

## The Anti-Paternalist Case For Unconditional Basic Income Provision

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Let us suppose that all individuals are unconditionally entitled to a social minimum, some amount of economic resources provided them independently of their labor or other productive activity. What form ought this social minimum take? Traditional social welfare programs typically offer some ‘basket’ of essential goods such as food, housing, health care, and (in some cases) income assistance. Some libertarians or liberals argue that this unconditional social minimum should instead take the form of a government-administered basic income, a direct transfer of cash to recipients, on the grounds that providing the social minimum in the form of a basket of essential goods is objectionably paternalistic.

This anti-paternalist case for a basic income over other forms of a social minimum is often gestured at but rarely developed or theorized in a very detailed way. The aim of my discussion is therefore to consider whether there is a plausible anti-paternalist case to be made in favor of providing an unconditional social minimum in terms of a basic income rather than in terms of a basket of in-kind goods. Note that I offer no arguments in favor of a social minimum and hope to pursue this aim without assuming any particular justification for states’ obligation to provide a social minimum. Nor do I engage with other ways in which the provision of a social minimum could be paternalistic. By focusing exclusively on an *unconditional* social minimum — some body of economic resources provided to individuals irrespective of whether they work, etc. —, I thereby set aside a number of the potential ways in which government provision of a social minimum might be paternalistic. Indeed, many of the conditions governments sometimes

attach to the receipt of a social minimum appear to be paternalistic: To require that recipients submit to drug testing or forego procreation is to make the provision of the social minimum contingent upon incursions into recipients' liberty, autonomy, or agency so as to ensure that recipients live in ways that the state (or other citizens) believe they ought to. Making the provision of a social minimum unconditional thus removes one avenue for state-provided benefits to be paternalistic. But the further question of whether considerations of paternalism favor an unconditional income over an unconditional basket of in-kind goods remains.

The remainder of my discussion will thus consider the plausibility of several anti-paternalistic bases for arguing for a basic income rather than other forms of a social minimum. My conclusion will be that making an anti-paternalist case for basic income over a basket of essential goods is more difficult than it first appears. Making such a case first requires showing that a basic income is at least as effective in promoting well-being as a basket of in-kind goods. In section 1, I critique this proposition, as well as pointing out that an anti-paternalist for a basic income cannot rest on this proposition alone. Sections 2 and 3 consider how an anti-paternalist case for a basic income fares in light of the two best known accounts of the nature and wrongfulness of paternalism, the liberty- or autonomy-based account offered by Gerald Dworkin and the more recent 'rational will' account. While the rational will account is both more defensible in its own right and offers more credible grounds for holding that a basic income is less paternalistic than a basket of in-kind goods, neither account shows that there are especially strong anti-paternalist reasons to favor the former over the latter. Moreover (as I show in section 4), there are compelling reasons, akin to the reasons that the rational will account claims make paternalism morally objectionable, to suppose that an in-kind basket of goods is more anti-paternalist than a basic income. Some goods (for example, housing) turn out to be critical to

creating the kind of non-oppressive or non-dominating social relations that the rational will account, as well as republican or relational theories of equality, endorse. Specifically, an in-kind basket of goods is more effective than a basic income in ensuring that the wills of some citizens are not subordinate to the wills of other citizens.

## 1. Paternalism and Welfare

That providing citizens cash rather than in-kind goods is a move away from paternalism is a claim often advanced on behalf of an unconditional basic income, but it is rarely argued for or analyzed in detail.

One of the few explicit attempts to defend this claim is made by libertarian Matt Zwolinski.<sup>1</sup> He favors a guaranteed basic income in part because it is ostensibly less paternalistic than existing social welfare programs. The state ought not make its provision of social welfare dependent on recipients living as the state sees fit, Zwolinski argues. This extends to the nature of the goods the state provides:

...benefits are often given in-kind rather than in cash precisely because the state doesn't trust welfare recipients to make what it regards as wise choices about how to spend their money. This, despite the fact that both economic theory and a growing body of empirical evidence suggest that individuals are better off with the freedom of choice that a cash grant brings.

Here Zwolinski appeals to several different normative considerations: (1) that in-kind benefits indicate that the state "doesn't trust" recipients of the social minimum; (2) that a "cash grant" provides recipients with greater "freedom of choice; and (3) that individuals are "better off"

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<sup>1</sup> "The Pragmatic Libertarian Case for a Basic Income Guarantee," *Cato Unbound: A Journal of Debate*, 4 Aug 2014 [https://www.cato-unbound.org/2014/08/04/matt-zwolinski/pragmatic-libertarian-case-basic-income-guarantee]

under a basic income than with an in-kind basket of goods. Let us address these considerations in reverse order.

A basic income might well prove a more efficient method of maximizing individuals' well-being. With a basic income, individuals could make spending decisions tailored to their own economic circumstances and goals. Rather than receiving a particular amount in housing vouchers, for example, individuals could opt to use their basic income in more flexible ways (buying more health care insurance and less expensive housing, say). The latitude thus provided by basic income may well result in greater individual well-being.

