

The Social Contract Revisited

The Feasibility of a Basic Income

Michael Opielka

The Foundation for Law, Justice and Society

in collaboration with

The Centre for Socio-Legal Studies,
University of Oxford

www.fljs.org

The Foundation for Law, Justice and Society



Executive Summary

- The original concept of a social contract based on wage-labour and family has recently been superseded by a social contract centred on citizenship and social rights. Alongside this shift in focus, the idea of a basic income – an unconditional claim to a regular, individual, decent income addressed to the political community – has recently become more prominent, and gained considerable support.
- This policy brief will discuss some normative and political aspects of the feasibility of a welfare reform based upon the idea of a basic income. Firstly, it will make the case for the increasing irrelevance of a wage-centred welfare state, in the wake of recent rises in economic productivity and, more significantly, the increasing social inequality confronting disadvantaged citizens. Secondly, it will focus on some current debates in Germany, arguably the heartland of the welfare architecture of wage-based social insurances, in order to assess the practical implications of various theoretical approaches.
- By analysing the practical attempts to implement a basic income such as the negative income tax and the social dividend variants, this policy brief will put forward a fourth welfare regime concept known as ‘guarantism’ – a refinement of the concepts behind the well-known liberal, conservative, and social-democratic welfare regimes – as a means by which the concept of the social contract can be realigned to meet the distinct challenges of the twenty-first century.

The Feasibility of a Basic Income

From wage-labour to citizenship and social rights

In industrialized countries, almost all healthy males between the ages of thirty and fifty are either in work or seeking it. The victory of the labour society demanded the welfare state. Where there is no welfare state, as is the case in many developing countries, there is no labour society either.

Over the last twenty-five years or so there has been criticism of the idea of a utopia based on work and full employment. Observers hope that demographic developments will ensure that the problem of unemployment, at least, will correct itself: the lack of new recruits to the workforce will reduce the labour supply, so that by 2012 at the latest industrialized countries will have balanced labour markets. Others argue that the current crisis in the labour market, which triggered a corresponding crisis in the social systems depending on paid labour, is indicative of a more profound social change. The romantic enthusiasm of the twentieth century, which is still evident in social democracy and trade unions (the 'work, work, work' paradigm), is being replaced by a new kind of romanticism, the social utopia of a guaranteed basic income, providing a means of participating in a society based on human rights, without any reliance on the labour market.

Would the idea of a basic income point the way to a *new social contract* based on ethics and human rights, on a secular civil religion which contains, as the famous American sociologist Talcott Parsons once hoped, the truths of the great religions as well?

Is the development of productivity making human labour superfluous?

Modern economy is based on services and knowledge. By contrast, indolent feudalism was based on exploitation, above all in the primary economic sectors (mining and agriculture) and to some extent in the secondary sectors (manufacturing). The expansion of industry required capitalism, as did the shift towards a service society which began in the 1960s. Nevertheless,

macro-theories of social change now find themselves on slippery ground. Above all, the theory that capitalism drives economic development, which in turn leads to the welfare state and advanced democracy is perhaps less relevant in modern developed economies. A crucial factor is the development of productivity which, so it is said, is increasingly marginalizing the importance of human labour. If that were the case, however, then income distribution should no longer be linked primarily to labour – an argument analogous to that of a basic income which does not depend on work. Still, the national labour markets in most Organisation for Economic Co-ordination and Development (OECD) member countries are proving, at least so far, to be very elastic, despite increased productivity. It would seem, therefore, that an increase in productivity does not directly constitute grounds for a non-work-dependent basic income.

There are, however, two serious objections to this optimistic prognosis of the unlimited capacity of the labour markets to adapt to technological and social change: first, that dramatic productivity increases are still to come; and second, that more and more citizens experience inequality and exclusion. The first of these objections was made popular by Jeremy Rifkin in *The End of Work* (Rifkin 2004). Jobs are being lost in the production sector worldwide. In the twenty biggest OECD economies, 31 million jobs were lost between 1995 and 2002, and during the same period 15 million manufacturing jobs were also lost in China. Moreover, in the future there will be comparable job losses in the white-collar and service sector as well. This is because productivity increases based on new technologies in the service sector did not start to take hold until the 1990s. Banks and other service providers are already making large numbers of employees redundant. Internet banking, voice-recognition systems, automated supermarket checkouts, and internet traders all indicate that the service sector will show possibly an even more dramatic collapse in numbers of jobs than the

