

# A CASE FOR UNIVERSAL BASIC INCOME IN INDIA

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*Universal Basic Income ('UBI') is a regular cash payment made to all individuals by the State without any means or work testing. It has historically been debated upon and more than a few justifications for UBI have been made. UBI has entered policy debate in India ever since UBI was proposed by the Economic Survey 2016-17 as a social welfare scheme suitable for India. In this paper, a normative justification for UBI is sought to be arrived at. A right to basic income, by promoting 'real freedom' of individuals is said to be a part of the conception of substantive dignity of all individuals. It is important for the actualisation of other rights and freedoms of an individual. Associated benefits of UBI include realizing the right to adequate standard of living, respecting autonomy rights of individuals and as a policy intervention in combating poverty and inequality. The lessons from UBI experiments conducted in different places also sufficiently highlight the advantages of UBI. The challenges in implementing UBI in India are discussed in the course of this paper alongside a critical analysis of a model that seeks to overcome these challenges.*

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I. INTRODUCTION

The idea of a State-funded Universal Basic Income (‘UBI’) has gained considerable attention over the past decade. It is subject to much debate worldwide among economists, social-thinkers and politicians, and is slowly entering wider public discourse. The referendum held two years back in Switzerland on the issue of granting citizens an unconditional UBI is a testament to this fact.<sup>1</sup> Although eventually the proposal was voted down by a majority of Swiss voters,<sup>2</sup> other civil societies have not restrained themselves from experimenting with the idea of UBI for its people. This is evident from UBI experiments which have been carried out in Namibia, Finland, Kenya, and India.<sup>3</sup>

UBI is defined as income paid to every member of the society without means and work testing.<sup>4</sup> Two primary characteristics of UBI flow from this definition. First, as its name suggests UBI is universal in nature – it is paid on an individual basis to every person.<sup>5</sup> Second, it is unconditional in nature, that is, as indicated by the latter part of the definition it is paid to an individual regardless of her income (means test) and employment requirement (work test).<sup>6</sup> In this sense, it differs from the traditional notion of income which is either gained from offering one’s labour in the production of valuable goods and services or from other ancillary sources, such as, inheritance. The twin core features of universality and unconditionality are essential to the conceptualisation of UBI in this manner;<sup>7</sup> however, they do not preclude suitable modifications in its application. Consequently, it is to be noted that the obligation to provide such a basic income to its citizenry falls upon the modern welfare State.<sup>8</sup>

Several scholars have argued for instituting a right to basic income for all individuals. The justifications for such a right have come from a variety of corners: historical injustice in transfer and wealth accumulation, deep and pervasive poverty which robs a large

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<sup>1</sup>BBC NEWS, *Switzerland’s Voters Reject Basic Income Plan*, June 5, 2016, available at <http://www.bbc.com/news/world-europe-36454060> (Last visited on February 6, 2018).

<sup>2</sup>*Id.*

<sup>3</sup>See Part IV(B) of this paper.

<sup>4</sup> Philippe Van Parijs, *Basic Income for All: If You Really Care about Freedom, Give People an Unconditional Income*, BOSTON REVIEW, October-November 2000, available at <http://bostonreview.net/archives/BR25.5/vanparijs.html> (Last visited on February 5, 2018).

<sup>5</sup>*Id.*

<sup>6</sup>*Id.*

<sup>7</sup>*Id.*

<sup>8</sup>For detailed discussion, see Part II of this paper.

number of people of their rights, and the much more contemporary view that UBI might become necessary due to growing automation and resultant job loss. One such justification for UBI, which finds favour with us, is that income is in fact a precondition for the exercise of other rights and freedoms and in that sense, income deprivation denies exercise of rights by underprivileged individuals.

Poverty around the world and particularly in India is a social menace and policymakers have for long battled with understanding poverty, theorising it and suggesting solutions for its alleviation. For a legal theorist or a constitutional court, poverty presents a package of rights violations. Abject poverty has been time and again termed as a violation of constitutional rights of a citizen by the Supreme Court of India, and more importantly, a violation of the human right to live a life of dignity.<sup>9</sup> It must be noted, however, that income deprivation is only a facet of poverty, as understood in a multidimensional sense. Yet income deprivation is central to any conception of the cause and effects of poverty, and hence, it must be tackled head-on.

The Economic Survey of 2016-17 of the Government of India included a chapter dedicated to the “radical idea” of UBI.<sup>10</sup> The Survey identifies UBI as part of the solution to the problem of poverty and inequality witnessed in the Indian society.<sup>11</sup> This development has given strength to the growing expectation that the Government of India will embark upon a scheme of UBI as a part of its social security measures directed towards poverty eradication.

In this backdrop, it becomes necessary to work out an appropriate legal framework for grounding a right to basic income for the citizens of India. This demands identification of basic principles of constitutional, moral and social values which shall render support to the notion of basic income. There ought to be an explanation as to why a ‘right’ is to be recognized in this context. Moreover, any radical step like UBI is bound to attract significant criticism from its detractors and there is a need to apprehend such possible contentions in advance in order to analyse the same and respond with suitable replies based in sound and consistent theory. Thus, this paper is an attempt to provide answers to these challenging questions surrounding UBI by laying down a reasoned theoretical and normative legal framework supporting a right to basic income and therein lies the objective of this paper. In addition to this, we also try to suggest a model of UBI that is needful, achievable and workable in India. We take a journey through pilot projects of UBI from around the world, including India, to understand its impact and cull out lessons for implementation, following which we finally also aim to establish a skeletal structure for instituting UBI in India.

This paper is divided into six parts and includes sub-sections within each part. In Part II, we discuss how the notion of substantive dignity is supportive of a right to basic income and how the right is grounded within it. Next we elucidate on certain facets of right to basic income in Part III of the paper. In Part IV, we establish how a basic income is important to India by drawing from theory as well as UBI experiences from around the world. The implementation of UBI is taken up in Part V and a system for UBI in India proposed in the Economic Survey is examined. Lastly, we offer concluding remarks in Part VI of the paper.

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<sup>9</sup>See Part II(B) of this paper.

<sup>10</sup>Department of Economic Affairs, Ministry of Finance, *Economic Survey 2016-17*, 22 (January 2017) (‘Economic Survey 2016-17’).

<sup>11</sup>*Id.*, 173.

## II. CONCEPTION OF SUBSTANTIVE DIGNITY: LOCATING A RIGHT TO BASIC INCOME

### A. UNDERSTANDING DIGNITY

The notion of human dignity is close at heart to the theory of human rights. It finds routine mention by courts across different jurisdictions while adjudicating upon matters involving human rights. International law and constitutions of many democratic nations also involve repeated reference to human dignity and have undergone interpretation in that light.

Dignity is understood to mean the intrinsic worth of a person or the inherent value of a human being which entitles one to respect.<sup>12</sup> Dignity is said to confer certain inalienable rights upon a human being which ought to be respected.<sup>13</sup> This poses a few relevant questions which have been the muse of legal and political philosophers for a long time: what is the content of dignity and what it encompasses, and how can the duties of a State be defined with respect to its treatment of individuals who possess dignity.

Before delving into such questions it is pertinent to take a brief look at the development of the concept of human dignity over the years. Dignity, traditionally a Western concept, can be traced back to the times of Romans where it was used to differentiate the status of the man as elevated above animals owing to the quality of dignity inhering in a human.<sup>14</sup> The works of St. Thomas Aquinas depict usage of dignity of humans rooted in Christian traditions where humans are said to occupy a place in the hierarchy of God's creations and acquire dignity in accordance with our position in the hierarchy.<sup>15</sup> Few centuries later, in what is described as the period of European Enlightenment, the works of the great philosopher Immanuel Kant gave rich meaning to the notion of human dignity. Kant invokes a metaphysical notion to hold dignity arising from reason as an inner value possessed by all human beings which makes them worthy of respect.<sup>16</sup> For Kant, each person is capable of reason and the faculty of reason enables her to act autonomously by giving herself a moral law. Further, it is immoral to treat humans as mere means to an end and dignity demands that each person is treated as an end in herself. The modern human rights theory is inspired by the concept of inherent human dignity as propounded by Kant and we often find a Kantian insight in human rights discourse today.<sup>17</sup>

In the later centuries, human dignity was sought to be promoted on the grounds that it is a moral entitlement of an individual and the rights derived from dignity

<sup>12</sup>ELKE LAURA PIERCE, HUMAN DIGNITY: USELESS RHETORIC OR SUBSTANTIVE CONCEPT? 4 (2015); see INTERNET ENCYCLOPAEDIA OF PHILOSOPHY, *Human Dignity*, available at <http://www.iep.utm.edu/hum-dign/#SH3a> (Last visited on February 6, 2018); Rinie Steinmann, *The Core Meaning of Human Dignity*, 19(1) PER (Online) 1 (2016), available at [http://www.scielo.org.za/scielo.php?script=sci\\_arttext&pid=S1727-37812016000100023](http://www.scielo.org.za/scielo.php?script=sci_arttext&pid=S1727-37812016000100023) (Last visited on February 6, 2018); see Milton Lewis, *A Brief History of Human Dignity: Idea and Application* in PERSPECTIVES ON HUMAN DIGNITY: A CONVERSATION 93 (2007); see also Christopher McCrudden, *Human Dignity and Judicial Interpretation of Human Rights*, 19(4) EUROPEAN JOURNAL OF INTERNATIONAL LAW 655 (2008), available at <https://academic.oup.com/ejil/article/19/4/655/349356> (Last visited on February 6, 2018).

<sup>13</sup>PIERCE, *Id.*

<sup>14</sup>*Id.*, 9.

<sup>15</sup>*Id.*, 11.

<sup>16</sup>*Id.*, 12.

<sup>17</sup>See Rachel Bayefsky, *Dignity, Honour, and Human Rights: Kant's Perspective*, 41(6) POLITICAL THEORY 809 (2013).

were not only essential for individuals but also for common good and welfare of the society.<sup>18</sup> Post World War II, human dignity became sturdily embedded in the minds of people owing to distaste towards abhorrent policies of the Nazis, a growing worldwide sentiment for international peace and anti-colonial movements around the globe.<sup>19</sup> This led to the belief that human dignity is inherent in all individuals irrespective of race, religion, language or other markers of identity, and thus, international legal instruments, especially those related to human rights, sought to incorporate dignity as their core feature.<sup>20</sup>

The Preambles of both, the United Nations Charter and the Universal Declaration of Human Rights ('UDHR')<sup>21</sup> reaffirm the notion of dignity by reposing faith in human dignity and inalienable rights of all members of the human family. Thus, human dignity became the basis for articulating human rights essential for a just, fair and progressive world. This is made explicit by the Preambles of International Covenant on Civil and Political Rights ('ICCPR') and the International Covenant on Economic, Social and Cultural Rights ('ICESCR') which lay down that human rights stem from human dignity.<sup>22</sup> Dignity as a principle became a part of several constitutions around the world including that of Germany, South Africa and India.<sup>23</sup> This widespread recognition and use of dignity posed the next logical problem, that of interpreting it and fulfilling its meaning.

Dignity has been assailed as a vague, inscrutable, ambiguous and loosely defined notion which presents itself as useful rhetoric with little substantive legal value.<sup>24</sup> A response has been that the term was left vague intentionally while being included in the United Nations Charter and the UDHR in order to appeal to the greatest number of members of the United Nations. It enabled a loosely defined consensus on what dignity entails, cutting across nations, cultures, and religions.<sup>25</sup> It has also been argued that although dignity might be an "ethereal concept" causing its vagueness, it is still possible to precisely determine its meaning within the context of a particular factual setting.<sup>26</sup> Since we often understand dignity as flowing from the autonomy of self found in and possessed by every individual, another criticism has been that dignity is reducible to autonomy and means nothing more.<sup>27</sup> This claim has been debunked by stating that dignity and autonomy need not be coextensive at all because of different application the two concepts have in fields like reproductive rights or

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<sup>18</sup>PIERCE, *supra* note 12, 15.

<sup>19</sup>*Id.*, 16.

<sup>20</sup>*Id.*, 16.

<sup>21</sup>United Nations, Charter of the United Nations, 1 U.N.T.S. XVI (October 24, 1945), Preamble; Universal Declaration of Human Rights, G.A. Res. 217A, U.N. Doc.A/810 (December 12, 1948), Preamble.

<sup>22</sup>International Covenant on Civil and Political Rights, December 16, 1966, 999 U.N.T.S. 171, Preamble; International Covenant on Economic, Social and Cultural Rights ('ICESCR'), December 16, 1966, 993 U.N.T.S. 3, Preamble; also for a discussion on dignity and socioeconomic rights, see Amnesty International, *Human Rights for Human Dignity: A Primer on Economic, Social and Cultural Rights* (2005) available at <https://www.amnestyusa.org/files/pdfs/humanrightsforhumandignity.pdf> (Last visited on February 6, 2018).

<sup>23</sup>PIERCE, *supra* note 12, 23.

<sup>24</sup>*Id.*, 29; see Marcus Duwell, *Human Dignity and Human Rights* in HUMILIATION, DEGRADATION, DEHUMANIZATION 215 (2010); Philippe-André Rodriguez, *Human Dignity as an Essentially Contested Concept*, 28(4) CAMBRIDGE REVIEW OF INTERNATIONAL AFFAIRS 743 (2015).

<sup>25</sup>*Id.*

<sup>26</sup> Rex D. Glensy, *The Right to Dignity*, 43 COLUMBIA HUMAN RIGHTS LAW REVIEW 65, 67 (2011); see MCCRUDDEN, *supra* note 12.

<sup>27</sup> Mary Neal, *Respect For Human Dignity as Substantive Basic Norm*, 10(1) INTERNATIONAL JOURNAL OF LAW IN CONTEXT 26, 29 (2014).

assisted dying, and due to the fact that dignity can exist independently of autonomy in individuals like children or mentally incapacitated.<sup>28</sup>

Christopher McCrudden identifies what can be called as the minimum core of human dignity containing three elements.<sup>29</sup> These are: the ontological claim of equal moral worth of all humans, a relational claim that all humans are deserving of respect and must be treated in that manner, and a claim regarding the role of State that State exists for the common good of people.<sup>30</sup> He further argues that there exist competing conceptions of human dignity across political and legal systems and to that extent, there is no consensus and thus regards dignity as an “empty shell”.<sup>31</sup> There has been a lot of disagreement over this, and as McCrudden himself concedes dignity has been repeatedly used by judges in interpreting the law.<sup>32</sup> It is expected that a multifaceted and complex notion such as dignity undergoes varied interpretations and the lack of transnational consensus itself does not deprive it of its core normative value.<sup>33</sup> Moreover, ideas like dignity and equality which are essential for justice cannot remain static and need to undergo changes that are reflective of social changes.<sup>34</sup> The core minimums of dignity are themselves valuable in restricting “dehumanizing” conduct, say torture or brutality,<sup>35</sup> and it can be further developed thereon, as has been the case so far. It is also felt that there is no reason why dignity cannot be accorded localised meaning within specific jurisdictions in line with the political, social and cultural environment of the place.

On the other hand it is witnessed across jurisdictions that dignity has begun to play a more elementary role, that of grounding a basket of rights and liberties of individuals.<sup>36</sup> In Canada for instance, the Canadian Supreme Court has held dignity to form the basis of substantive equality doctrines.<sup>37</sup> Dignity has been described as a basic normative principle or as a “foundational” right which underpins all other rights.<sup>38</sup> Thus, dignity not just encompasses a right to dignity but is rather a substantive basic norm of a legal system,<sup>39</sup> a critical standard which is inviolable and a repository of rights. Since this is closely connected to the conception of substantive dignity, we will return to this idea of dignity being a repository of enumerated rights, a doctrine recognised by the Supreme Court of India too.

## B. TOWARDS SUBSTANTIVE DIGNITY

The next fundamental question before us is what is the type of respect that dignity entitles a person from others and more importantly, from the State.

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<sup>28</sup>*Id.*, 30.

<sup>29</sup>MCCRUDDEN, *supra* note 12; Paolo G. Corozza, *Human Dignity and Judicial Interpretation of Human Rights: A Reply*, 19(5) EUROPEAN JOURNAL OF INTERNATIONAL LAW 931, 934 (2008); see Christopher McCrudden, *In Pursuit of Human Dignity: An Introduction to Current Debates* in UNDERSTANDING HUMAN DIGNITY (2013).

<sup>30</sup>COROZZA, *Id.*

<sup>31</sup>*Id.*, 935.

<sup>32</sup>PIERCE, *supra* note 12, 49.

<sup>33</sup>*Id.*

<sup>34</sup>*Id.*, 51.

<sup>35</sup>*Id.*, 59.

<sup>36</sup>NEAL, *supra* note 27, 46; Rory O'Connell, *The Role of Dignity in Equality Law: Lessons from Canada and South Africa*, 6(2) INTERNATIONAL JOURNAL OF CONSTITUTIONAL LAW 267 (2008).

<sup>37</sup>GLENSY, *supra* note 26, 69; Andrew Foster, *The Role of Dignity in Canadian and South African Gender Equality Jurisprudence*, 17 DALHOUSIE JOURNAL OF LEGAL STUDIES 73 (2008).

<sup>38</sup>NEAL, *supra* note 27, 46.

<sup>39</sup>*Id.*, 56.

Traditionally, dignity is understood as the intrinsic worth of the human self which is situated in every individual.<sup>40</sup> This dignity is not based upon any external standard – it is not particularly concerned with how it is exercised or what constitutes a dignified life.<sup>41</sup> Hence, this conception is basically neutral about the competing conceptions of good life. In legal terms, this effectively means a condition of non-interference by State in, say, matters of privacy or sexual preference.<sup>42</sup> This is in tune with the notion of ‘negative liberty’ as propounded by political liberalism. Thus, this system works using restraints upon State action in order to enable the creation of an individual sphere where she is free to exercise her autonomy and make choices. It has been useful in judicial interpretation in cases relating to privacy, autonomy, free speech and other matters.

A somewhat modified version of this theory of dignity is the one which connects dignity to respect and recognition.<sup>43</sup> This idea is drawn from the fact that an individual is a part of a community and hence, her identity and worth is dependent upon her relationship with and recognition in the society. Therefore, in order to be recognised in a society she must display respect towards other members of the community that she is a part of. This can be termed as interpersonal respect towards community members. For example, a society can justify a law against hate speech or blasphemy by showcasing the need to respect other individual as fellow members of the community.<sup>44</sup> Thus, recognition form of dignity is largely a communitarian perspective.

A fully developed and a full-fledged version of dignity, which this paper is primarily concerned with, is ‘substantive dignity’. This form of dignity enables enforcement of substantive values and in the process, enables promotion of conceptions of good life.<sup>45</sup> This choice of good life is the one which is characterised by flourishing life of the individual with due regard to the welfare of the community as a whole. In other words, substantive dignity conforms to the idea of positive dignity wherein the State assists its citizens in achieving a flourishing good life. Hence, the most important aspect of substantive dignity lies in the role of the State in providing basic conditions of life that enables an individual to fully realise the potential of intrinsic dignity by living, what is called, a ‘dignified life’. For instance, there exist positive obligations upon the State to protect its citizens from violence, poverty and destitution. Socioeconomic and welfare rights of persons are, therefore, consequently covered under the ambit of substantive dignity. This answers the question of what an individual expects in treatment from her State. Substantive dignity is also largely concomitant with what is known as second-generation rights under the scheme of human rights.

The concept of substantive dignity is based on the premise that dignity is not a vague metaphysical belief but a value that can be translated into a form of tangible dignity of a normative kind.<sup>46</sup> Thus, a legal system founded in this sort of positive dignity not only protects individuals from infraction of their rights but also demands appreciation, respect and

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<sup>40</sup>Neomi Rao, *Three Concepts of Dignity in Constitutional Law*, 86(1) NOTRE DAME LAW REVIEW 183, 187 (2011).

<sup>41</sup>*Id.*, 196.

<sup>42</sup>*Id.*; see also Márcio Ricardo Staffen & Mher Arshakyan, *About the Principle of Dignity: Philosophical Foundations and Legal Aspects*, 75 SEQUENCIA 43 (2017), available at [http://www.scielo.br/scielo.php?script=sci\\_arttext&pid=S2177-70552017000100043](http://www.scielo.br/scielo.php?script=sci_arttext&pid=S2177-70552017000100043) (Last visited on February 6, 2018).

<sup>43</sup>RAO, *supra* note 40, 243.

<sup>44</sup>*Id.*, 251.

<sup>45</sup>*Id.*, 221.

<sup>46</sup>GLENSY, *supra* note 26, 111.

concern for dignity.<sup>47</sup> This is in turn informed by social norms, cultural values, economic development and other parameters outside of an individual.<sup>48</sup> This objective component of dignity demands that the State must create conditions where free exercise of liberties of individuals is possible, and not doing so is a violation of dignity.<sup>49</sup> This is based on the presupposition that certain minimum standards of life are required for freely exercising rights. For instance, illiteracy is a violation of right to information or chronic sickness is an infraction of, say, right to livelihood. In that sense, positive dignity includes in its ambit negative rights as it is indirectly connected to the exercise of latter. The modern welfare State, thus, bears the duty and responsibilities for ensuring the availability of basic preconditions of dignified life which is derived out of recognition of substantive dignity.

Several modern constitutions and courts have elucidated upon substantive dignity in the context of positive socioeconomic rights.<sup>50</sup> An oft-repeated view is that dignity requires a basic standard of living. Dignity jurisprudence is highly active in Germany where Article 1 of German Basic Law states that it is the duty of all public authority to respect and protect the inviolable dignity of man.<sup>51</sup> This not only entitles a negative right against the violation of the dignity of individuals but also encompasses an affirmative mandate on the State to ensure that every individual attains a dignified existence.<sup>52</sup> Also, the word ‘inviolable’ indicates that dignity is the supreme right recognised by the law of the land, over and above all other rights.<sup>53</sup> Similarly, the South African Constitution upholds the right of inherent dignity and accords respect and protection to it.<sup>54</sup> The South African Constitutional Court has noted that individuals are not only entitled to protection, but also ‘concern’, and dignity is the foundation of other enumerated rights.<sup>55</sup> It has enforced the right to dignity to place upon the State, the mandatory obligation to provide minimum standard of living to all its citizens.<sup>56</sup>

Perhaps the best support for substantive dignity is found closer home in the creative interpretation used by Supreme Court of India in a plethora of cases before it. Hence,

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<sup>47</sup>*Id.*, 112.

<sup>48</sup>*Id.*

<sup>49</sup>*Id.*

<sup>50</sup> RAO, *supra* note 40, 222; O’CONNELL, *supra* note 36; Anthony Robert Sangiuliano, *Substantive Equality as Equal Recognition: A New Theory of Section 15 of the Charter*, 52(2) OSGOODE HALL LAW JOURNAL 601 (2015); Joan Small & Evadne Grant, *Dignity, Discrimination, and Context: New directions in South African and Canadian Human Rights Law*, 6(2) HUMAN RIGHTS REVIEW 25 (2005).

<sup>51</sup> GRUNDGESETZ, The Constitution of the Federal Republic of Germany, 1949, Art. 1, available at <https://www.bundesregierung.de/Content/EN/StatischeSeiten/breg/basic-law-content-list.html?jssessionid=B87B51764F09E9A0BCF38DF954D8773D.s5t1?nn=447370#doc94410bodyText2> (Last visited on February 6, 2018).

<sup>52</sup> GLENSY, *supra* note 26, 96; for more discussion see Christoph Ender, *The Right to Have Rights: The Concept of Human Dignity in German Basic Law*, 3(3) NUJS L. REV. 253 (2010); Ariel L. Bendor & Michael Sachs, *The Constitutional Status of Human Dignity in Germany and Israel*, 44(1-2) ISRAEL LAW REVIEW 25 (2011).

<sup>53</sup> GLENSY, *supra* note 26, 97.

<sup>54</sup> The Constitution of South Africa, 1997, §§10 & 39, available at <http://www.justice.gov.za/legislation/constitution/SACConstitution-web-eng-02.pdf> (Last visited on February 6, 2018); see also Nazeem MI Goolam, *Human Dignity - Our Supreme Constitutional Value*, PER 43 (2001), available at <https://www.ajol.info/index.php/pelj/article/view%20File/43490/27025> (Last visited on February 6, 2018).

<sup>55</sup> Glensy, *supra* note 26, 99.

