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# Transfer in a Conflict Model as a Reason for (Unconditional) Basic Income

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## **Abstract**

In the discussion about a universal basic income, the dimension of conditionality comes up frequently in the context of work requirements for social security policies. In these exchanges one aspect that comes up frequently is the costs of a universal social policy. In this article we apply a conflict model to the case of a basic income that suggests incentives for a government to pay a transfer to reduce and prevent conflict. These incentives justify the costs of the transfer program. However, the property that reduces conflict potential is the conditionality to lay down your arms. We discuss the condition of obeying the law to establish peace and a functioning economy. We argue that this conditionality is inherent to any form of societal participation and is a prerequisite for any social policy. Thus, it does not reject unconditional programs. Further, we discuss ways in which the constitutional perspective and the New Ordoliberalism may justify such conditionality.

## **Keywords**

Unconditional basic income, universal basic income, conditionality, conflict economics, transfer, constitutional economics, New Ordoliberalism.

## **1. Introduction**

In this paper we develop and discuss a reason for a government to pay for social protection and especially a basic income.

Gentilini et al. (2019) order social security policies along three dimensions: targeting, conditionality, and transfer modality (Gentilini, Grosh, Rigolini, & Yemtsov, 2019, pp. 20-38). A universal basic income (UBI) provides a clear statement about each dimension (Gentilini, Grosh, Rigolini, & Yemtsov, 2019, pp. 73-97). The targeting aims to be universal, i.e. no one should be excluded, conditionality is set to be unconditional, and the transfer takes the form of cash payments. Nevertheless, each of these three demands is hotly debated in the UBI discussion.

The first dimension of universality ends where the political realm ends, i.e. usually at the national borders. Thus the connection with eligibility is often said to be tied to citizenship, making it a national social policy (Parijs & Vanderborght, 2017, p. 7). Further, by making everyone eligible, the lack of a means test is often criticized due to the cost of the program (Habermacher, Kirchgässner, & others, 2016). However, this depends on the treatment of property on the financing side and whether people end up being net payers or net receivers of such a social policy (Tondani, 2009, p. 247).

Secondly, conditionality is highly disputed when it comes to fairness. Receiving something without effort may seem unfair since it goes against reciprocity. Further, it is sometimes thought to support the idle at the expense of the working section of society. However, based on liberty conceptions, it may be necessary to support people irrespective of their idleness, as Van Parijs illustrates in the debate “Why surfers should be fed” (Van Parijs, 1991). Clearly, the distribution of social resources based on reciprocity is a complex matter that is not reflected in the social systems of the western world (Noguera, 2007).

Finally, the transfer modality in the form of cash payments appears to be in line with liberal thinking and thus efficient from an economic perspective. Of course, such liberty in spending the donation may require a certain degree of responsibility and the capability to solve the problems the transfer aims at (Parijs & Vanderborght, 2017, p. 108). Thus restricting the freedom of users can prevent the misuse of money (Ghatak & Maniquet, 2019, pp. 899-901).

In this paper we develop and discuss a reason for a government to introduce a social policy such as the UBI. Paying a UBI may decrease crime resulting from absolute poverty and desperation. We conclude this from the analysis of a transfer in a conflict model by Franke and Neumärker (2022), who apply it to global climate agreements. This paper applies the same model to UBI instead (Franke & Neumärker, 2022, pp. 114-120).

By showing the applicability of the model to UBI we find that the transfer is required to set incentives on the recipient's behavior. Therefore, the transfer scheme is subject to some conditions. However, this conditionality takes the particular form of obeying the rules of the respective society, a topic rarely discussed in the UBI debate. We highlight the relationship between the UBI and the restriction the law system imposes on the behavior of the citizens.

Restricting UBI payments by conditions to follow social rules may go against associated perceptions of unconditionality. Accordingly, Bidadanure (2019) connects "the notions of freedom, choice, dignity, and equality" to unconditionality (Bidadanure, 2019, p. 485). Thus, we provide a constitutional justification for such conditions. Society may benefit from the stability and enforcement of the constitution, as the New Ordoliberalism suggests. Further, the constitution legitimizes these conditions by giving them a constitutional framework instead of arbitrary interventions of day-to-day politics (Neumärker, 2017, pp. 830-831).

Therefore, section 2 applies the conflict model to the situation of a government fostering peaceful behavior by offering a transfer payment in exchange. Accordingly, in section 3, we discuss the argument of the conditional transfer program in terms of the feature of conditionality. The result relativizes the distinction between conditional and non-conditional programs in the case of a UBI. Section 4 embeds the results of the previous sections in the constitutional design perspective, connecting it to the New Ordoliberalism in section 5. Section 6 concludes the discussion.

## **2. Transfer in a conflict model as a reason for basic income**

Franke and Neumärker (2022) investigate a transfer in the classic rent-seeking model (Franke & Neumärker, 2022). In this section, we show how the model may fit to describe a transfer payment to the citizen paid by the government. We present a possible motivation for stabilizing a constitution efficiently and apply the model's results to this interpretation.

First, let us consider the setting and the main findings. A simple rent-seeking game in STAGE 2 is embedded in a pre-commitment possibility for PLAYER 1 in STAGE 1 and the transfer settlement in STAGE 3.

- “STAGE 1: PLAYER 1 announces and pre-commits to the transfer program depending on the conflict investment.
- STAGE 2: Both PLAYER 1 and 2 simultaneously commit to conflict investments.
- STAGE 3: The conflict results are distributed. Settlement of the transfer depending on the commitment in STAGE 1 takes place, taking the conflict investment in STAGE 2 into account.” (Franke & Neumärker, 2022, p. 115).

