prone to erosion in countries where access to social protection tends to be conditional on income thresholds, as the middle and upper classes must then turn to the private insurance market to protect themselves against social risks. As a result, they become reluctant to continue financing public schemes to which they are unlikely to have access. In contrast, social protection systems that extend social benefits and services to the whole population can be credited with much better performance in reducing gaps, because public spending on social matters is much higher. A typical example is Sweden. This is the paradox of redistribution: the more a welfare state concentrates its efforts on the poor, the less effective it is at reducing poverty.

This counter-intuitive observation leads to the defence of the political and social superiority of Scandinavian-type universalist welfare states over Anglo-Saxon systems based on selectivity, with continental countries based on Bismarck-style social insurance falling somewhere between the two.<sup>11</sup> Since Korpi and Palme’s seminal paper, it has been more systematically confirmed, based on comparative opinion surveys, that the inclusion of the upper end of the social scale in the redistribution game increases willingness to contribute: wealthy citizens are much more willing to (electorally) support the welfare state when they and their relatives benefit from it, in contrast to countries – and sectors of social protection – where these same citizens have to contribute without being eligible, due to income thresholds (van Oorschot and Roosma, 2017: 7–10).

As regards the schemes themselves - what ultimately matters the most - and not only their popular perception, it still seems true today that the more a country’s social benefits tend to be universal in scope, the higher their ‘redistributive performance’, which can be understood as their capacity to reduce inequalities (Jacques and Noël, 2018).

10. For a review of the subsequent literature, see Van Lancker (2020) and, especially, Gugushvili and Laenen (2021), who discuss in detail the acuity of the chain of causalities proposed by Korpi and Palme, based on a meta-analysis of the empirical findings from this century.

11. Reference is, of course, made here to Gøsta Esping-Andersen’s famous tripartite typology of social protection systems (1990).

The redistribution paradox is sometimes used by UBI advocates to promote it (Vanderborght, 2014: 214–215), the argument being that, because of its fully universal character, the scheme will quickly generate a broad coalition of interests ready to defend it and to support a strengthened and expanded social protection more generally.

The promoters of UBI can be credited with rightly seeking to reinvigorate universalism against the obsession with selectivity in the societal debate on the future of social policy. I agree with them on the importance of seeking to structurally improve vertical income redistribution through large-scale measures, rather than continuing to increase the number of targeted *ad hoc* benefits. The list is constantly being extended, and no one has an overview of these one-off measures, whose real effectiveness in the fight against poverty remains a mystery due to a lack of evaluation. There are social tariffs for electricity and phone, reduced prices for public transport, food packages, tax deductions in many areas, etc.<sup>12</sup> If UBI were to be financed mainly by increasing the progressivity of income taxation, it might be a way of moving in the direction of strengthening redistribution in favour of the poorest

#### 4.2. Forgetting personal resources?

However, the (real) question is how far universalism should be taken. Should we move towards it in the design of social policies to the point of depriving ourselves of all reference to individual financial situations, including income from work and private property? I am not fully convinced of this.

Firstly, the concern about combatting employment traps is far from being totally ignored. This is demonstrated, in general, by the whole arsenal of (para)fiscal measures such as tax credits and reductions in social security contributions for those on low incomes. This does not mean such measures cannot be improved – far from it – but it does mean that, at the very least, the pilots of social protection did not wait for the idea of a basic income to become aware of the problem and try to tackle it. It is, moreover, a concern that is now widely shared by most European countries (Marchal and Marx, 2018). Should we get rid of this complex range of scattered measures in favour of a UBI? If the latter were to consist solely of a basic floor income, it is not clear how this would be possible without regression. Apart from the fact that the basic income, when added to rather than substituted for the existing system, will not make the social protection system much easier to administer (see above, section 2), social assistance schemes are in fact intended to remain alongside the UBI, even if their amounts will be reduced by the level of the latter. It is therefore difficult to see how targeting can be completely avoided.

