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# The Right to Exist: Universal Basic Income as a Human Rights Imperative in International and Indian Law

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# The Right to Exist: Universal Basic Income as a Human Rights Imperative in International and Indian Law

## ABSTRACT

*The debate over Universal Basic Income (UBI) has migrated from the margins of welfare economics into mainstream constitutional and human rights discourse. This article examines whether an unconditional, periodic cash transfer to every individual, regardless of income, employment status or means, can be justified as a legal entitlement flowing from the right to an adequate standard of living, the right to social security, and the broader guarantee of human dignity recognised under international instruments such as the Universal Declaration of Human Rights and the International Covenant on Economic, Social and Cultural Rights. Drawing on comparative constitutional jurisprudence, particularly the Indian Supreme Court's expansive reading of Article 21, the article situates UBI within an evolving rights framework that treats economic security as a precondition for the meaningful exercise of civil and political freedoms. The economic analysis surveys empirical evidence from pilot programmes in Finland, Kenya, the United States and India to assess claims regarding labour market disincentives, fiscal sustainability, and inflationary pressure. The article argues that while UBI is conceptually compatible with, and arguably required by, existing human rights commitments, its implementation raises difficult questions of resource allocation, progressive realisation, and the relationship between universality and targeting in resource-constrained economies such as India's. The article concludes that a rights-based UBI framework, calibrated through phased implementation and financed through redistributive fiscal reform, offers a coherent normative and practical pathway for reconciling welfare state design with constitutional and international human rights obligations.*

## KEYWORDS

*Universal Basic Income; Right to Social Security; Article 21; Progressive Realisation; Comparative Welfare Law*

## I. INTRODUCTION

The idea of an unconditional cash payment to every individual, sufficient to cover basic needs, was once confined largely to seminars in welfare economics and the writings of a handful of philosophers. That position

has shifted markedly over the last decade. Concerns about automation displacing low-skill labour, the precarity associated with gig and platform work, and the economic devastation wrought by the COVID-19 pandemic have together pushed Universal Basic Income (UBI) into mainstream policy discussion across both industrialised and developing economies.<sup>1</sup> Pilot schemes have been conducted in Finland, Kenya, Iran, Namibia, the United States and India, generating an increasingly rich body of empirical material on the effects of unconditional transfers.<sup>2</sup>

Much of the existing literature situates UBI primarily as a fiscal or labour-market question: whether a state can afford it, whether it will discourage work, and how it compares with existing targeted welfare schemes. These are important questions, and this article does not set them aside. The principal argument advanced here, however, approaches UBI through a somewhat different lens, namely whether an unconditional basic income can be understood as flowing from, or required by, existing human rights commitments, rather than merely as one policy option among several that states may adopt or reject as a matter of unfettered discretion.

The discussion proceeds in several stages. Part II briefly defines UBI and distinguishes it from adjacent concepts such as negative income tax, universal basic services, and conditional cash transfers, since much confusion in public debate stems from conflating these rather different proposals. Part III examines the international human rights framework, in particular the right to an adequate standard of living and the right to social security under the Universal Declaration of Human Rights and the International Covenant on Economic, Social and Cultural Rights, and asks how far these provisions can be read as supporting a UBI-type entitlement. Part IV turns to domestic constitutional law, with particular attention to the Indian Supreme Court's jurisprudence on Article 21 of the Constitution, which has read the right to life expansively enough to encompass a right to live with dignity, and considers how this jurisprudence might bear on a future UBI scheme. Part V undertakes an economic analysis of feasibility, drawing on pilot evidence to assess common objections relating to cost, labour supply, and inflation. Part VI addresses the principal critiques of a rights-based framing, and Part VII offers recommendations for a phased, rights-compatible approach to UBI design, with particular reference to the Indian context. Part VIII concludes.

The central claim advanced here is, in a sense, a modest one. It is not that

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<sup>1</sup> See generally Guy Standing, *Basic Income: And How We Can Make It Happen* (Penguin, 2017).

<sup>2</sup> Ugo Gentilini et al. (eds.), *Exploring Universal Basic Income: A Guide to Navigating Concepts, Evidence, and Practices* (World Bank, 2020), at 3-4.

international or constitutional law presently mandates UBI in its purest form, that is, an unconditional, universal, individual, and sufficient cash transfer.<sup>3</sup> Rather, the claim is that the values underlying the right to social security and the right to an adequate standard of living point firmly in the direction of unconditional, dignity-preserving forms of income support, and that UBI represents one of the more coherent ways of giving effect to those values at a time when employment-linked social protection is becoming structurally less reliable as a basis for ensuring economic security.