Whether an unconditional basic income improves well-being is an empirical question, and systematic efforts to explore this question are comparatively new. That said, pilot studies of basic income schemes have found positive impacts, in terms both of direct and indirect measures of well-being. Studies of the GiveDirectly program conducted in Kenya in 2011-13 found that recipients of a monthly unconditional income reported reduced stress and greater self-esteem, especially among female recipients.<sup>2</sup> Evelyn Forget's research on a basic income program carried out in the 1970's in Manitoba found that recipients had fewer doctor visits and hospitalizations for mental health issues and high school students were less likely to drop out.<sup>3</sup> These results are not surprising in light of extant research on income and well-being. While additional income contributes to well-being, this effect 'tops out' (in the US, the effect kicks in around 75,000 USD

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<sup>2</sup> Johannes Haushofer and Jeremy Shapiro, "The Short-term Impact of Unconditional Cash Transfers to the Poor: Experimental Evidence from Kenya," *Quarterly Journal of Economics* 131 (2016): 1973–2042 (doi.org/10.1093/qje/qjw025)

<sup>3</sup> "The Town with No Poverty: The Health Effects of a Canadian Guaranteed Annual Income Field Experiment," *Canadian Public Policy* 37 (2011): 283-305.

per annum<sup>4</sup>), and in general, the security and reliability of one's income matters nearly as much as its size. More theoretically, an unconditional basic income seems likely to improve well-being by enhancing individuals' control over their lives<sup>5</sup>, especially greater control over their work environments.<sup>6</sup> It may also reduce the load that scarcity places on our 'cognitive bandwidth' and better enable effective long-term decision making.<sup>7</sup>

There are, however, two difficulties in inferring that a basic income does better than a basket of in-kind goods with respect to promoting well-being. The first is that the aforementioned research and the theoretical findings that predict it do not carefully distinguish between an unconditional basic income and other forms of an unconditional social minimum, such as a basket of in-kind goods. What this research appears to show is that greater overall economic security redounds positively to well-being. It does not show that enabling this security via a basic *income*, as opposed to in some other form, does better in promoting well-being. The primary explanatory factor behind the increases in well-being seems to be the *unconditionality* of basic income and how it enables individuals to counteract employment-related income volatility. If so, then there are grounds for supposing that an equally unconditional basket of goods

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<sup>4</sup> Angus Deaton and Daniel Kahneman, "High Income Improves Evaluation of Life but Not Emotional Well-being," *Proceedings of the National Academy of Sciences* 107 (2010): 16489–16493 (doi: 10.1073/pnas.1011492107)

<sup>5</sup> R.M. Ryan and E.L. Deci, "Self-determination Theory and the Facilitation of Intrinsic Motivation, Social Development, and Well-being," *American Psychologist* 55(2000): 68-78.

<sup>6</sup> C. Yuill, "Health and the Workplace: Thinking about Sickness, Hierarchy and Workplace Conditions," *International Journal of Management Concepts and Philosophy* 3(2009): 239-256

<sup>7</sup> A. Mani, S. Mullainathan, E. Shafir, and J. Zhao, "Poverty Impedes Cognitive Function," *Science*,341(2013): 976-980.

(including, say, medical care, food voucher, and housing<sup>8</sup>) could have the same positive eudaimonic effects.

Moreover, there are reasons to think a basket of in-kind goods may be more efficacious on this front. If the phenomenon known as *ego depletion* is genuine, then a basic income could make recipients less well-off than a basket of in-kind goods. Ego depletion occurs when individuals' limited pool of mental resources for self-control and complex choices are taxed to the point that later decisions manifest reduced self-control and poor choice making.<sup>9</sup> In distributing an in-kind basket of goods, a state makes particular choices on behalf of recipients. In comparison, a basic income leaves individuals greater latitude over how to capitalize on their basic income. Because it requires recipients to make more choices regarding how to dispose of their social minimum, a basic income is likely to place greater demands on recipients' decision making powers and thus invite disadvantageous ego depletion. Yet even if a basic income would not result in greater ego depletion, we may have other reasons related to well-being to prefer the narrow range of choices that an in-kind social minimum would provide. Choice takes time and energy that could instead be devoted to enjoying goods that increase well-being. In addition, the

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<sup>8</sup> Housing insecurity appears particularly crucial for well-being, especially children's well-being. See E. Scanlon and K. Devine, "Residential Mobility and Youth Well-being: Research, Policy, and Practice Issues," *Journal of Sociology and Social Welfare* 28 (2015): 119-138.

<sup>9</sup> One of the earliest students supporting the existence of ego depletion is R.F. Baumeister, E. Bratslavsky, M. Muraven, and D.M. Tice, "Ego Depletion: Is the Active Self a Limited resource?" *Journal of Personality and Social Psychology*. 74 (1998): 1252–1265. (doi:10.1037/0022-3514.74.5.1252). For recent methodological concerns about studies supporting ego depletion, see Evan C. Carter and Michael E. McCullogh, "Publication Bias and the Limited Strength Model of Self-Control: Has the Evidence for Ego Depletion Been Overestimated?," *Frontiers in Psychology* 5 (2014): 823. For an exploration of some ethical and political implications of ego depletion, see Michael Cholbi, "The Implications of Ego Depletion for the Ethics and Politics of Manipulation," in C. Coons and M.E. Weber, eds., *Manipulation* (Oxford: Oxford University Press, 2014), pp. 201-220.

availability of choice can also induce self-doubt and anxiety, create unrealistic expectations regarding the outcomes of our choices, and lead to subsequent regret when choices fall short of those expectations. Choice has eudaimonic value, but its value is subject to diminishing marginal returns past which we enter the domain of “choice overload.”<sup>10</sup>

I do not contend that these considerations demonstrate that a basic income does worse than a basket of in-kind goods in promoting well-being. It could be that a basic income lands us in the proverbial ‘sweet spot’ regarding the availability of choices and options, i.e., it provides us just enough control or range of choice to be better for us than either no social minimum or a social minimum provided as in-kind goods. Or it may be true that to whatever degree a basic income is detrimental to well-being because it requires us to make more choices, we can offset this with self-discipline or self-nudging. Or (as I suspect to be the case) basic income versus a basket of in-kind goods may be a wash as far as overall well-being goes. The crucial point, however, is that existing evidence far from decisively settles the matter in favor of a basic income. We simply need more research on that question.