#### 4.3. Differentiating benefits

So what should be done? One priority could certainly be, as with the family categories, to try to bring the rules on assessing resources in the various branches of social protection concerned as close together as possible, in order to simplify and harmonise the calculation rules. Such an operation is essential if we are to make significant progress in automating social rights, with a view to curbing the very worrying phenomenon of non-take-up. At the same time, it would be worthwhile

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12. It can be noted, however, that the reference budgets could be a convincing tool for operationalising such an evaluation, as reference budgets attempt to define what households need, at a minimum, in order to live a life in dignity and to adequately participate in society: see Penne, Cornelis and Storms (2020).



considering improving the design and coherence of all the cumulation mechanisms, to better ensure that work is financially worthwhile. There are ways of doing this (Vandelannoote and Verbist, 2020). To suggest how progress should be made on these two fronts goes well beyond the scope of this article.

Instead, I will limit myself to mentioning a line of thought that might constitute a convincing alternative to the somewhat blind universalism of UBI, which at the same time avoids the well-known drawbacks of ‘hard’ Anglo-Saxon-style selectivity. This line, which is increasingly mentioned in contemporary social policy debates, is that of targeting within universalism (Skocpol, 1990) – that is, the differentiation of benefits within the general referential framework of universalism. The aim is to defend the priority of social insurance over assistance to reduce the need for the latter as much as possible and to make it (again) truly residual. To achieve this, insurance mechanisms must have the widest possible scope and guarantee good protection to all their beneficiaries. However, and this concerns the differentiation dimension, at the same time, these mechanisms must also grant increased benefits to those in particularly vulnerable categories, so as to increase the share of social expenditure that reaches them.<sup>13</sup>

In various countries, this is already how health insurance and family allowance systems work: they cover almost the entire population and give them the same coverage, but are more generous for certain groups, as defined according to their social status, family situations, or levels of household income. While the technique is not free of complexity, it does not have – or at least has much less of – the potentially stigmatising nature of traditional assistance schemes in that its beneficiaries are treated in exactly the same way as everyone else in terms of procedure and ‘counter’. Moreover, additional support can increasingly be granted automatically by the relevant social security institutions based on the information in their possession. Comparative empirical research on family benefits – the field where it is the most advanced to date – suggests that this form of targeting within universalism is the most effective way to reduce child poverty (Van Lancker and Van Mechelen, 2015; Van Lancker et al., 2015).<sup>14</sup>

‘Hard’ universalism versus well-considered targeting within a universalist framework is thus clearly a debate that requires further investigation.

## 5. Halting precariousness without abandoning inclusion

Thirdly and finally, should the right to income be guaranteed unconditionally? Should social benefits, or at least the basic income if it were to be created, be untied from any requirements in return, in particular for the people of working age – on whom I will focus here? Of all of these, it is undoubtedly the most sensitive question, and the one that most profoundly questions the ‘software’ of our social protection system. The defenders of UBI have important arguments in its favour, which, in my opinion, are essentially due to the excesses of a certain activation and the need to halt them (5.1). Yet the question remains whether, in order to achieve this, it is required to go as far as breaking with the principle of the legal sharing of responsibilities between the individual and the community, based on the horizon of integration through (paid) work (5.2). The question

13. For a conceptualisation and a defence of targeting within universalism, see Jacques and Noël (2021).

14. Incidentally, it seems that the option of targeting within universalism is likely to enjoy strong electoral support: see Gugushvili and van Oorschot (2020).

is then whether the problem can be better addressed within, rather than outside, the current social security paradigm (5.3).

### 5.1. Countering authoritarian activation

The shortcomings of the authoritarian variant of activation are now well-known. Its effects have been abundantly documented in many countries (among many others, by Vonk, 2014). The over-conditioning of rights resulting from the hypertrophy of certain counterpart measures leads to excessive pressure on beneficiaries. This pressure appears untenable and even counterproductive for a significant proportion them (Eleveld et al., 2020; Rueda, 2015).

In this context, it is easy to understand the appeal of guaranteeing everyone a strictly unconditional floor income. Several observers of social policy developments see the basic income as a way of protecting the most vulnerable from the particularly stigmatising and aggressive workfare measures deployed in some countries, particularly in the Anglo-Saxon ones. Because of its unconditional nature in terms of *quid pro quo*, a basic income guarantee would provide recipients with a space for withdrawal – that is, an exit option – in the face of the growing desire to force them into work at any price. In turn, it would force social services to focus their attention on reintegration support rather than on punishment (Handler and Babcock, 2006: 19–20).