<sup>56</sup> *Id.*, 100; see Tom Ginsburg & Rosalind Dixon, *The South African Constitutional Court and Socio-Economic Rights as ‘Insurance Swaps’*, (University of Chicago Public Law and Legal Theory Working Papers, Paper No. 436, 2013), available at [https://chicagounbound.uchicago.edu/cgi/viewcontent.cgi?article=1426&context=public\\_law\\_and\\_legal\\_theory](https://chicagounbound.uchicago.edu/cgi/viewcontent.cgi?article=1426&context=public_law_and_legal_theory) (Last visited on February 6, 2018).



we now move to the dignity jurisprudence of the Supreme Court in the context of right to life under Article 21 of the Indian Constitution. The purpose behind the following analysis is two-fold: first, to bolster the idea of substantive dignity, and second, try and elucidate its facets.

Assuring the dignity of the individual is a constitutional ideal contained in the Preamble to the Constitution of the India.<sup>57</sup> Further, the fundamental right to life contained in Article 21 is worded in negative terms and states that the life and personal liberty of a person cannot be taken away unless it is done as per the procedure established by law.<sup>58</sup> However, over the last few decades the Supreme Court of India has interpreted the right to life guarantee under Article 21 in a positive fashion in light of social justice and welfare ideals enshrined in the Constitution and has thus, created a rich jurisprudence of positive rights arising out of right to life. The Directive Principles of State Policy ('DPSPs') have aided the Court in its quest of reading into Article 21 socioeconomic rights contained in Part IV of the Constitution which are *per se* not justiciable. What is important for us here is the use of the concept of 'dignity' by the Court to expand and give meaning to right to life.

In *Maneka Gandhi v. Union of India*,<sup>59</sup> the Court noted that Fundamental Rights contained in Part III are designated to protect the dignity of the individual and designed to create conditions suitable for full development of individual personality. It observed that right to life is of paramount importance for assuring happy and dignified life.<sup>60</sup> Later in *Sunil Batra v. Delhi Administration*,<sup>61</sup> a case relating to inhumane torture and conditions of life in prisons, the Court noted that prisoners are not animals but humans, and their dignity cannot be defiled by prison guards. In that case, the Court ordered the State to ensure dignified treatment of prison inmates. The next development saw, what can be termed as, an evolution of right of dignity as it inched more closely towards substantive dignity. In *Francis Coralie Mullin v. The Administrator*,<sup>62</sup> Justice Bhagwati noted that right to life is not confined to mere animal existence and means more than physical survival. He emphatically stated that "right to life includes the right to live with human dignity".<sup>63</sup> This implies that right to life would include all bare necessities of life, namely, adequate food, clothing and shelter.<sup>64</sup> It also includes facilities of reading and writing and space for self-expression in diverse forms.<sup>65</sup> Right to free movement and association which enables comingling with others is also a part of this guarantee.<sup>66</sup> Thus, right to life extends to these components of dignified life.

The Court qualified this by stating that the exact scope and content of right to life read in this manner will depend on the status of economic development in the country.<sup>67</sup> Nevertheless, in no circumstance can right to basic necessities and rights required for bare minimum expression of human-self be excluded from it.<sup>68</sup> Thus, right to live with dignity

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<sup>57</sup> The Constitution of India, 1950, Preamble (fraternity assuring the dignity of the individual and the unity and integrity of the Nation).

<sup>58</sup> The Constitution of India, 1950, Art. 21.

<sup>59</sup> *Maneka Gandhi v. Union of India*, AIR 1978 SC 597.

<sup>60</sup> *Id.*

<sup>61</sup> *Sunil Batra v. Delhi Administration*, 1980 AIR SC 1579.

<sup>62</sup> *Francis Coralie Mullin v. The Administrator*, 1981 AIR SC 746.

<sup>63</sup> *Id.*

<sup>64</sup> *Id.*

<sup>65</sup> *Id.*

<sup>66</sup> *Id.*

<sup>67</sup> *Id.*

<sup>68</sup> *Id.*

found specific enumeration and its minimum components, namely, bare necessities of life like nutrition, clothing, shelter, ability to read, write and express, were elucidated by the Court. This has found support and reiteration in later judgements and many decisions have taken a similar line of reasoning.<sup>69</sup>

In a subsequent case dealing with bonded labourers the Court re-emphasised the right to live with dignity.<sup>70</sup> It held that protection of health of workers, humane conditions of work, protection of children from abuse, facilities for healthy development of children, education and maternity relief were basic minimums required for a dignified life.<sup>71</sup> The State has been held to be under an obligation to provide a minimum standard of health, social and economic security to individuals and thus give meaning to their right to enjoy life with dignity.<sup>72</sup> The Constitutional concern for social justice aims to secure dignity of persons and it is the duty of the State to secure the same.<sup>73</sup>

In *Consumer Education and Research Centre v. Union of India*,<sup>74</sup> the Court explicitly held that right to health is an integral part of a meaningful right to life. In the context of workers in an asbestos factory, it held that right to health and medical care is fundamental for dignity of a person.<sup>75</sup> The obligation of State is not limited to providing emergency services but extends to providing working and living conditions that foster good health.<sup>76</sup> It includes preventive and curative health services.<sup>77</sup> Going a step further, in *Paschim Banga Khet Mazdoor Samity v. State of West Bengal*,<sup>78</sup> the Court held that a welfare State is duty bound to safeguard right to life and this requires preservation of human life. Hence, the State must provide adequate healthcare facilities, emergency medical assistance, timely medical intervention and access to healthcare.<sup>79</sup>

Similarly, the link between education and dignity has been stressed upon by the Court as fundamentally significant to dignified life.<sup>80</sup> In *Unni Krishnan, J.P. v. State of Andhra Pradesh*,<sup>81</sup> the Court held that right to life includes education within its sweep and used DPSPs to define the ambit of the right to life to mean free primary education up to the age of fourteen years and subject to the economic capacity and development of the State, a right to higher education.<sup>82</sup> It was again observed in a later decision that depriving access to education is not only a constraint upon right to freedom of speech and expression but also a deprivation of right to live with dignity.<sup>83</sup>

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<sup>69</sup> For instance, in *Shantisar Builders v. Narayanan Khimalal Totame*, (1990) 1 SCC 520, the Court observed that right to life includes the components of food, clothing, reasonable accommodation, and decent environment which enables physical, mental and intellectual growth of a person.

<sup>70</sup> *Bandhua Mukti Morcha v. Union of India*, (1984) 3 SCC 161.

<sup>71</sup> *Id.*

<sup>72</sup> *Air India Statutory Corporation v. United Labour Union*, AIR 1978 SC 1025.

<sup>73</sup> *Id.*

<sup>74</sup> *Consumer Education and Research Centre v. Union of India*, (1995)3 SCC 42.

<sup>75</sup> *Id.*

<sup>76</sup> *Id.*

<sup>77</sup> *Id.*

<sup>78</sup> *Paschim Bangal Khet Mazdoor Samity v. State of West Bengal and Another*, AIR 1996 SC 2426.

<sup>79</sup> *Id.*

<sup>80</sup> *Unni Krishnan, J.P. v. State of Andhra Pradesh.*, (1993) 1 SCC 645.

<sup>81</sup> *Id.*

<sup>82</sup> *Id.*

<sup>83</sup> *Society for Un-aided Private Schools of Rajasthan v. Union of India*, AIR 2012 SC 3445.

Regarding work and livelihood, the Court in its celebrated judgment in *Olga Tellis v. Bombay Municipal Corporation*,<sup>84</sup> held that right to livelihood is an important facet of right to life. Depriving livelihood is tantamount to depriving life of its content and meaningfulness. Ability to work and earn one's livelihood is what distinguishes our lives from animal existence.<sup>85</sup> Livelihood is essential in achieving a life of dignity. Work and life are thus interconnected.

In *Shantistar Builders v. Narayan Khimalal Totame*,<sup>86</sup> the aspect of right to shelter under right to life was deliberated upon. Unlike animals which need shelter for protecting just their bodies, accommodation is needed for the growth—mental, physical and intellectual—of human beings.<sup>87</sup> According to the Court, constitutional goal of child development is also feasible only if proper homes are available.<sup>88</sup> In *Chameli Singh v. State of U. P.*,<sup>89</sup> holding that the right to shelter makes life meaningful, the Court posited these basic rights including food, water, medical care and education as preconditions to other human rights. Shelter is not merely a roof over one's head but includes all the necessary infrastructures such as water and sanitation, cleanliness, light and electricity needed for full development of human life.<sup>90</sup> The purpose of Constitutional goal of dignity is not achieved if residence is not provided.<sup>91</sup> The State is bound to make this right available to its citizens subject to its economic capacity.

In *People's Union for Civil Liberties v. Union of India*,<sup>92</sup> a case relating to public distribution system of India, the Court affirmed that right to food is necessary for fulfilling right to life with human dignity. The Government cannot escape its responsibility of implementing food security programs and ensuring that its benefits reach all sections of the population.<sup>93</sup>

Education, health, livelihood, food and shelter are some of the economic and material components of a right to dignity. They form a part of substantive dignity. Similarly, the Court has found several attributes relating to life and personal liberty of individuals including but not limited to right against solitary confinement,<sup>94</sup> freedom from torture,<sup>95</sup> right against public hanging,<sup>96</sup> right to a healthy environment,<sup>97</sup> right to pollution free air and water,<sup>98</sup> right to electricity,<sup>99</sup> right to economic empowerment of the poor,<sup>100</sup> and right to self-determination of gender identity,<sup>101</sup> as essential features of a dignified existence. Although no exact definition of human dignity is possible, it is the intrinsic value of human life which cannot be taken away. The State is to not only protect human dignity but also facilitate the

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<sup>84</sup>*Olga Tellis v. Bombay Municipal Corporation*, (1985) 3 SCC 545.

<sup>85</sup>*Id.*

<sup>86</sup>*Shantistar Builders v. Narayan Khimalal Totame*, (1990) 1 SCC 520.

<sup>87</sup>*Id.*

<sup>88</sup>*Id.*

<sup>89</sup>*Chameli Singh v. State of U. P.*, 1996 (2) SCC 549.

<sup>90</sup>*Id.*

<sup>91</sup>*Id.*

<sup>92</sup>*People's Union for Civil Liberties v. Union of India*, 2007(1) SCC 719.

<sup>93</sup>*Id.*

<sup>94</sup>*Sunil Batra v. Delhi Administration*, (1978) 4 SCC 494.

<sup>95</sup>*Id.*

<sup>96</sup>*A.G. of India v. Lachma Devi*, (1989) Suppl. (1) SCC 264.

<sup>97</sup>*Virender Gaur v. State of Haryana*, (1995) 2 SCC 577.

<sup>98</sup>*Subhash Kumar v. State Of Bihar*, 1991 AIR 420.

<sup>99</sup>*T.M.Prakash v. The District Collector*, 2013 SCC OnLine Mad 3001.

<sup>100</sup>*Murlidhar Dayandeo Kesekar v. Vishwanath Pandu Barde*, 1995 SCC, Supl. (2) 549.

<sup>101</sup>*NALSA v. Union of India*, (2014) 5 SCC 438.

same by taking positive steps in that regard.<sup>102</sup> Thus, we see substantive dignity as a compendium of rights whose thrust is towards securing for all a dignified life ‘worth living’.

The final reference is made to the celebrated nine-judge bench decision in *Justice K.S. Puttaswamy(Retd.) v. Union of India*.<sup>103</sup> Although it is widely known for holding right to privacy as a Fundamental Right under the Constitution of India, the judgment given by Justice D.Y. Chandrachud contributes significantly to the jurisprudence on dignity. Human dignity is integral to the Constitution and finds reflection in several places, including Articles 14, 19 and 21.<sup>104</sup> After noting that life means “dignified life”, the Court held that dignity is the core of Part III Fundamental Rights which unites all other rights.<sup>105</sup> Reciprocally, these rights seek to achieve dignity of existence to each individual.<sup>106</sup> Right to dignity available against the State is comprehensive in the sense that it captures one’s dignity in its fullest meaning, and includes rights which facilitate fulfilment of life within its wide ambit.<sup>107</sup>

This is perhaps the best exposition of the two crucial principles of substantive dignity, namely, dignity is the ‘core’ from which flow different rights essential for human existence and that the duty of the State extends to enable individuals to attain fulfilment of dignified life.

It must be noted that this approach of delineating rights which are covered under the aegis of substantive dignity is one way of effectively responding to the criticism that dignity cannot be defined. Even if a clear definition is not possible (which might not even be ideal considering the potential organic growth of dignity jurisprudence has), today we are able to understand the thrust and direction of the rights crucial to dignity. Thus, dignity is thoroughly grounded as a constitutional, moral and political ideal in many jurisdictions across the world<sup>108</sup> and substantive dignity is the most robust use of right to dignity in achieving this value in tangible terms. Having explained the concept of substantive dignity, we return to the discussion on UBI and attempt to explain why right to basic income would form a part of substantive dignity.

### *C. RIGHT TO BASIC INCOME AS AN INTEGRAL PART OF SUBSTANTIVE DIGNITY*

In this part, we seek to argue that there exist compelling reasons for recognising the right to basic income of all individuals within the conception of substantive dignity explained previously.

Before doing so, it is important to understand why a legal status for right to basic income is desirable. The first reason lies in the expressive connotation of such a right.<sup>109</sup> It depicts the comparative importance of such a grant which might be useful for a

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<sup>102</sup>M. Nagaraj v. Union of India, AIR 2007 SC 71.

<sup>103</sup>Justice K. S. Puttaswamy (Retd.) v. Union of India, AIR 2017 SC 4161.

<sup>104</sup>*Id.*

<sup>105</sup>*Id.*

<sup>106</sup>*Id.*

<sup>107</sup>*Id.*

<sup>108</sup>RAO, *supra* note 40, 269.

<sup>109</sup>Jurgen De Wispelaere & Letticia Morales, *Is There (or Should There Be) A Right to Basic Income?*, 42(9) PHILOSOPHY AND SOCIAL CRITICISM, 920, 923 (2016).

citizen to assert before a legislator or a bureaucrat.<sup>110</sup> It expresses value of equal citizenship and makes it justiciable through legal procedures. Secondly, at the later stage of implementation of basic income (which attracts its own share of problems),<sup>111</sup> legal status will enable enforcement of UBI and help make stronger demands for effective implementation mechanisms.<sup>112</sup> Finally, a broad public consensus on the need for recognition of such a legal right puts the onus of legislating upon the State.<sup>113</sup> Having said this we proceed to determine what makes right to basic income defensible.

One of the foremost proponents of UBI, Phillipe van Parijs argues that a basic income is primarily an instrument of social justice.<sup>114</sup> He defines UBI as “an income paid by a government, at a uniform level and at regular intervals, to each adult member of society”.<sup>115</sup> This income paid by the State is fixed, irrespective of the economic conditions of the person and her willingness to work. As mentioned earlier, these – universality and un-conditionality – are the two basic characteristics of UBI.

To justify the piecing together of UBI to social justice, he invokes the idea of “real freedom”.<sup>116</sup> Basic income promotes real freedom by ensuring that all individuals have access to material resources they need for pursuing aims they have reasons to value. It provides something a person can depend upon. In other words, it is a material safety net<sup>117</sup> which ensures that rights are not extinguished due to material deprivation. Thus, the duty of the State lies in providing highest sustainable basic income as means of vesting real freedom in the hands of its citizens.<sup>118</sup>

Institutions whose objective is social justice are obligated to secure real freedom to all persons.<sup>119</sup> It is not merely formal freedom that matters for Parijs, but real value of those freedoms. He uses the expression “worth of liberty” borrowed from John Rawls, to emphasise that without material resources in the hands of a person, freedoms do not have much value. In other words, the worth of liberty is attained only when an individual can actually make use of her liberties. Thus, real freedom is attained when people have real opportunity to make use of their formal freedoms and the significant barrier of income deprivation (which is undoubtedly proximate to resource deprivation) is broken down by a right to basic income.

Freedom must not become the domain of the wealthy and must be equitably distributed.<sup>120</sup> Real freedom is a distributive good in the society and in order to achieve a just society, each individual must receive a grant from the State in the form of basic income for securing her real freedom. Without a right to basic income the worth of liberty is drastically watered down. Thus, unconditional income is not solely about redistribution of income but

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<sup>110</sup>*Id.*

<sup>111</sup>*See* Part V of this paper.

<sup>112</sup>DE WISPELAERE & MORALES, *supra* note 109, 923.

<sup>113</sup>*Id.*, 924.

<sup>114</sup> VAN PARIJS, *supra* note 4; *see also* Brian Barry, *Survey Article: Real Freedom and Basic Income*, 4(3) THE JOURNAL OF POLITICAL PHILOSOPHY 242 (1996).

<sup>115</sup> VAN PARIJS, *supra* note 4.

<sup>116</sup>*Id.*; *see generally* PHILLIPE VAN PARIJS, REAL FREEDOM FOR ALL: WHAT (IF ANYTHING) CAN JUSTIFY CAPITALISM? (1997).

<sup>117</sup> VAN PARIJS, *supra* note 4.

<sup>118</sup>*Id.*

<sup>119</sup>*Id.*

<sup>120</sup>*Id.*

relates to power and freedom to choose one's ends.<sup>121</sup> For some, it may include power to refuse the dictates of a boss or spouse, while for others, it could mean pursuing activities that do not necessarily provide income.<sup>122</sup> In a nutshell, basic income captures in its essence the power to say yes or no. It is a strong facilitator of autonomy. Now, distributing this power among people is not only egalitarian but also bound to improve quality of work as well as quality of life for individuals.<sup>123</sup> In our terminology, it is a means for a dignified life. Hence, to anyone who values freedom and equality, basic income is not only income distribution but is concerned with a higher value of real freedom.

The opportunity dimension of freedom necessitating a basic income as envisaged by Parijs is preceded by two other conditions of a just society.<sup>124</sup> These are, first, that there already exists an enforced structure of rights (which can be understood as basic equal liberties) and second, that the society recognises self-ownership (at the risk of conflating the two and attracting disagreement, this is greatly if not wholly, similar to an intrinsic dignity notion at a very basic level).<sup>125</sup> These conditions give rise to the third, namely, the freedom opportunity to each person or real freedom.<sup>126</sup> It is noted that in a society subscribing to substantive dignity the first two conditions are more or less replicated, if not in exact terms. As regards the third condition or value, the following is argued.

If the value of real freedom is the basis of instituting a right to basic income, the latter in no circumstance can be divorced from the idea of substantive dignity. If real freedom is about securing to each person the real opportunity freedoms required to make meaningful choices by means of a basic income paid by the State, substantive dignity deems it to be the duty of the State to provide minimum conditions of life to all its citizens in order to respect their dignity as human beings. It is undoubtedly true that income is one of the most important preconditions for access to material resources which helps an individual attain real freedom in order to live a dignified life. If real freedom seeks to fuel individual autonomy and agency which comes from a secured basic income then substantive dignity has no choice but to embrace it. Hence, it follows that any conception of right to basic income formulated sits tightly within the arms of substantive dignity.<sup>127</sup>

Another way of looking at this is in terms of actualisation of rights. If we agree that a person cannot fully exercise all her negative rights (due to deprivation of real freedom) and needs assistance in that regard, a right to basic income shall help her in realising the full potential of her rights. This is not as much to say that monetary facility is alone responsible for this realisation but rather recognition of its crucial and central role in the world as we see today. So, if effective exercise of autonomy is contingent upon material

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<sup>121</sup>Philippe Van Parijs, *The Universal Basic Income: Why Utopian Thinking Matters, and How Sociologists Can Contribute to it*, 41(2) *POLITICS AND SOCIETY* 171, 174 (2013).

<sup>122</sup>*Id.*

<sup>123</sup>*Id.*

<sup>124</sup>Phillipe van Parijs, *Basic Income Capitalism*, 102(3) *ETHICS* 465, 467 (1992).

<sup>125</sup>*Id.*

<sup>126</sup>*Id.*

<sup>127</sup>It is noted however that Phillippe van Parijs who proposed the UBI-real freedom argument describes his theory as 'real libertarian'. It might appear to some that real freedom viewed in this background is at odds with substantive dignity which is primarily an egalitarian notion. However, we believe this apparent dichotomy is resolved if it is looked at as a common ground rather than as conflict between the two different ideas. This is possible because there is nothing in the substantive dignity formulation which contradicts the real freedom formulation at its rudimentary level but since there is fair amount of overlapping as demonstrated above, a consensus can be achieved. Moreover, substantive dignity would any day be a wider notion with a right to basic income recognised within it as one of its facets.

conditions and if this contingency is abrogated to a large extent by basic income right, the result is full actualisation of rights of an individual. Right to basic income is integral in securing and enhancing a dignified life of an individual through its role as a lead facilitator in actualisation of other important rights. Thus, achieving real freedom and actualisation of rights within a notion of substantive dignity forms the bedrock for normative justification of right to basic income.

Before parting, we would like to reason as to why this particular theoretical justification for recognising a right to basic income grounded in substantive dignity is more useful to us as compared to several other available approaches.<sup>128</sup> There are two reasons for the same. Firstly, our approach is based in normative considerations of the value of freedom, dignity and social justice, as opposed to other empirical justifications for basic income usually given in India. The latter views basic income as a policy prescription for, say, combating poverty and are based only in considerations of economic efficiency and hence is precarious. It is precarious because it is left open to trade-offs on account of alternatives or speculative exercises as to its effectiveness.<sup>129</sup> We believe right to basic income is associated with greater values, that of real freedom and dignified life and warrants normative justification, not just instrumental support. Therefore as opposed to that, we demonstrate right to basic income as an ethically and legally justifiable value within a certain dignity framework which we believe furthers the rights discourse. The second and perhaps more important reason is that this approach is easily adaptable in Indian jurisprudence. The Indian Constitution places social welfare and social justice as ideals of State policy and recognises the dignity of each individual. This has enabled the Constitutional courts in India to evolve a scheme of rights jurisprudence committed to positive rights of individuals against the State. As discussed earlier, this approach of courts fits perfectly into the substantive dignity framework. Hence, recognition of right to basic income in the manner proposed by us will not only be familiar to Indian jurisprudence but also provide the courts with a direction for the future, if a UBI model is instituted in India, which seems imminent.<sup>130</sup>

### III. CERTAIN FACETS OF RIGHT TO BASIC INCOME

After having established the position of right to basic income as integral in the scheme of substantive dignity, we now seek to consider the instrumental aspects of right to basic income in practical settings and underscore its efficacy. Hence, in this part we briefly take up four different but connected subject matters, namely, adequate standard of living, agency and freedom of women, human rights approach to poverty, and mental health, and analyse the potential role of right to basic income with respect to these subject matters. This exercise is meant to understand the significance of right to basic income and also illustrate that it can serve as means to important ends in more ways than one.

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<sup>128</sup>For other approaches, see generally DANIEL RAVENTOS, *BASIC INCOME: THE MATERIAL CONDITIONS OF FREEDOM* (2001).

<sup>129</sup>DE WISPELAERE & MORALES, *supra* note 109, 929.

<sup>130</sup>See DEPARTMENT OF ECONOMIC AFFAIRS, *supra* note 10; see generally Baijayant Jay Panda, *Cash to All Citizens: Universal Basic Income Could Actually Work Better in India than in Rich Countries*, THE TIMES OF INDIA, October 27, 2016 available at <https://blogs.timesofindia.indiatimes.com/toi-edit-page/cash-to-all-citizens-universal-basic-income-could-actually-work-better-in-india-than-in-rich-countries/> (Last visited on February 6, 2018) (Baijayant Jay Panda is a Member of Parliament from Kendrapada in Orissa. He is a vocal advocate of UBI for India).