manufacturing sector. This insight is hard to refute. The numerous simulation studies carried out in recent years have produced findings that are at the very least suggestive of a major trend. Only in the area of personal and (at least up to now) rationalization-resistant services – education, health, and social services sectors – can noticeable growth in employment be observed. Whether the immunity of these sectors will hold, given the development of e-learning and the calls for the rationalization of health services, may be an open question. On the other hand, Rifkin expects millions of jobs to be generated by the conversion of the energy economy to hydrogen energy and fuel-cell technology, though admittedly even these will provide no more than a breathing space for the labour markets. This first objection may not be sufficient in itself to support the argument that there is a fundamental change in the labour markets' role in distributing work and income, but should indicate that some action is needed in the medium term to redress the effects of these shifts in labour markets.

The second objection to an optimistic continuation of the status quo is based less on the future effects of technological changes on employment than on various already recognizable social changes. The predominant work model in an information-based economy is the division into 'core staff' and 'available staff', the latter being hired or fired according to the market situation. To many working people, this development towards flexibility seems to be positive, since it means that gainful employment can finally be tailored to suit their requirements too. This is also the reason for the increase in the number of women in work, which has occurred in all industrialized countries, in some cases to a considerable extent. But for those disadvantaged members of society for whom finding a reasonably paid job is already difficult, this change has served to increasingly marginalize and disenfranchise them.

This process of social exclusion has its origins in the radical changes in gainful employment, the weakening of family ties, and the increasing inability of the welfare state to promote social 'inclusion'. The latter is our focus here. Labour market policies focusing on

'activation' and 'workfare' (instead of 'welfare') turn out to be non-inclusive although they were intended to re-integrate the long-term unemployed. In Germany, thanks to the Red-Green government's 'Agenda 2010', benefit claims on the social state have been reduced since 2003, and since 2005 (as a result of the so-called 'Hartz IV' reform) an 'Arbeitslosengeld II' (Unemployment Pay II) has been introduced at social-assistance-benefit level for all those who have been unemployed for more than a year. Evaluation of the German labour market reforms ('Hartz I-IV') shows a mixed picture so far. Only some of the objectives sought have been achieved, and no causal effect on long-term unemployment has so far been identified (Kaltenborn et al. 2006). Evaluation studies of British 'activation' policies show similar disappointing results (Walker 2005). The costs of the European employment policies aiming mainly to push low-skilled persons into the labour market are high for the least advantaged and they conflict with the ideas of justice among the European population (Esping-Andersen 2002).

The exclusion of an ever-increasing number of people from the labour market and its margins links the economic problem – coupling paid work and income – directly to the issue of social civil rights. The twentieth century gave rise to an increasingly demarcated class compromise between labour and capital, whereby the trade unions and political parties acted as advocates of employed people, while the unemployed had no powerful advocates to protect their rights. Stein Ringen has identified 'the deprivation of the left-behind' as our primary contemporary 'objectionable inequality' (Ringen 2006). The political community is currently faced with a stark choice: it can either leave the existing socio-economic structures unchanged, thereby running the risk of excluding more citizens from the labour market and increasing the strain on social welfare, or income distribution will have to be fundamentally modernized and politicized by the introduction of a basic income.

Is it possible to introduce a basic income which is not dependent on work?

In principle, two technical variants of a basic income are conceivable. One variant guarantees every citizen a basic income, but presupposes that it will only be paid when

the 'primary' income; that is, earned income and investment income, plus maintenance claims, are not enough to provide a livelihood. The other variant pays a basic income for each and every citizen, irrespective of any other income. In the basic income debate, which has been going on now for more than fifty years, the first variant is known as 'negative income tax' (or *Bürgergeld* [citizen's income] in Germany), while the second variant is known as the 'social dividend'. From a social contract perspective, basic income would be conceived as 'primary' income no less than market income; it is an unconditional social right.