### 5.2. Waiving any counterpart requirement?

One can agree with UBI advocates that constraints cannot go so far as to undermine access to the material resources required to enjoy of a life of human dignity.<sup>15</sup> But this point of convergence leaves open the question of how far to go in rebalancing the tension between social rights and duties. To what extent should social protection be reformulated in the sense of a relaxation of constraints, particularly regarding the prospect of social integration through (paid) work?

While some promoters of UBI view it as the materialisation of a right to income disconnected from work, others, who are committed to promoting the right to work, argue that the guarantee of such an unconditional income would be precisely the best way of effectively securing the possibility of accessing employment and engaging in socially useful non-market activities in parallel. This is the case for Van Parijs and Vanderborght, at least in their latest writings (2017: 26–27; 2019: 254; see also Standing, 2012), which are much less marked than before by hostility to the work ethic (Van Parijs, 1991), that is, society's strong valorisation of work.

To discuss this key point, we must return to and consider the question of the amounts projected in a UBI. Let us thereby consider the hypothesis of a basic income of a very modest amount, and then that of an income of a higher level.

Let us first consider the scenario in which the basic income is introduced at a fairly low level, that is, of the order of EUR300 per month in countries such as Germany or France. With regard to this hypothesis, one cannot help but remain a little circumspect when some authors write, after having mentioned an amount of this order, that because of its unconditional nature, the income 'puts the person concerned in a position to choose, among the low-paid jobs that are available, those

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15. See, by analogy, the legal-political argument developed by Civitarese Matteucci and Repetto (2021: 135–138) on the basis of the concept of human dignity to frame the sanctions that are attached to the failure to meet requirements on which the eligibility to social protection benefits is conditional.

whose interest or added value are sufficient to justify accepting them' (Van Parijs, 1994: 130); or that 'the absence of any requirement (...) gives the weakest people a bargaining power that enables them to refuse dead-end jobs' (Van Parijs and Vanderborght, 2005: 64).

Since the introduction of the UBI is expected to be accompanied by a reduction in most social benefits and the minimum wage – at least, in the case of the latter, in the part paid by the employer – by the amount of the basic income, the net income of the worker paid the minimum wage and of the unemployed or the recipient of social assistance who does not work will remain largely unchanged. We may thereby ask whether these people will regain real bargaining power against employers and welfare institutions just because a (very) small part of their total income will now be completely unconditional? Unless we have missed an important point, it is hard to see how that can be argued. The UBI that every citizen will be certain to obtain in all circumstances will, in this hypothesis, be so small that it is difficult to fathom how it can guarantee a minimally decent standard of living, nor how it will put the most precarious people in a position to refuse jobs and procedures of a humiliating nature that will be offered to them.<sup>16</sup>

It is perplexing to read, in the words of Van Parijs and Vanderborght, that UBI 'does not operate at the margins of society but affects power relations at its very core. Its point is not just to soothe misery but to liberate us all. It is not simply a way of making life on earth tolerable for the destitute but a key ingredient of a transformed society and a world we can look forward to' (Van Parijs and Vanderborght, 2017: 12). Coupled with the repeated invitation not to focus on the question of the amount allocated, as if it were not a determining factor, these somewhat messianic formulas make one uncomfortable with their very 'principled' defence of the basic income. In social policy, one cannot cling to categorical imperatives without making their real-world impact, or lack thereof, a major concern. How can we achieve being 'all liberated' and 'a transformed society' on a few hundred euros a month?

By contrast, the same criticism cannot be levelled at the scenario of a basic income of a more significant amount, one close to the European poverty line for example, or, *a fortiori*, set at around the minimum wage. In this configuration, and assuming that it can be financed,<sup>17</sup> the UBI would indeed lead to an unprecedented dissociation between income and productive, or at least paid work.<sup>18</sup> It would therefore confer real power to refuse a job deemed too unattractive or poorly paid, just as it would allow beneficiaries of social services that have been converted to the role of taskmaster to manage without their 'support'. From a perspective of ecological and social transition it could also encourage the development of voluntary part-time work and thus support the proliferation of unpaid activities such as volunteering, associative commitment, economic experimentation and care. In short it could set us on the path to a post-productivist

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16. True, this might be different for workers in the informal economy – except that basic income proposals generally make eligibility for it conditional on a legal residence requirement (Van Parijs and Vanderborght, 2017: 9), so that many of the workers concerned will not benefit from it.