### A. RIGHT TO ADEQUATE STANDARD OF LIVING

Right to adequate standard of living finds reiteration in various international legal instruments. Article 25(1) of the UDHR defines right to adequate standard of living of a person and her family to mean 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.<sup>131</sup>

Article 11 of the International Covenant on Economic, Social and Cultural Rights also provides for a similar right to adequate standard of living.<sup>132</sup> Additionally, right to adequate standard of living is also contained in Article 14 of Convention on the Elimination of All Forms of Discrimination Against Women,<sup>133</sup> Article 27 of Convention of the Rights of the Child,<sup>134</sup> and Article 28 of Convention on the Rights of Persons with Disabilities.<sup>135</sup>

The whole range of rights associated with adequate standard of living can be described as subsistence rights – food, nutrition, clothing, housing, medical care, security during contingencies like unemployment or sickness are few members of this set.<sup>136</sup> Few special categories of people such as children, women and disabled persons have certain additional basic necessities which the respective conventions recognise. A league of ICESCR General Comments have tried to identify particular components of standard of living and designated them into rights like right to adequate housing, right to food, right to water and right to social security.<sup>137</sup> Dignity is the essence of these rights, in the sense that all are

<sup>131</sup>Universal Declaration of Human Rights, G.A. Res. 217A, U.N. Doc.A/810 (December 12, 1948) Art.25(1).

<sup>132</sup> International Covenant on Economic, Social and Cultural Rights ('ICESCR'), December 16, 1966, 993 U.N.T.S. 3, Art. 11 (Primarily Article 11 recognises the right of each person and her family to an adequate standard of living which includes food, clothing, housing, and improvement of living conditions. It also includes freedom from hunger for all. The burden is upon State Parties to take steps towards realisation of this right.).

<sup>133</sup>Convention on the Elimination of All Forms of Discrimination Against Women, December 18, 1979, 1249 U.N.T.S. 13, Art. 14 (Article 14(1) says that State Parties must recognise the problems faced by rural women as well as the role they play in survival of their families by rendering unpaid work. Article 14(2) calls upon the States to ensure women the rights to participation in development planning, access to health and family planning, direct benefits from social security, training and education programmes, collective organisation, credit, and adequate living conditions including housing, sanitation, electricity and water.).

<sup>134</sup>Convention on the Rights of the Child, November 20, 1989, 1577 U.N.T.S. 3, Art. 27 (Article 27(1) recognises every child's right to adequate standard of living for the physical, mental, social and moral development of the child. Article 27(3) places responsibility on the State Parties to take measures to assist parents and other involved in implementing these rights as well as provide support programmes with regard to nutrition, clothing, housing etc.).

<sup>135</sup>Convention on the Rights of Persons with Disabilities, May 3, 2008, 2515 U.N.T.S. 3, Art. 28 (Article 28(1) prohibits discrimination on the basis of disability in securing right to an adequate standard of living including food, clothing and housing, and improvement in living conditions. Article 28(2) expressly recognises the right to social protection for persons with disabilities. It also places responsibility upon State Parties to take steps to provide access to services and assistance for disability-related needs, ensure that disabled persons are covered by social protection programmes and poverty-related schemes, partake training and assistance to families of disabled persons, give access to public housing and retirement programmes.

<sup>136</sup>Icelandic Human Rights Centre ('IHRC'), *The Right to an Adequate Standard of Living*, available at <http://www.humanrights.is/en/human-rights-education-project/human-rights-concepts-ideas-and-fora/substantive-human-rights/the-right-to-an-adequate-standard-of-living> (Last visited on February 5, 2018).

<sup>137</sup>See United Nations Committee on Economic, Social and Cultural Rights ('UNCESCR'), *General Comment No. 4: The Right to Adequate Housing (Art. 11 (1) of the Covenant)*, E/1992/23 (December 13, 1991), available at <http://www.refworld.org/docid/47a7079a1.html> (Last visited on February 6, 2018); UNCESCR, *General Comment No. 7: The Right to Adequate Housing (Art.11.1): Forced Evictions*, E/1998/22 (May 20, 1997), available at <http://www.refworld.org/docid/47a70799d.html> (Last visited on February 6, 2018); UNCESCR, *General Comment No. 12: The Right to Adequate Food (Art. 11 of the Covenant)*, E/C.12/1999/5 (May 12, 1999), available at <http://www.refworld.org/docid/4538838c11.html> (Last visited on February 6, 2018);



supposed to enjoy basic necessities in order to lead a dignified life and not endure a life of degradation in absence thereof.<sup>138</sup> These standards of basic needs are material in nature and monetary expenditure is a precondition for attaining these standards and leading a dignified life. This expense has been described as cost of participating in everyday life and it is variable across social, political, cultural and economic conditions.<sup>139</sup>

Therefore, the aspect of economic accessibility is central to any right associated with right to adequate standard of living. With respect to right to food it could mean the financial costs incurred by the person or household to acquire food that is to fulfil adequate dietary requirements and does not in any way deprive realisation of other basic needs.<sup>140</sup> Similarly, the principle of affordability stipulates that housing must be affordable in a manner that does not compromise other basic needs of the person or household.<sup>141</sup> For example, in the context of right to water, the costs of obtaining water must be affordable.

The key takeaway here is that a minimum level of income is necessary for enjoying any of the rights associated with standard of living. Although a host of other factors are also equally important, say, accessibility to water resource or availability of food grains, they do not in any way erode the role that income levels play in determining a person's standard of living. Thus, one way of understanding basic income in a practical sense would be a 'subsistence level' of income – income that enables a person to attain an adequate standard of living and live a life of dignity without having to sacrifice or compromise on any of her basic necessities. A right to basic income, therefore, would strive to secure a dignified material life for all individuals.

One could potentially argue that if looked at in this manner, right to basic income is reduced to any other constitutive subsistence right. However, it is not so. It must be kept in mind that we are demonstrating only an instrumental aspect of right to basic income here. The intrinsic justification lies elsewhere: as discussed earlier, it lies in real freedom of individuals, autonomy to actualise other rights and substantive dignity of person.

## B. WOMEN AND BASIC INCOME

In this section, feminist perspectives on UBI are briefly discussed. The discourse broadly relates to two themes: first, freedom, autonomy and bargaining power of women and second, the historically male-centric notion of work and its consequences upon unpaid domestic labour and social security mechanisms.

From one such point of view, it has been argued that UBI will provide "greater material freedom" to women and a secure cushion for the vulnerable,<sup>142</sup> especially the elderly. UBI, unlike other benefits, is paid to the individual woman directly and not to the household. Right to basic income has the potential to increase economic freedom of women

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UNCESCR, *General Comment No. 15: The Right to Water (Arts. 11 and 12 of the Covenant)*, E/C.12/2002/11 (January 20, 2003), available at <http://www.refworld.org/docid/4538838d11.html> (Last visited on February 6, 2018); UNCESCR, *General Comment No. 19: The right to social security (Art. 9 of the Covenant)*, E/C.12/GC/19 (February 4, 2008) available at <http://www.refworld.org/docid/47b17b5b39c.html> (Last visited on February 6, 2018).

<sup>138</sup> IHRC, *supra* note 136.

<sup>139</sup> *Id.*

<sup>140</sup> *Id.*

<sup>141</sup> *Id.*

<sup>142</sup> VAN PARIJS, *supra* note 4.

and their bargaining power within households by enhancing their agency.<sup>143</sup> By treating women as autonomous and independent individuals capable of making economic decisions on their own and not merely as dependents of their husbands, it recognises agency of women.<sup>144</sup> It has also been argued that a democratic right to basic income would also mean freedom not to be employed.<sup>145</sup> Due to historical structures of inequality prevalent in the society, women are exposed to detriments of poverty such as marginalisation and stigmatisation to a greater degree as compared to men.<sup>146</sup> Unequal access to income and resources worsens the effects of poverty. Hence, an unconditional income will help women protect themselves and their families against vulnerabilities of poverty.<sup>147</sup>

UBI gives women an opportunity to be less financially dependent on men,<sup>148</sup> especially husbands. It acts as a ‘fall-back option’ which allows women to avoid undesirable relationships and gives them power to bargain for fairer terms within relationships.<sup>149</sup> These dual benefits of power to exit exploitative relationships and making voices heard within relationships would enhance autonomy of women as they can make choices without being coerced by material deprivation in their lives. Both, the power to not enter abusive relationships and exit such relationships, are equally important.<sup>150</sup> Greater bargaining power would mean that women enjoy favourable living conditions within households<sup>151</sup> as well as have a greater say in resource allocation. There is support for the claim that cash grants for women not only increase their intra-household decision making but also improve their access to labour market and their engagement in income generating activities.<sup>152</sup> Moreover,

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<sup>143</sup>Sara Cantillon & Caitlin McLean, *Basic Income Guarantee: The Gender Impact Within Households*, 43(3) J. SOC. & SOC. WELFARE 97, 98-100 (2016); see DEPARTMENT OF ECONOMIC AFFAIRS, *supra* note 10, 192.

<sup>144</sup>CANTILLON & MCLEAN, *supra* note 143, 100.

<sup>145</sup> Carole Pateman, *Democratizing Citizenship: Some Advantages of a Basic Income*, 32(1) POLITICS AND SOCIETY 89, 96 (2004).

<sup>146</sup>Patricia Schulz, *Universal Basic Income in a Feminist Perspective and Gender Analysis*, 17(1) GLOBAL SOCIAL POLICY 89 (2017).

<sup>147</sup>*Id.*

<sup>148</sup>Yannick Vanderborght & Karl Winderquist, *The Feminist Response to Basic Income* in BASIC INCOME: AN ANTHOLOGY OF CONTEMPORARY RESEARCH (2013).

<sup>149</sup>Julietta Elgarte, *Good for Women? Advantages and Risks of a Basic Income from a Gender Perspective* (2006) (Paper presented at XI BIEN Congress, University of Cape Town, November 2, 2006 to November 4, 2006) available at <http://www.basicincome.org/bien/pdf/JuliettaElgartefullpaper.pdf> (Last visited on February 6, 2018).

<sup>150</sup>See Sharon Bessel, *The Individual Deprivation Measure: Measuring Poverty as if Gender and Inequality Matter*, 23 GENDER & DEVELOPMENT 223 (2015), 236 (Individual Deprivation Measure (‘IDM’) also sheds light on the gendered dimensions of violence and poverty. Participants in the study identified gender as playing an important role in controlling their lives. One of the parameters out of the total 15 dimensions of poverty studied under IDM is ‘freedom from violence’. The inter-personal violence within households has basis in gender as shown by experiences of women who are subjected to domestic violence by their husband which is also linked to financial pressure. Other kinds of family violence reported were those faced by the widows when her husband’s family grabbed her husband’s property from her claiming it to be theirs.); see Scott Wisor et al., *The Individual Deprivation Measure: A Gender Sensitive Approach to Poverty Measurement* (June 2016) 18 available at <https://globaljustice.yale.edu/sites/default/files/files/The-IDM-Report1.pdf> (Last visited on February 6, 2018) (Women in these studies also reported that they had to get into “coercive social arrangements” by having to take older partners in order to be provided with economic support.).

<sup>151</sup>ELGARTE, *supra* note 149.

<sup>152</sup> Sophie Plageron & Mariana S. Ulriksen, *Cash Transfer Programmes, Poverty Reduction and Empowerment of Women in South Africa* 33 (International Labour Office, Gender Equality and Diversity Branch, WORKQUALITY Department Working Paper, Paper No. 4, 2015) (Evidence from the Mexican cash transfer program ‘PROGRESA’ suggests that family spending shifted to areas of future investment and improved nutrition when women have control over household income. It was also found that child survival prospects increased twenty times on an increase in the mother’s earned income than on increase in father’s income.); ONE, *Poverty is Sexist: Why Girls and Women Must Be at the Heart of the Fight to End Extreme Poverty*, 21 (2015), available at <https://www.one.org/international/policy/poverty-is-sexist-why-girls-and-women-must-be>

empirical evidence from UBI pilot projects also provides support to the assertion that unconditional income coupled with decisional autonomy promotes welfare of women.<sup>153</sup>

Current social security schemes are mostly means-tested and linked to the labour market which means that only engaging in paid work entitles one to such benefits.<sup>154</sup> The result of this is women who engage in care work outside of the labour market but within families, as mothers and daughters, but are nevertheless working are not made eligible for social security coverage.<sup>155</sup> Not only does social security in its current forms serve men to a greater degree and exclude women but also constraints in accessing labour market faced by women result in their further suppression.<sup>156</sup> Thus, not recognising care work undertaken by women within households perpetuates gender inequality and dominance of paid productive work over unpaid work. UBI on the other hand is unconditional and not means-tested.

A basic income gives recognition to the responsibilities and obligations of individuals outside the sphere of paid labour.<sup>157</sup> This recognition is psychologically encouraging for a woman in enhancing her self-esteem.<sup>158</sup> A basic income would also render value to the hard work that is involved in parenting, especially for mothers, who, often have to take a break from their jobs in order to devote time to their child.<sup>159</sup> It has been argued that basic income acts as a “financial compensation for child care”, especially useful for single parents.<sup>160</sup> It gives recognition to women’s work as a care-giver in most households, and

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at-the-heart-of-the-fight-to-end-extreme-poverty/ (Last visited on February 5, 2018) (This report highlights the importance of empowering women by “giving them the power and tools they need to change their own status” since it allows them to make use of equal opportunities and break-free of social and cultural constraints); Juan Bonilla et al., *Cash for Women’s Empowerment? A Mixed-Methods Evaluation of the Government of Zambia’s Child Grant Program*, 95 *World Development*, 55, 56-57, 66 (2017) (A study of the Child Support Grant (‘CSG’) in South Africa found that cash grants promote women’s control over allocation of household resources. Similar findings are found in the study of Zambian CSG, where women reported to have greater financial empowerment as a result of the grant).

<sup>153</sup>See Part IV(B) of this paper.

<sup>154</sup>Ailsa McKay & Jo Vanevery, *Gender, Family, and Income Maintenance: A Feminist Case for Citizens Basic Income*, 7(2) *SOCIAL POLITICS: INTERNATIONAL STUDIES IN GENDER, STATE & SOCIETY* 266, 268 (2000); see also Ailsa McKay, *Rethinking Work and Income Maintenance Policy: Promoting Gender Equality Through a Citizens’ Basic Income*, 7(1) *FEMINIST ECONOMICS* 97 (2001).

<sup>155</sup>*Id.*, 271.

<sup>156</sup>*Id.* (Access to labour market is difficult especially so for women from poor households.); see BESSEL, *supra* note 150, 237 (The study on IDM reported that domestic responsibilities of poor women occupied their time in a way that they could not find sufficient time to engage in paid labour, and even if they did, it was likely to be irregular and insecure. Women were engaged in meeting the daily needs of the family, food preparation, house cleaning and childcare which kept them busy. As a result the women could neither take care of themselves nor could they find time for activities other than their ‘assigned gender specific roles’. These findings further justify the need to consider care and domestic work done mostly by women as ‘work’ worthy enough to be accorded more value and be compensated through a basic income).

<sup>157</sup>Almaz Zelleke, *Institutionalising the Universal Caretaker through a Basic Income?*, 3(3) *BASIC INCOME STUDIES* 7 (2008).

<sup>158</sup>CANTILLON & MCLEAN, *supra* note 143, 111 (The discussed proposition is supported by a text called ‘Money & Marriage’ where it was noted that within households in United Kingdom, women did feel a sense of a symbolic value to their unremunerated work in the household because of the monetary payment coming from a family allowance. Further evidence comes from the results of the interviews conducted of those receiving the UK Child Benefit where the psychological impacts of such payments were noticed when respondents made reference to the “hard work” that went into caring for children and considered it worthy to be given an “independent income”); see Ingrid Robeyns, *Hush Money or Emancipation Fee? A Gender Analysis of Basic Income* in *BASIC INCOME ON THE AGENDA, POLICY OBJECTIVES AND POLITICAL CHANCES* 121, 136 (2000).

<sup>159</sup>ROBEYNS, *Id.*, 156; Almaz Zelleke, *Feminist Political Theory and The Argument for an Unconditional Basic Income*, 39 *POLICY & POLITICS* 27, 37-39 (2011).

<sup>160</sup>ROBEYNS, *supra* note 158.

allows women to plan out their lives. It also permits them to sign up for training and nurturing programs for them to be able to gain employment or start their own businesses.<sup>161</sup> Further, a basic income will help parents provide appropriate child care to their children, which would include expenses relating to the children's health and nutrition.<sup>162</sup>

However, some feminists are of the view that basic income grants could lead to reinforcing the sexual division of labour in public and private lives and re-establish women's lesser citizenship.<sup>163</sup> It could mean greater incentive to undertake unpaid work within households and thus, inhibit women's freedom more than it promotes the same.<sup>164</sup> On the contrary, it has also been argued that the proposition that UBI would act as an encouraging factor for women to not take up employment and instead perform only unpaid labour is a paternalistic concern.<sup>165</sup> If anything, women should be given more choices and not fewer. Equality should not mean that everybody conforms to the "traditionally male patterns of employment".<sup>166</sup> In fact, basic income would allow women to save for old age or financially dependent women to leave abusive relationships.<sup>167</sup> Moreover, it is wrong to suggest that money is the sole motivating factor for women intending to gain employment while there are broader motivations for labour force participation, such as status, satisfaction, self-goals etc.<sup>168</sup> In fact, some people choose to work despite the fact that they may be financially better off if they remained unemployed.<sup>169</sup>

Others argue that basic income compensates care and other unpaid work prevalent in the society without necessarily reinforcing gendered division of labour.<sup>170</sup> Basic income would let people choose a mix of 'work' and 'care-giving' at any giving time.<sup>171</sup> UBI could very well help reduce the costs of entering into care work for men and would positively affect their chances of breaking out of gendered distribution of labour which pushes men into paid employment.<sup>172</sup> This corresponds to the view that a basic income would perhaps allow men to withdraw from the traditional labour force and work outside of it and create a financial security for men to participate in "traditionally feminine tasks".<sup>173</sup>

An alternate perspective on basic income tells us that basic income ought not to be seen as a payment for care work, because basic income is universal and not in particular

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<sup>161</sup>Ann Withorn, *Women and Basic Income in the US: Is One Man's Ceiling Another Woman's Floor?*, 4(1) JOURNAL OF PROGRESSIVE HUMAN SERVICES 29 (1993).

<sup>162</sup>See Anne L. Alstott, *Good for Women* in WHAT'S WRONG WITH A FREE LUNCH 75 (2001); PLAGERSON & ULRIKSEN, *supra* note 152, 28.

<sup>163</sup>PATEMAN, *supra* note, 145, 100.

<sup>164</sup>Anca Gheaus, *Feminism and Gender* in BLOOMSBURY COMPANION TO POLITICAL PHILOSOPHY 167, 177 (2015); See Anca Gheaus, *Basic Income and the Costs of Gender-Symmetrical Lifestyles*, 3 BASIC INCOME STUDIES (2008); see Jaqueline O'Reilly, *Can a Basic Income Lead to a More Gender Equal Society?*, 3(3) BASIC INCOME STUDIES(2008).

<sup>165</sup> Judith Schuevitz, *It's Payback Time for Women*, THE NEW YORK TIMES, January 8, 2016 available at <https://www.nytimes.com/2016/01/10/opinion/sunday/payback-time-for-women.html?mcubz=0> (Last visited on February 5, 2018).

<sup>166</sup>*Id.*

<sup>167</sup>*Id.*

<sup>168</sup>CANTILLON & MCLEAN, *supra* note 143, 101-102.

<sup>169</sup>*Id.*

<sup>170</sup>ZELLEKE, *supra* note 159, 38.

<sup>171</sup>*Id.*

<sup>172</sup>*Id.*, ZELLEKE, *supra* note 157, 6.

<sup>173</sup>See CANTILLON & MCLEAN, *supra* note 143, 104 ("greater social value placed on these activities ("traditionally feminine tasks") could shape men's willingness to engage in such work").

recognition of care work.<sup>174</sup> Rather it could act as a ‘universal support’ for care work, thus giving opportunity to each person for engaging in it whether on a full-time basis or after partially.<sup>175</sup> Basic income is recognition of a range of non-commodifiable activities, care work being one of them, that one can engage in and which deserve material support.<sup>176</sup> Apart from this, what is more importantly required to end the gendered distribution of labour is an ideological shift in the belief that care belongs to women’s sphere of work and an awakening that care work should be shared.<sup>177</sup>

UBI is definitely not a panacea to all the problems but considering its impact upon autonomy and bargaining power of women and its roles in compensating unpaid work and redefining social security systems traditionally based on paid work, we arrive at the conclusion that a right to basic income is of substantial importance in ensuring a dignified life for women. Both adequate standard of living and the case of women highlight the potential impact of a right to basic income with respect to these specific cases. In the next section, we deal with the primary reason India is looking at UBI – the chronic case of poverty – within the rights discourse.

### C. POVERTY IS A RIGHTS VIOLATION

Every human being is entitled to a set of human rights as a birth right.<sup>178</sup> These inalienable rights are aimed at safeguarding the inherent dignity of and equality among the people.<sup>179</sup> The underlying idea about human rights is that they are supposed to govern all the people on how they come together to design the basic rules of our common existence and at the same time realise and develop their own ethical world view without negatively affecting others’ interests.<sup>180</sup> Human rights recognised in different covenants and treaties belong to all the people around the world, including the poor. These include certain basic rights which are considered essential preconditions for enjoyment of all other rights.<sup>181</sup>

Extreme poverty has been shown to include not only a lack of access to basic security but also “capability deprivation over a prolonged period of time”.<sup>182</sup> It has further been defined as a combination of ‘income poverty’ (lack of income or purchasing power to access basic needs), ‘human development poverty’ (a deprivation of the elements of basic needs required for a decent life) and ‘social exclusion’ (marginalisation, discrimination or

<sup>174</sup>John Baker, *All Things Considered, Should Feminists Endorse Basic Income?*, 3(3) BASIC INCOME STUDIES 1, 5 (2008).

<sup>175</sup>*Id.*

<sup>176</sup>*Id.*

<sup>177</sup>*Id.*, 7.

<sup>178</sup> WHO-UNHRC, *Human Rights, Health and Poverty Reduction Strategies*, 5 HEALTH AND HUMAN RIGHTS PUBLICATION SERIES 5 (December 2008) (Human Rights are defined as “internationally agreed standards which apply to all human beings” and include civil, social, cultural, economic and political rights as set out in the United Nations Declaration of Human Rights, 1948 (‘UDHR’)).

<sup>179</sup>*Id.*

<sup>180</sup>THOMAS POGGE, *WORLD POVERTY AND HUMAN RIGHTS: COSMOPOLITAN RESPONSIBILITIES AND REFORMS*, 53-54 (2<sup>nd</sup> ed., 2002).

<sup>181</sup>Dan Banik, *Rights, Legal Empowerment and Poverty: An Overview of the Issues* in RIGHTS AND LEGAL EMPOWERMENT IN ERADICATING POVERTY 11, 33(2008).

<sup>182</sup> Arjun Sengupta, *Extreme Poverty and Human Rights: A Mission Report on the US*, 42(14)ECONOMIC AND POLITICAL WEEKLY 1298 (Apr. 7-13, 2007).

exclusion of people in social relations making the person incapable to lead a life of value).<sup>183</sup> This is known as the multidimensional view of poverty.

An important approach towards poverty has been given by Amartya Sen who argues that poverty is a result of deprivation of certain capabilities, which he considers as leading to the state of ‘unfreedom’.<sup>184</sup> Therefore, he considers poverty as the denial of opportunities to lead a decent life. This denial of opportunity, according to Sen, leads to a deprivation of fulfillment of such capabilities and makes it unlikely for a person to escape poverty.<sup>185</sup> Therefore, extreme poverty could also be seen as deprivation of such capability, which causes poverty in its multidimensional sense.<sup>186</sup> This in turn reduces the capacities of individuals to lead truly human lives making them impoverished in the process.<sup>187</sup>

Another recent measure of poverty from a multidimensional perspective is Individual Deprivation Measure (‘IDM’), which was developed as a gender sensitive measure of poverty.<sup>188</sup> It was envisaged to be a just measure, which reveals the varied impact of poverty on different individuals, particularly those individuals who are marginalised and disadvantaged within the society as well as within their households.<sup>189</sup> Therefore, it considers the individual as the unit of analysis, instead of the household which is used by most other poverty measures.<sup>190</sup> It is able to reveal the existing inequality between men and women across different geographies. It aims to present poverty from the perspective of the poor through their own experiences of poverty.<sup>191</sup> One such example of individualised experience of poverty given by Sharon Bessel is that of the hardship faced by women due to an economic crisis within the poor household since the burden of sharing any shortage falls disproportionately upon women.<sup>192</sup> Similarly, a lack of employment was a problem faced more frequently by men, whereas the burden of lack of food fell disproportionately on women, as they had the responsibility of managing the household and were responsible for providing food, water and sanitation.<sup>193</sup>

As evident from the above discussion, poverty is characterised by deprivation of human rights.<sup>194</sup> Extreme poverty is a deprivation of human development.<sup>195</sup> Human rights approach looks at poverty in terms of mutually interrelated deprivations (reinforcing each other) linked with stigma, insecurity, discrimination and social exclusion.<sup>196</sup> Human rights,

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<sup>183</sup>*Id.*; Arjun Sengupta, *Human Rights and Extreme Poverty*, 45(17)ECONOMIC AND POLITICAL WEEKLY 85 (April 24-30, 2010).