In this setting, we analyze the optimal transfer design of PLAYER 1. We assume PLAYER 2 to behave rationally and be willing to accept worthwhile transfer offers at the cost of their option to invest in conflict activities. The following four findings are of interest in applying the model to the UBI.

First, there is a potential for Pareto-optimal transfer by PLAYER 1 (Franke & Neumärker, 2022, pp. 114-120).

Second, the idea of total peace via the transfer is shown to be unfeasible. Depending on the contest success function (Hirshleifer, 1989), (Franke & Neumärker, 2022, p. 114) and on the expectations of PLAYER 2 of the conflict investment of PLAYER 1, a transfer offer for total peace can be pretty expensive. Instead, a solid conflict investment by PLAYER 1 and respective expectations of this conflict investment by PLAYER 2 is efficient in deterring PLAYER 2 from rejecting a transfer (Franke & Neumärker, 2022, p. 118).

Third, the consideration to design a transfer by PLAYER 1 is investigated along with different expectations from both PLAYERS. Having both PLAYERS adapt their behavior to the expected behavior of their contestants yields the “Marginal benefit calculus” (Franke & Neumärker, 2022, pp. 118-119). Here the optimal transfer design depends only on the valuation of the prize by PLAYER 2.

Finally, fourth, in the extension of the analysis to multiple PLAYERS, it is shown that a transfer considered to incentivize a large share of contestants is disproportionately more expensive than incentivizing one contestant at a time. Further, the public good problem of freeriding in transfer provision may arise in cases where many contestants want to incentivize individuals or groups of contestants. However, this issue would be relevant in the pre-commitment STAGE 1 (Franke & Neumärker, 2022, pp. 119-120).

Now that the main lessons of the model are clear, we pursue the question of whether a transfer program of social policy is valid on this basis.

Dropping out of economic life for people dependent on consumption is mostly not an option and not compatible with the objective of utility maximization. However, the possibility of generating income outside of markets is relevant for societies aiming at efficiency. If property rights are not guaranteed, it may make sense to direct one's energy toward illegal activities. Thus, theft and robbery can follow economic calculations. Depending on the probability of detection, the threat of punishment, and the expected profit, crime can be a profitable option for homo economicus (Becker, 1968, p. 37). We see this option as a form of conflict activity, such as rent-seeking (Tullock, 1975).

The government aims to enforce the law effectively at minimal costs and therefore uses the threat of punishment as well as a high detection rate of crime (Cooter & Ulen, 2016, pp. 477-479). Note that the economically motivated criminal also considers their

opportunity costs to the criminal activity. Thus they take the situation without conducting a crime into account (Cooter & Ulen, 2016, pp. 497-499). Redistribution to the poor effectively improves the opportunity costs to live as a criminal by improving the situation as a well-behaving citizen (Cooter & Ulen, 2016, p. 498), (Buchanan J. M., 1999c, pp. 73-77).

However, redistribution is not so simple due to the complexity of the tax system (Blankart, 2017, p. 212), the tax-transfer systems (Schöb, 2019), and the heterogeneity of the population (Ghatak & Maniquet, 2019). Therefore we consider the transfer to take the form of a basic income. Moreover, the simple conflict model provided is a good starting point for analyzing fundamental economic motives for redistribution to avoid conflict.

Assume PLAYER 1 is initially entitled to the prize. This way, the rent-seeking game does not change technically if the prize or shares of the prize are obtainable with the same contest success function. Then we can interpret the parameters of the model as follows:

- Prize in the conflict model:
  - ➔ PLAYER 2: available gains from appropriative activities, whether legal or not.
  - ➔ PLAYER 1: available gains from defending against appropriative activities, e.g., keeping the prize.
- Conflict activities:
  - ➔ PLAYER 2: appropriative activities, such as theft, robbery, and fraud.
  - ➔ PLAYER 1: defensive activities, such as patrolling, locking doors and windows, activating alarm systems, and carrying a weapon (e.g., a gun or pepper spray).
- Conflict investments:
  - ➔ Both PLAYERS: Training, time, and equipment for the conflict activities.
- Winning probability:
  - ➔ PLAYER 2: the share of the prize, PLAYER 2 appropriates.
  - ➔ PLAYER 1: the share of the prize, PLAYER 1 keeps.

Assume the prize to be some form of wealth that one can acquire by violating the existing law, whose enforcement is in the government's interest, just as it is for PLAYER 1. Then, the act of violating the law can be considered an activity of conflict. Usually, the law enforcement system combats activities that violate the law. Nevertheless, law enforcement is not complete, and it causes considerable costs, especially when the punishment for violation of the law itself causes costs a lot of money instead of repairing the damage caused (Becker, 1968). Hence optimizing the processes of the law system concerning the costs is also an economic task (Cooter & Ulen, 2016, pp. 382-386). In such a situation, some may consider committing crimes out of economic motivation. Even by planning their crime and investing in the equipment to carry it out. These would

be wasteful conflict investments in society. The same applies to the required defense against possible crime, such as more enforcement of the law in the form of police and prisons as well as private property protection, for example. Alternatively, the government may play the conflict game by investing in increased direct enforcement, such as more police and harsher punishments (Mueller, 2003, pp. 406-426).

On a sufficiently abstract level, we consider the gain of this conflict activity to be a share of the prize when contesting the wealth in a society. Hirshleifer (1991) makes it plausible that small contestants may be capable of securing an over-proportional share of a contested prize, especially if their productive alternative is less lucrative (Hirshleifer, 1991).