17. For a strong contestation of this hypothesis, see Zamora Vargas (2017). The author considers that a basic income of a modest amount will contribute to the destructuring of the labour market, in particular because of the downward pressure it will exert on wages, whereas a basic income of a generous amount will open the way to a post-capitalist society but would be totally unfundable, unless all other public expenditure is eliminated. This leads him to conclude, quoting Luke Martinelli: 'an affordable UBI is inadequate, and an adequate UBI is unaffordable'. In the following, I ask whether a high basic income is such an 'adequate' option, without questioning its practical feasibility.

18. A significant part of productive work remains unpaid and therefore has no legal existence. For a mapping exercise of the relationship between social law and productivism, see Dermine and Dumont (2022).

society (Arnsperger and Johnson, 2011; Bourg and Arnsperger, 2017; see also Kallis, 2011: 876 and 878). The establishment of a universal social benefit deliberately disconnected from the principled requirement to perform or seek to perform market-sanctioned productive activity would be the keystone of such a society.

However, the proposal raises several objections, even if its power is well-understood. Indeed, it is questionable whether the UBI, in the variant described, might not widen the dualisation trap between the insiders and the marginalised rather than overcome it, despite the generous intentions of its promoters. Would the institutionalisation of a basic income of an amount sufficient to free people from anxiety about the cost of living not risk leading to increased division in society between the productive and those considered useless? By abolishing the requirement of productive work, the basic income could have the effect of keeping individuals in precarious situations, housewives, people with disabilities, etc., enclosed in the private sphere of micro-social activities. If that were the case, it could lead to a radicalised binary division of society, as the philosopher of labour André Gorz claimed: 'on the one hand, the maniacs of performance and the enthusiasts of gain, monopolising macro-social work and public space; on the other hand, a mass of recipients devoted to private activities and convivial exchanges' (Gorz, 1994: 60. See also Gorz, 1992).<sup>19</sup>

In terms of equality between women and men in particular, which is obviously a central concern today, one might wonder whether, sociologically, there are not reasons to fear that one of the most immediate effects of the introduction of a UBI could be the withdrawal of many women from the world of employment, to the benefit of, if one may refer to it as such, confinement to the domestic sphere.<sup>20</sup> For their part, P. Van Parijs and Y. Vanderborght state that 'under practically any imaginable basic-income reform, women would benefit far more than men in terms of income or in terms of life options' (Van Parijs and Vanderborght, 2017: 185). This, however, remains to be seen: is it not the case that women risk being the first to drop out of the labour market because they often are subject to poorer working conditions than men, and even more so because they continue to take on the lion's share of family and household responsibilities? Given a significant amount of money, is there not a risk that the basic income will have the effect of *de facto* remunerating motherhood and, consequently, of confining a certain number of women to the home, which is not exactly emancipating?

Of course, there is a lack of empirical evidence here to arbitrate a debate which, as it stands, might seem too speculative.<sup>21</sup> But if we have to do a bit of foresight, is it not to remain somewhat blind to the whole network of constraints and socio-cultural determinants due to which a monetary allowance is not always equally convertible by all into a capacity for self-determination, nor automatically beneficial in terms of social integration, if one contends that 'under practically any imaginable' scenario women will necessarily see their fate improved by a UBI? The retort to this objection will be that providing an additional 'option' to vulnerable individuals – in this case women at the bottom of the social ladder – does not, by definition, lead to their relegation, insofar as it is not because one refuses to force activity that one prevents it, and that to argue the

19. It is true that André Gorz finally rallied to the idea of a UBI, after having fought it fiercely for a long time, in one of his last essays (1999), but mainly on the basis of a rather apocalyptic perception of the transformations of the wage-based society. In this respect, see the striking objections addressed to the last Gorz by sociologist Robert Castel (2017).

20. See the warnings of (feminist) sociologist Ann Orloff (2013) and of (feminist) economists Barbara Bergmann (2008), Rachel Silvera (2018) and Anne Eydoux (2018).