## II. CONCEPTUALISING UNIVERSAL BASIC INCOME

Universal Basic Income is often used loosely to describe almost any unconditional cash transfer, but the term carries a fairly precise meaning in the academic literature. Following the widely cited formulation associated with the Basic Income Earth Network, a basic income possesses five defining characteristics: it is periodic, paid in cash rather than in kind, individual rather than household-based, universal in the sense that it is paid to all without a means test, and unconditional, requiring no work or willingness to work as a precondition.<sup>4</sup>

Each of these features carries normative weight. The individual character of the payment is significant for gender justice, since household-based transfers often reach women only indirectly, mediated through a male household head.<sup>5</sup> Universality, meanwhile, distinguishes UBI sharply from means-tested social assistance, which necessarily involves administrative processes to determine eligibility, processes that are often costly, stigmatising, and prone to excluding genuinely needy persons through errors of targeting.<sup>6</sup>

It is useful to distinguish UBI from three related but distinct concepts that frequently surface in the same discussions. First, a negative income tax achieves broadly similar redistributive outcomes through the tax system rather than through direct transfers, with the amount received tapering as earned income rises; while economically similar at the margin, it lacks the unconditional, universal character of a true basic income and is typically administered as a tax credit rather than as a standing

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<sup>3</sup> Philippe Van Parijs & Yannick Vanderborght, *Basic Income: A Radical Proposal for a Free Society and a Sane Economy* (Harvard University Press, 2017), at 4-5.

<sup>4</sup> Basic Income Earth Network, "About Basic Income", available at: <https://basicincome.org/basic-income/> (last visited on June 10, 2026).

<sup>5</sup> Sarath Davala et al., *Basic Income: A Transformative Policy for India* (Bloomsbury, 2015), at 112-15.

<sup>6</sup> Committee on Economic, Social and Cultural Rights, General Comment No. 19: *The Right to Social Security* (Art. 9), U.N. Doc. E/C.12/GC/19, para 4 (4 Feb. 2008).

entitlement.<sup>7</sup> Second, universal basic services refer to the public provision of services such as healthcare, education, housing, and transport free at the point of use, an approach some commentators view as complementary to, and others as a substitute for, cash-based UBI.<sup>8</sup> Third, conditional cash transfer programmes, of which Brazil's Bolsa Familia is a well-known example, provide payments contingent on behavioural conditions such as school attendance or vaccination, and are targeted at specific demographic groups rather than universal in coverage.<sup>9</sup>

India's own experience with cash transfers, most notably through the Pradhan Mantri Kisan Samman Nidhi and various state-level income support schemes, falls closer to the conditional or categorical end of this spectrum, being targeted at particular occupational or demographic categories rather than universal in the sense described above.<sup>10</sup> The Madhya Pradesh pilot conducted between 2011 and 2013, by contrast, came considerably closer to a true basic income model, providing unconditional monthly payments to all residents of selected villages, including children, for whom payments were made to mothers.<sup>11</sup>

For the purposes of this article, the term UBI is used in the sense described above, while acknowledging that real-world implementations, including most of those discussed in Part V, depart from this ideal type in various respects, whether in universality, in the sufficiency of the amount, or in the permanence of the scheme. These departures matter, because the strength of the human rights argument developed in Parts III and IV varies depending on how closely a given scheme approximates the unconditional, universal, and individual model.

### III. UBI AND THE INTERNATIONAL HUMAN RIGHTS FRAMEWORK

The starting point for any human-rights analysis of UBI is Article 25 of the Universal Declaration of Human Rights, which provides that everyone has the right to a standard of living adequate for health and well-being, including food, clothing, housing, medical care and necessary social services, together with the right to security in the event of unemployment, sickness, disability, widowhood, old age, or other lack of livelihood in circumstances beyond one's control.<sup>12</sup> Although the

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<sup>7</sup> Van Parijs & Vanderborght, *supra* note 3, at 22-25.

<sup>8</sup> Anna Coote & Andrew Percy, *The Case for Universal Basic Services* (Polity Press, 2020), at 8-10.

<sup>9</sup> World Bank, *supra* note 2, at 18-20.

<sup>10</sup> Maitreesh Ghatak & Karan Singh, "Pradhan Mantri Kisan Samman Nidhi: Concerns and Possible Reforms", 54 *Economic & Political Weekly* 27, 28 (2019).

<sup>11</sup> Davala et al., *supra* note 5, at 45-48.

<sup>12</sup> Universal Declaration of Human Rights, G.A. Res. 217 (III) A, art. 25, U.N. Doc.