When considering the payment of a basic income, we interpret giving away some share of societal output to everyone as a transfer in the model developed by Franke and Neumärker 2022. Empirically the connection between basic services and basic income is crucial in social protection (Tercelli, 2013). Even if the exact size of the effect is not known, the evidence shows that UBI tends to reduce crime (Akee, Copeland, Keeler, Angold, & Costello, 2010), (Watson, Guettabi, & Reimer, 2020), (Dorsett, 2020).

Attaching incentives to the payment of a transfer may have several positive effects on the economically motivated crime of poor people. First, the opportunity cost of conducting a crime and the harm of punishment may rise due to losing a life with the transfer money as against losing a life without this money. Further, for the punishment of bankrupt people costly imprisonment may be required, whereas taking away a transfer allows for monetary punishment of a higher degree. Ackerman and Alstott put this as follows: “In addition, we propose a cautious use of stakeholding as a sanction in the criminal law justice system. At the present time, the only way we have to punish young adults is to deprive them of their personal liberty. Stakeholding will, however, for the first time, also allow us to use financial sanctions against youth crime. For example, we would put nineteen year olds on notice that participation in the drug-trade would mean the loss of all or part of their stakes. For many people of eighteen or nineteen, such a threat might have more deterrence value than a prison term.” (Ackerman & Alstott, 1999, p. 253). For this effect to occur, the basic income may not be the security for a loan. Note that this does not help motivating addicted or ill people, which we will discuss in the next section, nor is it sufficient in combating terrorism (Krieger & Meierrieks, 2009).

In typical designs of UBI elements such as the existence minimum or a minimum wage are integrated (Widerquist & Howard, 2012, pp. 207-209). In the conflict model, these considerations are not relevant since the players are explicitly modeled without liquidity constraints (Franke & Neumärker, 2022, p. 114).

Now we can apply the four findings by Franke and Neumärker (2022) to the interpretation of the transfer as UBI.

First, there is very likely to be potential for Pareto-optimal transfer if we interpret the situation of a government itself defending against appropriative assaults due to economic reasons as a simple rent-seeking game (Franke & Neumärker, 2022, pp. 114-120). If the valuation of the prize by PLAYER 2 is not way beyond the valuation of the prize by PLAYER 1, then PLAYER 1 will be able to design a worthwhile transfer scheme (Franke & Neumärker, 2022, pp. 117-118). One possible form of targeting all potential contestants, i.e., potential PLAYERS 2 or multiple PLAYERS beyond PLAYER 1, is providing a basic income linked to the demand of obeying the law. The basic income may

take the form of a UBI or an integrated basic income scheme, such as the negative income tax, since these can be designed as equivalent in terms of net payments (Tondani, 2009, pp. 246-247).

Second, since total peace is not possible, we can conclude that there will be a requirement, however low, for basic defense (Franke & Neumärker, 2022, pp. 114-120). Cheap but effective tools, such as locked doors on the private site and a working law system and its enforcement, are highly recommended. The alternative would involve investing much more. The carryover of this result is limited to the fact that in the conflict model the PLAYERS keep what they earn due to the model being static. In a world without law, all attained property that is not immediately consumed may be vulnerable to appropriation by someone else. Therefore, securing property can be considered a requirement of any transfer scheme (Krieger & Meierrieks, 2019, p. 24). Since redistribution requires functioning property rights and, therefore, law enforcement, which we consider in this article to be a defense activity, total peace may be ruled out from this standpoint.

The third finding is that the optimal design of the transfer depends only on the valuation of the prize by PLAYER 2. This observation goes against the design of the transfer scheme in the form of a basic income since the valuation of the goods may differ from person to person. This allows for an individually designed transfer. Nevertheless, gathering the required information for such a transfer design may come at a cost, if it is possible at all in the first place, due to the information asymmetry combined with the incentives to report a high valuation of the price to gain a high transfer amount. The details are a question for further research. However, as a second-best policy, the same transfer amount per person seems reasonable.

Since we interpret the prize to be goods, it is very likely for it to be of some value to every possible contestant in society. Thus, paying a UBI to everyone is a good approach if accepted as a feasible second-best strategy.

The fourth and final finding is about the public good problem. Since we consider PLAYER 1 the government, it can lessen the issue of freeriding. This way, PLAYER 1 offers a sufficiently large share in the overall conflict contributions to make the drop in overall conflict investments irrelevant as it pays a contestant the transfer in exchange for dropping their conflict activity. Therefore, the second contestant offered the transfer faces conflict investments comparable to those of the first one, not raising the transfer required to motivate dropping the conflict efforts too much.

We showed how the model fits the application to motivate the government to pay a transfer. This transfer is designed to encourage the individuals to obey the law. Possibly even in a more efficient manner than an increase in enforcement would be capable of, but this remains a question for further research. Nevertheless, to have incentives via the transfer, one needs to withdraw the basic income the moment individuals are detected violating the law. Thus, we seem far away from a universal basic income when considering this conditional transfer scheme.

In the remainder of this article, we argue that this difference is not as significant nor as straightforward as it appears. To this end, the following section argues that neither universality nor conditionality of a basic income is ever perfect. It depends on the structure, stability, and freedom of the societal order. And this difference is a matter of degree rather than category.

### 3. A peaceful society via transfer: the issue of unconditionality

Van Parijs formulates a precise and popular definition of the approach concerning its conditionality (Van Parijs, 2004). It includes the following aspects:

- “*An Income Paid in Cash*” (Ibid. p.8)
- “*Paid by a Political Community*” (Ibid. p. 9)
- “*To All Its Members*” (Ibid. p. 10)
- “*On an Individual Basis*” (Ibid. p. 11)
- “*Without Means Test*” (Ibid. p. 12)
- “*Without Work Requirement*” (Ibid. p. 15)

We look at these aspects in the context of a societal structure. The first four positive demands heavily depend on a highly developed government. The final two demands are negative formulations aimed at reducing the complexity of the UBI as a social-political instrument in comparison to conditional schemes.