Negative income tax

Social assistance as it exists in practically all welfare states, is not a basic income, since it is linked to 'willingness to work'. Whilst an unwillingness to work leads, in principle, to the loss of entitlement to income, in practice this applies only to those who are referred back to their families (e.g., young people, housewives without income on their own) or those for whom benefits in kind are provided (e.g., asylum seekers). In effect, therefore, social assistance works exactly like the 'negative income tax' variant of basic income, though willingness to work is still held, ideologically, in high esteem. This means that, increasingly, social assistance is developing into a wage subsidy. Either additional earning opportunities are expanded, as in the German 'Unemployment Pay II' scheme, or the social assistance is reduced to a minimum amount, below the societal minimum subsistence level, while an 'integration allowance' is paid. However, there is still discrimination attached to receiving social assistance or 'Unemployment Pay II', and it is made clear, with varying degrees of insistence, that people should at least make an effort to find a job.

A basic income, on the other hand, is based entirely on incentives and refrains from imposing any kind of state 'obligation to work'. 'Negative income tax', which is preferred by liberal (or libertarian) economists and political advisors (the most famous of these was Milton Friedman and, recently, Charles Murray), would perfect the incentive to work. Additional income would be taxed at 'only' around 50 per cent, so that all those in gainful employment, from subsistence level up to

double the level of the basic income (known as the 'break-even point'), would receive a mixture of their own 'primary' income and 'negative tax'. The advantage of this variant of the basic income is its elegance, from the model-theory point of view, and its 'incentive compatibility': in effect, the extensive subsidisation of a low-wage sector. The disadvantage is that a considerable proportion of households with low-earning income become recipients of basic income, which would require enormously increased financing, or (better) redistribution. Moreover, liberal economists would like the level of the basic income to be set as low as possible in order, on the one hand, to increase the incentive to work and, on the other, to limit the costs. This, on the other hand, sets trade unions and many social reformers against this basic income variant.

However, even in the case of 'negative income tax', interesting modifications are possible, which mitigate some of the disadvantages. Germany has explored various alternatives, such as the 'solidarity citizen's income' model (*Solidarisches Bürgergeld*) that the Christian-Democrat prime minister of the Free State of Thuringia, Dieter Althaus, brought into public debate in summer 2006. The special feature of this model is that citizens may choose between two levels of citizen's income: a higher citizen's income of €800 with 50 per cent rate of offset against tax, and a lower citizen's income (€400, with 25 per cent tax rate). The lower amount is attractive for persons with an earned income of more than €1600 per month. The financing of health and care insurance is systematically integrated into this model in the form of a 'health and care premium' of €200, which has to be deducted from the citizen's income. An economic analysis of this model showed that the tax and offset rates need to be increased, but its financing seems feasible (Opielka and Strenghmann-Kuhn 2007). In 2007 the Christian-Democratic party (CDU) installed a national commission to develop practical steps towards the implementation of the '*Bürgergeld*' model; a precedent which other German parties have followed. The liberal party (FDP) adopted a negative income as early as 1996, and more recently, in 2007, the Green party (Bündnis 90/Die Grünen) devoted a national convention to this issue and the Social Democrats (SPD) started internal debates at a national level.

The Althaus model has some similarities with Charles Murray's recent proposal to replace the welfare state with a simple 'guaranteed income' (Murray 2006). In his model, all the money currently used in transfer programmes (social security, agricultural subsidies, corporate welfare, as opposed to national defense, clean air, etc.) would be redirected into a new programme that gives each citizen an annual \$10,000 cash grant, beginning at age twenty-one. The plan would cut the Gordian knot: everyone would be required to buy health insurance, insurers would have to treat the entire population as a single pool and changes in tort and licensing laws would enable low-cost clinics for minor problems. But Murray's purposes are larger: to enable the search for a vocation by making it easier to change jobs; to encourage marriage among low-income people; and to move social welfare support from bureaucracies back to civil society. The contrast between Murray's proposal and the Althaus model, however, is wide: Althaus does not want to abolish the welfare state at all but to reframe it with basic income on universalistic grounds.