Universal Declaration is not itself a binding treaty, its provisions have substantially informed the content of subsequent binding instruments and are widely regarded as reflecting customary international law on core matters of human dignity.<sup>13</sup>

The principal binding instrument for present purposes is the International Covenant on Economic, Social and Cultural Rights (ICESCR), to which India is a party.<sup>14</sup> Article 9 of the ICESCR recognises the right of everyone to social security, including social insurance, while Article 11 recognises the right of everyone to an adequate standard of living, including adequate food, clothing and housing, and to the continuous improvement of living conditions.<sup>15</sup> The Committee on Economic, Social and Cultural Rights, in its General Comment No. 19 on the right to social security, has clarified that this right encompasses access to a social security scheme that provides a minimum essential level of benefits to all individuals and families that enables them to acquire at least essential health care, basic shelter and housing, water and sanitation, foodstuffs, and the most basic forms of education.<sup>16</sup> The General Comment further notes that non-contributory schemes, including universal benefit schemes financed from general taxation, are an appropriate and often necessary means of fulfilling this obligation, particularly for persons who are unable to make sufficient contributions for their own protection.<sup>17</sup>

This language is significant for the UBI debate, because it suggests that the right to social security is not confined to contributory, employment-linked insurance models, but extends to non-contributory, tax-financed schemes that reach persons regardless of their employment history. A universal cash transfer, financed through general taxation and paid without regard to employment status, fits comfortably within the category of schemes that the Committee has identified as appropriate vehicles for realising Article 9.

At the same time, it would be an overstatement to read the ICESCR as mandating UBI specifically, as opposed to mandating an adequate minimum level of social protection that could in principle be achieved through other means, such as well-designed targeted programmes or

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A/810 (Dec. 10, 1948).

<sup>13</sup> Hurst Hannum, *The Status of the Universal Declaration of Human Rights in National and International Law*, 25 Ga. J. Int'l & Comp. L. 287, 289-90 (1995-96).

<sup>14</sup> International Covenant on Economic, Social and Cultural Rights, Dec. 16, 1966, 993 U.N.T.S. 3 [hereinafter ICESCR]; India ratified the ICESCR on Apr. 10, 1979.

<sup>14</sup> ICESCR, *supra* note 14, arts. 9, 11.

<sup>15</sup> ICESCR, *supra* note 14, arts. 9, 11.

<sup>16</sup> Committee on Economic, Social and Cultural Rights, *supra* note 6, para 22.

<sup>17</sup> *Id.*, para 4.

universal basic services. The obligation under Article 2(1) of the ICESCR is one of progressive realisation, to the maximum of available resources, rather than an obligation of immediate and complete fulfilment.<sup>18</sup> States therefore retain considerable discretion as to the particular policy instruments through which they discharge their social security obligations, provided that the chosen instruments are reasonable, non-discriminatory, and directed towards progressively achieving the full realisation of the right.

Where the human rights framework does push more firmly towards unconditional, dignity-respecting transfers is in its treatment of conditionality and stigma. The Committee has repeatedly expressed concern about social assistance schemes that impose onerous conditions, intrusive means-testing, or behavioural requirements that may themselves compromise other rights, for instance where benefits are conditioned on accepting any available employment regardless of working conditions, or where means-testing processes are so invasive as to undermine privacy and dignity.<sup>19</sup> Special Rapporteurs on extreme poverty and human rights have, in more than one report, expressed considerable sympathy for UBI-style approaches precisely because they avoid these pathologies, even while acknowledging the fiscal and political obstacles to their adoption.<sup>20</sup>

Beyond the ICESCR, instruments addressing particular groups reinforce this trajectory. The Convention on the Rights of the Child requires states to take appropriate measures to assist parents in implementing the right of children to benefit from social security, including social insurance.<sup>21</sup> The Convention on the Elimination of All Forms of Discrimination Against Women requires states to ensure women's right to social security in cases of retirement, unemployment, sickness, invalidity and old age, and explicitly addresses the position of women in unremunerated domestic and agricultural work, a category for whom individual, unconditional transfers are likely to be considerably more effective than contributory schemes tied to formal employment.<sup>22</sup>

Taken together, the international framework does not establish a freestanding right to UBI as such. It does, however, establish a right to social security that is broad enough to encompass non-contributory, universal cash transfer schemes, and it expresses a clear normative

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<sup>18</sup> ICESCR, *supra* note 14, art. 2(1).

<sup>19</sup> Committee on Economic, Social and Cultural Rights, *supra* note 6, paras 24-25.