21. As Martinelli and Vanderborght rightly state, 'whether BI's feminist proponents or critics are correct is largely an empirical matter' (2022: 50).

contrary is to sink into a form of authoritarian paternalism claiming to know better than the less well-off themselves what is good for them. In short, it is each individual's responsibility to lead their own life as he or she sees fit. Because it is presented as being free of all moralising paternalism, this posture may seem attractive, certainly in national contexts where authoritarian types of activation rule. But, radicalised, it overlooks social, psychological, and cultural vulnerabilities, due to which this libertarian 'up-to-you' strategy risks proving itself to be falsely emancipatory, particularly in terms of the fight against gender inequality.

In short, depending on the amount projected, whether very modest or substantial, are we not oscillating between, on the one hand, a rather symbolic allowance and, on the other, something that risks functioning in practice as a form of 'universal assistance' allowance? Or a supposedly 'radical' device, the real added value of which is not fully clear, or a vector for increasing the dualisation of society between the hyperactive and those confined to the margins of economic and social life?

### *5.3. Finding an answer in the current social security paradigm*

What should we do then, one might ask? The basic income sceptics have the irritating habit, according to UBI supporters, one imagines, that while the majority of them claim to be 'progressive', they often remain very evasive about their own normative horizon.

To me, it does not seem desirable to break with the principle at the basis of all social protection systems of legally linking – for members of the active population – the granting by the community of a replacement or social assistance income to a requirement; a requirement itself inscribed in the horizon of socio-professional integration. I contend that it is (still) appropriate to value participation both as a prospect and as a constraint, as a right and as a duty – in other words, as a shared responsibility.<sup>22</sup>

I have expressed my concern that the institutionalisation of a right to an income guarantee disconnected from work, at least if it guarantees a significant amount, will in practice fuel a withdrawal effect from the labour market at the bottom of the social scale. Therefore, the approach I am inclined to favour is that of developing the logic of activation or empowerment, but an activation which, of course, does not amount to coercive tutelage of those entitled. When activation is translated into increased conditions for the maintenance of benefits, the so-called activated beneficiary is paradoxically called on to take charge of his/her life, or even to 'integrate', while being less assured than before of receiving the basic material means to ensure his/her livelihood (Castel, 2003: 71). Contrary to the conventional discourse, the rhetoric of 'mutual obligations' then hides, in reality, a reduction in reciprocity, much more than its restoration, in the sense that its concrete translation into policies exacerbates the constraints on individuals while disempowering the public authorities (McKeever and Walsh, 2020). This shift is highly questionable in that it leads to the transfer to the beneficiaries – and particularly to the most vulnerable among them – of an increased share of the burden of a situation over which they often have little control. All this is well understood.

My central argument is that, despite its too often guilt-inducing formulations, the principle of activation can also be considered as a promise; a promise that remains unfulfilled and far too insufficiently actualised through the systems in place, yet a promise, nonetheless. This promise is one of

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22. For a complementary – and in fact inseparably linked – plea, not developed here, for a better valorisation of socially useful activities performed outside the stranglehold of productive work, see Dermine and Dumont (2022: 265–267).

taking more seriously the words and difficulties experienced by the beneficiaries. Alongside the disciplinary drifts we know about, activation can also take the form of increasing capacities through better support. From this perspective, activating or empowering a welfare recipient would no longer mean blaming them entirely for ‘their’ situation, but rather seeking to put them in a position to regain effective control and involve them in the actual realisation of their own rights. To really make somebody responsible for oneself is to restore, to bring about the ability to undertake something, and not to presuppose this ability (Bonvin and Moachon, 2013: 784; Bonvin and Rosenstein, 2015: 69).

The perspective that thus emerges, regarding the difficult conditionality issue, consists of the joint consecration of a right to social benefits and a right to socio-professional integration, both of which are accompanied, in return, by an obligation to participate actively in the realisation of the agreed reintegration path. It is a question of trying to ‘hold a ridgeline between the guarantee of a right to resources on the one hand and on the other hand the will to bring recipients back to employment’ (Lafore, 2017: 316). In reality, this is what certain social work practices have been foreshadowing for a long time.<sup>23</sup>

In my opinion, the central issue of social policy must continue to be the attempt to establish a satisfactory balance between collective and individual responsibility in the coverage of risks, as social protection has sought to achieve in practice since its creation. However, there is an urgent need to pursue this reflection and to deploy it in context: failure to think about and to effectively implement a ‘fair conditionality’ with regard to circumstances, which leads to a fair balancing of rights and duties, would undoubtedly constitute a strong argument in favour of an unconditional income (White, 2017).