<sup>184</sup>SENGUPTA, *Id.*, 86 (Here, capability is defined as “the freedom or ability to lead a life of value in terms of what a person chooses to be or to do”); *see generally* AMARTYA SEN, *DEVELOPMENT AS FREEDOM* (1999).

<sup>185</sup>*Id.*

<sup>186</sup>*Id.*

<sup>187</sup>Tom Campbell, *Poverty as Violation of Human Rights: Humanity or Injustice?* in *FREEDOM FROM POVERTY AS A HUMAN RIGHT: WHO OWES TO THE VERY POOR* 57, 59 (2007).

<sup>188</sup>BESSEL, *supra* note 150, 224.

<sup>189</sup>*Id.*

<sup>190</sup>WISOR ET AL., *supra* note 150.

<sup>191</sup>*Id.*

<sup>192</sup>BESSEL, *supra* note 150, 227.

<sup>193</sup> Sarah Smith & Jo Crawford, *Lifting the Lid on the Household: Introducing the Individual Deprivation Measure* 5 (September, 2014) available at <http://landwise.resourceequity.org/record/2662> (Last visited on February 6, 2018); *see also* BONILLA et al., *supra* note 152, 95.

<sup>194</sup>*See* UN Office of the High Commissioner for Human Rights (‘OHCHR’), *Principles and Guidelines for a Human Rights Approach to Poverty Reduction Strategies*, HR/PUB/06/12 (2006) available at <http://www.refworld.org/docid/46ceaf92.html> (Last visited on February 6, 2018).

<sup>195</sup>SENGUPTA, *supra* note 183, 86.

<sup>196</sup>SENGUPTA, *supra* note 182, 1299.

on the other hand, are instrumental in the development of a poverty-free state.<sup>197</sup> It, therefore, creates an obligation for the State to work towards removal of poverty by guaranteeing the poor their human rights.<sup>198</sup>

The idea of viewing poverty as a condition of human rights deprivation is not new and has found considerable support worldwide. The World Conference on Human Rights, 1993 which led to Vienna Declaration noted that existence of poverty deprives full enjoyment of human rights and is therefore a violation of human dignity.<sup>199</sup> Poverty alleviation and elimination is a top priority goal of the international community.<sup>200</sup> In fact, Article 22 of the UDHR guarantees right to social security and realisation of other socioeconomic rights indispensable to human dignity.<sup>201</sup> The Sustainable Development Goals, 2015 also stresses upon ‘no poverty’ as a goal and demands implementation of social security systems among all nations in a way that substantially covers the poor and vulnerable by 2030.<sup>202</sup>

It has long been argued that human rights establishment is crucial to poverty reduction strategies. A WHO-UNHRC Report considers human rights based approach as strengthening the elements of poverty reduction strategies.<sup>203</sup> This is because both take into account the multidimensional view on poverty and emphasise on effective participation, implementation and accountability systems in fighting poverty.<sup>204</sup> Thus, the poor are not only entitled to the enjoyment of civil, political, economic, social and cultural development but also a right of participation including in matters of designing and monitoring poverty reduction strategies.<sup>205</sup> The Office of High Commissioner for Human Rights (‘OHCHR’) has

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<sup>197</sup>*Id.*

<sup>198</sup>*Id.*

<sup>199</sup>Stephen P. Marks, *Poverty and Human Rights* in TEXTBOOK ON INTERNATIONAL HUMAN RIGHTS LAW (3<sup>rd</sup>ed., 2017) (The world conference on HR in the 1993 Vienna Declaration stated as follows,

“[t]he existence of widespread extreme poverty inhibits the full and effective enjoyment of human rights; its immediate alleviation and eventual elimination must remain a high priority for the international community’...

[E]xtreme poverty and social exclusion constitute *a violation of human dignity* and . . . urgent steps are necessary to achieve better knowledge of extreme poverty and its causes, including those related to the problem of development, in order to promote the human rights of the poorest, and to put an end to extreme poverty and social exclusion and to promote the enjoyment of the fruits of social progress. It is essential for States to foster participation by the poorest people in the decision-making process by the community in which they live, the promotion of human rights and efforts to combat extreme poverty”) (emphasis added).

<sup>200</sup>*Id.*

<sup>201</sup>Universal Declaration of Human Rights, G.A. Res. 217A, U.N. Doc. A/810 (December 12, 1948) Art 22 (It provides for everyone a right to social security. National efforts and international cooperation, subject to the resources of the State, must aid individuals in realising all economic, social and cultural rights they are entitled to and ensuring free development of personality).

<sup>202</sup>UN General Assembly, Transforming Our World : The 2030 Agenda for Sustainable Development, A/RES/70/1, (October 21, 2015) available at: <http://www.refworld.org/docid/57b6e3e44.html> (Last visited on February 6, 2018) (The Sustainable Development Goals, 2015 have ‘no poverty’ as its goal 1 and lays down the following important targets among others:

“Implement nationally appropriate social protection systems and measures for all, including floors, and by 2030 achieve substantial coverage of the poor and the vulnerable; by 2030, ensure that all men and women, in particular the poor and the vulnerable, have equal rights to economic resources, as well as access to basic services, ownership and control over land and other forms of property, inheritance, natural resources, appropriate new technology and financial services, including microfinance”).

<sup>203</sup>WHO-UNHRC, *supra* note 178, 12.

<sup>204</sup>*Id.*

<sup>205</sup>*Id.*, 7.

noted that an explicit recognition of international human rights framework is one among the five pillars underlying the human rights approach to poverty, the others being empowering the poor, accountability, non-discrimination and equality, and participation.<sup>206</sup>

The strength of fighting poverty using a human rights approach is derived from the fact that in human rights regimes, states are always under continuous monitoring and review by the members of civil society and human rights institutions.<sup>207</sup> This not only ensures participation but also accountability of the State. The State is placed at an equal footing with civil society, grass root-level organisations and other institutions engaged in combating poverty.

What is required of the State is to come up with such policy designs including institutional reforms, advance technology and mobilisation of resources in such a way that a poverty free life is seen as a right and fulfilment of human rights. If the rights to food, education, health and adequate standard of living are fulfilled by the State, the society may be able to combat poverty to a great extent.<sup>208</sup> A human rights approach would lead to the fulfilment of these rights and eliminate poverty.

Poverty has further been shown to instil behaviours in people which make it all the more difficult to escape conditions of poverty.<sup>209</sup> Such behavioural patterns include foregoing current income in the hope of earning higher income in future, reluctance in adopting technology and failing to invest in health and education.<sup>210</sup> Poor health and education invariably affect future earning capacities. Over time, poverty induced behaviour itself traps a person in poverty. What is therefore required is to provide them with the incentive and the resources to help them escape this vicious trap. Evidence from several cash transfer program studies show that cash grants lead to investment in food, increased consumption, better diet and nutrition, increased economic autonomy, women empowerment, along with improvement in children's education and school attendance.<sup>211</sup>

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<sup>206</sup> Robin Perry, *Preserving Discursive Spaces to Promote Human Rights: Poverty Reduction Strategy, Human Rights and Development Discourse*, 7 MCGILL INT'L J. SUST. DEV. L & POLICY 78 (2011).

<sup>207</sup> United Nations Economic and Social Council (ECOSOC) & Commission on Human Rights (UNHRC), *Economic, Social and Cultural Rights, Human Rights and Extreme Poverty: Report of the Independent Expert, Arjun Sengupta*, U.N. Doc. E/CN.4/2006/43 (March 2, 2006) 12.

<sup>208</sup> *Id.*, 13.

<sup>209</sup> Johannes Haushofer & Ernst Fehr, *On the Psychology of Poverty*, 344(6186) SCIENCE 862 (2014); see Johannes Haushofer & Jeremy Shapiro, *Household Response to Income Changes: Evidence from an Unconditional Cash Transfer Program in Kenya*, 6(November 15, 2013) available at [https://www.princeton.edu/~joha/publications/Haushofer\\_Shapiro\\_UCT\\_2013.pdf](https://www.princeton.edu/~joha/publications/Haushofer_Shapiro_UCT_2013.pdf) (Last visited on February 6, 2018).

<sup>210</sup> HAUSHOFER & FEHR, *Id.*

<sup>211</sup> United Nations Children's Fund ('UNICEF'), *Cash Transfer as a Social Protection Intervention: Evidence from UNICEF Evaluations 2010-2014*, 11 (June 2015); Luisa Natali, *The Transformative Impacts of Unconditional Cash Transfers: Evidence from two Government Programmes in Zambia*, INNOCENTI RESEARCH BRIEF, 2017 available at <https://www.unicef-irc.org/publications/916-the-transformative-impacts-of-unconditional-cash-transfers-evidence-from-two-government.html> (Last visited on February 6, 2018); PLAGERSON & ULRIKSEN, *supra* note 152; see Jessica Hagen-Zanker et. al., *Understanding the Impact of Cash Transfers: The Evidence*, ODI BRIEFING (July 2016) available at <https://www.odi.org/sites/odi.org.uk/files/resource-documents/11465.pdf> (Last visited on February 7, 2018); see Christopher Blattman, Nathan Fiala & Sebastian Martinez, *The Economic And Social Returns to Cash Transfers: Evidence from a Ugandan Aid Program* (2013), available at [http://cega.berkeley.edu/assets/cega\\_events/53/WGAPE\\_Sp2013\\_Blattman.pdf](http://cega.berkeley.edu/assets/cega_events/53/WGAPE_Sp2013_Blattman.pdf) (Last visited on February 5, 2018).



Needless to say, a right to basic income and concomitant UBI grants by the State as policy intervention can be adopted by the human rights-poverty approach as a solution for eliminating poverty. Basic income will help in capability building. Of course, as per the multidimensional perspective of poverty, income deprivation is not the sole factor but it still is a deprivation faced in all poor households. IDM has revealed interesting aspects on individual experience of poverty especially that of women. UBI has a significant role to play in defeating income deprivation generally and improve the conditions of women suffering from poverty particularly.<sup>212</sup> The need to define poverty as deprivation of secure and continuous access to basic necessities including sufficient income to meet these necessities has already been recognised as a first step in the human rights-poverty framework.<sup>213</sup> Lack of these basic conditions of life is a violation of human dignity.<sup>214</sup> As discussed earlier, these basic necessities are subsistence rights of an individual and a subsistence level of basic income as an added policy prescription will help in ensuring dignified life of poor and vulnerable individuals. Thus, basic income complemented by access to necessities, non-discrimination, participation and accountability will enable actualisation of human rights. Moreover, since litigation is among the tools used under the human rights approach, added advantage of right to basic income is its justiciability in courts of law in order to seek its effective enforcement. Right to basic income will have a central role to play if co-opted into human rights approach towards poverty alleviation.

#### D. MENTAL HEALTH AND BASIC INCOME

Recent research found a link between poverty (including income poverty) and poor mental health, which in turn led people to make poor financial decisions and spend more money (manic spending) and indulge in addictive spending.<sup>215</sup> Such mental distress affects an individual's ability to secure employment, while also adversely affecting productivity and quality of work delivered.<sup>216</sup> Poverty has been found to act as a causal factor behind depression, worse health and higher tobacco and drug use.<sup>217</sup>

To illustrate further the deleterious impact poverty can have on mental health, a recent study found that poverty impedes cognitive function. Poverty was defined here to mean the material gap between the needs of a person and the resources in her hand to fulfill her needs.<sup>218</sup> This definition encompasses poor individuals from across the world and also those facing transitory income shocks.<sup>219</sup> The study concluded that poverty, apart from a lack of money, also involves a deficit of cognitive resources, which in turn makes people less

<sup>212</sup>See Part III(B) of this paper.

<sup>213</sup>Arjun Sengupta, *Poverty Eradication and Human Rights* in FREEDOM FROM POVERTY AS A HUMAN RIGHT 321, 336 (2007).

<sup>214</sup>*Id.*

<sup>215</sup>MONEY AND MENTAL HEALTH POLICY INSTITUTE, *Money on Your Mind: The Money and Mental Health* (June, 2016) available at <https://www.moneyandmentalhealth.org/money-on-your-mind-release/> (Last visited on February 6, 2018); A. Kuruvila & K.S. Jacob, *Poverty, Social Stress and Mental Health*, 126 INDIAN J MED RES 273, 274 (October 2007) ("Poverty and socio-economic problems have been cited as one of the most important factors causing emotional distress"); see also Iris Elliott, *Poverty and Mental Health: A Review to Inform the Joseph Rowtree Foundation's Anti-Poverty Strategy*, MENTAL HEALTH FOUNDATION (June, 2016).

<sup>216</sup>KURUVILA & JACOB, *Id.*

<sup>217</sup>Fiona Imlach et al., *Income and Individual Deprivation as Predictors of Health Over Time*, 58 INT J PUBLIC HEALTH 501, 502 (2013).

<sup>218</sup>Anandi Mani et al., *Poverty Impedes Cognitive Function*, 341 SCIENCE 976 (2013).

<sup>219</sup>*Id.*

capable.<sup>220</sup> It can be implied that lower cognitive functionality could lead to bad decision making, thereby, begetting and perpetuating poverty. Therefore, the poor are less capable not because of inherent traits but because of a lack of money.<sup>221</sup> This entirely novel and breakthrough perspective on the impact of poverty gives us another reason to work decisively towards poverty annihilation.

Further, the link between poverty and emotional well-being of a person has been found to have several implications, including lower levels of family and community support, alcoholic tendencies, greater fear and experience of crime, violence and abuse, along with higher levels of hopelessness, fatalistic beliefs, inability to feel in control over one's own life, lack of long term goals in life and lesser degrees of satisfaction with life.<sup>222</sup> Women who are faced with the burden of managing scarce financial resources also experience higher psychological distress.<sup>223</sup>

These characteristics are further perpetuated and induced within the poverty cycle making it difficult for the poor to improve their socioeconomic conditions.<sup>224</sup> These indicators of poverty are primarily material in nature; including but not limited to low income, lack of employment, economic security and shelter. It was also found that the children in chronically poor families showed lower cognitive performance and a child's mental health was affected by a change in the household income, thus showing a direct link between household income and a child's mental health.<sup>225</sup>

Accordingly, the Poverty and Mental Health Report<sup>226</sup> argues 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.<sup>227</sup> Often social security is the only source of income for people and therefore social security services must help in maximising people's income.<sup>228</sup>

Several studies have been conducted to gauge the impact of cash transfers as part of poverty alleviation strategy affecting mental health of poverty-stricken people. It has been found to have had positive impact on mental health by directly influencing chronic stress, malnutrition, substance abuse, social exclusion, and exposure to trauma and violence among the people studied.<sup>229</sup> A review of twenty five studies on effect of poverty alleviation on psychological well-being showed that out of twenty five, eighteen studies reported positive effects of poverty alleviation on stress and five showed effect on some psychological variables related to stress.<sup>230</sup> Apart from stress, cash transfers have been shown to reduce

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<sup>220</sup>*Id.*, 980.

<sup>221</sup>*Id.*

<sup>222</sup>KURUVILA & JACOB, *supra* note 215, 275.

<sup>223</sup>CANTILLON & MCLEAN, *supra* note 143, 113.

<sup>224</sup>KURUVILA & JACOB, *supra* note 215, 275.

<sup>225</sup>*Id.*, 276.

<sup>226</sup>MONEY AND MENTAL HEALTH POLICY INSTITUTE, *supra* note 215.

<sup>227</sup>*Id.*; ELLIOTT, *supra* note 215.

<sup>228</sup>*Id.*

<sup>229</sup> Lisa Hjelm et al., *Poverty and Perceived Stress: Evidence from Two Unconditional Cash Transfer Programs in Zambia*, SOCIAL SCIENCE AND MEDICINE 177 (2017); See Johannes Haushofer, Ernst Fehr, *On the psychology of poverty*, 344(6186) SCIENCE 862 (2014), 864.

<sup>230</sup>HAUSHOFER & FEHR, *supra* note 209, 864; also see Katherine Eyal & Justine Burns, *Up or Down? Intergenerational Mental Health Transmission and Cash Transfers in South Africa* 5 (Southern Africa Labour and Development Research Unit, Working Paper Series, Paper No. 165, January 5, 2016) (Poverty reduction directly impacts stress level); see HJELM ET AL., *supra* note 229. (A study of two Zambian unconditional cash transfer programs (designed to improve food security and income poverty) concluded that cash transfers help

symptoms of maternal depression.<sup>231</sup> It has also been shown to reduce depressive symptoms among children and improve their psychological well-being, especially for adolescent girls.<sup>232</sup> Independent income has also shown to have positive impact on the outlook of women in financially-scarce households.<sup>233</sup> Another study on cash transfers noted that the recipients reported a greater sense of dignity and self-worth as they were now able to contribute more to the community, and had a more positive outlook towards the future.<sup>234</sup> Overall, treating mental health is said to result in improved economic outcomes in developing countries.<sup>235</sup>

Basic income would help develop a shift from a “psychology of scarcity” to that of abundance.<sup>236</sup> While the former could be associated with anxiety and distress, the psychology of abundance promotes initiative, faith and solidarity. A basic income could, therefore, help people free themselves of the mental burden and preoccupations and move towards a healthier life.<sup>237</sup> It could allow them to find time for other activities and programmes and be able to expand their horizons through these attempts. The evidence from cash transfer programmes also suggests that unconditional cash grants have improved mental conditions of recipients and helped them fight stress, depression and anxiety. If cash transfers are able to achieve this, undoubtedly UBI will result in the same. In the long-run, better mental health leading to improved cognition, decision making and planning will help in breaking out of poverty cycle. Thus, we posit a right to basic income as a method of not only reducing the daily impact of poverty but also as a long-term plan for improved decision making, better mental health and emotional well-being, and means of breaking out of poverty cycle.

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improve food security and smoothing consumption leads to reduction in stress levels. Similarly evidence from Mexican cash transfer programme ‘Oportunidades’ found that cash transfers led to reduced stress levels and depression among the participants.).

<sup>231</sup> Timothy Powell-Jackson et al., *Cash Transfers, Maternal Depression and Emotional Well Being: Experimental Evidence From India’s Janani Suraksha Yojana Programme*, SOCIAL SCIENCE & MEDICINE 162, 210, 218 (2016) (A study conducted of the Indian Janani Suraksha Yojana Scheme (cash grants provided to women who gave birth in a health facility) also concluded that the cash transfers helped reduce maternal depression (by 8.5%) probably because it reduced the financial stress of delivery care.); Crick Lund, *Poverty and Mental Health: a Review of Practice and Policies*, 2(3)NEUROPSYCHIATRY 213, 216 (2012) (Oportunidades program has also been shown to reduce symptoms of maternal depression.).

<sup>232</sup> Audrey Pereira, *Cash Transfers Improve the Mental Health and Well-being of Youth: Evidence from Kenyan Cash Transfer for Orphans and Vulnerable Children*, UNICEF INNOCENTI RESEARCH BRIEF, 2016; Kelly Kilburn et al., *Effects of a Large Scale Unconditional Cash Transfer Program on Mental Health Outcomes of Young People in Kenya*, 58(2) J ADOLESC. HEALTH, 223 (2016); see Sylvia Shangani et al., *Unconditional Government Cash Transfers in Support of Orphaned and Vulnerable Adolescents in Western Kenya: Is There an Association with Psychological Well-being?*, (2017) (A study done for the Kenyan unconditional Cash Transfer for Vulnerable Children (CT-OCV) concluded that the recipient youth (aged between 15-24) was twenty-four percent less likely to have depressive symptoms as against non-recipients and led to better mental health outcomes); see Crick Lund et al., *Poverty and Mental Health disorders: Breaking The Cycle in Low-Income and Middle Income Countries*, 378 LANCET 1502, 1506 (2011); (In Malawi, unconditional cash transfers caused a 38% decrease in psychological distress for school girls); see Sarah Baird, Jacobus de Hoop & Berk Ozler, *Income Shocks and Adolescent Mental Health* (The World Bank Policy Research Working Paper, Paper No. 5644, April 2011) (Similar evidence was also found for a cash transfer program in Malawi which was reported to have a positive effect of the cash transfer on the mental health, with reduced levels of psychological distress, among adolescent girls).

<sup>233</sup> CANTILLON & MCLEAN, *supra* note 143, 113.

<sup>234</sup> UNICEF, *supra* note 211, 21.

<sup>235</sup> EYAL & BURNS, *supra* note 230, 4.

<sup>236</sup> Erich Fromm, *The Psychological Aspects of the Guaranteed Income* in THE GUARANTEED INCOME 183(1967).

<sup>237</sup> See DEPARTMENT OF ECONOMIC AFFAIRS, *supra* note 10, 183.

#### IV. UNIVERSAL BASIC INCOME ('UBI') FOR INDIA: THE WAY FORWARD

This part of the paper concerns with our objective of outlining the stressing need for and benefits of a UBI system in India and proposing a skeletal model for UBI implementation in India. We begin by outlining the historical character of basic income followed by an in-depth study of the impact of UBI projects conducted around the world, including one in Madhya Pradesh, India. There exists overwhelming empirical evidence depicting the advantages and benefits of UBI, including but not limited to matters of cash transfers in combating poverty, fighting inequality, empowering women, health, food and nutrition, and education of children. India has much to learn in this regard and we try to show why it is imperative that we begin thinking on the lines of an UBI for India.

##### A. BACKGROUND ON UBI

The idea of UBI is not new and finds historical support. One of the very first references to the concept of UBI was made by Thomas More.<sup>238</sup> A contemporary of his, Johannes Ludovicus Vives, also proposed a detailed scheme on the idea of basic income.<sup>239</sup> It was in the year 1797 that the most distinctive model close to that of a UBI was provided by Thomas Paine.<sup>240</sup> The idea of basic income gained popularity and importance in late nineteenth century and earlytwentieth century. A French writer, Charles Fourier argued for right to subsistence to all persons unable to meet their basic needs.<sup>241</sup> However, such delivery of income was not to be universal in his view, but was only supposed to be an unconditional entitlement for the poor.<sup>242</sup> One of the most genuine proposals for basic income was given by Joseph Charlier who disregarded both the work test and the means test (recognised by Fourier).<sup>243</sup> Works of Bertrand Russell also mention the need for a basic income by labelling it as small income for the purpose of meeting necessities.<sup>244</sup>

The later part of twentieth century saw a flurry of proposals relating to the idea of basic income, which was called by several names, including 'social dividend', State bonus, and demogrant. There was also a proposal for Negative Income Tax ('NIT') in United States during the 1960s and the 1970s.<sup>245</sup> Later, when basic income grew in prominence, especially in the North-Western Europe, the state of Alaska in the United States started a full-scale basic income scheme funded through the profits coming out of the newly-discovered oil field.

In modern times, basic income proposals have been said to mature in three waves: during 1980s (when there were arguments for ending the welfare system), 1990s (when basic income entered the realm of policy debates), and post-2000 era (where basic

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<sup>238</sup> Basic Income Earth Network, *History of Basic Income*, available at <http://basicincome.org/basic-income/history/> (Last visited on February 5, 2018).

<sup>239</sup>*Id.*

<sup>240</sup>*Id.*; see JURGEN DE WISPELAERE, AN INCOME OF ONE'S OWN? THE POLITICAL ANALYSIS OF UNIVERSAL BASIC INCOME 26 (2015).

<sup>241</sup> BASIC INCOME EARTH NETWORK, *supra* note 238.

<sup>242</sup>*Id.*

<sup>243</sup>*Id.*

<sup>244</sup>Jiyeon Choi, *Basic Income: A Viable Alternative*, 20 Kor. U.L. Rev. 25 (2016).