A social dividend

The second basic-income variant would pay every citizen a 'social dividend' as his or her share of society's prosperity. This would be a basic income in the true sense: an individual legal entitlement, independent of any other income. Any additional income would then have to be taxed and made subject to social welfare contributions. If the level of basic income was set at the Economic Union (EU) poverty level of 50 or 60 per cent of the national average income, it is likely that there would be an enormous requirement for redistribution. In technical terms, this model too would act like 'negative income tax' and would thus require considerable offsetting of additional income. Using a 50 per cent threshold (including taxes and social welfare contributions), here too people would not become net (tax) payers until they earn more than the average income, or double the basic income. If the basic income level was set at 60 per cent of average income, one would become a net payer when one earned 120 per cent of the per capita income. That would mean a huge redistribution programme: all those receiving a below-average income would be entitled to a mix of basic and

other income, and whilst the proportion paid by the state would not exactly be reduced, this would be offset by the considerable advantage to be gained from the fact that the labour market could be completely deregulated. This is because, for every citizen, not only would the basic income always be guaranteed, without the need to apply for it, there would also be the incentive to work provided by the fact that all additional income, however small, would increase household income significantly. A model along these lines was proposed by the German entrepreneur Götz W. Werner, who introduced an interesting modification, whereby the basic income would be financed not by income tax, but by consumption tax (Werner 2007). A 'social dividend' model of this type would therefore not be integrated into the income tax rates as a 'negative income tax' type, but would be an independent type.

As with all 'great' reform plans, there are various complicating factors which need to be addressed and clarified. First, a series of important technical issues need to be examined closely as they have significant consequences, above all on the level of the basic income. For example, there is the question of whether, and if so, how, health, care and pensions insurance should be identified within the basic income. Then there is the question of whether, in a basic income paid to all citizens, it would not be more sensible for housing costs, which account for a considerable proportion of the total amount (e.g. for a single person living alone an average of about €316 in Germany), to be left completely out of the picture, and to be subsidized or paid in full separately, so as not to subsidize home-owners unnecessarily. Finally, one might also ask whether a general basic income should not be completely neutral as regards household type. If the basic income is apportioned per household, this would unfairly benefit people living alone, but if each individual receives a basic income, at what age do they qualify to receive it? These three questions alone – inclusion of social security, housing costs, and reference to household type – indicate the complexity of the issue of determining the level of a basic income.

Let us assume that it were possible to agree on a solution that is as neutral as possible; that is, on an overall solution in terms of social policy, on the non-inclusion of housing costs, and on the non-inclusion of reference to household type. In that case it is possible to imagine *two introductory variants* for a basic income. In the first variant, the basic income is paid to everyone in principle, though in practice it has to be applied for, though without the current need to provide proof of income. At the end of a calculation period (e.g. quarter or calendar year), if one's actual total income exceeds the basic income, he or she has to pay back the 'unjustified' amount of basic income received, plus the usual bank overdraft interest. This makes it unattractive for the majority of people in paid work to apply for the basic income. The state basic income fund would be a sort of personal bank for high earners. Various practical problems may arise, such as how to deal with those who default on repayment of these loans, but revenue from interest would be considerable, and the social security function of the basic income becomes clear. Housing costs in this variant are paid by means of a housing allowance law (e.g. a basic-income supplement), either in full, if there is no further income available, or in part, when family members have income from earnings or investment. In this variant, the basic income alone would not be enough to guarantee a livelihood, but in combination with the housing cost supplement it would be sufficient. To that extent it would be a 'partial' basic income. In this first variant housing costs remain the venue of means testing, with all the attendant complications of how to assess these costs; however, the improvement of social guarantees would be considerable.

The second variant would also be a 'partial' basic income, but in this case it would not be housing costs which are the deciding factor; rather, the amount necessary to guarantee a livelihood would be split into an allowance and a loan. It is along these lines, for example, that assistance is provided to university students under the German Federal Education and Training Assistance Act (known as the *Bundesausbildungsförderungsgesetz* or 'BAföG'), leaving aside the fact that parental income is still taken into consideration. Half of the BAföG is paid