Consider the first four points. The income paid in cash may sound trivial to economically stable countries. Here the citizens are granted the maximum freedom to use the money according to their own needs. Moreover, assuming the consumer knows their interests best, this is a way to ensure efficiency. On the other hand, transfers in-kind may allow for self-targeting (Ghatak & Maniquet, 2019, p. 901). Popular in-kind transfer designs are voucher systems. These may come with additional administrative costs but foster self-targeting. They may also induce stigmatization that may be considered good since it is cheaper due to self-targeting by increasing the non-take-up of benefits (Schöb, 2019). Whereas the goal may be helping those in need, a high non-take-up rate may be considered wrong (Standing, 2008).

Real-world issues arise as soon as citizens are hindered from spending their money freely. For instance, the government does not allow for the trade of some specific goods for whatever reason. Some people may not be permitted to purchase particular items. Or they cannot buy the things they are supposed to due to changes in market prices. Maybe there is substantial inflation, and there are no markets at all, or transactions come with a high transaction cost. All these issues may sound abstract, and are solvable in their own right. However, when considering the following examples, these problems are present in any society: the ban on child pornography, prohibition of alcohol for non-adults, hoarding during the crisis causing a lack of provision with specific goods, unstable currencies, and corruption. Even developed societies are continuously dealing with all these topics. Therefore, we should not ignore them in the theoretical design of a social policy. In contrast, modern societies tend to integrate conditions into their social security programs (Standing, 2011).

The point here is that the UBI does not solve problems of societal organization in areas other than social policy. Nevertheless, it relies heavily on these other political solutions. Through this dependence, the value of an income paid in cash is limited by the culture of the respective society. In addition, a UBI can develop its full effect only if the societal order is stable and expected to remain this way.

These arguments also apply to the following three positive bullet points. A stable political community is a prerequisite for a UBI. Moreover, this community needs the infrastructure to gather relevant tax income to finance a UBI. In order to have an impact on the economic decisions of the citizens, the UBI must exist for a certain period of time. So this political community needs to be trustworthy and stable to some extent.

Further, the community needs rules to identify a person as a “member” and to track all “individuals” to pay the UBI in the required fashion. While this does not seem like a problem for industrial nations, it is for developing countries (Ghatak & Maniquet, 2019, p. 909).

The realm of political community and its borders is a common topic in the UBI discussion (Löffler, 2021), (Vanderborght & Van Parijs, 2009). Less common is the topic of the term “individual” in because there seems to be a consensus in western societies. However, this topic becomes relevant the moment people cannot take responsibility for their own lives, for example, the disabled, addicted, ill, very old, or very young (Widerquist, 2013, p. 3). In these cases, the UBI does not work as a social policy to help those concerned (Baker & Jones, 1998). For example, addicts may be considered unable to choose their behavior freely and therefore cannot benefit fully from a freedom-enhancing UBI (Watson, Guettabi, & Reimer, 2020). Their decisions may be described as overlain by behavioral anomalies, such as hyperbolic discounting. Here an individual is unable to make decisions that bring a benefit in the future, which is an essential part of everyday life. Thus UBI may increase childhood obesity (Watson, Guettabi, & Reimer, 2019). A monthly UBI may be consumed on payday, not helping for the rest of the month. Another solution is required in these cases (Monterosso & Ainslie, 2007). Additionally, research on the causes of crime has identified a robust relationship between childhood home, education, and crime. This suggests that the responsibility of parents for their children is also significant (Ou, Mersky, Reynolds, & Kohler, 2007).

These two arguments are provided in the scope of this article to raise awareness of the following. A UBI is only as unconditional as the individuals can be expected to responsibly solve the economic struggles of their lives given the organization of their environment. This transforms the discussion of unconditionality vs. conditionality of a social instrument from an absolute question to a question of appropriateness.

However, it goes further. For a complex societal organization that is required for larger political communities, the government must enforce some rules (Ostrom, 2009), (Olson, 1965, pp. 53-65). To enforce rules is necessary to maintain order in society and to bind and coordinate the actions of the citizens to the rules (Ostrom, Burger, Field, Norgaard, & Policansky, 1999). Nevertheless, these rules also restrict how a UBI may be used. For example, is a person allowed to work and spend the money accrued on building a business? While in market societies this may sound trivial, historically, this was not the case most of the time for at least part of the society, especially for women and minorities. At the extreme, societies always face the problem of dealing with people who continually break the rules. All governments have to deal with this problem and must exclude the lawless from living under the rules, as they cause the benefits of the coordinative effects of the rules to be undermined. Whether these people get to pay fines for wrong parking, get banished, imprisoned, or even sentenced to death, the unconditionality of their UBI would end with the freedom to spend it within society. Thus, the UBI’s conditionality is always limited by the condition of obeying the rules of a society to a sufficient extent.

For example, arguably, one of the closest policies to a UBI is the Alaska Fund, whose program does not provide payment to citizens sentenced for severe crimes (Griffin Jr, 2012).

The case of imprisonment is of particular interest. On the one hand, the government restricts the freedom of movement, and therefore the possibility to spend their money freely. A UBI is therefore rendered almost useless for the time of imprisonment. On the other hand, the guarantee of the minimum subsistence level will be continued in prison. The question here is, does the UBI still get paid to the prisoner, or can it be used to finance their food and shelter in prison?