<sup>20</sup> Special Rapporteur on Extreme Poverty and Human Rights, Report on Universal Basic Income, U.N. Doc. A/HRC/35/26 (22 Mar. 2017) (by Philip Alston).

<sup>21</sup> Convention on the Rights of the Child, art. 26, 20 Nov. 1989, 1577 U.N.T.S. 3.

<sup>22</sup> Convention on the Elimination of All Forms of Discrimination Against Women, art. 11(1)(e), 18 Dec. 1979, 1249 U.N.T.S. 13.

preference for forms of social protection that avoid the stigma, exclusion errors, and dignity costs associated with narrowly targeted, conditional programmes, features that UBI, by design, is intended to minimise.

#### IV. CONSTITUTIONAL FOUNDATIONS: THE INDIAN EXPERIENCE

The Constitution of India does not contain an explicit right to a basic income, but the trajectory of Indian constitutional jurisprudence, particularly the Supreme Court's interpretation of Article 21, provides fertile ground for a rights-based argument in favour of income security.

Article 21 provides that no person shall be deprived of his life or personal liberty except according to procedure established by law.<sup>23</sup> For roughly the first three decades after the Constitution's adoption, this provision was read narrowly, as the Supreme Court's early decision in *A.K. Gopalan v. State of Madras* illustrates, where the Court declined to read substantive due process safeguards into the provision.<sup>24</sup> This narrow approach was decisively overturned in *Maneka Gandhi v. Union of India*, where the Court held that the procedure contemplated by Article 21 must be fair, just and reasonable, effectively reading a substantive due process requirement into the provision.<sup>25</sup>

Building on *Maneka Gandhi*, the Court in *Francis Coralie Mullin v. Administrator, Union Territory of Delhi* held that the right to life under Article 21 includes the right to live with human dignity and all that goes along with it, namely the bare necessities of life such as adequate nutrition, clothing and shelter, and facilities for reading, writing and expressing oneself in diverse forms.<sup>26</sup> This formulation is striking for present purposes, because it explicitly identifies the material preconditions of dignity, food, clothing and shelter, as constituent elements of the right to life itself, rather than as mere policy aspirations confined to the Directive Principles.

This line of reasoning was extended in *Olga Tellis v. Bombay Municipal Corporation*, where the Court held that the right to livelihood is an integral component of the right to life, reasoning that deprivation of livelihood would, for persons with no other means of subsistence, amount to deprivation of life itself.<sup>27</sup> The Court was careful to note that this did not mean the state was constitutionally barred from ever evicting

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<sup>23</sup> India Const. art. 21.

<sup>24</sup> *A.K. Gopalan v. State of Madras*, AIR 1950 SC 27.

<sup>25</sup> *Maneka Gandhi v. Union of India*, (1978) 1 SCC 248, para 7.

<sup>26</sup> *Francis Coralie Mullin v. Administrator, Union Territory of Delhi*, (1981) 2 SCC 344, para 8.

<sup>27</sup> *Olga Tellis v. Bombay Municipal Corporation*, (1985) 3 SCC 545, paras 32-33.

pavement dwellers, but the recognition of livelihood as falling within the protective scope of Article 21 was nonetheless significant, since it tied economic security directly to the fundamental rights chapter rather than leaving it solely to the non-justiciable Directive Principles of State Policy.

The Directive Principles themselves, while not directly enforceable, remain relevant. Article 38 directs the state to strive to minimise inequalities in income, and Article 41 directs the state, within the limits of its economic capacity and development, to make effective provision for securing the right to work, to education, and to public assistance in cases of unemployment, old age, sickness and disablement.<sup>28</sup> Article 39 similarly directs the state to ensure that the operation of the economic system does not result in the concentration of wealth and means of production to the common detriment, and that citizens have an adequate means of livelihood.<sup>29</sup>

The Supreme Court has on several occasions read Part III rights, particularly Article 21, in light of these Directive Principles, treating the two together as constituting what has been described as the conscience of the Constitution.<sup>30</sup> This interpretive method has allowed the Court to give a degree of justiciable content to economic and social objectives that, taken in isolation, would be unenforceable. The cumulative effect of this jurisprudence is that a constitutional argument for income security need not depend on Article 41 alone, which is explicitly qualified by reference to the state's economic capacity, but can draw on the more robust language of Article 21 read together with Articles 38, 39 and 41.