<sup>245</sup>See Jodie T. Allen, *Negative Income Tax* in THE CONCISE ENCYCLOPEDIA OF ECONOMICS (1993), available at <http://www.econlib.org/library/Enc1/NegativeIncomeTax.html> (Last visited on February 6, 2018).

income debates entered the realm of politics and gained a wider public discourse).<sup>246</sup> In 1986, supporters of the concept of basic income (“income without conditions”) established the Basic Income European Network, whose name was later changed to Basic Income Earth Network (‘BIEN’) in 2004.<sup>247</sup>

The recent decades have witnessed several UBI ‘pilot projects’ being executed around the world owing to growing consciousness among governments, activists and the general public about the benefits of such a scheme. The next section, therefore, discusses such UBI projects and their impact.

## *B. EMPIRICAL EVIDENCE IN SUPPORT OF UBI FROM AROUND THE WORLD*

### 1. Alaska, United States of America

In the year 1976, the state of Alaska formed a fund called Permanent Fund Dividend using profits arising out of the newly discovered oil reserves.<sup>248</sup> The dividend arising out of the Fund was used to grant a form of basic income to families and was provided universally to citizens without any kind of means or work test.<sup>249</sup> Basic income is an annual payment in this case.<sup>250</sup> The dividend amount is calculated as the average of the profits for the past five years and therefore fluctuates each year.<sup>251</sup> The amount provided to each citizen depends on the length of the residence (up to a period of twenty-five years).<sup>252</sup> The criterion for eligibility is that the person should have been a resident of the State and should also intend to be a resident.<sup>253</sup> Although, the dividend is not a large amount, it is still very popular amongst the people and suggesting anything against it is considered to be ‘political suicide’.<sup>254</sup> A recent survey on the Permanent Fund Dividend showed immense support for the Fund among people.<sup>255</sup> Although the Alaskan system is significantly different from UBI, it is worth considering some of the impacts the cash transfer has had in the past.

#### *Impact:*

Most economists feel that the amount received by the people is spent in buying consumer goods which circulates back into the economy and produces jobs and income in trade and service sectors.<sup>256</sup> Even though there have not been many concrete studies as to the effect of the income on the labour supply, there is also no evidence of any

<sup>246</sup>DE WISPELAERE, *supra* note 240, 29.

<sup>247</sup>See Basic Income Earth Network, *About BIEN*, available at <http://basicincome.org/about-bien/> (Last visited on February 6, 2018).

<sup>248</sup>Scott Goldsmith, *The Alaska Permanent Fund Dividend: An Experiment in Wealth Distribution*, 2002 available at <http://www.ilo.org/public/english/protection/ses/download/docs/gold.pdf> (Last visited on February 5, 2018) (Paper presented at BIEN 9<sup>th</sup> International Congress, Geneva, September 2002).

<sup>249</sup>*Id.*

<sup>250</sup>*Id.*

<sup>251</sup>*Id.*

<sup>252</sup>*Id.*

<sup>253</sup>*Id.*

<sup>254</sup>*Id.*

<sup>255</sup>Kate McFarland, *Alaska, US: Survey Shows Support for Permanent Fund Dividend amid Continued Legal Controversy*, July 10, 2017, BASIC INCOME EARTH NETWORK, available at <http://basicincome.org/news/2017/07/us-survey-shows-majority-support-for-permanent-fund-dividend-amid-continued-legal-controversy/> (Last visited on February 5, 2018).

<sup>256</sup>GOLDSMITH, *supra* note 248.

substantial impact on current labour force participation.<sup>257</sup> Statistics show that the Gini coefficient<sup>258</sup> (at 0.43) of Alaska is the lowest among all the States of the United States as per the 2016 statistics.<sup>259</sup> Further, the percentage of people living in poverty in Alaska is one of the lowest in USA (at a level below eleven percent along with District of Columbia, Connecticut, Hawaii, Maryland, Massachusetts, Minnesota, New Hampshire, New Jersey, North Dakota and Utah).<sup>260</sup> A World Economic Forum Report<sup>261</sup> reported Alaska to be among the most equal of all the states in United States with highest scores on Well-Being Index. It has also been shown that the income of the poorest fifth of the poor Alaska families increased by twenty eight percent as compared to a mere seven percent increase for the richest fifth in the last ten years (till 2002).<sup>262</sup> In some areas of rural Alaska, the payment amount accounts for more than ten percent of the cash income.<sup>263</sup> This remarkable success of Alaska has been attributed to its Permanent Fund Dividend model. In fact, in a study conducted to determine if people were wasting the amount offered, no evidence as to such wastage of money was found.<sup>264</sup>

## 2. Brazil

Brazil introduced a Bill titled 'Citizen's Basic Income' in 2001 which was passed in 2003 and was signed into law by the President in 2004.<sup>265</sup> Article 1 of the Act entitles citizens to a right to basic income from the year 2005 onwards.<sup>266</sup> Each individual is entitled to a guaranteed annual payment regardless of their socio-economic position.<sup>267</sup> However, this law has still not been enforced. The program is supposed to be implemented in a phased manner, with priority being given to the vulnerable and needy.<sup>268</sup> However, Brazil's 'Bolsa Familia' program launched in November, 2003, and hailed as the largest social security scheme in the world, has been considered as a move towards implementation of a full-fledged UBI scheme.<sup>269</sup>

<sup>257</sup>*Id.*, 10.

<sup>258</sup>Gini Coefficient is the measure of income inequality, with values representing ranging from 0 to 1, where zero represents absolute income equality.

<sup>259</sup> America's Health Rankings, *Explore Income Inequity in Alaska:2015 Annual Report*, available at <https://www.americashealthrankings.org/explore/2015-annual-report/measure/gini/state/AK> (Last visited on February 5, 2018).

<sup>260</sup>Alemayehu Bishaw & Craig Benson, *Poverty: 2015 and 2016*, AMERICAN COMMUNITY SURVEY BRIEFS (September 2017), available at <https://census.gov/content/dam/Census/library/publications/2017/acs/acsbr16-01.pdf> (Last visited on February 5, 2018).

<sup>261</sup>Scott Santens, *Is the Solution to Extreme Wealth Inequality Really – Alaska?*, April 26, 2017 available at <https://www.weforum.org/agenda/2017/04/extreme-wealth-inequality-alaska-model/> (Last visited on February 5, 2018).

<sup>262</sup> GOLDSMITH, *supra* note 248, 11.

<sup>263</sup>*Id.*, 12.

<sup>264</sup>*Id.*, 7.

<sup>265</sup>Eduardo Matarazzo Suplicy, *Citizen's Basic Income*, WOODROW WILSON INTERNATIONAL CENTRE FOR SCHOLARS 2 (March 2007).

<sup>266</sup>Citizen's Basic Income Act, 2000 (Brazil), Art. 1.

<sup>267</sup>SUP LIC Y, *supra* note 265.

<sup>268</sup>*Id.*

<sup>269</sup>*Id.*, 1. The Bolsa Familia is a unification of four income programs: Bolsa Escola (School Scholarship), Bolsa Alimentacao (Food Aid), Auxilio-Gas (Gas Subsidies) and Cartao Alimentacao (Food Cards).

*Bolsa Familia* is a conditional cash transfer scheme implemented with the object of eradicating poverty.<sup>270</sup> Its important feature is that instead of using a proxy means test formula for selecting beneficiaries, it is done through self-reported family per capita income and the number of children in the family.<sup>271</sup> Certain conditions are to be met including monthly family income below USD 120, vaccination of children below six years according to healthy ministry guidelines, and minimum eighty-five percent school attendance is required for children between the ages of six and sixteen.<sup>272</sup> The scheme is funded through a 0.38% tax levied on financial transactions.<sup>273</sup>

*Impact:*

*Bolsa Familia*, envisioned as a cash transfer, has been hailed for its impact on poverty reduction because of its redistributive effect, along with the other schemes in place.<sup>274</sup> The drop in the rates of extreme poverty has been from 9.7% to 4.3% within a period of ten years after its introduction.<sup>275</sup> Another report published in 2010 states that the poverty and extreme poverty have fallen by sixteen percent and thirty-three percent respectively.<sup>276</sup> There has also been a fall in the level of income inequality by sixteen percent (to a Gini coefficient of 0.527) within a span of ten years from 1999 to 2009.<sup>277</sup> It has been reported that there has been a fall of 4.7% in the Gini Index for Brazil during 1995 to 2004, out of which the *Bolsa Familia* is responsible for a twenty-one percent fall.<sup>278</sup> It has also increased the autonomy of the poor, especially of women (who constitute ninety percent of the beneficiaries).<sup>279</sup> With regard to its impact on education, it has led to a rise in school attendance and grade progression.<sup>280</sup> Also, a higher proportion of the beneficiary children have updated immunisation than the non-beneficiary ones.<sup>281</sup> It has also been reported that there is significantly reduced stunting in children between the ages of six and eleven months and wasting in children up to five months old.<sup>282</sup>

Another pertinent observation was that the labour market participation rate for the beneficiary adults was higher than that of the non-beneficiaries.<sup>283</sup> There is also evidence that cash transfers have made people more active instead of lazy and irresponsible.<sup>284</sup> The *Bolsa Familia* program is one of the many successful cash transfer programs which provides

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<sup>270</sup>*Id.*, 1; Fabio Veras Soares, *Brazil's Bolsa Familia: A Review*, 46(21) ECONOMIC AND POLITICAL WEEKLY 55 (2011).

<sup>271</sup>SOARES, *Id.*, 57.

<sup>272</sup>SUPLICY, *supra* note 265.

<sup>273</sup>*Id.*

<sup>274</sup>*Id.*, 23-24.

<sup>275</sup>Deborah Wetzel & Valor Economico, *BolsaFamilia: Brazil's Quiet Revolution*, November 4, 2013, available at <http://www.worldbank.org/en/news/opinion/2013/11/04/bolsa-familia-Brazil-quiet-revolution> (Last visited on February 5, 2018).

<sup>276</sup>SOARES, *supra* note 270, 59.

<sup>277</sup>*Id.*; Wetzel & Economico, *supra* note 275; Fabio Veras Soares, Rafael Perez Ribas & Rafael Guerreiro Osorio, *Evaluating the Impact of Brazil's Bolsa Familia: Cash Transfer Programs in Comparative Perspective*, 45(2) LATIN AMERICAN RESEARCH REVIEW 173, 178 (2010).

<sup>278</sup>SOARES, RIBAS & OSORIO, *supra* note 277, 179.

<sup>279</sup>WETZEL & ECONOMICO, *supra* note 275.

<sup>280</sup>*Id.*; SOARES, *supra* note 270, 59.

<sup>281</sup>SOARES, *Id.*

<sup>282</sup>SOARES, RIBAS & OSORIO, *supra* note 277, 184.

<sup>283</sup>*Id.*, 185.

<sup>284</sup>See Johanna Pekio, *Universal Basic Income: A New Tool for Development Policy?*, INTERNATIONAL SOLIDARITY WORK 3 (January 31, 2014).

evidence of its huge impact on poverty and income inequality, and role in improving health and nutrition in cost effective and efficient ways.

### 3. Namibia

The economy of Namibia has been described as a survival economy in which the poor spend most of their time securing food, water and fuel for daily survival.<sup>285</sup> As a result, a lot of time, labour and resources, which could otherwise be utilised more productively, go to waste.<sup>286</sup>

The Namibian Basic Income Pilot Experiment was the first universal cash transfer project of the world which took place in 2008-09.<sup>287</sup> The project was conducted by the ‘Namibia Basic Income Grant Coalition’ consisting of civil society members, church unions and AIDS service organisations. The coalition was formed after the Taylor Committee Report<sup>288</sup> which initiated public discourse on basic income in South Africa. The project was implemented in Otjivero settlement and Omitara town in Omitara district of Namibia. The site chosen was infamous for high rates of crime.<sup>289</sup> It was further plagued by hunger, unemployment and poverty.<sup>290</sup>

The project was financed out of private, domestic and worldwide funding support and donations.<sup>291</sup> A payment of Namibian \$100 was paid unconditionally each month to each and every resident of the locality via mobile banking and later the Namibian Post Office.<sup>292</sup> The payment to a minor (below twenty-one years) was made to the primary caregiver (mother, in most cases).<sup>293</sup> Further, those above the age of sixty were ineligible for basic income as they were already receiving Namibian Old Age Pension.<sup>294</sup>

The withdrawal of money was through a smart card containing a micro-chip having data relating to their fingerprint, date of birth and the history of prior basic income withdrawals.<sup>295</sup> There was a designated “pay-out point” as well which had a cash-dispenser and fingerprints authentication system.<sup>296</sup> This sort of payment using formal financial tools also was designed with an objective of financial inclusion of the poor.

An eighteen member committee was formed to mobilise the community and played an advisory role for the residents in guiding them in spending the money.<sup>297</sup> The committee also worked on curbing alcoholism and was also able to convince local *shebeen*

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<sup>285</sup>Masahiko Suzuki, *Would They be Lazier or Work Harder Given Free Money? The Namibia BIG Pilot Project and the Possibility of Basic Income as a Strategy of Social Cooperation*, 14 JOURNAL OF POLITICAL SCIENCE AND SOCIOLOGY 53, 55 (2011).

<sup>286</sup>*Id.*

<sup>287</sup>BASIC INCOME GRANT COALITION (‘BIGC’), *Making the Difference: Basic Income Grant Pilot Project Assessment Report*, 19 (April 2009).

<sup>288</sup>COMMITTEE OF INQUIRY INTO A COMPREHENSIVE SYSTEM OF SOCIAL SECURITY FOR SOUTH AFRICA, *Transforming the Present – Protecting the Future (Consolidated Report)* (March 2002) (‘Taylor Report’).

<sup>289</sup>SUZUKI, *supra* note 285, 56.

<sup>290</sup>BIGC, *supra* note 287, 14.

<sup>291</sup>SUZUKI, *supra* note 285, 57.

<sup>292</sup>BIGC, *supra* note 287, 21.

<sup>293</sup>*Id.*

<sup>294</sup>*Id.*

<sup>295</sup>*Id.*, 22.

<sup>296</sup>*Id.*

<sup>297</sup>*Id.*, 14.



owners to not sell alcohol on the days basic income was paid.<sup>298</sup> Two months before the pay-out, in November 2007, a ‘baseline survey’ was conducted and later, two ‘panel surveys’ were conducted in July, 2008 and November, 2008, for the same individuals as previously done.

*Impact:*

At the time of the baseline survey, seventy-three percent of the houses had reported that they often did not have sufficient food and forty-two percent of the children (under the age of five) were reported to be malnourished which was below the national average of Namibia.<sup>299</sup> After six months, the panel survey showed only seventeen percent malnourished children and after one year, child malnutrition rates had dropped to ten percent.<sup>300</sup>

There was also reduction in the drop-out rates at school which fell from anywhere between thirty to forty percent to a mere five percent by July, 2008 and to zero by November, 2008.<sup>301</sup> The number of parents paying their children’s school fees also increased to ninety percent.<sup>302</sup> The rate of non-attendance in schools due to financial reasons fell by forty-two percent.<sup>303</sup>

The basic income grant also helped reduce unemployment rates drastically. The initial unemployment rate was a staggering sixty percent but after a year, it fell to forty-five percent by November 2008.<sup>304</sup> As a result, the average monthly household income of the people also increased.<sup>305</sup> Another remarkable effect of basic income was a thirty-six percent drop in overall crime rate coupled with a drastic decrease in economic crimes by ninety-five percent.<sup>306</sup>

There was also a reduction in household debts of the people.<sup>307</sup> It was also reported that as a result of the prevalence of begging, there used to be a lot of embarrassment amongst the people in maintaining community relations and spirit.<sup>308</sup> After the introduction of basic income grants, the recipients were now able to interact freely with each other.<sup>309</sup>

The poverty rate was at seventy-six percent in November, 2007, but fell to thirty-seven percent after a year.<sup>310</sup> Food poverty also declined from seventy percent to sixteen percent.<sup>311</sup> There was also an increase in the number of people (those above fifteen years of age) engaged in income generating activities from forty-four percent to fifty-five percent.<sup>312</sup> This led to the creation of a local market as well since the spending capacity of the

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<sup>298</sup>*Id.*, 16.

<sup>299</sup>*Id.*, 52-53.

<sup>300</sup>SUZUKI, *supra* note 285, 61.

<sup>301</sup>*Id.*, 63.

<sup>302</sup>*Id.*

<sup>303</sup>BIGC, *supra* note 287, 15.

<sup>304</sup>SUZUKI, *supra* note 285, 64.

<sup>305</sup>*Id.*, 68.

<sup>306</sup>*Id.*, 69.

<sup>307</sup>BIGC, *supra* note 287, 15.

<sup>308</sup>*Id.*, 42.

<sup>309</sup>*Id.*

<sup>310</sup>*Id.*, 14.

<sup>311</sup>*Id.*, 51.

<sup>312</sup>*Id.*, 14.

people had also increased.<sup>313</sup> Therefore, the basic income grant was enabling and empowering as it allowed the recipients in increasing their profit and income in their own capacity. This refutes the argument that providing basic income would make people lazy and squanderers. Further, there is no evidence of any increase in the consumption of alcohol, partly because of the efforts of the village committee.<sup>314</sup>

The report on the experiment concluded that a basic income would act as buffer against shocks and also enable people to fulfil their long term earning potential.<sup>315</sup> The effect of the basic income was in radically changing the incentive structures available to the poor in a manner that the Namibian survival economy could make progress towards becoming a decent economy.<sup>316</sup>

#### 4. Madhya Pradesh, India

SEWA Bharat-UNICEF Study on Basic Income in India was launched through pilot projects in 2010. The project ran for a total of eighteen months. There were two pilots to be implemented and the state of Madhya Pradesh, one of the backward States of the country, was chosen. The bigger pilot involved eight villages and the smaller pilot involved a tribal village (a village in Bhil) where SEWA had been working.<sup>317</sup> The smaller pilot had a corresponding group of similar villages as the control group and the tribal village also had another similar tribal village as control (another village in Bhil).<sup>318</sup> The group of basic income villages included four SEWA and four non-SEWA villages.<sup>319</sup> A total of 5,547 individuals were eligible for a basic income.<sup>320</sup> The process of informing the villagers of the pilot project was called the ‘Awareness Day’.<sup>321</sup>

For the larger pilot of eight villages, the cash was to be transferred in bank accounts and this required liaising with banks as most households did not have bank accounts while accounts for women in SEWA villages were opened in SEWA cooperative.<sup>322</sup> From June, 2011, onwards the cash was started to be handed out to people who did not have bank accounts and transferred into accounts of people having bank accounts.<sup>323</sup> In order to establish the identity of the recipients, the team distributed cash in the presence of a government official (*sarpanch*), who signed affidavits certifying the identity of the person receiving the cash.<sup>324</sup> Every man, woman and child was initially given a monthly payment of INR 200 for an adult and INR 100 for a child which was later increased to INR 300 and INR 150 respectively.<sup>325</sup> Similar amounts were paid to each adult and child in the tribal village. The payment was gradually shifted to transfers made to bank or cooperative accounts.

<sup>313</sup>*Id.*, 15.

<sup>314</sup>*Id.*, 45.

<sup>315</sup>*Id.*, 92.

<sup>316</sup>SUZUKI, *supra* note 285, 68.

<sup>317</sup>SARATH DAVAL et al., BASIC INCOME: A TRANSFORMATIVE POLICY FOR INDIA, 31 (2015).

<sup>318</sup>*Id.*

<sup>319</sup>*Id.*, 36.

<sup>320</sup>*Id.*, 37.

<sup>321</sup>*Id.*

<sup>322</sup>*Id.*

<sup>323</sup>*Id.*

<sup>324</sup>*Id.*, 38.

<sup>325</sup> Guy Standing, *India’s Experiment in Basic Income Grants*, available at <http://isa-global-dialogue.net/indias-great-experiment-the-transformative-potential-of-basic-income-grants/> (Last visited on February 4, 2018).

The evaluation survey was conducted in three stages: the Interim Evaluation Survey ('IES'), the Final Evaluation Survey ('FES') and the Post-Final Evaluation Survey ('PFES').<sup>326</sup> The IES was conducted eight months after the start of the pilot for four target villages (two SEWA and two non-SEWA villages) and four control villages (two SEWA and two non-SEWA villages). While the FES conducted after a year of operation was more detailed and used as the instrument for primary evaluation, the PFES was conducted in December, 2012, at the end of the pilot in two target villages.<sup>327</sup> The resulting impact of the project is nothing short of extraordinary. The same has been recorded in the book titled 'Basic Income: a Transformative Policy for India' published in 2015 which documents the entire project.

*Impact:*

One of the major observations of the study was that on the receipt of basic income the small and marginal farmers shifted from wage labour to investing in their own cultivation.<sup>328</sup> As a result there was an increase in agricultural production. The money grant also led to several small scale investments in seeds, sewing machines, little shops, machinery upgradation etc.<sup>329</sup> Basic income also contributed to increase in the days of labour and work and in the amount of economic work carried out by the people.<sup>330</sup> There was also a net shift from wage labour to own-account work.<sup>331</sup> Further, the number of families owning large live-stock also increased.<sup>332</sup> Money was also used in improving housing conditions, building latrines, and taking precautions against diseases like malaria.<sup>333</sup> On the whole, basic income had positive effects on production and income levels and increased earning activities.

Initially, over seventy percent of the households had reported being in a financial debt but the FES conducted at the end of the pilot revealed that twelve-and-a-half percent of basic income villages had reduced their debts whereas only five percent of the control households had done so.<sup>334</sup> Conversely, only five percent of the basic income households had increased debts, whereas over fifty-eight percent of the control houses had done so.<sup>335</sup> In the tribal basic income villages, an astonishing seventy-three percent of the households reported in the FES to have reduced their debts and none of them had increased debts.<sup>336</sup> On the other hand, eighteen percent in the control tribal villages had reduced their debts and fifty percent had their increased debts.<sup>337</sup> There was an overall reduction in indebtedness. It must be noted that money is a scarce commodity in low-income communities usually monopolised by unethical moneylenders who lend at exorbitant interest rates.<sup>338</sup> Basic income gave households much needed liquidity and thwarted indebtedness caused due to financial crises, illness and lack of necessities.

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<sup>326</sup>DAVALA et al., *supra* note 317, 42

<sup>327</sup>*Id.*

<sup>328</sup>DEPARTMENT OF ECONOMIC AFFAIRS, *supra* note 10, 201.

<sup>329</sup>STANDING, *supra* note 325.

<sup>330</sup>DAVALA et al., *supra* note 317, 144-145.

<sup>331</sup>*Id.*

<sup>332</sup>*Id.*, 148.

<sup>333</sup>STANDING, *supra* note 325.

<sup>334</sup>DAVALA et al., *supra* note 317, 54.

<sup>335</sup>*Id.*

<sup>336</sup>*Id.*, 56.

<sup>337</sup>*Id.*

<sup>338</sup>STANDING, *supra* note 325.

At the beginning forty-five percent had reported that their income was insufficient for food needs but later this number fell to nineteen percent.<sup>339</sup> On the other hand, the percentage of people from control villages reporting having insufficient income for food needs remained more or less unchanged.<sup>340</sup> Moreover, there was a huge expansion in the consumption of nutritious items, especially pulses and lentils (increase of 1000 percent) and fresh vegetables (increase of 888 percent), which was far greater than that of the control villages. Similarly, the consumption of fish and meat (in terms of rupee cost) increased by 500 percent.<sup>341</sup> This was due to basic income enabling the households to shift to purchasing from markets instead of ration shops owing to better financial liquidity.<sup>342</sup> It enabled them to replace the usual low-quality grains and pulses distributed in ration shops.

Even though there was improvement in the nutritional status of children in all basic income villages, the nutrition of children in the tribal village and among SC/ST households especially improved.<sup>343</sup> At the outset, no tribal child had the normal weight for their age, but by the end of the pilot, nearly a quarter of those children were able to attain normal weight (the share of severely underweight tribal children fell from thirty-two to fifteen percent).<sup>344</sup> Better diet among children not only improved their health but also prevented seasonal illnesses in them.<sup>345</sup>

The IES showed that basic income families with children were more likely to have increased spending on schooling than the families in control villages.<sup>346</sup> It enabled them to buy things like uniform and shoes and pay for transport. Similar findings were reported in the FES. Further, the expenditure on the schooling of girls was also higher for basic income families.<sup>347</sup> Similar results were seen for the tribal village where basic income was introduced and the spending on the education for girls increased by eighty-eight percent.<sup>348</sup> Basic income also checked the tendency of girls in dropping out of school.<sup>349</sup> There were also increased rates of attendance in schools and improved grades among the children.<sup>350</sup> This was complemented by a decrease in child wage labour in basic income households.<sup>351</sup>

Basic income also had significant repercussions in the matter of equity. Specifically disadvantaged groups including lower caste families, women and persons with disabilities gained bargaining power within household on account of having money in their own names.<sup>352</sup> Women made use of the basic income to improve their own income and production status and of their female family members as well.<sup>353</sup> Income sharing in basic

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<sup>339</sup>DAVALA et al., *supra* note 308, 89.