Though we do not consider this question to be of substantial practical importance in the UBI discussion, it nevertheless sheds light on the boundaries to the unconditionality of a UBI. In this case, UBI is limited by one's freedom. The example of the prisoner makes this very clear. But in either case, the unconditionality of the UBI is challenged. The prisoner continues to receive his payments and cannot spend them. They may be unconditional but are entirely useless to the receiver at times. Therefore, the UBI is not fulfilling any of its purpose of having a UBI as a social-political instrument. In addition, it is very costly for the government. Cutting off the UBI for prisoners makes the UBI explicitly conditional, limited to those obeying the rules, sufficiently not to end up in prison. The latter conclusion applies to the other extreme punishment cases, such as the death sentence or banishment.

This finding relativizes the issue of applying the conflict model to the payment of a UBI. A government paying a transfer only to the extent of the citizen behaving, i.e., not having to pay fines or worse, is effectively paying a UBI limited by obeying the rules. The transfer withdrawal may be applied gradually in different stages, for example by parking fines, and compensations for damages caused which can finally end up in imprisonment. The discussion in this section shows that such a design of a UBI is plausible. Therefore, we believe it is reasonable to apply Franke and Neumärker's (2022) conflict model to the case of a government paying its citizen a UBI.

#### **4. The contractarian perspective**

Normatively the conclusions of the previous section may be frustrating. The concept of a UBI is popular, precisely due to its normative appeal. The concept would be less appealing if it were used to control society and incentivize for rule conform behavior. This section therefore justifies the UBI as a tolerance premium from a constitutional economic perspective.

The constitutional economic perspective justifies a set of rules, also called "constitution" via unanimous agreement out of a situation with a social perspective (Buchanan J. M., 1990). The social perspective is usually generated by high uncertainty about the future life. In his constitutional framework, John Rawls claimed the two results out of such a societal perspective to be the basic content of a social contract. The first result is a set of equal basic rights to the largest extent possible. The second is the prominent maximization of the well-being of the worst (Rawls, 1971, p. 53).

Van Parijs followed up on this with the concept of real liberty. Therefore, combining the two results of Rawls of maximizing basic liberties and maximizing the income of the

worst position. Van Parijs enhances negative liberty as formulated by Rawls to a positive interpretation of the highest positive liberty by enabling the individuals financially to use their basic liberties (Van Parijs, 1992).

Cooter (2000) argues that liberty only matters after a certain level of wealth is accrued. This statement is plausible for an existence minimum and in line with Rawl's basic good provision. Without the means to survive, people may not care so much about their liberty. Thus, Cooter draws the indifference curves horizontal in quadrants I and IV of figure 1. He supposes a minimum of liberty to be of utter importance leading to vertical indifference curves in quadrant II. A real tradeoff between additional wealth and liberty occurs only in quadrant III, where a sufficient level of basic wealth and basic liberty is secured. Rawl's results included basic rights that are of primary importance to basic wealth since the integrity of life may be as important as basic food and shelter. These basic rights may also be the basic rights of liberty. Nevertheless, following Cooter's structure due to convex preferences in wealth and liberty, as wealth increases, liberty becomes relatively more valuable. This means the willingness to pay for liberty gradually rises until one may call it priceless liberty (Cooter R. D., 2000, pp. 414-420).

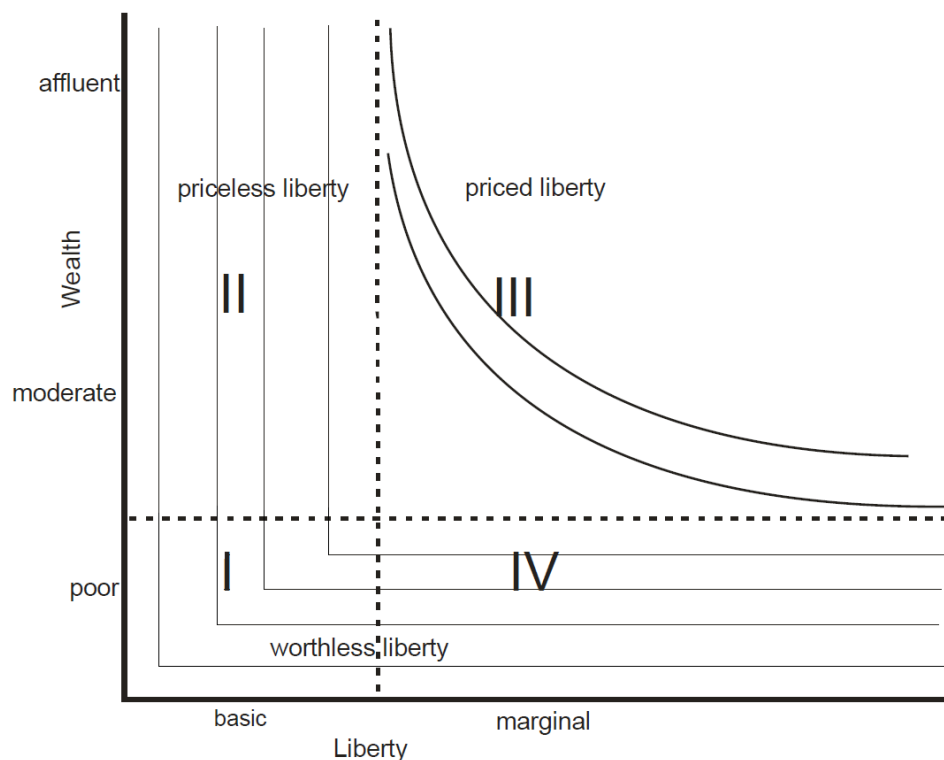


Figure 1: *Priceless liberty*. Strongly leaning on (Cooter R. D., 2000, p. 419).