It would, however, overstate the position to suggest that Indian constitutional law currently recognises an enforceable right to UBI. The courts have generally been reluctant to direct the executive towards specific welfare schemes, recognising that questions of resource allocation among competing social welfare priorities are quintessentially matters for the legislature and executive rather than the judiciary.<sup>31</sup> What the jurisprudence does establish is a strong textual and doctrinal foundation on which a legislatively enacted UBI scheme could be defended, not merely as good policy, but as an instrument that gives concrete effect to constitutional commitments the courts have already recognised as judicially cognisable in principle, even if not independently enforceable as freestanding entitlements.

Comparative experience outside India reinforces this picture. South Africa's Constitution expressly guarantees the right to social security,

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<sup>28</sup> India Const. arts. 38, 41.

<sup>29</sup> India Const. art. 39(b)-(c).

<sup>30</sup> *Minerva Mills Ltd. v. Union of India*, (1980) 3 SCC 625, para 56.

<sup>31</sup> *State of Punjab v. Ram Lubhaya Bagga*, (1998) 4 SCC 117, para 21.

including appropriate social assistance for those unable to support themselves and their dependants, a provision the Constitutional Court has held imposes both negative obligations not to impede access to existing social security and positive obligations to take reasonable measures, within available resources, to achieve progressive realisation.<sup>32</sup> Kenya's 2010 Constitution similarly guarantees the right to social security, and recent debates over national safety net programmes have drawn explicitly on this provision.<sup>33</sup> These examples suggest that where a constitutional text expressly enumerates a right to social security, courts have been somewhat more willing to scrutinise the adequacy, rather than merely the existence, of social protection measures, a posture that could in principle extend to assessing whether fragmented existing welfare schemes adequately discharge the obligation as compared with a more coherent universal alternative.

## V. ECONOMIC ANALYSIS: FEASIBILITY, FUNDING, AND PILOT EVIDENCE

The strongest objections to UBI are typically economic rather than legal: that it is unaffordable, that it will discourage labour market participation, and that it will be inflationary if financed through deficit spending or unproductive taxation. This Part examines each of these objections in light of the available pilot evidence, while acknowledging the well-known limitation that time-limited pilots, often funded by external donors or research grants, cannot fully replicate the macroeconomic effects of a permanent, nationally financed scheme.<sup>34</sup>

On the question of labour supply, the most extensively studied programme is probably the GiveDirectly cash transfer programme in Kenya, which has provided unconditional monthly transfers to tens of thousands of households across multiple counties.<sup>35</sup> Randomised evaluations of this programme have generally found no significant reduction in labour supply among recipients, and in several cases found increases in non-agricultural business activity and asset accumulation, results that run counter to the common assumption that unconditional cash will primarily be spent on immediate consumption at the expense of work effort.<sup>36</sup>

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<sup>32</sup> *Khosa v. Minister of Social Development*, 2004 (6) SA 505 (CC); Constitution of South Africa, 1996, § 27(1)(c).

<sup>33</sup> Kenya Const., 2010, art. 43(1)(e).

<sup>34</sup> Hilary W. Hoynes & Jesse Rothstein, *Universal Basic Income in the United States and Advanced Countries*, 11 Ann. Rev. Econ. 929, 945-47 (2019).

<sup>35</sup> Dennis Egger et al., *General Equilibrium Effects of Cash Transfers: Experimental Evidence from Kenya*, 90 Econometrica 2603, 2605 (2022).

<sup>36</sup> Johannes Haushofer & Jeremy Shapiro, *The Short-Term Impact of Unconditional Cash*

The Finnish basic income experiment, conducted by Kela between 2017 and 2018, provided a smaller unconditional monthly payment to a randomly selected group of unemployed individuals, replacing certain existing unemployment benefits.<sup>37</sup> The final evaluation found a modest positive effect on employment during the second year of the experiment relative to the control group, alongside notable improvements in self-reported wellbeing, trust in institutions, and reduced stress, even though the magnitude of the employment effect was smaller than some proponents had hoped.<sup>38</sup> Critically, the Finnish experiment did not find evidence that unconditional payments led recipients to withdraw from the labour market, addressing one of the most persistent objections raised in public debate.

In the Indian context, the Madhya Pradesh Unconditional Cash Transfers pilot, conducted by SEWA with support from UNICEF between 2011 and 2013, provided monthly unconditional payments to all residents, adults and children, of eight selected villages, with a comparison group of villages receiving no transfers.<sup>39</sup> The evaluation found improvements across a range of indicators, including increased school attendance, improved nutrition, reduced indebtedness, and increased economic activity, particularly among women and members of Scheduled Castes and Scheduled Tribes, who reported using the transfers to invest in small-scale production activities such as livestock and petty trade.<sup>40</sup> The pilot's authors argued that the transfers had a particularly equalising effect within households and communities, since the individual and unconditional nature of the payment meant that marginalised members, who might otherwise be excluded from decision-making over the use of conditional or targeted benefits, received and controlled their own allocation.<sup>41</sup>

The Stockton Economic Empowerment Demonstration in California, which provided unconditional monthly payments of five hundred dollars to a randomly selected group of residents, found that recipients were more likely to obtain full-time employment over the course of the study than members of the control group, alongside reductions in income volatility and improvements in measures of mental health.<sup>42</sup> While the sample size and duration of the Stockton demonstration limit

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*Transfers to the Poor: Experimental Evidence from Kenya*, 131 Q.J. Econ. 1973, 1995-2000 (2016).