as an allowance and the other half as a (low-interest) loan. A 'BAföG for all', which has been proposed for Germany using the model of a 'basic-income insurance' (Opielka 2004), would also ensure a basic income for those who did not wish to make themselves available to the labour market. This model applies the architecture of the Swiss pension system (AHV) to all social security systems guaranteeing income: anyone who has paid contributions for at least three years, is available for work, is ill or unfit for work, is an old-age pensioner (sixty-seven years and older), or is bringing up small children up to the age of three, receives the basic income and/or, as a maximum, double the amount of the basic income, depending on previous income. The 'basic-income insurance' model combines the insurance aspect of social security with the universalist approach of tax-funded models. However, the real test of basic income concepts comes with how they deal with those persons who are not willing to accept any opportunity for paid work. In the 'basic-income insurance' model, the loan portion of the basic income replaces bureaucratic control. Yet, the loan portion for those who refuse to enter the labour market could be reduced to zero by offsetting additional (earned) income against the allowance. Activities undertaken for charitable organizations, or educational and care work, could be taken into account at a flat rate to reduce the loan to zero, or improve the income level. The difference between this model and current models in Germany ('one-euro jobs') or Switzerland ('integration allowance') is essentially the liberalism and dignity of this solution. People are treated neither as cheap labour nor as educational subjects, but as citizens who are in control of their time and their income (including their debts).

The crucial difference between a 'genuine' basic income and its introductory variants on the one hand and any sort of conventional social security solution on the other, is the rejection of dependency on work, of an ideology of gainful employment which is no longer relevant. This is not contradicted by the fact that the basic income encourages entry into the labour market, since it also encourages entry into charitable activities in the 'third sector'. The basic income is not intended to encourage people to opt out of society, but rather to enable them

to decide for themselves how they wish to opt in. Those who already opt out, mostly through resignation, seldom through conviction, will not be in a better position than they are today, and in the introductory model based on a 'BAföG for all' they will even be worse off, because they will be carrying a burden of debt. Yet they will no longer be discriminated against but treated as free citizens, just as the heirs to fortunes and unemployed children of prosperous parents are regarded today. The lack of discrimination, however, will seriously improve the cultural and mental situation of all those who do not want to opt out, but who unsuccessfully seek work and end up in despair (although for those people, social work and therapeutic services ought to be offered). Encouragement instead of exclusion: that

would be both democratic and liberal.

'Guarantism': the fourth way of welfare state development

The 'welfare regime' theory (social democratic, liberal, and conservative welfare regimes) as developed by Gøsta Esping-Andersen at the end of the 1980s can be seen as the most influential effort in social policy research to combine cultural (ideational) analysis with structural analysis (Esping-Andersen 1990). Some scholars additionally proposed a 'Mediterranean' welfare regime, others a 'Confucian' or 'Asian' one or a 'post-communist' type. A more sociologically based typology is presented in Table 1. The new fourth welfare regime concept of 'guarantism' takes into account that the welfare regime typology is first and foremost a construction within political culture.

Table 1: Four types of welfare regimes

Variables	Type of welfare regime			
	<i>Liberal</i>	<i>Social-democratic</i>	<i>Conservative</i>	<i>Guarantist</i>
Decommodification	weak	strong	medium (for 'family provider')	strong
Privatization	high	low-medium	low-medium	medium
Corporatism/etatism	weak	medium	strong	weak
Redistributional capacity	weak	strong	weak	medium
Full employment guarantees	weak	strong	medium	medium
Role of: <ul style="list-style-type: none"> ● market ● state ● family/community ● human rights 	central marginal marginal medium-high	marginal central marginal medium	marginal subsidiary central marginal	medium subsidiary medium central
Dominant form of welfare state solidarity	individualistic	labour-centred	communitarian, etatist	citizenship, universalistic
Dominant societal guiding principle	market	state	morals	ethics
Real world examples	United States	Sweden	Germany, Italy	Switzerland ('weak guarantism')

Source: Opielka 2004, p. 35 (extended and reworked)

market integration, nor the social-democrat model with its focus on universalizing labour markets or the conservative model mixing family and corporatist integration seem to be adequate on their own. A welfare state centred on any of the three regimes, noted above, that define the classical triad of Esping-Andersen's welfare regime typology, does not solve the problems attributable to the disintegration of modern labour markets. A reconstitution of the achievements of each of those models into a fourth welfare regime type – 'guarantism' – would organize welfare rights around the citizen by means of a basic income.