We adapt figure 1 to contain indifference curves that show a complementary relationship between basic liberty and basic rights, as discussed in section 3. Both are necessary to

face a real tradeoff containing a choice. However, we showed that basic wealth in the form of a basic income is not sufficient on its own, so it is hardly of higher priority than basic liberties. The argument for complementary goods in their basic provision implies a stepwise improvement of the situation as further rights and basic needs are acquired. For example, in the short term, the physical needs of the individual's body must be secured while the basic resources needed for short term survival must be available. For example, one needs to be physically not in danger of death and have air to breathe. In the next step, one may require further physical integrity or the possibility to perform some actions going along with the need for drinking water, etc. The arrangement of these steps may differ depending on the individual; however, it is plausible to take the form of complementary improvement. It should be mentioned that Cooter's suggestion stems from the analysis of societies and their political demands, whereas in this article, the individual point of view is highlighted. Thus, Cooter's perception may remain more fitting in the context of political analysis.

Whereas Buchanan remains vague on the content of the social contract, he highlights the exchanges of liberties provided by a social contract (Buchanan J. M., 1990, p. 3). In this process, individuals are not informed about the details of their characteristics and properties. They decide from an impartial perspective in the contractarian stage. After the contract is formulated, the partiality retakes place, and daily societal life begins (Neumärker, 1995, p. 11). In this way the contractarian approach "offers a basis for normative evaluation" (Buchanan J. M., 1999b, pp. 466-467). Buchanan does not exclude the possibility of compensation payments incorporated in the setup of such a contract (Buchanan J. M., 1999c, p. 148). Lehto and Meadowcroft (2020) argue that this compensation enhancing Buchanan's conception of a "demogrant" can take the form of a UBI (Lehto & Meadowcroft, 2020). The idea follows the concept of the social insurance argument (Olson, 1983). Acceptance of the social contract gets increased through provision of insurance to the citizens against net losses in participating in society. This allows for the interpretation of governmental services as a tolerance premium since it leads to acceptance of the constitution and renunciation of violence (Homann & Pies, 1996, p. 220).

Under impartiality, no one knows whether the stimulus, along with the conditions set up to make use of a basic income, fits their own needs or is against their desires. Therefore, formulating the conditions of a basic income based on an impartial agreement, such as in the construct of Buchanan, results in the betterment of the society if they agree unanimously on the respective conditions concerning the basic income (Buchanan J. M., 1962). In this fashion, a rule for handling imprisoned citizens may be justified either way, by using the basic income to finance life in prison and or by continuing the payments to the individual and perhaps even allowing for some use of it in prison.

Conditional cash transfers also come with a return service that must be ethically justifiable. For example, blood-taking as a condition may be considered as buying blood, which may be against morally accepted procedures in society (Njue, et al., 2015). Acceptability is a limit to the scope of conditions that can be imposed.

Thus, if it is wholly conditional, basic income could be a valuable tool for constitutional design. On the one hand, it can be used to serve as an instrument for social policy by fighting poverty (Gentilini, Grosh, Rigolini, & Yemtsov, 2019, pp. 7-8). Further, it avoids the poverty trap since the UBI does not decrease with an increase in earned income

(Colombino, 2015, pp. 358-359). On the other hand, it enhances the incentives to act by the rules provided by the constitution and enhances the support of the constitution (Wyss, 2011). Thus being designed as a transfer only to the individuals who exhibit accepted behavior may be legitimate for a society whose constitution is designed in such a fashion. However, every society needs to protect its values and the basic liberties of its citizens. Historically this was done by banishment or the death sentence for those who seriously infringed the law. In modern societies, there is only the possibility of imprisonment with a focus on resocialization to end the imprisonment. Not knowing whether the individual situation, tastes, and actions would lead to exclusion in advance allows for an impartial decision on necessary exclusion rules, whatever the case.

The appropriate design of the transfer conditions ultimately becomes a matter of constitutional taste. Nevertheless, these considerations allow for reformulation of the problem in terms of universality instead of conditionality. Whereas these two concepts seem distinct initially, they blur when the exclusion of members of society is at stake. This also applies to the disempowerment of members of society. It is therefore no surprise that Buchanan struggled to have a clear and consistent opinion on slave contracts from a constitutional point of view (Buchanan J. M., 1999c, p. 77f), (Buchanan J. M., 1995). Disempowerment means being excluded from the decision and therefore renders the individualistic normative value of these individuals irrelevant to constitutional decision-making. Even if the constitution allows for slave contracts and disempowerment, the problem of ongoing reform and control of daily life and ex-post governance cannot be solved. The same issue arises with immigration. While emigration allows for federal voting with your feet, immigration may also be considered a decision to live under this set of rules (Somin, 2008). Nevertheless, societies must protect their social systems against adverse selection to keep the solidarity in their system intact (Schöb, 2019, pp. 28-29).

However, on a constitutional level, the opting-in of immigrants may be welcome while emigration may be considered an act of ex-post renegotiation. This generates the classic economic problem of tax evasion, which demands its own consideration in tax design (Neumärker & Pech, 2011). Consider, for example, the issue of tax evasion due to a tax for high earners. Ex-ante such rules may be appealing since it serves financing public goods very well. As soon as one considers oneself a high earner, incentives will make emigration attractive. This may lead to adverse selection, causing the high earners to leave in high-tax countries, leaving the relatively poor citizens in this society behind. This society may end up less financially able to finance its public goods by the effects of adverse selection (Howard, 2006).