<sup>37</sup> Olli Kangas et al., *Experimenting with Unconditional Basic Income: Lessons from the Finnish BI Experiment 2017-2018* (Edward Elgar, 2021), at 12-15.

<sup>38</sup> *Id.*, at 38-42.

<sup>39</sup> Davala et al., *supra* note 5, at 21-24.

<sup>40</sup> *Id.*, at 67-72.

<sup>41</sup> *Id.*, at 112-18.

<sup>42</sup> Stacia West et al., *Preliminary Analysis: SEED's First Year* (2021), at 9-14.

the generalisability of its findings, the results are broadly consistent with the Kenyan and Finnish evidence in failing to support predictions of significant labour market withdrawal in response to unconditional cash transfers.

On fiscal sustainability, the Alaska Permanent Fund Dividend offers perhaps the longest-running example of a genuinely universal, unconditional cash payment, financed since 1982 through returns on a sovereign wealth fund built from oil revenues rather than from general taxation.<sup>43</sup> While the annual dividend amount is modest and fluctuates with fund performance, the scheme demonstrates the institutional feasibility of administering a genuinely universal payment to an entire state population over several decades, and studies of its effects have found no significant negative impact on overall employment, alongside some evidence of increased part-time employment.<sup>44</sup>

For India specifically, proposals for a national UBI have typically estimated costs in the range of several percentage points of GDP, depending on the level of the transfer and whether it replaces existing subsidies.<sup>45</sup> The Economic Survey of India for 2016-17 examined a UBI proposal and estimated that a transfer set at a level sufficient to lift the population above an extreme poverty line, paid universally, would cost in the region of four to five per cent of GDP, a figure broadly comparable to the combined cost of major existing subsidy programmes for food, fertiliser, and fuel.<sup>46</sup> The Survey's authors argued that a UBI could, in principle, be financed by rationalising these subsidies, many of which suffer from substantial leakage to non-poor beneficiaries, though they also cautioned that the political economy of withdrawing existing subsidies, particularly food subsidies under the National Food Security Act, would present a formidable obstacle.<sup>47</sup>

On inflation, the available pilot evidence is again somewhat reassuring, though with important caveats. Studies of the Kenyan GiveDirectly programme found minimal price effects in local markets, even where transfers constituted a substantial injection of cash relative to local economic activity, attributed in part to the responsiveness of local traders

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<sup>43</sup> Scott Goldsmith, "The Alaska Permanent Fund Dividend: A Case Study in Implementation of a Basic Income Guarantee", in Richard K. Caputo (ed.), *Basic Income Guarantee and Politics* (Palgrave Macmillan, 2012), at 49-53.

<sup>44</sup> Damon Jones & Ioana Marinescu, *The Labor Market Impacts of Universal and Permanent Cash Transfers: Evidence from the Alaska Permanent Fund*, 14 Am. Econ. J.: Econ. Pol'y 315, 317-20 (2022).

<sup>45</sup> Pranab Bardhan, *A Universal Basic Income for India: From Backdrop to Foreground*, 51 Econ. & Pol. Wkly. 41, 42-43 (2016).

<sup>46</sup> Ministry of Finance, Government of India, *Economic Survey 2016-17* (2017), at 173-75.

<sup>47</sup> Id., at 178-80.

in adjusting supply.<sup>48</sup> However, these findings derive from localised pilots in specific market contexts, and economists have cautioned that a nationally financed UBI, particularly one financed through monetary expansion rather than taxation or subsidy rationalisation, could generate more significant inflationary pressure, especially in economies with supply-side constraints in food and housing markets.<sup>49</sup>

The overall picture emerging from this evidence is that the most commonly voiced economic objections to UBI, namely that it will cause mass labour market withdrawal and that it is inherently unaffordable, are not well supported by the pilot evidence currently available, though questions of financing at national scale, and particularly the political feasibility of the subsidy rationalisation that would likely be necessary to fund a UBI in a country like India without resort to deficit financing, remain genuinely unresolved.

