The Policy Maker's Guide to a Universal Basic Income

Author : Susan Morse

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Miranda Perry Fleischer & Daniel Jacob Hernel, *The Architecture of a Basic Income*, **__ U. Chi. L. Rev. __** (forthcoming), available at SSRN (Mar. 27, 2019 draft).

Miranda Fleischer and Daniel Hemel have written a terrific article, *The Architecture of a Basic Income*, about a universal basic income, or UBI. They offer concrete policy advice grounded in philosophical priors. They successfully separate questions about fundamental policy design from questions about political packaging. Their paper should become a go-to resource for the increasing swell of interest in UBI policy.

Fleischer and Hemel give the following definition of UBI: "[A] program that ensures that all members of a polity have access to at least a minimum sum of money." (P. 6.) They provide three philosophical perspectives that support a UBI: welfarism, founded on the premise of declining marginal utility of income; resource egalitarianism, or the idea that ex ante redistribution should support each individual's ability to develop; and libertarianism, based on the Lockean proviso that individuals' acquisition of property rights should leave "enough, and as good," for others.

The choices that Fleischer and Hemel recommend for UBI design seek a philosophical consensus where possible. But despite their fidelity to philosophical foundations, their recommendations manage to stay grounded and pragmatic. Fleischer and Hemel acknowledge the arbitrary nature of some line-drawing exercises and explain available benchmarks. At key junctions when differing philosophies support inconsistent answers, they turn to simplicity of administration as a tiebreaker. And they are honest about how expensive a UBI would be, while correctly explaining that the funding mechanism can leverage the redistributive potential of the entire federal income tax system, rather than relying on poorly designed phaseouts.

The authors highlight six design issues raised by a UBI and make recommendations in each category, as indicated below:

1. Size: $500 per month.
2. Eligibility: All citizens and lawful permanent residents regardless of age.
3. Uniformity: Yes. For instance, no explicit income or asset phaseout (but see Funding Mechanisms, below) and no geographic cost of living adjustment.
4. Assignability: Limited. For instance, allow use of one year's worth of future payments as collateral for loan.
5. Payment Mechanism: Biweekly, via Social Security Administration.
6. Funding Mechanisms to cover nearly $1.9 trillion cost: (1) elimination or reduction of some cash and cash substitute transfer programs, plus (2) an income tax surtax administered by the Internal Revenue Service.

(Pp. 4-5.) When Fleischer and Hemel discuss the Size and Assignability features, they acknowledge that each presents a line-drawing exercise that invites a somewhat arbitrary answer. Yet the authors also provide useful benchmarks. $500 per month amounts to about half poverty level income, or the "deep poverty" threshold. It also translates to a cost of about 10% of GDP, which is approximately the gap between government spending in the U.S. and government spending in some other OECD countries that have more robust public safety nets. (P. 30.) The recommendation for limited assignability is likewise a "tentative" suggestion about line-drawing in the face of opposing considerations of welfarism (which might resist assignability) and libertarianism (which might support it).

The authors' conclusions about Eligibility and Uniformity also illustrate their efforts to reconcile philosophical tensions.

Providing a uniform amount to every individual amounts to an unconditional UBI, one that is not limited, for instance, by cost of living based on location, age, disability, willingness to work, school attendance, nutrition or health care requirements and so forth. Libertarians, the authors say, as they have in prior work, will prefer that "if transfers are to occur at all, they should be unconditional and unrestricted." But Fleischer and Hemel admit that the welfarist and resource egalitarian cases for an unconditional UBI are weaker. Restricted transfers (for instance, in-kind transfers of housing or health care) might increase welfare more than cash. Conditional transfers (for instance, contingent on disability) might better equalize ex ante of opportunity. But they treat the question as empirical, and say that the evidence does not suggest that restricted or conditional transfers increase welfare more, or even the playing field more effectively. They also express doubt about the law's capacity to accurately identify welfare-increasing or opportunity-leveling conditions. Ultimately, Fleischer and Hemel give the tie to simplicity of administration and favor an unconditional UBI in the face of uncertainty about welfarist and resource egalitarian outcomes.

UBI proposals, as Fleischer and Hemel explain, frequently get stuck on a phase-out question. The logic of the phase-out question is as follows. If the purpose of a UBI is to ensure that everyone has access to "at least a minimum sum of money," then individuals who already have enough should not get a UBI. If individuals who already have enough should not get a UBI, then a UBI should be phased out, for instance based on income. This is the way that existing transfer programs work. The problem is that such phaseouts can result in extremely high marginal rates of tax on extra dollars of income or wealth, sometime exceeding 100%. (P. 56.)

But as Fleischer and Hemel point out, program-specific phaseouts are unnecessary. Instead, the desired result of gradually removing the benefit of a UBI as an individual's income increases can be neatly and completely accomplished through the federal income tax rate schedule. This is what Fleischer and Hemel propose. They explain that the broader income tax system can accomplish less distortionary phaseouts when each individual receives a UBI. (P. 9.) They also specifically recommend an income tax surtax of about 7%. This would raise the $1.2 trillion needed to fund a UBI assuming the repeal or modification of several other transfer programs. This surtax, they calculate, would mean that a single individual's UBI would not be fully offset by additional income tax until an income level of $60,000. (P. 57.)

Fleischer and Hemel show that a universal UBI paid for through the income tax system could be politically framed as a poverty relief policy. Underneath the hood, the UBI and the income tax system would join together to pursue the goals of the policy without extreme phase-out distortions. At the same time, the program could be honestly presented and justified as a redistributive project that squares with a range of philosophical viewpoints.

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