Yet even if a basic income is superior to an in-kind social minimum with respect to promoting well-being, this fact does not ground a recognizably anti-paternalistic case for the former. For appealing to how basic income is purportedly more efficient in promoting individual well-being seems to miss the philosophical thrust of opposition to paternalism. As we shall see momentarily, paternalism and its objectionability can be understood in different ways. However, at the heart of all opposition to paternalism is the conviction that individuals are entitled to a high

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<sup>10</sup> Barry Schwartz, *The Paradox of Choice* (New York: Harper Collins, 2004) is a well-known exposition of the downside of an overabundance of choices.

degree of deference with respect to their self-regarding choices. As Mill famously put it, a person is “amenable to society” for his conduct when it concerns others, but “in the part which merely concerns himself ... over himself, over his own body and mind, the individual is sovereign.”<sup>11</sup> This need not imply that our duty not to interfere with conduct that is solely self-concerning is “absolute,” as Mill maintained. Perhaps (contrary to Mill) a person’s good can sometimes be so profoundly at stake as to make her good a “sufficient warrant” for interfering with her self-concerning conduct. But in such cases, anti-paternalists will understand her good as a countervailing consideration, one that overcomes whatever moral presumption exists against interfering with her self-concerning conduct. A person’s good is not itself an anti-paternalistic basis for not interfering with a person’s self-concerning conduct, even if (as a matter of fact) refraining from paternalism often maximizes a person’s good. And few anti-paternalists would subscribe to a presumption against interference so weak that it would be outweighed whenever interference would advance a person’s good. In other words, in order for anti-paternalism to have any teeth, it must sometimes be the case that persons have a right not to be interfered with respect to their self-concerning choices *despite* others having reason to believe that those choices will be less than optimal from the standpoint of that person’s good. If paternalism is at all morally objectionable, then individuals sometimes have the right to make mistaken choices, and even to act on those mistaken choices, in the realm of their self-concerning affairs.

Hence, to rest an anti-paternalistic case for a basic income (as Zwolinski does in part) on whether it does better than a basket of essential goods in promoting individuals’ good is to appeal to a rather diluted picture of the anti-paternalistic constraint on interference with self-regarding conduct. Indeed, such an appeal seems to lack anti-paternalistic credentials altogether.

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<sup>11</sup> *On Liberty* [1859], chapter 1, ¶9



We must therefore look elsewhere for an anti-paternalistic basis for favoring a basic income over a basket of in-kind goods.

## 2. Liberty-based Accounts of Paternalism

Zwolinski's brief remarks contain the seed of a second anti-paternalistic defense of a basic income. In comparison with an in-kind basket of goods, a basic income would offer recipients greater "freedom of choice". And according to Gerald Dworkin's near-canonical definition of paternalism, to restrict a person's freedom of choice so as to improve the person's welfare is paternalistic. Dworkin defines paternalism as follows:

X acts paternalistically towards Y by doing (omitting) Z if and only if:

1. Z (or its omission) interferes with the liberty or autonomy of Y.
2. X does so without the consent of Y.
3. X does so only because X believes Z will improve the welfare of Y (where this includes preventing his welfare from diminishing), or in some way promote the interests, values, or good of Y.<sup>12</sup>

If this conception of paternalism is correct conceptually and captures what is morally objectionable about paternalism, then an anti-paternalistic case for a basic income and against an in-kind social minimum begins to come into view. Suppose that a policymaker believes that a basket of in-kind goods better serves the interests of recipients of the social minimum. If she

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<sup>12</sup> Gerald Dworkin, "Paternalism," *Stanford Encyclopedia of Philosophy*, 2014. Available at: <http://plato.stanford.edu/entries/paternalism/> (accessed 3 August 2017).

provides that social minimum as a basket of goods rather than as a cash transfer, the policymaker interferes with recipients' liberty or autonomy. For if the recipients are entitled to the social minimum, to provide that minimum in terms of a basket of goods rather than a basic income imposes significant limits on recipients' options. A cash payment can presumably be used to buy most any basket of goods the recipient saw fit. She could use all of her payment on rent or on medical care; one-third each on rent, medical care, and food; etc. A basket of goods, on the other hand, fixes how her social minimum will be allocated to these component goods. The policymaker who opts for the basket of goods thus impinges on the options available to recipients of the social minimum, thereby impeding them from exercising their liberty or autonomy in ways that a cash payment makes possible. This choice is therefore paternalistic, and on the assumption that concerns about paternalism carry any moral weight, we have reason to favor a basic income over a basket of in-kind goods.

Before considering how strong an anti-paternalist case for a basic income this argument generates, let us first address a worry about whether it even qualifies as an anti-paternalistic argument. On its face, opting for a basket of goods over an income transfer does not seem to involve 'interference' with recipients' liberty, as Dworkin's definition of paternalism requires. As noted earlier, any unconditional social minimum is likely to be less paternalistic than any conditional social welfare scheme because determining whether recipients meet the conditions set by the latter scheme will almost certainly involve interferences with their liberty or autonomy. The state will interfere with recipients' liberty or autonomy by requiring them to conscientiously seek employment or to submit to drug testing, etc. Hence, *relative* to the baseline of a conditional social minimum, an unconditional social minimum will almost certainly be less paternalistic, irrespective of whether that unconditional minimum takes the form of a basic

income or a basket of in-kind goods. Nevertheless, an unconditional basket of in-kind goods, even if it represents an expansion of recipients' liberty or autonomy in comparison with a conditional social minimum, clearly places greater constraints on their liberty and autonomy than does a basic income. The interference with liberty or autonomy here is comparative but real.