## VI. CRITIQUES OF THE RIGHTS-BASED FRAMING

The argument that UBI should be understood as a human rights instrument, rather than simply one welfare policy option among many, attracts several serious objections that deserve direct engagement.

The first concerns the relationship between universality and the principle of progressive realisation in resource-constrained states. Critics argue that in a country with widespread extreme poverty and severe resource constraints, a genuinely universal payment, one paid even to the wealthiest segments of society, represents a poor use of scarce public resources compared with a more steeply targeted programme that concentrates the same total expenditure on the poorest households.<sup>50</sup> From this perspective, the obligation to realise the right to social security to the maximum of available resources might actually counsel against universality, since a targeted scheme could, for the same fiscal outlay, provide a higher transfer to those most in need.

This objection has force, but it understates the costs of targeting. Means-tested programmes incur substantial administrative costs in identifying eligible beneficiaries, and empirical studies of targeting in developing countries consistently find significant rates of both exclusion error, where eligible households fail to receive benefits, and inclusion error, where ineligible households receive them.<sup>51</sup> The Public Distribution System in India, for instance, has historically suffered from exclusion

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<sup>48</sup> Egger et al., *supra* note 35, at 2630-32.

<sup>49</sup> Maitreesh Ghatak & Francois Maniquet, *Universal Basic Income: Some Theoretical Aspects*, 11 Ann. Rev. Econ. 895, 912-14 (2019).

<sup>50</sup> Abhijit Banerjee, *A Cluster of Thoughts on Universal Basic Income*, 52 Econ. & Pol. Wkly. 28, 29-30 (2017).

<sup>51</sup> Martin Ravallion, *Targeting Revisited*, 31 World Bank Res. Observer 96, 102-05 (2016).

errors estimated at well over a third of the eligible population in several states, alongside leakage to non-intended beneficiaries.<sup>52</sup> A universal scheme avoids exclusion error by definition, and proponents argue that the administrative savings, combined with the avoidance of stigma associated with means-tested benefits, can offset much of the apparent inefficiency of paying transfers to non-poor households, particularly where the scheme is paired with progressive taxation that effectively claws back the transfer from higher-income recipients.<sup>53</sup>

A second objection concerns the risk that UBI could be used as a pretext for dismantling existing in-kind and service-based entitlements, such as public healthcare, education, and food subsidy programmes, on the basis that cash is a more efficient substitute.<sup>54</sup> From a human rights perspective, this is a serious concern, since the rights to health, education, and food are independently protected under the ICESCR and are not necessarily fungible with cash income, particularly where the underlying public services, functioning primary health centres or schools, for instance, do not exist or are of poor quality in the first place, such that no amount of cash can fully substitute for their absence.<sup>55</sup> A rights-based UBI proposal must therefore be explicit that cash transfers are intended to supplement, rather than replace, the state's obligations to progressively realise the rights to health, education, food, and housing through the provision of adequate public services, obligations that exist independently of any cash transfer policy.

A third objection, sometimes described as a stigma-reversal concern, questions whether truly unconditional cash transfers might, in some political contexts, become more vulnerable to retrenchment than contributory social insurance, precisely because they are perceived as something for nothing, making them an easier target for fiscal consolidation than benefits that recipients are seen to have earned through contributions.<sup>56</sup> This is ultimately an empirical and political question rather than a legal one, but it suggests that the durability of a rights-based UBI may depend significantly on how the scheme is framed in public discourse, for instance as a dividend from collectively owned resources or as a recognition of unpaid domestic and care labour, framings that have been used with some success in Alaska and in

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<sup>52</sup> Reetika Khera, *India's Public Distribution System: Utilisation and Impact*, 47 J. Dev. Stud. 1038, 1044-46 (2011).

<sup>53</sup> Van Parijs & Vanderborght, *supra* note 3, at 145-48.

<sup>54</sup> Gentilini et al., *supra* note 2, at 215-18.

<sup>55</sup> Committee on Economic, Social and Cultural Rights, General Comment No. 14: *The Right to the Highest Attainable Standard of Health (Art. 12)*, U.N. Doc. E/C.12/2000/4, para 12 (11 Aug. 2000).

<sup>56</sup> Bo Rothstein, *Just Institutions Matter: The Moral and Political Logic of the Universal Welfare State* (Cambridge University Press, 1998), at 158-62.

feminist advocacy for basic income respectively.<sup>57</sup>

## VII. TOWARDS A RIGHTS-COMPATIBLE UBI FRAMEWORK: RECOMMENDATIONS

Drawing together the legal and economic analysis above, this Part sets out several design principles that would strengthen the claim of a UBI scheme to be understood as an instrument for realising existing human rights obligations, with particular reference to the Indian context.