This new social contract incorporates aspects of the 'capability approach' of Nobel Prize winner Amartya Sen, in that it is a theory of human well-being which emphasizes the importance of freedom of choice, individual heterogeneity and the multi-dimensional nature of welfare (Sen 2006). Each individual's functional capabilities are dependent to different degrees upon various external factors such as class, gender, or place of birth. It is this conception of human well-being that makes incontrovertible the principle that any good society ought to mitigate such discriminations by promoting people's freedom to lead a fulfilled life. Refocusing the social contract along these lines would seem to be the best way to ensure the sustainability of the welfare state in the twenty-first century.

References

- Esping-Andersen, Gøsta (1990) *The Three Worlds of Welfare Capitalism*. Princeton: Princeton University Press.
- Esping-Andersen, Gøsta (2002) 'Towards the Good Society, Once Again?' In: Esping-Andersen, Gøsta et al. *Why We Need a New Welfare State*, Oxford. Oxford University Press, pp.1–25.
- Kaltenborn, Bruno et al. (2006) 'Hartz: Arbeitsmarktreformen auf dem Prüfstand', *Sozialer Fortschritt*, 55(5): 117–24.
- Murray, Charles (2006) *In Our Hands. A Plan to Replace the Welfare State*. Washington: AEI Press.
- Opielka, Michael (2004) *Sozialpolitik. Grundlagen und vergleichende Perspektiven*, Reinbek: Rowohlt.
- Opielka, Michael (2008) *Gesellschaft für alle. Was das Grundeinkommen bewirkt*, Hamburg: Murmann.
- Opielka, Michael and Strengmann-Kuhn, Wolfgang (2007) 'Das solidarische Bürgergeld. Finanz- und sozialpolitische Analyse eines Reformkonzepts'. In: Michael Borchard (ed.) *Das Solidarische Bürgergeld. Analysen einer Reformidee*, Stuttgart: Lucius & Lucius, pp. 13–141.
- Rifkin, Jeremy (2004) *The End of Work: The Decline of the Global Labor Force and the Dawn of the Post-Market Era*. New York: Penguin.
- Ringen, Stein (2006) *Reflections of Inequality and Equality*. SP I 2006-201, Berlin: Social Science Research Center.
- Sen, Amartya (2006) *Inequality Reexamined*. Oxford: Oxford University Press.
- Walker, Robert (2005) *Social Security and Welfare. Concepts and Comparisons*, Maidenhead: Open University Press.
- Werner, Götz W. (2007) *Einkommen für Alle*. Cologne: Kiepenheuer & Witsch.

The Foundation

The mission of the Foundation is to study, reflect on, and promote an understanding of the role that law plays in society. This is achieved by identifying and analysing issues of contemporary interest and importance. In doing so, it draws on the work of scholars and researchers, and aims to make its work easily accessible to practitioners and professionals, whether in government, business, or the law.

The Social Contract Revisited

The aim of the Foundation's programme, *The Social Contract Revisited*, is to establish the theoretical and institutional underpinnings that characterize the reciprocal rights and obligations amongst citizens and between the citizens and the state in modern liberal society. Through publication of the findings of such study, the Foundation will enrich both the theoretical and the policy debate concerning some of the most fundamental issues facing modern Western societies.

Michael Opielka is professor of Social Policy at the University of Applied Sciences, Jena, managing director of the Institute for Social Ecology in Königswinter and a lecturer at the University of Bonn. In 2004–5 he was visiting scholar at the University of California at Berkeley, School of Social Welfare. Formerly a parliamentary advisor of the German Green Party in the federal parliament for social policy, today he is a member of the commission for a 'Solidarisches Bürgergeld' (Basic Income) of the Christian Democratic Party and consultant to the Friedrich-Ebert-Foundation of the Social Democratic Party. He was founder of the German Basic Income Network and is the author of numerous articles and books on social policy, sociology, religion, and culture.

For further information please visit
our website at www.fljs.org
or contact us at:

The Foundation for **Law, Justice and Society**

Wolfson College
Linton Road
Oxford OX2 6UD
T · +44 (0)1865 284433
F · +44 (0)1865 284434
E · info@fljs.org
W · www.fljs.org