So should the fact that a basic income would offer recipients a greater range of options than a basket of goods count in its favor by virtue of being less paternalistic? The guiding assumption behind this argument is that limiting a person's available options for her own benefit restricts her liberty or autonomy in ways that are worryingly paternalistic. This assumption, I suspect, is doubtful.

One reason for such doubt is that the converse of this assumption is false: Increasing the options available to a person is not incompatible with treating her paternalistically, nor does increasing her available options rebut the charge of paternalism. For one, the scope of a person's liberty or autonomy seems restricted to options that are meaningful or 'live' to her. Suppose that a restaurateur concerned about her regular customers' health makes use of research regarding product placement, etc., to redesign her menu.<sup>13</sup> She places the healthier entrees (chicken and seafood) near the top left of the menu, the less healthy entrees (beef and pork) at the bottom center. At the same time, she adds ten new items to the menu. However, because the restaurant is a Memphis-style barbecue joint, she knows full well that these new items (plain boiled tofu, for instance) will virtually never be ordered. The restaurateur has plainly acted paternalistically despite the fact that she has given her diners more options overall. The options she has provided to the barbecue aficionados are options that they are very unlikely to choose. The scope of their

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<sup>13</sup> Brian Wansink and Katie Love, "Slim By Design: Menu Strategies for Promoting High-Margin, Healthy Foods," *International Journal of Hospitality Management* 42 (2014): 137-143.

liberty or autonomy has been expanded in ways that are merely formal, and so the restaurateur cannot rebut the claim that she has acted paternalistically by citing the fact she expanded the diners' options overall.

Similarly, paternalistic manipulation can occur when one person attempts to *inundate* a person with options. George Tsai has observed that giving a person an enormous number of options and then forcing him to make a rapid decision leads to predictable patterns of choice (choosing the first or last option mentioned, for example) that can be put to paternalistic purposes.<sup>14</sup>

Examples such as these speak against the thesis there is some positive relation between the number of options available to a person and the scope of her liberty or autonomy (or at least, their scope as it bears on whether an act or policy is paternalistic). Thus, they also speak obliquely against the thesis pertinent to the debate about a basic income versus a basket of in-kind goods, namely, that a basic income is preferable on anti-paternalist grounds to a basket of in-kind goods because the latter restricts liberty or autonomy more than the former. After all, if expanding the number of options available to a person does not by itself make an act or policy *less* paternalistic, why should restricting the number of options available to a person by itself make an act or policy *more* paternalistic?

Still, expanding and restricting options could be asymmetric in this respect, so that expanding a person's options bears no clear relation to whether an act or policy is paternalistic, but restricting a person's options has clear implications, to wit, that it renders an act or policy (more) objectionably paternalistic. But the relationship between an act or policy's limiting a

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<sup>14</sup> "Rational Persuasion as Paternalism," *Philosophy and Public Affairs* 42 (2014): 78-112.

person's options and its being paternalistic is no less haphazard than the parallel relationship between expanding a person's options and treating her paternalistically.

Consider an example mirroring our earlier restaurateur: Suppose she already has a number of menu items that are rarely ordered and wants to encourage her customers to make healthy dining choices. She removes the rarely ordered items and (as before) places the healthier items at eye level on the menu. Here she acts paternalistically but her removing the rarely ordered items, thereby limiting her customers' options, is incidental to her act's being paternalistic.

There are also instances of paternalism in which a person's liberty or autonomy are essentially unaffected. Jonathan Quong argues that refusing to lend a friend money because you believe she will squander the money is paternalistic, despite the fact that the range of options available to her is precisely the same as it was before your refusal.<sup>15</sup> In this case, paternalism occurs even though the paternalistic act has no effect on the scope or significance of the options available to the friend.

The liberty-based account of paternalism thus errs in supposing that how a paternalistic act or policy affects the number or range of options available to those targeted for paternalism bears any intrinsic relationship to the act or policy's qualifying as paternalistic. But as we have seen, expanding a person's options can be paternalistic, limiting a person's options seems incidental to paternalism as such, and some instances of paternalism do not affect a person's options at all. The scope or range of a person's liberty or autonomy is often affected by being treated paternalistically, but this fact does not define the nature of paternalism.

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<sup>15</sup> *Liberalism without Perfectionism* (Oxford: Oxford University Press, 2011), p. 77.

If restricting a person's liberty or autonomy is not central to paternalism, what accounts for the near-canonical status of the liberty- or autonomy-based account? My own speculation is that the prominence of state paternalism (and the concordant neglect of interpersonal paternalism) in philosophical discussions of paternalism have led to a misunderstanding of the role of coercion (and other means by which options can be limited or curtailed) in paternalism. When the state engages in paternalism toward its citizens, it can only use the tools at its disposal, and its coercive powers (to imprison, levy taxes, and the like) are its principal tools. These tools, in turn, operate primarily by increasing the costs of certain options agents might pursue. State paternalism, in other words, exerts its paternalistic force by attempting to limit (or foreclose outright) options otherwise available to citizens. But to see the limiting of options as essential to paternalism is confuse what paternalism is with the methods states use to engage in it.<sup>16</sup>

### 3. Rational Will Accounts of Paternalism

Making an anti-paternalist case for a basic income would therefore seem to require a different conception of the nature and objectionability of paternalism. In recent years, an alternative picture of paternalism has emerged, one that resonates with Zwolinski's remark that states typically do not "trust welfare recipients to make ... wise choices about how to spend their money."