## **6. Conclusion: right questions, wrong answers?**

Is a universal basic income the ‘realistic utopia’ that social protection systems need to enter the 21st century? Without completely closing the door, I have expressed a certain scepticism. My doubts stem mainly from the concern that the consecration of an income that is at once strictly individual, totally universal, and radically unconditional constitutes an overly linear response to difficulties. Do family categories lead to interference in private life? Let us abolish them all. Does selectivity create employment traps? Let us abandon all consideration of resources and income in the calibration of redistribution. Do activation measures for beneficiaries go too far in their coercion? Let us get rid of all forms of work requirements. Is social protection too complex, more generally? Well, let us use some common sense and drastically simplify the system. In particular, let us throw on the scrapheap the ‘bureaucrats’ – a recurring term in the writings of UBI advocates to refer to those who run social protection institutions and public employment or training services on a daily basis.

The case for basic income undoubtedly leads to some very relevant questions. It highlights those regulatory ‘knots’ that all observers of social protection know are difficult to untie, but which remain rarely investigated and even less resolved, including categories, the calculation of resources, work conditions, among others. These problems must be tackled. Yet, when we take account of the diversity of situations, the heterogeneity of needs, budgetary limits, the difficult trade-offs to be

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23. On the fundamental ambivalence of activation policies as they are actually implemented, between pressurisation of the most vulnerable and personalisation of support, or disciplining and enabling aspects of conditionality, see van Berkel (2020).

made between contradictory aspirations, etc. we are quickly reminded of the exceptions, modulations, adjustments, differentiations – in short, the complexity: without liking the idea *per se*, it seems difficult to avoid.

Having formulated my objections, I have ventured to make a few suggestions – granted, not fully developed ones – for meeting the difficulties rightly highlighted by the defenders of a basic income, but by taking a different route. This route is that of perfecting social protection ‘from within’, by starting from what it is. This path will probably displease the advocates of radicalism and those who enjoy the thrill of it. Small steps and fine-tuning are less exciting than revolution. On the other hand, the suggestions may have in their favour – at least that is my hope – a greater reappropriability by the main actors of our social model than the vaporous horizon of a ‘great evening’ of the welfare state.

This article does not, of course, claim to have the final word on the subject, which everything suggests is here to stay. The issue is an important one, and the reflection must definitely be continued. Arguments can certainly be put forward against my doubts as well as my counterproposals.<sup>24</sup> I posit, for the attention of the agnostics, sceptics, and even more so the avowed opponents of the UBI, that the rejection of the proposal should lead to a greater imagination effort on their (and therefore our) part, to enrich the debate. The fact is that where the critics of basic income are often disappointing – and I do not claim to be totally immune to this – is in the absence of any kind of elaborated counterproposal. The welfare state will not be brought out of the rut by simply multiplying incantatory calls to restore the ‘1945 moment’.<sup>25</sup> There are many undertakings: family modulation of allowances, the fluctuation of benefits according to the importance of personal resources, and the calibration of work requirements are three particularly urgent ones. These issues cannot continue to be neglected because of their technical complexity. It is precisely the interest of the argument in favour of a basic income that it has helped to highlight, firstly, the need to give recipients more autonomy in their family life arrangements; secondly, the need to tackle the problems of employment traps and non-take-up; and thirdly, the need to rebalance the tension between rights and duties. This is all in contrast to the tendencies to police beneficiaries, target resources too sparingly, and over-condition social rights. These are all cases that should be examined as a priority.

Other legal scholars, it is hoped, will be able to pick up the baton and continue the work initiated here by attempting to advance the debate within specific historical and geographical contexts rather than just in the ethereal sky of ideas and models.<sup>26</sup>

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24. On the side of the defenders of UBI, a promising path to explore would be to move away from the somewhat fetishistic defence of basic income primarily for its own sake, as if it were a self-sufficient project whose realisation should be ensured at all costs, and to elaborate on its incorporation into a much broader package of policy proposals. For a stimulating and refreshing outline in this direction, see Martinelli and Vanderborgh (2022).

25. In this vein, see Bec (2014).

26. For a more systematic attempt in the Belgian context, see Dumont (2021). For a first discussion in the French legal-political context, see Martin (2020).


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