<sup>340</sup>*Id.*

<sup>341</sup>*Id.*, 90.

<sup>342</sup>STANDING, *supra* note 325.

<sup>343</sup>*Id.*

<sup>344</sup>DAVALA et al., *supra* note 317, 95.

<sup>345</sup>STANDING, *supra* note 325.

<sup>346</sup>*Id.*

<sup>347</sup>DAVALA et al., *supra* note 325, 119.

<sup>348</sup>*Id.*, 120.

<sup>349</sup>*Id.*, 123.

<sup>350</sup>*Id.*, 126-128.

<sup>351</sup>*Id.*, 141.

<sup>352</sup>STANDING, *supra* note 325.

<sup>353</sup>DAVALA et al., *supra* note 317, 151.

income households was greater than usual.<sup>354</sup> Roughly sixty percent of the women reported that basic income had enabled them to have more influence over household spending.<sup>355</sup>

Another highly relevant impact of the pilot was that a lower proportion of basic income households increased the expenditure on alcohol (three percent) than non-basic income households (seven-and-a-half percent).<sup>356</sup> Further, more households in the former category reduced the spending on alcohol (four percent) than the latter households (two-and-a-half percent).<sup>357</sup> Similarly, in case of the tribal village, twelve percent of the households reduced their expenditure on alcohol compared with one percent fall in control village.<sup>358</sup> This finding disproves the claim of UBI opponents that a basic income grant shall lead to increased consumption of alcohol.

## 5. Finland

Finland is also conducting a UBI experiment to assess its merits. It was launched in January, 2017, and will continue till the end of 2018.<sup>359</sup> By means of a random sample, 2000 persons between the ages of twenty-five and fifty-eight have been selected.<sup>360</sup> Each one of them will receive a basic income of EUR 560 per month unconditionally for two years.<sup>361</sup> It is intended as a social security which reduces the labour involved in seeking financial assistance, frees up time and resources for engaging in work or seeking better opportunities.<sup>362</sup> The following research questions for the experiment have been outlined: *first*, what changes are needed in social security systems in light of changes in nature of work, *second*, how to reshape social security in a way that it gives people stronger incentive to work, thereby, promoting work participation, and *third*, how to cut down on bureaucracy in order to simplify existing social security systems.<sup>363</sup>

It is believed that apart from reducing bureaucratic red tape and costs, the project can indirectly impact people's mental health positively.<sup>364</sup> It is also seen as the government's efforts to tackle unemployment which is proving to be a huge problem in the recent years because many people prefer to stay under benefits of a rather generous social security system leading to what is called as the social security trap.<sup>365</sup> At the same time, initial reports from the experiment suggest that people are reporting reduced stress, and stronger incentive to work or take up entrepreneurship.<sup>366</sup> Since people will continue to

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<sup>354</sup>*Id.*, 172.

<sup>355</sup>*Id.*

<sup>356</sup>*Id.*, 96.

<sup>357</sup>*Id.*

<sup>358</sup>*Id.*, 97.

<sup>359</sup> KELA, *Basic Income Experiment launched in Finland*, January 1, 2017, available at <http://www.kela.fi/web/en/-/basic-income-experiment-launched-in-finland> (Last visited on February 4, 2018).

<sup>360</sup>*Id.*

<sup>361</sup> KELA, *Objectives and Implementation of the Basic Income Experiment*, January 13, 2017, available at <http://www.kela.fi/web/en/basic-income-objectives-and-implementation> (Last visited on February 4, 2018).

<sup>362</sup> KELA, *supra* note 359.

<sup>363</sup>*Id.*

<sup>364</sup> Ben Chapman, *Finnish Citizens Given Universal Basic Income Report Lower Stress Levels and Greater Incentive to Work*, THE INDEPENDENT, June 21, 2017, available at <http://www.independent.co.uk/news/business/news/finland-universal-basic-income-lower-stress-better-motivation-work-wages-salary-a7800741.html> (Last visited on February 4, 2018).

<sup>365</sup>*Id.*

<sup>366</sup>*Id.*

receive the benefit even if they choose to work, UBI is acting as a disincentive to remaining unemployed.

However, some have criticized the Finnish experiment as incorrectly designed. The original sample size of the experiment was reduced by eighty percent to just 2000 individuals and findings of such an experiment could be scientifically unviable.<sup>367</sup> Earlier, reasons like combating poverty and bringing down inequality used to motivate any talk about giving unconditional income to all citizens.<sup>368</sup> It was also a means of freeing people and allowing them to contribute to society in other ways like charity or artistic ventures, however, the current design is nothing but unconditional unemployment benefit targeted to promote employment.<sup>369</sup> UBI instead must seek to liberate the poor and fight inequality. Despite such objections relating to motivations behind UBI experiment, the research team responsible for it has recommended its expansion beyond 2018.<sup>370</sup>

## 6. Kenya

A randomized control trial ('RCT') of unconditional cash transfers in Kenya was conducted between 2011 and 2012, implemented by the NGO GiveDirectly in Western Kenya.<sup>371</sup> The transfers were made through mobile money system called m-Pesa and the only eligibility criterion for receiving the transfer was a house with a thatched roof.<sup>372</sup> The selected households were randomly picked from the eligible households. The recipients were told that they could spend the transfer amount in any way that they wished.

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The transfers were found to have significant impact on consumption, hunger, food security, asset accumulation and psychological well-being of the recipient household members.<sup>373</sup> The effect on asset holdings was primarily driven by increase in investments in livestock, furniture and metal roofs.<sup>374</sup> The cash transfers increased the likelihood of households having an iron roof by twenty-three percent as compared to the control group (at sixteen percent).<sup>375</sup> Increase in investment was noticed for food, medicine, home improvement, education, durables and social events.<sup>376</sup> Cash transfers were also found to increase investment in and revenue from income generating activities, which primarily included non-agricultural businesses and livestock-rearing.<sup>377</sup>

<sup>367</sup> Antti Jauhiainen & Joonas-Hermannni Makinen, *Why Finland's Basic Income Experiment Isn't Working*, THE NEW YORK TIMES, July 20, 2017, available at <https://www.nytimes.com/2017/07/20/opinion/finland-universal-basic-income.html> (Last visited on February 4, 2018).

<sup>368</sup> *Id.*

<sup>369</sup> *Id.*

<sup>370</sup> KELA, *Research Team Recommends Expansion of Basic Income Experiment in 2018*, December 19, 2016, available at <http://www.kela.fi/web/en/-/research-team-recommends-expansion-of-basic-income-experiment-in-2018> (Last visited on February 4, 2018).

<sup>371</sup> Johannes Haushofer & Jeremy Shapiro, *Policy Brief: Impacts of Unconditional Cash Transfers*, (October 24, 2013), available at [https://www.princeton.edu/~joha/publications/Haushofer\\_Shapiro\\_Policy\\_Brief\\_2013.pdf](https://www.princeton.edu/~joha/publications/Haushofer_Shapiro_Policy_Brief_2013.pdf) (Last visited on February 6, 2018).

<sup>372</sup> *Id.*, 6.

<sup>373</sup> Johannes Haushofer & Jeremy Shapiro, *The Short Term Impact of Unconditional Cash Transfers to the Poor: Experimental Evidence from Kenya*, 131(4) THE QUARTERLY JOURNAL OF ECONOMICS 1973 (2016).

<sup>374</sup> HAUSHOFER & SHAPIRO, *supra* 371, 16.

<sup>375</sup> *Id.*

<sup>376</sup> *Id.*, 17.

<sup>377</sup> *Id.*, 19.

There was no evidence of increased consumption of tobacco or alcohol and no reduction in labour supply.<sup>378</sup> There was a reduction in domestic violence and an increase in female empowerment.<sup>379</sup> There was a large increase in psychological well-being and reductions in the levels of stress hormone cortisol among the people.<sup>380</sup>

Recently, in November 2017, GiveDirectly announced its UBI experiment in rural Kenya.<sup>381</sup> This shall be the largest ever UBI experiment.<sup>382</sup> The experiment shall be conducted for three groups of villages: forty villages (more than 6000 people) have been selected for long-term monthly UBI transfers for duration of twelve years; eighty villages will receive monthly UBI transfers for two years; and a control group of 100 villages will be receiving no cash transfers.<sup>383</sup> A total of 16000 people shall be receiving some type of cash transfer.<sup>384</sup> A comparison between the first and the second group will help understand the importance of a guarantee of future transfers in terms of the outcomes for today.<sup>385</sup> The impact assessment shall be made against a set of metrics including economic status, time use, risk taking, gender relations and aspirations and outlook on life.<sup>386</sup>

UBI experiments have also been announced to take place in Utrecht (Netherlands),<sup>387</sup> Ontario (Canada),<sup>388</sup> and Oakland (California, USA).<sup>389</sup>

### C. LESSONS FOR INDIA FROM THE SUCCESS OF UBI EXPERIMENTS

The poverty rate in India (as per data from 2012) is more than twenty percent.<sup>390</sup> Though India has been able to halve its poverty rate from 1990 to 2011, it still is home to nearly one-third of the world's extremely poor (as per data from 2011).<sup>391</sup> This means that India accounts for one in every three poor persons worldwide, with the total number of poor in the country being 200 million.<sup>392</sup> Further, India accounts for more than

<sup>378</sup>*Id.*, 2.

<sup>379</sup> HAUSHOFER & SHAPIRO, *supra* note 373.

<sup>380</sup> HAUSHOFER & SHAPIRO, *supra* note 209.

<sup>381</sup> Joe Huston, *We're Officially Launching UBI*, GIVEDIRECTLY, November 13, 2017, available at <https://www.givedirectly.org/blog-post?id=7285958994145750939> (Last visited on February 6, 2018).

<sup>382</sup> GIVEDIRECTLY, *We're Running the Largest Experiment in History*, available at <https://www.givedirectly.org/basic-income> (Last visited on February 6, 2018).

<sup>383</sup>*Id.*

<sup>384</sup>*Id.*

<sup>385</sup>*Id.*

<sup>386</sup>*Id.*

<sup>387</sup> Tracy Brown Hamilton, *The Netherland's Upcoming Money-for-Nothing Experiment*, THE ATLANTIC, June 21, 2016, available at <https://www.theatlantic.com/business/archive/2016/06/netherlands-utrecht-universal-basic-income-experiment/487883/> (Last visited on February 6, 2018).

<sup>388</sup> Kate McFarland, *Current Basic Income Experiments (And Those So Called): An Overview*, BIEN, May 23, 2017, available at <http://basicincome.org/news/2017/05/basic-income-experiments-and-those-so-called-early-2017-updates/> (Last visited on February 6, 2018); Olivia Goldhill, Ontario, *Canada Announced a Plan to Test Universal Basic Income*, QZ, March 8, 2016, available at <https://qz.com/633974/ontario-canada-announced-a-plan-to-test-universal-basic-income-for-all-citizens/> (Last visited on February 6, 2018).

<sup>389</sup> Sam Altman, *Moving Forward on Basic Income*, Y COMBINATOR, May 31, 2016, available at <https://blog.ycombinator.com/moving-forward-on-basic-income/> (Last visited on February 6, 2018).

<sup>390</sup> THE WORLD BANK & INTERNATIONAL MONETARY FUND, GLOBAL MONITORING REPORT 2015/2016: DEVELOPMENT GOALS IN AN ERA OF DEMOGRAPHIC CHANGE, 33 (2016) available at <https://openknowledge.worldbank.org/handle/10986/22547> (Last visited on February 6, 2018).

<sup>391</sup>*Id.*, 230.

<sup>392</sup> THE WORLD BANK, POVERTY AND SHARED PROSPERITY 2016: TAKING ON INEQUALITY 40-41 (2016) available at <https://openknowledge.worldbank.org/handle/10986/25078> (Last visited on February 6, 2018).

thirty percent of the world's poor children, which makes it the largest contributor towards child poverty worldwide.<sup>393</sup>

The unemployment rate in India stood at 3.4% in 2017 and has dropped by only 0.1% in the last ten years.<sup>394</sup> This means that 17.6 million people in India are unemployed as of 2017.<sup>395</sup> There is an increase in the number of unemployed people by 0.1 million from 2016.<sup>396</sup> Further the annual income of the bottom forty percent in India is about thirteen times less than the bottom forty percent in the United States.<sup>397</sup>

According to the Oxford Poverty and Human Development Initiative ('OPHI') report<sup>398</sup> which measures global poverty from a multi-dimensional perspective, the percentage of poor people in India is more than forty percent.<sup>399</sup> This report uses ten indicators<sup>400</sup> to measure poverty in three dimensions of education, health and living standards.<sup>401</sup> Some of these statistics go to show the dismal state of the poor in the country with nearly ten percent of the people being deprived of schooling, child mortality rate being over ten percent, around thirty-five percent of the people being deprived of proper nutrition, nearly forty percent people being deprived of proper sanitation and more than five percent of the people being deprived of drinking water.<sup>402</sup> The persons identified as 'severely poor' in this report stands at sixteen percent.<sup>403</sup> Nearly twenty-three percent of the population remains vulnerable to poverty.<sup>404</sup> Another problem facing India is income inequality. The Gini Index for India is more than 0.25.<sup>405</sup> The richest ten percent of Indians own eighty percent of the country's wealth.<sup>406</sup>

In face of this staggering data depicting the state of poverty, unemployment and inequality in India, UBI presents itself as a potentially unique and effective policy measure to fight the damnation brought about by these conditions. As previously discussed,<sup>407</sup> a rights-based UBI could prove handy in the human rights approach to fight

<sup>393</sup>*Id.*, 44.

<sup>394</sup>INTERNATIONAL LABOUR ORGANIZATION, WORLD EMPLOYMENT AND SOCIAL OUTLOOK: TRENDS 13 (2016) available at [http://www.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/---publ/documents/publication/wcms\\_443480.pdf](http://www.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/---publ/documents/publication/wcms_443480.pdf) (Last visited on February 6, 2018).

<sup>395</sup>*Id.*

<sup>396</sup>*Id.*

<sup>397</sup>THE WORLD BANK, *supra* note 392, 58.

<sup>398</sup>OXFORD POVERTY AND HUMAN DEVELOPMENT INITIATIVE ('OPHI'), *Country Briefing 2017: India*, June, 2017 available at [http://www.dataforall.org/dashboard/ophi/index.php/mpi/download\\_brief\\_files/IND](http://www.dataforall.org/dashboard/ophi/index.php/mpi/download_brief_files/IND) (Last visited on February 6, 2018).

<sup>399</sup>*Id.*, 2.

<sup>400</sup> These 10 indicators are years of schooling and school attendance under the dimension of education, child mortality and nutrition under the dimension of health and electricity, sanitation, drinking water, floor, cooking fuel and assets under the dimension of living standards.

<sup>401</sup>OPHI, *supra* note 398, 3.

<sup>402</sup>*Id.*

<sup>403</sup>*Id.*, 4.

<sup>404</sup>*Id.*, 5.

<sup>405</sup> OECD, *Economic Survey of India, 2017*, 2 (February, 2017) available at <https://www.oecd.org/eco/surveys/INDIA-2017-OECD-economic-survey-overview.pdf> (Last visited on February 6, 2018) (The extent of income inequality in India is evident from the fact that the CEO of the top firm in India earns 416 times the salary of a typical employee); See Deborah Hardoon, *An Economy for the 99%*, OXFAM Briefing Paper, 13 (January 2017) available at [https://www.oxfam.org/sites/www.oxfam.org/files/file\\_attachments/bp-economy-for-99-percent-160117-en.pdf](https://www.oxfam.org/sites/www.oxfam.org/files/file_attachments/bp-economy-for-99-percent-160117-en.pdf) (Last visited on February 6, 2018).

<sup>406</sup>Riaz Hassan, *Growing Inequality Dulls India's Sheen*, YALE GLOBAL ONLINE December 21, 2017, available at <https://yaleglobal.yale.edu/content/growing-inequality-dulls-indias-sheen> (Last visited on February 4, 2018).

<sup>407</sup>See Part III(C) of this paper.



poverty especially when millions of Indians are facing utter violation of their human rights each day of their life.

Social security of citizens is connected to human dignity, freedom and equality<sup>408</sup> and any modern welfare State must vigorously work towards securing right to access of social security and providing assistance to all people. In a society which values human life, this right is entrenched and the State must work towards providing basic necessities of life to persons unable to support themselves and their dependents.<sup>409</sup> The Taylor Report in South Africa suggested that in order to meet these needs, social policy must focus on self-reliant development in face of inequality, social exclusion and vulnerability.<sup>410</sup> Basic income fits the portfolio because it encourages self-reliance as means for empowerment.<sup>411</sup> Later, the discourse initiated by this Report led to the basic income pilot project in Namibia. The Economic Survey 2016-17 also identifies the basis of UBI to be support for access to basic goods as a foundation for a life of dignity.<sup>412</sup> Accordingly, the effect of granting a basic income to people has been called ‘cash empowerment’.<sup>413</sup> This is due to the potential of UBI in enhancing the dignity of the poor and providing them with the capability to pursue various earning activities of their choice.<sup>414</sup>

The data from pilot projects of UBI gives us a sense of direction towards what could be the result of adopting a right to basic income as a social security policy. There is a clear indication that UBI programmes experimented so far have yielded overwhelmingly positive results. Cash transfer under UBI or other schemes like the one in Brazil, are primarily successful because they shift the agency to the individual who then decides how to allocate the income in her hands. This has been described as “people treated as adults learn to be adults”.<sup>415</sup> By shifting agency in this manner unlike other material benefit schemes that dole out goods which may or may not be particularly useful, UBI has achieved remarkable success in different spheres.

The most prominent takeaway from these pilots is that UBI significantly impacts poverty rates in the community. It not only acts as a sort of income security but also enables people to find better employment or become self-sufficient by taking up self-employment. Contrary to popular, albeit misinformed, expectations UBI did not adversely affect labour markets but in fact improved employment rates. Rise in productivity coupled with increased purchasing power owing to better income not only has a direct impact on the physical and mental well-being of individuals and families but also reduces the gap of income inequality in the society.

Life of poverty is accompanied by vulnerability to health risks owing to scanty nutrition, lack of water and sanitation, settlements in areas unfit for human habitation and a host of other problems. This especially has deleterious impact on child development. UBI schemes have demonstrated that a direct result of cash grants is improvement in food intake leading to higher nutrition levels, especially among children and particularly among girl children. Healthier children and families mean lesser health risks and infrequency of sickness which is not only an important cost-saving factor but also increases productivity.

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<sup>408</sup>See *Khosa v. Minister of Social Development*, 2004 6 SA 505 (CC) (South Africa) ¶52.

<sup>409</sup>*Id.*

<sup>410</sup>TAYLOR REPORT, *supra* note 288.

<sup>411</sup>*Id.*

<sup>412</sup>DEPARTMENT OF ECONOMIC AFFAIRS, *supra* note 10, 173.

<sup>413</sup>SUZUKI, *supra* note 285, 60.

<sup>414</sup>*Id.*

<sup>415</sup>STANDING, *supra* note 325.

Perhaps the greatest impact UBI has shown is in relation to education, especially of girls. Be it in villages of Namibia or Madhya Pradesh, UBI enabled more parents to send their children to schools. Attendance rates improved while drop-out rates fell. It has also been shown to improve the performance of children in school. Moreover, reduction of child labour has also been a direct consequence. Thus, UBI will prove instrumental in welfare of children and realising the goal of education for all young minds.

An oft-repeated theme has been of UBI's role in empowering women. Evidence suggests that greater financial autonomy in the hands of the women owing to UBI has enabled them to try out alternative ventures in some cases while also helping them secure greater bargaining power within households. UBI recognises the unpaid labour traditional gender roles extract out of a woman while at the same time allowing her a greater say in determining the course of her life.

Another key takeaway from UBI is that money itself is a scarce commodity.<sup>416</sup> The scarcity is further driven up due to costs of loans and debts.<sup>417</sup> Therefore, basic income is said to have an emancipatory role for the poor for two reasons, because it reduces the scarcity of money, and also because it gives one the freedom to spend according to one's wishes.<sup>418</sup> The effect of a 'scarcity mindset'<sup>419</sup> is that the individual reacts differently under a sense of scarcity. Such a mentality affects long-term planning and causes deep-seated anxiety.<sup>420</sup> Such mentality constrains the persons from taking initiatives and entrepreneurial risks.<sup>421</sup> Accordingly, providing the poor with cash will free them of scarcity mentality and its consequences.<sup>422</sup>

Basic income has profound consequences for inequality of various types.<sup>423</sup> It leads to elimination of poverty, labour contracts can be entered into voluntarily and there is less inequality between employers and workers in terms of their power relations since the workers now have the option to exit.<sup>424</sup> There is a greater possibility of people forming associations outside of traditional market-based labour for producing goods and services on their own.<sup>425</sup> The evidence from the pilots also points towards less reliance on wage labour and a movement towards self-ownership. It has also been argued that basic income increases efficiency<sup>426</sup> of a country by enhancing participation and social inclusion.<sup>427</sup>

Thus, if income deprivation leading to poverty is a multidimensional problem, UBI offers itself as a multidimensional solution. It is acknowledged here that UBI may not solve all crises and has its limitations (for example, fighting for women's rights within households requires other separate and concurrent strategies) but the advantages of UBI are

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<sup>416</sup>DAVALA et al., *supra* note 317, 48.

<sup>417</sup>*Id.*

<sup>418</sup>*Id.*

<sup>419</sup>See Anandi Mani et. al., *Poverty Impedes Cognitive Function*, SCIENCE, August 30, 2013, 976.

<sup>420</sup>DAVALA et al., *supra* note 317, 48.

<sup>421</sup>*Id.*, 49.

<sup>422</sup>*Id.*

<sup>423</sup> Erik Olin Wright, *Unconditional Basic Income*, in WORLD SOCIAL SCIENCE REPORT 2016: CHALLENGING INEQUALITIES: PATHWAYS TO A JUST WORLD 237 (2016).

<sup>424</sup>*Id.*

<sup>425</sup>*Id.*

<sup>426</sup>Pavlina R. Tsherneva & L. Randall Wray, *Common Goals – Different Solutions: Can Basic Income and Job Guarantee Deliver their Own Problems?*, 2 RUTGERS J.L. & URB. POL'Y 125, 130 (2005).

<sup>427</sup> *Id.*; see June Sinclair, *Poverty: Giving Meaning to the Right to Social Assistance*, 23 STELLENBOSCH L. REV. 191, 204 (2012) ("An absence of a basic subsistence need, such as cash, impedes the ability to fulfil life plans and to participate effectively in political, economic and social life.").

too obvious to be ignored. It enables gradual actualisation of subsistence rights of people – by improving their standard of life. UBI also acts as social security, an obligation States owe towards its citizens. It gives individuals autonomy and control over their lives and eliminates the scarcity mindset driven by poverty and enables participation in community life. It provides real term answers to shortages brought about by poverty and also has a serious role to play in long-term emancipation from poverty owing to its material and psychological benefits. A right to basic income, thus, acts as a harbinger of ‘real freedom’ in lives of individuals in the truest sense by ensuring dignified lives for all. It takes us closer to reducing inequalities and achieving social and economic justice. Therein must lay India’s motivation of granting its citizens a right to basic income and implementing a robust UBI mechanism.

#### D. COMMON MYTHS ABOUT UBI

There are two common myths about UBI, which although are ordinarily appealingly true to many, are just as the name suggests – myths, and hence, deserve to be exposed. They are that UBI will make people lazy and will lead to increased spending on temptation goods.<sup>428</sup> The first criticism says that UBI violates the ‘principle of reciprocity’ by allowing people not to work and in the process making them lazy. The second critique asserts that it will lead people to squander the ‘free money’ provided to them on temptation goods like alcohol and tobacco.