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<sup>16</sup> This, as I see it, is also the essential mistake of the 'libertarian paternalist' advocacy of nudges: The mere fact that a strategy does not limit a person's options does not settle whether it is paternalistic or whether it is objectionable *qua* paternalistic.

On what I call *rational will* accounts of paternalism, paternalism has two defining features.<sup>17</sup> First, when acting paternalistically, an individual or institution attempts to motivate the target of their paternalistic action to behave in ways that reflect the paternalizer's judgments regarding what is best for their targets. The paternalistic actor thus aims to decouple the target's judgment from the target's choices and actions, interposing her own judgment so as to influence the target's choices and actions in a way that the paternalistic actor sees as better for her. Paternalism thus involve the attempted substitution of the paternalistic actor's judgment regarding her target's good for that of her target. For adherents of the rational will view, this substitution of judgment is central to what makes paternalism morally objectionable in the first place. To attempt to guide others' self-regarding choices by one's own lights is to wrongfully intrude into a domain of agency concerning which they are owed deference and respect.

Second, the rational will account posits that paternalizers believe that their targets are, with respect to some self-regarding judgment, less rationally competent than they are. This second feature is closely coupled with the first: While it is not impossible to intercede in another's self-regarding choices believing that she is as competent, or more competent, with respect to making such choices, doing so would make paternalism nearly unintelligible. Why, if one is acting paternalistically, i.e., for the putative benefit of one's target, would one think paternalism is justified unless one thought that the target's judgment was inferior to one's own with respect to the choices singled out for paternalistic intercession? A paternalistic actor who

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<sup>17</sup> I used the term 'rational will' accounts in my "Paternalism and Our Rational Powers," *Mind* 126 (2017): 123-153. Others who advance kindred accounts include Seana Shiffrin, "Paternalism, Unconscionability Doctrine, and Accommodation," *Philosophy and Public Affairs* 29 (2000): 205-250; Quong, *Liberalism without Perfection*; and Daniel Groll, "Paternalism, Respect, and the Will," *Ethics* 122 (2012): 692-720. These authors may take issue with the details of the rational will account as I present it here.

believes her judgment is not superior to her target seems to be instrumentally irrational, inasmuch as her presumed end (promoting her target's good) is not, by her lights, best realized through her paternalistic action.

Notice that, in contrast to the liberty-based account, the rational will account understands paternalism in terms of the reasons that motivate the paternalistic actor rather than any particular means used by that actor. A paternalist can use whatever means she finds most suitable in order to compel her target to guide her self-regarding choices in ways the paternalist judges best for her. These means can involve limiting (or expanding) the options available to her target, but are not restricted to efforts to shape the options available to her target. The rational will account is thus better situated than the liberty-based account to explain the secondary role that limiting liberty or autonomy has in rendering an act or policy paternalistic.

For proponents of the rational will view, the *mistrust* that paternalistic actors exhibit is key to its moral objectionability. Paternalists do not trust their targets to exercise prudence on their own behalf. The objectionability here stems from how paternalism amounts to a derogation of the status of its target. Rather than viewing the target as an equal participant in social life, thereby entitled to others' deference to his own judgments regarding his good, paternalists view the rational wills of others as impediments to be circumvented by their judgments regarding the target's good. It is often the case that we believe others are prone to misjudgment regarding their own good and how best to achieve it. Setting aside this mistrust of their self-regarding judgments, even when it is justifiable in light of our past evidence about those judgments, is critical to respecting others as our equals. A social world lacking such respect is one that places



little stock in the notion that individuals and their rational wills are freestanding sources of authority regarding their own good.<sup>18</sup>

The rational will account is more independently credible than the liberty-based account of paternalism. More germane for our purposes, it puts the anti-paternalistic case for a basic income over a basket of goods on a firmer footing. The rational will account would seem to imply that providing a social minimum in terms of a basket of in-kind goods rather than a basic income reflects an implicit attitude of the state or its policymakers, to wit, they cannot “trust welfare recipients to make ... wise choices about how to spend their money.” To opt for a basket of in-kind goods over a basic income appears to rest on judgments to the effect that the recipients of the social minimum are less competent than the state or its policymakers in determining how their well-being is best realized. The rational will accounts thus seems to provide an anti-paternalistic reason to favor a basic income over a basket of in-kind goods.