First, any UBI scheme should be framed explicitly as a means of progressively realising the right to social security under Article 9 of the ICESCR, and the corresponding constitutional values identified in Part IV, rather than purely as a fiscal or political instrument. This framing matters because it would situate the scheme within a framework of accountability, including the periodic reporting obligations India already undertakes under the ICESCR, and would provide a normative benchmark, namely the adequacy of the transfer relative to a recognised minimum standard of living, against which the scheme's design could be evaluated and, where necessary, revised.<sup>58</sup>

Second, the level of the transfer should be calibrated against an explicit and periodically reviewed measure of an adequate standard of living, rather than set primarily by reference to fiscal headroom. General Comment No. 19 speaks of a minimum essential level of benefits sufficient to acquire essential health care, basic shelter, water, sanitation, food, and basic education.<sup>59</sup> A transfer pegged below this threshold, even if labelled universal, would do little to discharge the underlying obligation, whatever its administrative elegance.

Third, a phased approach, beginning with categorical universality, for instance, a payment to all individuals within defined demographic categories such as all women, all persons above a certain age, or all children, rather than full population universality from inception, may represent the most realistic pathway for a country with India's fiscal constraints, provided that the scheme carries a transparent roadmap towards broader coverage and is designed as a complement to, rather than a substitute for, existing entitlements to health, education, and food.<sup>60</sup> Several Indian states' experiments with categorical cash transfers for women, the elderly, and farmers can be understood as partial steps along this trajectory, even if none currently meets the full definition of

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<sup>57</sup> Almaz Zelleke, *Basic Income and the Politics of Feminism*, 3 *Basic Income Stud.* 1, 4-6 (2008).

<sup>58</sup> ICESCR, *supra* note 14, art. 16.

<sup>59</sup> Committee on Economic, Social and Cultural Rights, *supra* note 6, para 22.

<sup>60</sup> Bardhan, *supra* note 45, at 44-45.

UBI set out in Part II.<sup>61</sup>

Fourth, financing should prioritise the rationalisation of existing subsidies with high leakage rates, together with progressive tax reform, over deficit financing, both to manage inflationary risk and to ensure that the scheme does not crowd out expenditure on the health and education infrastructure whose absence, as noted in Part VI, cash transfers cannot remedy.<sup>62</sup>

Finally, the design process should incorporate participatory mechanisms, including consultation with women's groups, organisations representing persons with disabilities, and representatives of marginalised castes and tribes, both because such participation is itself increasingly recognised as a component of rights-respecting policymaking, and because the Madhya Pradesh pilot's positive findings regarding intra-household equity were closely linked to the individual and unconditional design features that such consultation helped to identify as priorities.<sup>63</sup>

## VIII. CONCLUSION

This article has argued that Universal Basic Income, properly understood, sits at the intersection of two bodies of law and policy that are too often treated separately: the international and constitutional law of economic and social rights, and the economic literature on cash transfer design. The international framework, particularly the right to social security under Article 9 of the ICESCR as elaborated in General Comment No. 19, does not mandate UBI in its purest form, but it identifies non-contributory, universal schemes as appropriate and often necessary vehicles for realising that right, and it expresses clear concerns about the stigma and exclusion errors associated with narrowly targeted alternatives. The Indian constitutional jurisprudence on Article 21, read together with the Directive Principles, provides a robust textual foundation for treating economic security as integral to the right to life with dignity, even if it falls short of establishing an independently enforceable right to a specific transfer amount.

On the economic side, the accumulating pilot evidence from Kenya, Finland, the United States, and India's own Madhya Pradesh experiment does not support the most common objections to UBI relating to labour market withdrawal, and offers some grounds for cautious optimism regarding fiscal feasibility, provided that financing draws substantially

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<sup>61</sup> Ghatak & Singh, *supra* note 10, at 30-31.

<sup>62</sup> Ministry of Finance, *supra* note 46, at 178-80.

<sup>63</sup> Davala et al., *supra* note 5, at 130-34.

on the rationalisation of existing, often poorly targeted, subsidy programmes.

None of this amount to a claim that UBI is constitutionally or internationally compelled in any strong sense. It is, however, a claim that UBI, designed along the lines suggested in Part VII, represents one of the more coherent instruments currently available for discharging social security obligations that states, including India, have already accepted, and that the human rights framework, far from being incidental to the UBI debate, should be treated as central to how such schemes are designed, financed, and evaluated.