##### 1. UBI’s Impact on Work

As regards the first objection, it needs to be noticed that the amount of a UBI is not meant to be (and cannot be) high enough to be the sole source of survival for people. It is only meant to be a monetary support sufficient to help people pull out of poverty or subsist in extreme situations. Therefore, withdrawal from workforce with a sole subsistence source of basic income would not be possible for most people. A basic income is thus meant to act only as a ‘top-up’ to the other sources of income and benefits received by the people.<sup>429</sup> By covering one’s subsistence needs basic income allows a person to pursue other valuable ends in her life. In that sense, basic income is supplementary in nature. Thus, this minimal guarantee acting as a disincentive for work is a vastly exaggerated claim and not based in facts.<sup>430</sup> Further, it is not true that money alone is an incentive for work<sup>431</sup> and in fact such a supposition is demeaning to human dignity.<sup>432</sup> Also, it can be said that conditional welfare benefits which requires beneficiaries to comply with certain conditions of scarcity might act as disincentive to work while in case of an unconditional UBI it may not be so.<sup>433</sup>

UBI goes a step ahead from recognising only productive labour captured by employment relationship to compensating for unpaid work which is socially and economically equally important, if not less, and worthy of recognition.<sup>434</sup> It recognises certain

<sup>428</sup>See Matthew Dimick, *Better than Basic Income: Liberty, Equality, and the Regulation of Working Time*, 50 Ind. L. Rev. 473, 493-494 (2017).

<sup>429</sup>See DEPARTMENT OF ECONOMIC AFFAIRS, *supra* note 10, 201.

<sup>430</sup>*Id.*, 174.

<sup>431</sup>*Id.*

<sup>432</sup>*Id.*

<sup>433</sup>CHAPMAN, *supra* note 364.

<sup>434</sup>See Part III(B) of this paper.

work, such as care labour which traditionally women perform in households and goes unpaid, and helps in elevating the status of such persons.<sup>435</sup>

Another counter to this criticism is that leisure (due to increase in overall income owing to UBI) is not necessarily idleness but “time away from toil” and it must be considered as a tool designed to help workers take breaks between jobs, reduce their working hours, seek training and skill development and explore options of self-employment.<sup>436</sup> Basic income here not only boosts an individual’s autonomy but also increases the worker’s bargaining power.<sup>437</sup> This is mainly because the worker is able to negotiate better terms of employment as she has a degree of income security as well as option not to work and option to work independently. An important aspect of being able to take a break is that it facilitates an even distribution and fair access to paid jobs.<sup>438</sup> Options of temporary breaks from jobs would greatly benefit women in terms of better career planning as well as access to paid work.<sup>439</sup> Further, importance of temporary exits has been shown in the context of times of heavy unemployment, where, regulators can impose mandatory exit periods in order to fairly distribute limited jobs.<sup>440</sup>

Thus, basic income can let people take more voluntary exits.<sup>441</sup> It also helps the unemployed in finding jobs as basic income gives them an income security so that they are able to entail transport costs or seek educational or other training programs, bear costs of medical expenditures or buy necessities for survival during this time.<sup>442</sup> An all-weather support system offered by UBI could have serious positive consequences in agricultural sector of India, which being the largest employer (more than half of India’s workforce) suffers from a high magnitude of underemployment causing unproductivity. Not only the unemployed but basic income also allows those afflicted with income poverty to be able to achieve a certain level of income security and be able to live a dignified life. Therefore, an assertion that UBI makes people lazy which itself is not based in facts cannot hold ground against the advantages UBI creates.

## 2. UBI’s Impact on Temptation Goods

With respect to the second objection against UBI, recent research has provided evidence against the popular argument that UBI will lead to a rise in expenditure on temptation goods.<sup>443</sup> Even among the pilot programmes we discussed, it was observed that there was no increase in consumption of alcohol or tobacco in Namibia and Madhya Pradesh. Instead, the tribal village of Bhil recorded a drop in the consumption of alcohol since UBI gave them liquidity leading to its use for agricultural inputs, and resulted in a consequent rise

<sup>435</sup>DEPARTMENT OF ECONOMIC AFFAIRS, *supra* note 10,175; PATEMAN, *supra* note 145; MCKAY & VANEVERY, *supra* note 154.

<sup>436</sup> Steven Wall, An Intriguing Tangent: Capitalism, Leisure, and the Good Life, 13 GEO. J.L. & PUB.POL’Y 385 (2015).

<sup>437</sup>TSHERNEVA & WRAY, *supra* note 426, 130; *see* Dimick, *supra* note 428, 502.

<sup>438</sup>Alfredo Alfageme, Begona Garcia Pastor & Celia Vinado, *Temporary Exit from Employment Throughout the Life Course: An Alternative to Retirement to Challenge Ageism And Sexism*, 32 CRITICAL SOC. PO’Y 696, 701 (2012).

<sup>439</sup>*Id.*

<sup>440</sup>*Id.*, 703.

<sup>441</sup>*See* DIMICK, *supra* note 428, 502; *see* Part V(A) of this paper (discussion on unconditional feature of UBI).

<sup>442</sup>SINCLAIR, *supra* note 427, 204.

<sup>443</sup>David K. Evans & Anna Popova, *Cash Transfers and Temptation Goods: A Review of Global Evidence* (The World Bank Policy Research Working Paper, Paper No. 6886, 2014).

in agricultural productivity and own cultivation efforts.<sup>444</sup> The assumption that money will be squandered on alcohol or tobacco is not really the case.

A study of forty-four estimates from nineteen studies conducted in America, Africa and Asia found no evidence of increased expenditure on alcohol and tobacco as an impact of transfer of cash benefits.<sup>445</sup> The report in its analysis concluded that the conventional fears surrounding alcohol and tobacco are largely unfounded.<sup>446</sup> Another study found no evidence of the effect of transfer programs on the work behaviour of both men and women.<sup>447</sup>

There is also evidence that when the poor are given a small amount of cash, they are willing to take more entrepreneurial risks and often tend to start small businesses and pull themselves out of poverty trap.<sup>448</sup> Also, an assessment of NSS 2011-12 data on cash transfers revealed that temptation goods are a small component of overall budget for consumption and as overall consumption increases due to cash transfers, the former does not increase at the same scale.<sup>449</sup> It is implied that rise in income due to UBI will not necessarily lead to greater expenditure on temptation goods.

Basic income, by investing in the freedom of individuals, presents itself as a strong precursor of better conditions of life, social equality and welfare. It enables social participation and inclusion and is an effective tool of empowerment. These two objections to UBI are merely unfounded fears to a large extent with little basis in reality and there exist strong arguments and statistical evidence to counter these myths.

## V. IMPLEMENTING UBI IN INDIA

In the Indian context, we have seen discussions on basic income which were limited to policy experimentation in the form of small projects.<sup>450</sup> UBI remained confined to specific initiatives and did not really find much public engagement or State/ institutional support. However, Economic Survey 2016-17 included an entire chapter dedicated to UBI titled ‘Universal Basic Income: A Conversation With and Within the Mahatma’<sup>451</sup> which drew UBI public attention and propelled UBI into public discourse on policy. In this part we examine and critique the tentative UBI scheme proposed in the Survey.

The Economic Survey 2016-17 reports that existing social security programmes of the government suffer from poor targeting.<sup>452</sup> Targeting involves the process of identifying the beneficiaries of a particular welfare scheme, continuously updating the list and ensuring that targeting does not exclude names of any worthy beneficiary. Targeting is a burdensome process and increases administrative costs. The report also cites the problem of misallocation of funds in light of the nearly 950 schemes run by the central government

<sup>444</sup>DEPARTMENT OF ECONOMIC AFFAIRS, *supra* note 10, 201.

<sup>445</sup> EVANS & POPOVA, *supra* note 443, 3.

<sup>446</sup>*Id.*, 14.

<sup>447</sup>Abhijit Banerjee et. al., *Debunking the Stereotype of the Lazy Welfare Recipient: Evidence from Cash Transfer Programs Worldwide*, 32(2) WORLD BANK RESEARCH OBSERVER 155 (2017).

<sup>448</sup>SUZUKI, *supra* note 285, 68.

<sup>449</sup>DEPARTMENT OF ECONOMIC AFFAIRS, *supra* note 10, 187.

<sup>450</sup> See Part IV(B)(4) of this paper; *see also* Basic Income India, available at <https://basicincomeindia.weebly.com/> (Last visited on February 6, 2018).

<sup>451</sup>DEPARTMENT OF ECONOMIC AFFAIRS, *supra* note 10, 173.

<sup>452</sup>*Id.*, 22.

presently as a result of which the take-up rate and the targeting of these programmes are adversely affected.<sup>453</sup> This also leads to the problem of leakages to the non-poor and large-scale corruption (primarily because of the immense bureaucratic intervention involved in the implementation of such schemes).<sup>454</sup> As a result of this the Survey suggests the adoption of a radical idea of UBI.<sup>455</sup> The Survey identifies UBI as the solution to the problem of poverty, inequality and waste in the government transfers.<sup>456</sup>

As we have discussed so far, UBI is income paid to all individuals by the State at regular intervals without the requirement of fulfilling any conditions. Thus, the core features of UBI are universality and un-conditionality. Any sort of means test or work test for providing basic income is antithetical to the idea itself.<sup>457</sup> The right to basic income is integral to dignified existence of all individuals and is a precondition for real freedom and actualisation of several other rights.<sup>458</sup> Although the value of basic income depends upon the particular social, cultural and economic context, owing to the limited capacity of the State we assume a subsistence level of income as a minimum condition without going into nitty-gritties of its exact economic value. Along with formal freedoms, a right to basic income is meaningful for all individuals especially certain categories of people such as women, children, disabled persons and those trapped in poverty, in whose case UBI assumes greater significance.<sup>459</sup> There are sufficient arguments and empirical data to support these stipulations.<sup>460</sup> Therefore, UBI payment is envisaged as a direct and regular cash transfer made to each individual personally without requiring any sort of reciprocation from them. In this part of the paper, we study the aspects of implementation of UBI in India and begin with the relevance of its core features.

#### *A. WHY UNIVERSAL AND UNCONDITIONAL FEATURES OF UBI ARE IMPORTANT FROM THE PERSPECTIVE OF IMPLEMENTATION*

The universal and unconditional nature of UBI, theoretically important as a right which secures real freedom for all, also has certain useful practical implications. The universal nature of UBI not only eliminates leakages witnessed in traditional targeted welfare schemes, but also increases the take-up rate as the beneficiaries have to undergo hardly any trouble in availing the benefit.<sup>461</sup> In addition to this, UBI is a cost saving measure for the government as it need not expend as much resources on targeting and monitoring as compared to other welfare schemes.<sup>462</sup> The universal nature also means that no legitimate beneficiary is excluded from the system, a chronic problem witnessed in other governmental schemes, thereby eliminating exclusion errors.<sup>463</sup> Moreover, the effects of exclusion is

<sup>453</sup>*Id.*, 22-23.

<sup>454</sup>*Id.*, 23.

<sup>455</sup>*Id.*, 22.

<sup>456</sup>*Id.*, 173.

<sup>457</sup>See Philippe Van Parijs, *Basic Income: A Simple and Powerful Idea for the 21<sup>st</sup> Century*, 32(1) POLITICS & SOCIETY 7 (2004); see generally BRUCE ACKERMAN, ANNE ALSOTT & PHILLIPE VAN PARIJS, REDESIGNING DISTRIBUTION: BASIC INCOME AND STAKEHOLDER GRANTS AS ALTERNATIVE CORNERSTONES FOR A MORE EGALITARIAN CAPITALISM 4 (2006).

<sup>458</sup>See Part II(C) of this paper.

<sup>459</sup>See Part III & IV(C) of this paper.

<sup>460</sup>See Parts III & IV(B) of this paper.

<sup>461</sup>VAN PARIJS, *supra* note 457, 14; DEPARTMENT OF ECONOMIC AFFAIRS, *supra* note 10; DIMICK, *supra* note 428, 480-481.

<sup>462</sup>*Id.*

<sup>463</sup>DEPARTMENT OF ECONOMIC AFFAIRS, *supra* note 10, 23.

generally felt by those who are worse off than the rest including lower caste persons, homeless, extremely poor persons and those living at the margins of the society. UBI provides a guarantee against such exclusion. Finally, by circumventing a bureaucratic process of good distribution and replacing it with a system of direct cash transfer, the scope for corruption and leakages is vastly reduced.<sup>464</sup>

The unconditional nature of UBI, requiring no means-test for availing the benefit is a feature having immense practical value to those who seek to benefit from a right to basic income. The fact that the discretionary autonomy now vests with the individual to spend the money in a way she likes improves choice efficiency. Usually, workers find themselves in a trap where they cannot change jobs owing to fear of financial interruption.<sup>465</sup> UBI can help workers evade this trap by promising regular benefits. Also it allows people to shift employment once their skills and prospects improve while working on a part-time basis or for low rates, without having to get trapped in a job.<sup>466</sup> If social justice seeks to enable realisation of each person's own conception of a good life by handing her the real freedom (means) to achieve it through a basic income, UBI is liberating to say the least.<sup>467</sup> In that sense, UBI is the means of achieving a good life due to widening one's opportunity base owing to the resource at hand, especially for those with the fewest opportunities. Here real freedom is thus being viewed as a matter of means (and not just as a matter of right).<sup>468</sup> For example, if one seeks to further empower a worker, the unconditional nature of UBI is attractive because it gives her greater bargaining power and helps her secure fairer terms and a better job.<sup>469</sup>

On the same lines, it is also argued that a basic income would help serve each individual's interest and help each person fulfil those interests in their own time as per their commitments.<sup>470</sup> Basic income throws open the door for a variety of non-hierarchical conceptions of the good life without imposing upon the poor another's perception of how to live a life, thus, giving them the opportunity to bring a difference in their lives on their own. All that is required is to trust the people with the money provided to them and considering them capable enough to be able to bring a difference in their lives according to their needs and valued conceptions.

Thus, perhaps UBI is economically valuable not just because it eliminates the poverty trap but it directly promotes "flourishing of human capital."<sup>471</sup> Allowing youngsters or students to access internships and apprenticeships, allowing overburdened low-wage earners some leisure and simply enabling parents to spend more time with children are means of building a happier, productive and proactive workforce.<sup>472</sup> Economic advantages of low poverty, and better equipped and more skilful workforce could be tremendous for any country.

Another advantage of UBI is implicit in the nature of the distributive good itself – cash. Governments worldwide are shifting to cash transfer in lieu of subsidies due to the advantages a cash transfer mechanism provides, namely, efficient and targeted delivery of

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<sup>464</sup>*Id.*

<sup>465</sup>See VAN PARIJS, *supra* note 121, 177.

<sup>466</sup>VAN PARIJS, *supra* note 457, 14.

<sup>467</sup>*Id.*, 15-16.

<sup>468</sup>TSHERNEVA & WRAY, *supra* note 426, 128.

<sup>469</sup>VAN PARIJS, *supra* note 457, 15.

<sup>470</sup>See Bill Jordan, *Basic Income and Common Good* in ARGUING FOR BASIC INCOME (1992).

<sup>471</sup>VAN PARIJS, *supra* note 121, 178.

<sup>472</sup>*Id.*

the good, cutting down on leakages by doing away with middle-men, avoiding exclusion errors and savings on administrative costs. This mechanism is termed ‘Direct Benefit Transfer’ (‘DBT’). DBT scheme was launched by the Government of India in January, 2013 for making direct cash transfers of benefits, wage payments, and subsidies into the bank accounts of the beneficiaries through electronic methods.<sup>473</sup> The objective of the scheme was to minimise delays in transfers and circumvent the problem of targeting the beneficiaries. It is pertinent to mention here that UBI can be envisaged under a DBT system for efficient disbursal of benefits. This aspect is also dealt with in greater detail in subsequent sections.

### *B. UBI VIS-À-VIS OTHER EXISTING WELFARE SCHEMES*

UBI has been mooted as a welfare measure that will solve the shortcomings of existing social welfare schemes of the government which range from poor targeting to misallocation of funds to leakages. However, it is to be noted that UBI cannot be a full replacement of existing welfare schemes. The Economic Survey 2016-17 (‘Survey’) itself notes that UBI is not an option of substitution of State welfare machinery but is a supplement to the existing State welfare mechanism.

According to the Survey, the reason for considering UBI not as substitute but as supplement is because on a substitution of the major public programs (like PDS and MNREGA), the effect of abolition of most such subsidies on those who were benefitted by it will have to be taken into account while measuring UBI (as a replacement program).<sup>474</sup> This will require one to consider a number of other general equilibrium effects.<sup>475</sup> For instance, if the PDS is replaced, it will lead to increase in the market prices of cereals and if the MNREGA is done away with it might lead to a fall in the market wages for rural casual labour.<sup>476</sup> Therefore, a UBI which shall supplement and support the existing public policy of the government is what should be given a preference over a UBI supplanting the existing welfare machinery of the State.

Likewise, having a UBI system in place does not mean the need to build state capacity is diminished. State is still bound to build state capacity to provide a number of public goods, be it health or education.<sup>477</sup> Thus, UBI is not a substitute for state capacity in these matters but only an efficient benefits transfer mechanism.

However, it has been argued at some places that using UBI as the sole anti-poverty programme of the government will ensure minimum leakages unlike current range of subsidies.<sup>478</sup> Removing food items, petroleum, fertilisers and rural employment schemes is said to “free up resources” which instead can be used for UBI payment.<sup>479</sup> In fact, replacing

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<sup>473</sup>Vikram Srinivas & Avani Kapur, *Direct Benefit Transfer (DBT), Jan Dhan, Aadhaar and Mobile (JAM) GOI, 2017-18*, 9(6) BUDGET BRIEFS 1, 2 (2017).

<sup>474</sup>DEPARTMENT OF ECONOMIC AFFAIRS, *supra* note 10, 189.

<sup>475</sup>*Id.*

<sup>476</sup>*Id.*

<sup>477</sup>*Id.*, 174.

<sup>478</sup> Sunny Verma, *Universal Basic Income: Scheme Should be for all Indians, Not Just for BPL Population*, says Guy Standing, THE INDIAN EXPRESS, January 29, 2017, available at <http://indianexpress.com/article/business/business-others/universal-basic-income-scheme-should-be-for-all-indians-not-just-for-bpl-population-says-guy-standing-4496537/> (Last visited on February 6, 2018).

<sup>479</sup>*Id.*



the numerous existing welfare payments with a single UBI has been considered desirable.<sup>480</sup> Existing plethora of schemes are said to further the indignity of the poor by rendering them to the mercy of corrupt bureaucrats and inefficient institutions.<sup>481</sup>

Such arguments in favour of blanket substitution of welfare schemes with a single UBI are fraught with difficulties. The moot question is whether the existing heterogeneous schemes can be substituted by a homogeneous UBI.<sup>482</sup> The answer is that they are not perfect substitutes. For instance, Integrated Child Development Services ('ICDS') programme under which special ration is provided to children below five years as well as nursing and expectant mothers, there is a system of monitoring the child's growth and education, and the woman's nutrition and health.<sup>483</sup> If ICDS is done away with, this effective system which took years to build is simply lost. This is perhaps why the Survey suggests that women and child welfare schemes may not need a replacement and UBI should be considered as a top up to the already existent benefits.<sup>484</sup> Similarly, MNREGA not only plays a role in determining rural minimum wages but also delivers additional benefits to the society. Productive work carried out under the programme like constructing roads, de-silting water bodies, clearing lands or building check dams help in community asset building, improving agriculture and rural development.<sup>485</sup> If a UBI were to replace it, all these material benefits of rural employment scheme would have to be foregone.

It must be noted that there also exist welfare schemes currently which are typically constructed around models of employee contributions. A report states that even a high level of basic income would not be capable of replacing the existing social security systems because, most of the benefits from these schemes are insurance or income based and thus, the monetary coverage is substantial.<sup>486</sup> On the other hand, subsistence level basic incomes paid to citizens will be less compared to the benefits from such schemes.<sup>487</sup> However, a significantly high basic income having a greater effect on income inequality and distribution might make things different.<sup>488</sup>

The suggestion of UBI acting as a replacement for existing welfare scheme has been described as "an attack on welfare schemes".<sup>489</sup> It has been argued that it is ethically wrong to compare benefits of UBI to existing in-kind and cash subsidies.<sup>490</sup> Therefore, the government in the guise of introducing UBI must not drop the axe on other equally vital welfare schemes. More importantly, as mentioned earlier the State must not shed its responsibility of capacity building especially in education and health sectors.

<sup>480</sup> The Economist, *India Debates the Case for a Universal Basic Income*, February 2, 2017, available at <https://www.economist.com/news/leaders/21716027-india-should-replace-its-thicket-welfare-payments-single-payment-india-debates-case> (Last visited on February 6, 2018).

<sup>481</sup> *Id.*

<sup>482</sup> A. Mahendran & S. Indrakant, *Why Universal Basic Income Is Not a Perfect Substitute for Existing Subsidy Schemes*, THE WIRE, October 23, 2017, available at <https://thewire.in/189870/universal-basic-income-india/> (Last visited on February 6, 2018).

<sup>483</sup> *Id.*

<sup>484</sup> DEPARTMENT OF ECONOMIC AFFAIRS, *supra* note 10, 189-190.

<sup>485</sup> MAHENDRAN & INDRAKANT, *supra* note 482.

<sup>486</sup> KELA-FPA, *From Idea to Experiment: Report on UBI experiment in Finland 5* (Working Papers Series, Paper No.106, 2016).

<sup>487</sup> *Id.*, 23.

<sup>488</sup> *Id.*

<sup>489</sup> Madhura Swaminathan, *Getting the Basics Wrong*, THE HINDU, March 1, 2017, available at <http://www.thehindu.com/opinion/lead/getting-the-basics-wrong/article17383649.ece> (Last visited on February 6, 2018).

<sup>490</sup> *Id.*

If the issue is of affordability that demands withdrawal of existing beneficial schemes, then there are alternatives available to the government. India has one of the lowest tax-GDP ratios and is poorly ranked in terms of tax compliance.<sup>491</sup> Less than two percent of earning Indians pay income tax.<sup>492</sup> Raising tax collections will not only boost revenues but also UBI may operate efficiently if the influential middle class in India had an interest in its functioning as potential taxpayers who are also entitled to its benefits.<sup>493</sup> So far, there has been no concrete resource mobilisation plan for funding UBI which only strengthens the fears of cost cutting by replacing existing schemes.<sup>494</sup> If that were true, UBI might prove counterproductive.

Therefore, it has been suggested that it is prudent to have a mix of UBI supported by other important subsidy and welfare schemes.<sup>495</sup> Since many subsidy schemes are operated by respective state governments, successful State schemes might also be allowed to remain and function.<sup>496</sup> However, a UBI may allow for withdrawing certain policies of the government considering the fact that there are more than 950 central government schemes in place along with a public welfare machinery existent in each State as well. With fifty percent of the schemes being over twenty-five years old and the humungous number of schemes in place, there could be significant amount of savings to the government (in terms of bureaucratic costs and time) by replacing many of these schemes with UBI.<sup>497</sup> On the other hand, the Economic Survey provides a list of certain schemes whose replacement should be avoided.<sup>498</sup>

A careful call has to be taken on identifying the schemes that could be replaced. Apart from the social necessity and economic utility, administrative efficiency could be a determining factor.<sup>499</sup> In order to reduce administrative costs, firstly, more administration-heavy programmes could be chosen for replacement and secondly, only those programmes that cover a smaller and concise target population could be retained.<sup>500</sup> Furthermore, where the introduction of a basic income is accompanied by the abolition of certain other programs it may generate spill-over effects such as pushing some claimants of the discontinued programmes into other programmes.<sup>501</sup> This may in turn have an impact on the effectiveness and cost of those programs which would now face an increased administrative burden. In such cases, careful administrative analysis would be required to establish whether the administration of a targeted support program would be better integrated with more general selective programs than with a basic income.<sup>502</sup>

Hence, an associated objective of introducing UBI must be streamlining of existing welfare programmes and not substituting them in totality.

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<sup>491</sup>*Id.*

<sup>492</sup> The Economic Times, *Why Income Tax Payers In India are a Small and Shrinking Breed*, February 2, 2017, available at <https://economictimes.indiatimes.com/news/economy/policy/why-income-tax-payers-in-india-are-a-small-and-shrinking-breed/articleshow/56929550.cms> (Last visited on February 6, 2018).