All the same, it is not evident that the rational will account of paternalism better serves the cause of a basic income over an in-kind social minimum. Recall that central to the rational will account is the paternalizer’s judgment that her target is comparatively deficient in making

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<sup>18</sup> Some claim that the objectionability of paternalism is expressive, i.e., that it *consists in* the fact that paternalism expresses disrespect of, or insults, its target. See John Kleinig, *Paternalism* (Totowa, N.J.: Rowman and Allenheld, 1983) p. 38; Joel Feinberg, *Harm to Self* (Oxford: Oxford University Press, 1986), pp. 23–24; Elizabeth Anderson, “What is the Point of Equality?” *Ethics* 109 (1999): 287–337; Shiffrin, “Paternalism, Unconscionability Doctrine, and Accommodation”; and Nicolas Cornell, “A Third Theory of Paternalism,” *Michigan Law Review* 113 (2015): 1316. As a supporter of the rational will account, I agree that paternalism has insulting expressive content but deny that this is fundamental to the phenomenon. Rather, paternalistic acts are insulting only because they reflect judgments that disrespect, mistrust, etc. its target, and it is these judgments (or more accurately, incorporating these judgments into one’s treatment of the target) that make paternalism objectionable. That the target may feel insulted by paternalistic acts or that the acts express insulting judgments is conceptually subordinate.

self-regarding judgments. This derogation of the target's status, according to the rational will account, indicates a lack of respect for the target and her will as an independent source of reasons. But notice that in the case of a universal and unconditional social minimum, no such comparative appraisal is issued. Because all members of the polity receive the social minimum without condition, there is no suggestion that any *particular* recipient is deficient in judgment, prudence, self-control, or the like. Those who as a matter of fact have poor self-regarding judgment are not singled out by a universal social minimum policy. Granted, one might see such policies as justified, at least in part, by the observation that human agents in general often lack the volitional or agential capacities to make wise judgments regarding their own well-being. Finitely rational agents, to use Kant's term, will frequently not plan well, gather evidence about their options, weigh these options carefully, and so on. This shared vulnerability to various species of practical irrationality seems to favor a guaranteed social minimum as a way of placing a floor underneath us, a floor we need in order to be equal participants in shared social life at all. Yet this rationale for a social minimum carries none of the inegalitarian connotations that, according to the rational will account at least, make paternalism disrespectful, arrogant, and morally troubling. The message of a universal and unconditional social minimum is not that the most unfortunate should bear the stigma of being supported by the public treasury.<sup>19</sup> Rather, the message is that all have a claim to society's economic productivity as a matter of right. The message is one of solidarity rather than of the kind of hierarchy of competence that the rational will accounts finds ratified by paternalism.

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<sup>19</sup> Phillippe van Parijs, "Basic Income: A Simple and Powerful Idea for the Twenty-First Century," *Politics and Society* 32 (2004), p. 14.

The universality and unconditionality of a social minimum thus speaks against its being put to paternalistic uses, or at least, being put to uses that the rational will account of paternalism understands as morally objectionable. Still, opting for an in-kind social minimum over a basic income may carry a whiff of paternalism, inasmuch as the state appears to dictate to its members how it may use the social minimum to which they are entitled. Again, the fact that a universal social minimum does not single out any recipient as especially incompetent in guiding her own affairs suffices, in my estimation, to show that, whatever form a social minimum may take, its provision is not paternalistic. But it nevertheless seems possible that an in-kind basket of goods is more objectionably paternalistic than a basic income even if neither is paternalistic as such.

In one respect, this objection has already been answered: If the allegation is that an in-basket of goods is more paternalistic than a basic income because the latter leaves agents options for how to exploit their social minimum that the former does not, then the allegation rests on the claim that what renders an act or policy paternalistic is that it limits a person's options for her own good. And as we observed in section 2, that fact does not seem to define paternalism or explain what renders paternalism *pro tanto* objectionable. Better to look, as the rational will account does, to the motivations of paternalistic actors than their methods in order to grasp the nature of paternalism.

Furthermore, even if providing an in-kind basket of goods is more paternalistic than providing a basic income, this provides a fairly weak basis for favoring a basic income because the paternalistic intercessions in question engage with powers of choice that are fairly peripheral to our agency. As I argue elsewhere<sup>20</sup>, paternalistic acts or policies can intercede in different

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<sup>20</sup> "Paternalism and our rational powers," pp. 133-144. For a brief account of this argument, see "Identity Threat," London School of Economics, *theForum*, May 2017 (<http://blogs.lse.ac.uk/theforum/identity-threat/>)

powers that define rational choice. They can attempt to prevent us from *recognizing* some end as worthy of rational consideration; they can lead us to *discriminate* in favor of some ends over others; or they can attempt to lead us to pursue ends to which we are antecedently committed in ways that the paternalizer believes will make the *satisfaction* of those ends more probable. Because these powers vary in how central they are to our practical identities and in how much mistrust a paternalizer shows by interceding in them, the strength of our reasons to object to paternalism directed at us depend on which of these three powers the paternalistic act or policy intercedes in. We have the greatest reason to object when a paternalistic act or policy intercedes in our power to recognize ends, since the paternalist thereby indicates that our entertaining certain ends as possible objects of choice is so antagonistic to our well-being that we ought not even be permitted to consider those ends. Our capacity to entertain ends as possible objects of choice resides near the heart of our ability to make rational judgments about our own good. In contrast, we have the least reason to object to paternalistic intercessions in our power to satisfy ends to which we are already committed. Our judgments regarding how to satisfy our ends reside near the margins of our conceptions of the good, inasmuch as they are not judgments about goodness as such but about causal or metaphysical relations — about how to realize various states of affairs we have already decided it is worthwhile to pursue. Such judgments are not therefore not robust reflections of our practical identities, and to the extent that a paternalistic intercession in our power of deciding how best to satisfy our ends shows mistrust, it shows mistrust in judgments of fact rather than of value.