For an unconditional transfer design, one needs to protect society against adverse selective immigration of the relatively poor due to an attractive basic income. Hence, UBI proposals on the national level often suggest linking the UBI to citizenship. This restricts the universality of a basic income and, as a side effect, attaches a direct monetary value to citizenship in the form of the basic income. It may cause problems, however, if citizens can generate citizenship through their actions, for example, by marriage. If a German citizen marries an immigrant, they immediately become German citizens and are eligible to receive a German national UBI. On the other hand, having a long enough stay and a naturalization test also sets incentives for integration as another conditionality for the basic income.

Restricting the transfer payments of members according to their behavior may limit their freedom. Respecting the freedom of an individual in society, even if maximized, ends where the freedom of another individual begins (Hobbes, 2001, pp. 118-128). Thus, taking charges from individuals for misbehaving, which is standard practice, gradually reduces a UBI effectively up to the point where the entire UBI needs to be used to pay the fines. If the UBI can be entirely consumed by fines, then there is an effective restriction on its net payment of behaving according to the law. Thus, it is conditional. Note that this depends on whether the basic income can be seized.

Further, from a constitutional perspective, one must restrict the freedom of those who hurt the freedom of others. Therefore, imprisonment as a last resort is still necessary. In such circumstances the imprisoned may be excluded from society. In this way, a non-universalistic basic income payment for outlaws is rejected or the behavioral side of a conditional basic income may be violated. This case shows the gradual nature of the terms "conditionality" and "universality".

We have discussed the case that the matter of exclusion may be designed in hypothetical agreement from a constitutional perspective. This allows for impartial decisions on what society wants. Protecting society against negative migrations shows another limitation that may have similar roots to the exclusion of citizens. Nevertheless, the right to the exclusion of outlaws is necessary to maintain the constitutional order for everyone in society. Thus, we conclude that exclusion rules can be justified. While calling a transfer "unconditional" or "universal" may communicate strong ideals, these ideals do not fit real-world societies without restriction. Therefore, the careful discussion of the details in the payment conditions cannot be neglected either way.

## **5. The perspective of the New Ordoliberalism**

Out of the constitutional reasoning introduced in the previous section, the condition to obey the law may be justified. The question of how a basic income affects the constitution from a constitutional design perspective remains to be addressed in this section. We therefore introduce the New Ordoliberalism to provide a continuation of the constitutional perspective concerning the feasibility and stability of a constitutional design. This allows the discussion of the effects of such a UBI on constitutional design concerning the stability of the constitution that goes into detail concerning an enduring endorsement with the constitution (Midtgaard, 2008).

The transfer payment from reasoning of buying others out of their conflict calculus implements the demands of the New Ordoliberalism in several aspects. In addition to a constitutional unanimous agreement, New Ordoliberalism requires a constitution to be free of conflict, renegotiation proof, and free of strategic manipulation. These aspects must be secured ex-post. Therefore, a constitution must plan ex-ante on securing these, which makes the constitution self-enforcing. Thus compliance with the rules is endogenously ensured since strategic interests of deviation from the constitution are ruled out (Neumärker, 2017, p. 836). In this way, the concept continues the idea of Ordoliberalism. Dold and Krieger (2021) provide an overview and discussion of the traditional Ordoliberalism (Dold & Krieger, 2021).

The basic income payment manages the ex-post demands, for example, conflict potential, very well. By paying people out of their conflict intentions, the constitution will have less

of an issue with violations ex-post, and therefore this policy reduces conflict. The New Ordoliberalism also considers social preferences, especially the robustness of the constitution concerning harmful negative social preferences, such as envy and blame (Neumärker, 2017, p. 836). Envy gradually gets reduced by a decrease in inequality (Varian, 1974). A basic income always takes the form of redistribution, thus reducing inequality, which lowers economic reasons for envy. Blame, on the other hand, considers whether the actions of other individuals were justified (Schotter, 1990, pp. 121-131). Being in desperate need of money may also cause some individuals to conduct criminal activities. A basic income gets rid of this desperation for all citizens including desperation crimes. One should mention that blame may also increase due to the redistribution other citizens do not want to pay for, for example, the Malibu surfers.

The government does not need a significantly larger state capacity to pay a basic income. The budget will increase to pay the money but financing it will make many citizens net payers, so the overall free money the government can give away is less (Tondani, 2009, pp. 248-249). In addition, reducing defense spending and activities may be an argument for a smaller state capacity required to enforce the law, which the government is obliged to do anyway. However, the government must be sufficiently strong to enforce its social policy in the long term (Goldschmidt & Neumärker, 2008).

Making a constitution renegotiation proof can be achieved through the concept of the tolerance premium (Neumärker, 2017, p. 837). Paying a basic income regardless of the citizens' performance and luck with the current constitution reduces their absolute loss compared to a reference point such as anarchy. Thus, it reduces the incentives to attack the constitution in the hope of successful renegotiation since they benefit from it at least by the living standards provided by the basic income. This concept was presented as a tolerance premium in the last section already. It effectively stabilizes the constitution and leads to acceptance even by the losers of "the game of life" (Binmore, 2005, p. 171).