<sup>493</sup> THE ECONOMIST, *supra* note 480.

<sup>494</sup> SWAMINATHAN, *supra* note 489.

<sup>495</sup> MAHENDRAN & INDRAKANT, *supra* note 482.

<sup>496</sup>*Id.*

<sup>497</sup> DEPARTMENT OF ECONOMIC AFFAIRS, *supra* note 10, 177.

<sup>498</sup>*Id.*, 189-90.

<sup>499</sup> Jurgen De Wispelaere & Lindsey Stirton, *The Administrative Efficiency of Basic Income*, 39(1) POLICY & POLITICS 115, 125-127 (2011).

<sup>500</sup>*Id.*

<sup>501</sup>*Id.*

<sup>502</sup>*Id.*

### C. HURDLES IN IMPLEMENTATION

Social institutions are to be designed in a way that they offer secure and reliable access to basic distributive goods, especially to those whose access is constrained due to various limitations.<sup>503</sup> UBI, by virtue of being universal and unconditional helps fulfil this objective. Although there has been a great deal of discussion on basic income, the issue of implementation has been neglected.<sup>504</sup> This could be due to a comparative finding that basic income is a far more optimal policy than selective social assistance schemes leading to the assumption that basic income is efficient and does not suffer from deficiencies found in other programmes.<sup>505</sup> Even if these findings are true it does not mean that UBI is not inhibited by any other practical difficulty.

Unlike other selective schemes, UBI owing to its nature bypasses most problems faced by the former. This has also been attributed to the fact that basic income presumes less about people it is intending to aid as opposed to other in-kind or cash transfer schemes and in that regard, it is less demeaning.<sup>506</sup> Despite this it is not sufficient to have universal UBI in a “nominal” sense which is only removing barriers of access.<sup>507</sup> It is to be ensured that in line with the philosophical justifications for UBI, it must be truly universal and every single person must be able to effectively access it. This is “substantive” universalism of UBI.<sup>508</sup> Therefore, the State must guarantee that basic income reaches the most vulnerable and marginal social groups like homeless, persons with disabilities and immigrants.<sup>509</sup> All of this demands that the following three ‘bottlenecks’ need to be successfully overcome:

“...maintaining a population-wide list, or “cadaster”, of eligible claimants ensuring full takeup; instituting robust modalities of payment that reach all intended beneficiaries; [and] designing an effective oversight mechanism in a policy context that explicitly opposes client monitoring.”<sup>510</sup>

The first task is related to listing of all entitled beneficiaries of UBI which is usually the list of all citizens.<sup>511</sup> Just the fact that UBI is not targeted does not mean all beneficiaries are automatically identified and hence, a database needs to be created and maintained. Afterwards, a system for transferring cash to all beneficiaries needs to be created and technical modalities of payment mechanisms need to be worked out.<sup>512</sup> Any system that transfers money to one particular individual in a family must be avoided as it is antithetical to individual empowerment under UBI and may also negate the fight for just intra-household distribution which is a facet of gender equality.<sup>513</sup> The problem with individual disbursement is of financial inclusion of a large number of people. Access to banking mechanisms must be

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<sup>503</sup>POGGE, *supra* note 180, 52.

<sup>504</sup>Jurgen De Wispelaere & Lindsay Stirton, *A Disarmingly Simple Idea? Practical Bottlenecks in the Implementation of a Universal Basic Income*, 65(2) INTERNATIONAL SOCIAL SECURITY REVIEW 103 (2012).

<sup>505</sup>*Id.*, 104.

<sup>506</sup>*Id.*, 106.

<sup>507</sup>*Id.*, 107.

<sup>508</sup>*Id.*

<sup>509</sup>*Id.*

<sup>510</sup>*Id.*, 105.

<sup>511</sup>*Id.*, 108.

<sup>512</sup>*Id.*, 111.

<sup>513</sup>*Id.*, 112.

developed to facilitate UBI payment. Finally, there is a need for an oversight system particularly focused towards ensuring take-up of basic income by marginalised sections of the society.<sup>514</sup> It requires regular identification of non-take-up, rectification and feedback for ensuring non-recurrence of exclusion.<sup>515</sup> Therefore, the elements of identification/ listing of beneficiaries, method of payment disbursement that has universal reach, and effective monitoring and rectification of errors are relevant for us.

One other contentious aspect of implementing UBI is the question of whether the rich and relatively well-off should be given basic income at all. It is contentious because in a country like India characterised by entrenched income inequality, deviating public money to the rich instead of using it for the welfare of the poor might invoke public criticism and resistance.<sup>516</sup> It can also become politically challenging. As to the question of whether those already having enough money deserve basic income, the answer is clear from the rights perspective. A right to basic income is universal and unconditional and is rooted in dignity of all individuals. It does not discriminate among class divides.

However, there can be other practical ways of looking at it. First, it might be the case that the rich may not be desirous of claiming basic income which could be paltry compared to their income from other sources. Secondly, many altruistic individuals might prefer not to receive such basic income. Finally, the scarce financial resources of the government must be allocated in a manner that maximises the welfare of the least well-off. A way of resolving this apparent conflict is by invoking, as suggested by the Economic Survey 2016-17 itself, a distinction between *de jure* universality and *de facto* universality.<sup>517</sup> This essentially means that the right to basic income is available universally but certain persons or classes or persons can be excluded from the payment of UBI. This is purely owing to practical considerations mentioned above.

This distinction rests on the premise that like other rights, a person can give up her right to basic income or choose not to exercise it. Hence, those considered undeserving of the benefits, like those who belong to the financially well off classes of the society, can be urged, conditioned or nudged to not claim it. However, this cannot be done via denial of the right by the State or other forms of coercion. It must be voluntary in nature and the concerned individual's own decision. This is a marked shift away from the usual approach to targeting by including the deserving to an approach of excluding the non-deserving. Some of the ways of doing this could be adopting a 'give it up' scheme to let the non-deserving voluntarily give up basic income.<sup>518</sup> This has been successful in making the rich give up their gas subsidies in India and government is planning to do the same with food subsidies.<sup>519</sup>

Not only is blanket exclusion of rich against the spirit of UBI but it also poses certain other difficulties. There could be persons whose earnings are substantial enough to be considered undeserving of basic income. However, it may not be the case that it is always so. For instance, there could be a sudden fall in their incomes due to factors such as job retrenchment or economic recession. They can also face income loss during the intervening

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<sup>514</sup>*Id.*, 115.

<sup>515</sup>*Id.*

<sup>516</sup>DEPARTMENT OF ECONOMIC AFFAIRS, *supra* note 10, 191.

<sup>517</sup>*Id.*

<sup>518</sup>*Id.*

<sup>519</sup>FirstPost, *LPG Subsidy Success: Modi Govt's Give-It-Up Campaign Will Now Ask People to Forego Food Subsidies*, April 25, 2017, available at <http://www.firstpost.com/business/lpg-subsidy-success-modi-govts-give-it-up-campaign-will-now-ask-people-to-forego-food-subsidies-3402822.html> (Last visited on February 7, 2018).

period between two jobs. In such scenarios, basic income is necessary to protect people from transitory shocks.

Hence, instead of using income levels to exclude the non-deserving from basic income, more creative methods like voluntary give it up options can be identified and used for tackling this issue without directly violating right to basic income of citizens. Any such surrender of the right should also include an option to revoke it in future and claim basic income as per the present day needs of the individual.

#### D. IS JAN DHAN – AADHAR – MOBILE ('JAM') TRINITY A POSSIBLE SOLUTION?

The Economic Survey 2016-17 proposes the Jan Dhan– Aadhar – Mobile ('JAM') platform for implementing UBI in India.<sup>520</sup> JAM trinity, as it has been called, is the government's flagship programme for DBT. It was initially created for effective cash transfers because government subsidy schemes were proving vulnerable to leakage, poor targeting and exclusion errors, causing huge losses to the public exchequer.<sup>521</sup> JAM enables the State to offer support to poor households with much better targeting and lesser distortions.<sup>522</sup>

The system is designed in the following manner. The government undertook a large-scale financial inclusion scheme called *Pradhan Mantri Jan Dhan Yojana* wherein new accounts were opened for previously unaccounted persons, debit cards were issued against such accounts and steps were undertaken to improve last-mile connectivity.<sup>523</sup> *Aadhar* cards using a biometric identification system were issued to citizens of India and bank accounts were seeded with *Aadhar* numbers.<sup>524</sup> Owing to large scale penetration of mobile network in India and the potential of mobile banking (m-banking), mobile numbers of recipients was also seeded into the system, thus forming the JAM trinity.<sup>525</sup> The apparent benefit of using *Aadhar* comes from its potential in eliminating "ghost beneficiaries" and at the same time reducing wastage.<sup>526</sup> The *Jan Dhan* programme introduced by the government with the intention of ensuring financial inclusion has brought in a significant number of people into formal banking mechanism, and linking these accounts with *Aadhar* numbers helps make DBT payments to a citizen's *Jan Dhan* account.<sup>527</sup> Further the biometric authentication involved in *Aadhar* allows for a mechanism of withdrawal through micro-ATMs with the person's thumbprint alone.<sup>528</sup> The idea of linking mobile numbers with *Aadhar* in order to utilise high mobile coverage and overcome poor banking infrastructure has enabled an alternative payment mechanism.<sup>529</sup> JAM is being used for transferring cooking gas subsidies directly into the bank accounts, among other subsidies, and has proven effective and

<sup>520</sup>DEPARTMENT OF ECONOMIC AFFAIRS, *supra* note 10, 194.

<sup>521</sup>Department of Economic Affairs, Ministry of Finance, *Economic Survey 2014-15*, 52 (February 2015).

<sup>522</sup>*Id.*

<sup>523</sup>*Id.*

<sup>524</sup>*Id.*

<sup>525</sup>*Id.*, 64-65.

<sup>526</sup>Isvary Sivalingam & Lokesh Kumar, Feeding India's Poor: Plugging the Leakage Without Doing Any Harm, MICROSAVE, 4 (May 2016), available at [http://www.microsave.net/files/pdf/1464672534\\_PB\\_14\\_Feeding\\_India\\_s\\_Poor\\_Plugging\\_Leakages\\_Without\\_Doing\\_Any\\_Harm.pdf](http://www.microsave.net/files/pdf/1464672534_PB_14_Feeding_India_s_Poor_Plugging_Leakages_Without_Doing_Any_Harm.pdf) (Last visited on February 7, 2017).

<sup>527</sup> SRINIVAS & KAPUR, *supra* note 473, 3; see Pradhan Mantri Jan Dhan Yojana, *Progress Report*, available at <https://www.pmjdy.gov.in/account> (Last visited on February 7, 2017).

<sup>528</sup>*Id.*, 5.

<sup>529</sup>*Id.*, 3.

economic form of payment disbursement for the government. The government has extended DBT using JAM to other schemes such as PDS, wage payments, pension programmes etc.

With regard to UBI, in order for it to be possible for the government to send money to each and every individual's account, the government will need to have a record of all the citizens of the country. Since the efforts to bring *Aadhar* identification cards for the entire population of India are already being undertaken, by using the JAM model, the government shall essentially not be incurring any extra costs with the implementation of a UBI as to the identification of the beneficiaries. Thus, the first bottleneck of listing all the beneficiaries of UBI without any exclusion error can be overcome.

The additional costs and efforts, however, shall have to be put in by the government towards ensuring a robust mode of transfer of money. In this respect, there are three options available, namely, using *Jan Dhan* accounts of the beneficiaries, using other bank accounts linked to *Aadhar* and using Post Office accounts of the recipients. The issue of accessibility of banking services for the poor comes into picture in this regard. In fact, the Economic Survey of 2015-16 reports that the reach of *Jan Dhan* accounts being less than that of *Aadhar* suggests that the progress of JAM is hindered by the unbanked.<sup>530</sup> For instance, in case of the DBT transfers made through JAM in the gas subsidy scheme of the government, the Survey observed that the decreased sale of domestic cylinders was evidence of exclusion errors for the unbanked persons who were unable to access the subsidy under the program.<sup>531</sup> Therefore, in terms of accessibility, use of Post-Office accounts in order to make the payment should be made viable. Another option available with the government in regard to accessibility, which has also been suggested in the Survey, is to use Banking Correspondents ('BCs') who personally work to extend the reach of financial systems.<sup>532</sup> However, it has been reported that there is a dearth of BCs due to low salaries and little incentives.<sup>533</sup> Therefore, JAM model is yet to become fully functional and robust enough to overcome the second bottleneck of payment reach and accessibility barriers that we discussed earlier.

As far as the third barrier to the effective implementation of UBI is concerned, the Economic Survey 2016-17 which proposed UBI is largely silent upon it. It is not enough to have universal list of citizens and thorough payment mechanisms but it is imperative that a strong monitoring mechanism is in place to oversee UBI functioning. This monitoring agency should ideally be tasked with the following functions. It must ensure that the listing mechanism is error-free and continuously updated, with special focus on vulnerable groups of the society who are more likely to be missed out. Apart from focusing on extending the reach of payment accessibility, it should also ensure its flawless functioning. It should be sufficiently equipped to handle grievances that beneficiaries might wish for redressal. The idea of UBI is to eliminate the current agony a person goes through in order to seek her rightful payments from the government, and thus, any potential grievance against UBI payment must be immediately resolved. Further, it can also be tasked with conducting studies on the working of UBI, suggest improvements and record its usefulness in lives of

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<sup>530</sup>Department of Economic Affairs, Ministry of Finance, *Economic Survey 2015-16*, 64 (February 2016).

<sup>531</sup>*Id.*, 57.

<sup>532</sup>DEPARTMENT OF ECONOMIC AFFAIRS, *supra* note 10, 182.

<sup>533</sup>See THE CENTRE FOR INTERNET AND SOCIETY, *Report on Understanding Aadhar and its New Challenges*, 10 (August 31, 2016), available at <https://cis-india.org/internet-governance/blog/report-on-understanding-aadhaar-and-its-new-challenges> (Last visited on February 7, 2017); THE HINDU, *Direct Benefit Transfer "Jammed" by Last-Mile Challenge: Economic Survey*, February 26, 2016, available at <http://www.thehindu.com/business/budget/economic-survey-says-direct-benefit-transfer-jammed-by-lastmile-challenge/article8286008.ece> (Last visited on February 7, 2017).

individuals. Awareness programmes, especially among the likes of the sensitisation against alcohol conducted in Namibian experiment, could be under its range of functions.

Thus, by far the biggest challenge to UBI in India is the lack of infrastructure that could effectively handle social welfare system of such magnitude. An option could be gradually introducing UBI among the most disadvantaged and backward districts of India as pilot programmes until a full-fledged mechanism is in place which gives scope for expansion.<sup>534</sup>

JAM model seems attractive for launching UBI payment but its core component, *Aadhar* biometric identification system has itself been a matter of great contention and has constantly run into legal troubles. As of the date of writing this paper, *Aadhar* is under constitutional challenge before the Supreme Court of India on several grounds including arbitrary State transgression and violation of the fundamental right to privacy of Indian citizens.<sup>535</sup> A five-judge Constitutional bench of the Supreme Court is hearing the matter.<sup>536</sup>

Under the Unique Identification Project, *Aadhar* numbers and biometric information including fingerprint and iris scans of all enrolled citizens is stored in the Central Identification Data Repository ('CIDR').<sup>537</sup> Accordingly, *Aadhar* number acts as a common index of citizen's data and helps in correlation across government databases.<sup>538</sup> This feature of the system raises privacy concerns due to grave potential of abuse including mass surveillance.<sup>539</sup> Further, it is dangerous that *Aadhar* number is in human readable form which raises the risk of unauthorised identification and profiling, including the risk of identity theft.<sup>540</sup> Problems have also been cited in the security infrastructure of the CIDR, including fundamental flaws in the design of *Aadhar*, absence of procedural safeguards, opacity surrounding data collection and usage and overreliance on private players.<sup>541</sup> A data protection law is still in the pipeline and a committee has been setup for the said purpose.<sup>542</sup>

In light of the above, the use of *Aadhar* in disbursement of UBI does present serious challenges. First, the constitutionality of *Aadhar* is yet to be decided by the Supreme Court which has already begun hearing the matter and the verdict is expected to be pronounced in the next few months. Even if it is not struck down in its entirety, Supreme Court may read in substantive limitations and procedural safeguards into *Aadhar* which limits the purposes for which it could be used. In that case, it will have to be examined if *Aadhar* can be used for UBI or not. Secondly, biometric authentication used by *Aadhar* itself is probabilistic in nature.<sup>543</sup> This means our first bottleneck is not completely solved and

<sup>534</sup>DEPARTMENT OF ECONOMIC AFFAIRS, *supra* note 10, 192.

<sup>535</sup> NDTV, *Aadhaar Case In Last Lap, Supreme Court To Start Hearing Today: 10 Points*, January 17, 2018, available at <https://www.ndtv.com/india-news/aadhaar-case-in-final-lap-supreme-court-to-start-final-hearing-10-facts-1800962>(Last visited on February 7, 2017).

<sup>536</sup>*Id.*

<sup>537</sup>THE CENTRE FOR INTERNET AND SOCIETY, *supra* note 533, 7.

<sup>538</sup>*Id.*

<sup>539</sup>*Id.*

<sup>540</sup>*Id.*

<sup>541</sup>*Id.*,8.

<sup>542</sup>*See* JUSTICE B.N. SRIKRISHNA COMMITTEE OF EXPERTS ON A DATA PROTECTION FRAMEWORK FOR INDIA, *White Paper of the Committee of Experts on a Data Protection Framework for India*, (November 27, 2017).

<sup>543</sup>*See* Anand Venkatanarayanan, *A Response to Nandan Nilekani on Aadhaar*, MEDIANAMA, April 5, 2017, available at <https://www.medianama.com/2017/04/223-nandan-nilekani-aadhaar/>(Last visited on February 7, 2017); L. Viswanath, *Aadhaar Opponents Must Move Beyond Surveillance Fears and Focus on the Law's Flaws*, THE WIRE, February 2, 2018, available at <https://thewire.in/219874/aadhaar-opponents-must-move->

potentially people could be excluded despite being eligible for UBI. Thirdly, *Aadhar* is optional in its legislative intent<sup>544</sup> which means that a person can identify herself in ways other than *Aadhar*. This could prove to be a challenge to UBI disbursement because there may not be a singular database of all individuals if people choose to identify themselves using other ways. Fourthly, *Aadhar* is only a mark of identification and not of citizenship.<sup>545</sup> *Aadhar* is issued on the basis of residence and not citizenship. Thus, if UBI were to be paid only to citizens of India it could prove a task to identify citizens within *Aadhar* database. This would necessarily involve targeting to exclude those who are not citizens and could also prove vulnerable to bogus beneficiaries leading to leakages. Fifthly, recently there have been discrepancies in linking bank accounts to *Aadhar*.<sup>546</sup> Such possibilities of interference in smooth functioning of payment mechanisms will only make UBI disbursement through JAM problematic. Steps must be taken to weed out any possibility of disruption.

Nonetheless, considering the already high outreach of the *Aadhar* and its significant success in improved targeting (as evident to some extent from DBT programmes), makes it the ideal medium for the purpose of identification and verification of individuals for the purposes of UBI payment transfer. Therefore, at least until the Supreme Court adjudicates upon the validity of *Aadhar*, the proposal to introduce JAM based UBI will remain in suspension. Only afterwards will a clearer picture of *Aadhar* emerge and UBI can be planned accordingly. At this stage, however, it appears that declaring *Aadhar* unconstitutional and junking the whole project will deliver a huge blow to any aspirations of realising a UBI in India for a long time to come.

## VI. CONCLUSION

A right to basic income is integral to achieving real freedom and actualisation of rights of an individual. Within the conception of substantive dignity wherein the State is obligated to ensure a dignified life for all its citizens, a right to basic income is also located. It is so owing to the necessity of real freedom and actualisation of rights in leading a dignified and flourishing life. Under this framework, a right to basic income is consistent and defensible and also has the potential to be eventually constitutionalised. It is also relevant to Indian constitutional and legal jurisprudence which while dealing with a plethora of matters connected to social welfare has always recognised the Indian state as a primary caretaker of

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beyond-surveillance-fears-focus-laws-flaws/ (Last visited on February 7, 2017); L. Viswanath, Four Reasons You Should Worry About Aadhaar's Use of Biometrics, *THE WIRE*, March 28, 2017, available at <https://thewire.in/119323/real-problem-aadhaar-lies-biometrics/> (Last visited on February 7, 2017).

<sup>544</sup>SCROLL.IN, Reminder: Text of Supreme Court Order Saying Aadhaar is Not and Cannot be Mandatory, March 22, 2017, available at <https://scroll.in/article/832473/reminder-text-of-supreme-court-order-saying-aadhaar-is-not-and-cannot-be-mandatory> (Last visited on February 7, 2017); *THE INDIAN EXPRESS*, *Supreme Court Reminds Govt: Aadhaar Cannot be Mandatory*, September 23, 2016, available at <http://indianexpress.com/article/india/india-news-india/supreme-court-reminds-govt-aadhaar-cannot-be-mandatory-3046983/> (Last visited on February 7, 2017).

<sup>545</sup>The Aadhaar (Targeted Delivery Of Financial And Other Subsidies, Benefits And Services) Act, 2016, §9 (*Aadhar* is neither a proof of citizenship or domicile); *LIVELAW*, *Aadhaar Card Is Not Proof Of Citizenship: Calcutta HC*, December 25, 2016, available at <http://www.livelaw.in/aadhaar-card-not-proof-citizenship-calcutta-hc/> (Last visited on February 7, 2017).

<sup>546</sup>Anand Venkatanarayanan & Srikanth Lakshmanan, *Aadhaar Mess: How Airtel Pulled Off its Rs 190 Crore Magic Trick*, *THE WIRE*, December 21, 2017, available at <https://thewire.in/206951/airtel-aadhaar-uidai/> (Last visited on February 7, 2017); *SCROLL.IN*, *UIDAI Tightens Rules to Link Aadhaar and Bank Accounts After Airtel Case*, December 20, 2017, available at <https://scroll.in/latest/862186/uidai-tightens-rules-to-link-aadhaar-and-bank-accounts-after-airtel-case> (Last visited on February 7, 2017).



its citizens under the scheme of the Constitution and the ideals of dignity and social justice enshrined in it.

Right to basic income has immense potential especially in the matter of improving the standard of living of people in order to actualise the right to adequate standard of living recognised in various international instruments and elsewhere. It also holds true potential in achieving autonomy and agency rights of women and acting as a means for compensating the unpaid care labour within households. Under the human rights approach to poverty which views poverty as deprivation of individual rights and freedoms, a right to basic income could prove game-changing in improving the lives of the poverty-stricken. It can also help overcome some of the deleterious impact income deprivation has on the psyche of individuals and can contribute towards better mental health and decision making.

UBI experiments and pilot projects involving cash transfers have proven successful across jurisdictions. Some experiments are still underway and are bound to throw up positive results. Basic income cash grants have been responsible in helping the beneficiaries meet basic needs and necessities, adopt better forms of employment and local entrepreneurship, improving school attendance rates and performance of children, and several other associated beneficial outcomes. It has diversified the choice base for people to pick from. Moreover, common objections like UBI makes people lazy or leads to rise in spending on temptation goods have been disproved both in theory and experience. These results from pilot projects are of particular relevance to India which is home to the largest population of the poor and suffers from highly skewed income inequalities. An UBI at subsistence level can support the subsistence needs of a large population and also help others improve their skill-set, make better decisional choices and lead happier lives. Overall, a right to basic income supported by UBI is a means to dignified life of individuals.

There are some significant practical bottlenecks in doling out a universal and unconditional basic income in India today, largely connected to infrastructural impediments. Inclusion and accessibility of financial institutions to undertake cash transfers of a huge magnitude is a big challenge. JAM trinity, with further improvements, is a possible method of implementation but *Aadhar* is stuck in a legal challenge. Moreover, there is not much clarity on the monitoring mechanism for UBI of which we have outlined a few basic functions. It is thus hoped that in the coming days UBI is subject to further deliberation and public debate and steps are taken towards instituting a right to basic income based UBI model in India.