I cannot make a full case here for the philosophical merits of understanding paternalism in terms of our rational powers. Nevertheless, I anticipate that many will find it intuitively

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credible that paternalism that interferes with the means by which we pursue our ends (“weak paternalism”) is less objectionable than paternalism that attempts to influence the ends we pursue (“strong paternalism”). If so, then it follows that whatever anti-paternalistic reasons there are to favor a basic income over an in-kind social minimum reside toward the lower end of the anti-paternalistic spectrum. In opting for an in-kind social minimum over a basic income, policymakers would not be dictating to us ‘how to live our lives’ in any very normatively substantial sense. They would not be attempting to influence what religion we practice, whom we marry, what careers we pursue, what dietary practices we adopt, etc. That policy decision reflects judgments about what means are most conducive to citizens’ realizing their chosen ends, and so long as the means are sufficiently generic in their instrumental utility (as housing, medical care, food vouchers, and other typical items in the in-kind basket are), then the objection that the state is imposing some conception of how to live seems exaggerated at best.

#### 4. The Anti-Paternalist Case for an In-Kind Basket

To this point, our discussion has focused on whether anti-paternalistic considerations speak in favor of a social minimum in the form of a basic income rather than an in-kind basket of goods. Our conclusion is that the case for this is modest: Facts about the degree to which well-being are promoted by these two alternatives do not clearly favor a basic income over an in-kind basket, and these facts do not jibe well with anti-paternalism in any case. Liberty- or autonomy-based accounts of paternalism help account for why a basic income would provide greater “freedom of choice,” but are misguided inasmuch as they understand paternalism as necessarily involving limiting of targets’ options. Rational will accounts of paternalism are more independently plausible and seem to illuminate how providing an in-kind basket of goods rather

than a basic income manifests the derogatory judgments of, and mistrust in, others' rational powers that characterize paternalism. Yet these considerations are significantly mitigated by the fact that an in-kind basket would be universally and unconditionally distributed, and to the degree an in-kind basket is paternalistic, it is of the least objectionable sort, i.e., "weak" paternalistic intercessions to provide goods that function as generic means to whatever ends individuals may set for themselves.

Supporters of basic income must finally grapple with the prospect that opposition to paternalism might instead *favor* the provision of a social minimum in terms of a basket of in-kind goods. To see why, return again to the rational will account of paternalism. In emphasizing that a person is owed 'sovereignty' over their own good, the rational will account retains a connection to the classical liberal anti-paternalism exemplified by Mill. However, with its attention to how paternalism reflects judgments of inferiority, derogations of equal status, and violations of the independence of individual wills, the rational will account appears to incorporate insights from the recently resurgent republican or "relational" theory of equality. According to this theory, real freedom among citizens consists in the absence of oppressive or dominating social relations.<sup>21</sup> Hence, like the rational will account of paternalism, republican theories of equality are acutely sensitive to public policies that stigmatize some citizens as rationally or prudentially inferior to others. However, republican theories further underscore that freedom among citizens demands that they stand in material relationships with one another that neither embody nor invite

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<sup>21</sup> Anderson, "What is the Point of Equality?" and Phillip Pettit, *Republicanism: A Theory of Freedom and Government* (Oxford: Clarendon Press, 1997), are the two contemporary cornerstones of republican or relational theories of equality. See also Marie Garrau and Cécile Laborde, "Relational Equality, Non-Domination, and Vulnerability," in C. Fourie, F. Schuppert and I. Wallimann-Helmer, eds., *Social Equality: On What It Means to be Equals* (Oxford: Oxford University Press, 2015), pp. 45-64.

domination or oppression. Theorists in this tradition recognize that there will be disparities in power, etc., in most any society. However, any such disparities in power, including those between citizens, must not be arbitrary and must honor the inherent independence of individuals' wills from one another. Large discrepancies in economic resources are one axis along which unjustified disparities in power, and therefore oppression and domination, can arise. Those whose economic resources are so meager as to make them desperate for their basic needs to be met are more likely to be exploited by others and placed in subordinate and precarious social positions. They are thus likely to be motivated to "trade away their freedom from domination."<sup>22</sup> Republican and relational theories of equality thus tend to be supportive toward the unconditional public provision of basic needs so as to discourage the 'sale' of freedom in exchange for basic needs.

But these same commitments should make republican or relational theories skeptical that this provision ought to take the form a basic income.<sup>23</sup> For from the standpoint of ensuring social relations free of domination, oppression, or arbitrary power, the various goods that might constitute an unconditional social minimum are not interchangeable. Some have greater roles in securing such relations, some a lesser role. Imagine a society with an unconditional basic income scheme. Invariably, there will be a handful of basic income *wastrels*, individuals who, thanks to imprudence, etc., are left destitute thanks to frittering away their basic income (and whatever other income they may enjoy). Such wastrels will be more susceptible to entering into social relations in which they are subordinate to others and their wills; they will be more likely to take very risky jobs, to sell their kidneys to shady organ brokers, to enter into prolonged (and possibly

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<sup>22</sup> Frank Lovett, *A General Theory of Domination and Justice* (Oxford: Oxford University Press), p. 197

<sup>23</sup> Frank Lovett, "Domination and Distributive Justice," *Journal of Politics* 71 (2009), p. 826.

humiliating) servitude, and so on. Republican and relational theories take “luck egalitarians” to task for accepting that, so long as the wastrels’ desperation is due to their own choices instead of bad brute luck, societies have no obligations of justice to alleviate such a plight (or can only do so in troublingly paternalistic terms).<sup>24</sup> But for republican and relational theories, the plight of wastrels points to the necessity of providing an unconditional social minimum in terms of goods the enjoyment of which helps to buttress egalitarian relationships among citizens. The justification of providing these goods is thus not a paternalistic one, that (as the rationalist view has it) citizens are inferior or deficient in their capacities to fashion and pursue their own conceptions of the goods. Rather, there are “certain goods to which all citizens must have effective access over the course of their whole lives” in order for them to be genuinely free from the arbitrary imposition of others’ wills.<sup>25</sup> Elizabeth Anderson expresses the thought in terms of “what we owe each other” in the way of goods needed to avoid oppression:

What we owe are not the means to generic freedom but the social conditions of the particular, concrete freedoms that are instrumental to life in relations of equality with others. We owe each other the rights, institutions, social norms, public goods, and private resources that people need to avoid oppression (social exclusion, violence, exploitation, and so forth) and to exercise the capabilities necessary for functioning as equal citizens in a democratic state. From a social point of view, then, we should grant higher priority to securing certain goods, such as education, over others, such as surfing opportunities, even if some individuals prefer surfing to schooling. A maximal UBI [universal basic income] risks overproviding optional freedoms at a substantial sacrifice — large enough to compromise social equality — to the particular freedoms we owe one another.<sup>26</sup>

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<sup>24</sup> Anderson, “What is the Point of Equality?,” pp. 300-301.

<sup>25</sup> Anderson, “What is the Point of Equality?,” p. 329.

<sup>26</sup> “Optional freedoms,” *Boston Review*, October 2000 (<http://bostonreview.net/forum/basic-income-all/elizabeth-anderson-optional-freedoms>)



Anderson mentions education and health care as among the goods essential to the creation and maintenance of relational or republican equality. I do not intend to defend here any particular basket of in-kind goods as best suited to serve as an unconditional social minimum. Rather, let me instead focus on a single good — housing — so as to vindicate the claim that freedom among democratic equals is better secured by a basket of in-kind goods than by a basic income.

In a penetrating recent discussion of homelessness and property rights, Christopher Essert has observed that homelessness does not fundamentally consist in the absence of a permanent domicile or of any of the goods associated with having such a domicile (privacy, access to regular sanitation, etc.). Homelessness is instead characterized by lacking property rights. The homeless have property rights in the formal sense, i.e., if they come to acquire some object, etc., through legitimate means, they have a property right in that object. But the homeless have no specific rights to any property wherein they may shelter if they so choose. Essert does not deny that homelessness *qua* lack of shelter is unfortunate. All the same, the moral wrongfulness of homelessness instead comes down to the homeless lacking “a location where what one can and cannot do is not under the power of others.”<sup>27</sup> A person living in a homeless shelter because she lack the economic resources to pay rent anywhere may not be “homeless” in a material sense. But she remains profoundly subject to the wills of whoever has the power to permit her to reside there. Most crucially, she lives there at the pleasure of those operating the shelter. She thus lacks what Essert calls “normative control” regarding “how things will be as between them and others in the space where they live.”<sup>28</sup> Whatever the homeless choose to do they are able to do only with the authorization of those others on whose property the homeless choose to act.

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<sup>27</sup> Essert, “Property and Homelessness,” *Philosophy and Public Affairs* 44 (2016), p. 277.

<sup>28</sup> Essert, “Property and Homelessness,” pp. 274-75.

Essert convincingly demonstrates the centrality of housing to maintaining non-oppressive relations of equal status among individuals. The homeless have lives of ongoing subordination to the wills, usually arbitrary, of others. Housing thus plays an essential role in establishing and securing the free relations between equals envisioned by relational and republican theories. Basic income recipients may of course have property rights in their domiciles and may have legal rights of ongoing occupancy. But as our discussion of wastrels above shows, basic income recipients may make use of their economic resources so as not to acquire such rights to housing, and in so doing, they render themselves vulnerable to the arbitrary control over others, especially as they seek housing. Recipients of basic income may have more liberty, but in comparison to recipients of an in-kind basket of goods that enables, *inter alia*, secure rights to housing, they have less freedom.

I have claimed that this line of reasoning provides an anti-paternalistic case for an in-kind basket of goods over a basic income. It may not seem obvious how this is so. I have argued that the rational will account of paternalism correctly locates the wrongs of paternalism in the mistrust in, or derogatory judgment of, others' rational powers that paternalizers show toward their targets. Paternalism thus involves the subordination of one individual's will to another for the former's benefit. The rational will account finds its political corollary in republican or relational theories of equality that oppose oppressive or dominating social relations in which the wills of some are materially subordinate to the wills of others. Because different goods play different roles in establishing or securing such relations, an unconditional and universal social minimum ought to be chosen on the basis of which goods are central to such relations. A basic income provision makes no such distinction among goods. It thus has the defect that, in comparison with a basket of in-kind goods, it opens the door to unequal social relations. Notice

that a basket of in-kind goods is not *per se* less paternalistic than a basic income. Rather, it is better suited to establish social relations in which odious comparative judgments about the prudential or rational capacities of some citizens have no traction. In other words, if the relational or republican ideal of social relations is largely realized, there will be little *need* for the state to substitute its judgment, ‘insult’ citizens, etc., by treating them paternalistically. An in-kind basket of goods including housing, medical care, education, etc. does not only provide a floor of well-being for individual citizens.

A social minimum that is unconditional, universal, and in-kind thus appears to be a recipe for a society that is not tempted toward adopting a paternalistic stance toward its citizens. In such a society, policymakers will rarely confront circumstances that invite the negative comparative appraisals of individuals’ capacities that (according to the rational will account) reside at the heart of paternalism.

## 5. Conclusion

[await insertion after peer review, editors’ comments, etc.]