Having the same payment for everyone is likely to make the constitution free of strategic manipulation since receivers are not incentivized to communicate higher success in engaging in conflict. Therefore, higher transfer payments are justified, as is the case with rent-seeking activities or targeted programs (Nitzan, 1994). The government may set the level of transfer in a cost-reducing way, concerning the effectiveness of the transfer payment in comparison to the money spent, paralleling individual tax systems (Blankart, 2017, pp. 207-226). Since a basic income has several effects, this is a task for an encompassing study on the efficiency of the measure and the incentives of the government considering valid alternatives, like Danziger and Wheeler (1975) provide (Danziger & Wheeler, 1975). Depending on the conditions for receiving the basic income, there may be room for strategic manipulation. For example, by not being allowed to consume any drugs to be eligible to receive the payment, some may still consume drugs and give a false report. In its connection to crime, it can be concluded again and in line with the model's findings in section 1 that the detection of crime still needs to be fostered. Further, simple eligibility requirements, which a UBI relative to alternative social security programs offers, improve the governmental implementation of a transfer system (Gentilini, Grosh, Rigolini, & Yemtsov, 2019, p. 224),

From the constitutional point of view, the citizens implement their rules themselves due to a lack of a third party that could externally enforce rules. Thus, the constitution must be self-enforcing to be enforced at all. This means the people are clearly interested in

enforcing the contract (Homann, 1997, p. 16). Since the government is willing to pay the transfer it is incentivized to do so. And its willingness to pay the transfer is guaranteed for Pareto-improvements. Neumärker and Pech (2002) analyze why a government should obey constitutional taxation rules (Neumärker & Pech, 2002). These incentives support a self-enforcing contract by the basic income from the reasoning for conflict in a constitution. In addition, it helps in enforcing other parts of the constitution, e.g., basic rights, by providing additional incentives to the citizens to respect the law. Further, internalization of the benefits may help in enforcing a constitution via intrinsic motivations (Cooter R. , 2006), (Acemoglu & Jackson, 2017).

Franke and Neumärker (2022) also raise the question of who can offer a transfer (Franke & Neumärker, 2022, p. 121). This issue can intuitively be solved by considering the restriction of PLAYER 1 to make trustworthy announcements of a transfer scheme to the other PLAYER. Trustworthy announcements are reasonable for a government set up by a constitution, whereas a single citizen may not be that trustworthy to others. Thus, the government is likely to fit into the role of PLAYER 1. In any case, a study of the pregame of the selection of PLAYER 1 may be interesting for further research.

Overall, we conclude that a basic income inspired by the reduction of economically motivated conflict fits the demands of New Ordoliberalism well. Therefore, this analysis suggests considering a basic income for the sake of enforcement of a constitution. Even if the basic income must introduce incentives to accept the constitutional rules, these can be legitimate from the constitutional perspective. Whether such a basic income should be called “unconditional” or “universal” is an important question to add to the basic income discussion. With this paper, we argue that this question is a matter worthy of debate.

## **6. Conclusion**

This article deals with the application of the conflict model by Franke and Neumärker (2022) on the basic income in a society (Franke & Neumärker, 2022). The results suggest incentives for a Pareto-optimal transfer that could take the form of a basic income. The basic income payments must be linked to obedience to the law of the recipients to reduce conflict in society. Further, even if the transfer payment reduces crime, the government should maintain an effective detection and law system. The transfer payments may optimally differ from individual to individual.

Nevertheless, the information necessary for generating an efficiently differentiated transfer scheme may be hard to gather. Therefore, as a second-best policy, a basic income may be adequate. Concerns about the government running into the public goods dilemma when paying multiple other PLAYERS are relatively few since the government can be considered a large PLAYER or even a joint project best suited to handle the public goods dilemma.

The conditionality of obeying the law may be less appealing when considering a UBI from the perspective of freedom. Indeed, it may be no longer unconditional at all if the payment depends on “specific circumstances and life situation” (Neumärker, Blum, Yalcin, & Yalcin, 2021, p. 24). Nevertheless, this conditionality is mandatory for running society as it is required to protect the freedom of one citizen from another. One way or another, living together needs structure. The government may efficiently provide this by

linking the basic income payments to behavior in line with the law – a practice that is already common to some extent.

But who designs the law? The constitutional perspective can answer this question. Individuals may unanimously restrict their freedom of action in a constitution to their mutual benefit justifying restrictions of freedom for the sake of a better living together. Then, enforcing these restrictions by exclusion or deprivation of financial means efficiently is in the interest of every citizen who agrees with the constitution.

This constitutional perspective provides further insight by applying the New Ordoliberalism. New Ordoliberalism claims that a constitution must contain its means of rule enforcement. Therefore, a basic income may help in several aspects, such as reducing conflict directly and reducing conflict potential from envy, further, by providing a tolerance premium combating renegotiation interests. The design of fixed payments to every citizen is resistant to strategic manipulation, for example, exploiting possible information asymmetries. Finally, the government has a reason itself to pay the basic income, as long as this measure serves the task of combating criminal behavior efficiently. While providing exciting results, this concept has several limitations that motivate further studies. First, and most notably, the model does not perfectly fit the situation of a government paying a transfer. The government is treated equally as a monolithic PLAYER here. While this brings an interesting perspective, it is limited to a Leviathan government that deals with only this one aspect. A realistic government would consider a social policy and its budgetary implications, which are ignored in this paper.

Further, an analysis of the efficiency of this strategy of combating crime is required compared to the traditional tools (Polinsky, 2006), deterrence by punishment, and a higher detection rate. This includes the analysis of a first-best transfer design and a comparison to basic income. Finally, the content of a constitution is an empiric matter (Neumärker, 2017, p. 835). An empirical study on constitutional reasons for a UBI could help disentangle the weight that can be given to the different arguments in the UBI discussion, including the view of a UBI for obedience to the law.

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