Institutional Trust, the Open Society, and the Welfare State

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1. INTRODUCTION

In his insightful book, *Trust in a Polarized Age*, Kevin Vallier (2021)[1] convincingly shows that the legitimacy and sustainability of liberal democratic institutions are dependent upon the maintenance of social and institutional trust. This insight, I believe, has value beyond the illustrious halls of post-Rawlsian, post-Gausian thought. Indeed, while I remain skeptical towards some of the premises of public reason liberalism, I am convinced that any liberal democratic political philosopher who takes the trust literature seriously and who has made their (pragmatic or principled) peace with redistribution has good reasons to sympathize with the general outlines of the institutional palette that emerges out of his book. In this article, I will take for granted Vallier's assumption that the erosion of social and institutional trust is a serious problem. This motivates investigating the trust-bearing attributes of the redistributive welfare state and the "principle of social insurance" that underpins it (p. 139f.). It is obviously not possible for me to tackle all aspects of welfare state governance. Instead, I will confine myself the topic of social insurance, cash transfer programs, and *Universal Basic Income* (UBI) (Hayek 1960, 1982; Friedman 1962; Brennan and Buchanan 1985; Buchanan 1997; Buchanan and Congleton 1998; Tomasi 2012; Zwolinski 2015, 2019; Murray 2016; Munger 2018; Lehto 2018, 2021, 2024 [forthcoming]; Fleischer and Lehto 2019; Lehto and Meadowcroft 2020).

The structure of my paper is as follows. In section 2, I reconstruct and critically analyse Vallier's case for a liberal democratic welfare state. I show that he makes a convincing public reason argument for universal social insurance but proceeds too hastily to exclude the principle of unconditionality from consideration. The rest of my paper consists of defending this claim by presenting two kinds of arguments—empirical and theoretical—that I think public reason liberals like Vallier, according to their own commitments, should be motivated to incorporate into their comprehensive discussion of the public justifications for and against basic income. They will show that UBI, although it remains contentious, has some features that could appeal to a diverse citizenry. I will argue that the integration of these two types of arguments into public reason framework, even if they are only partially correct (and their merits can be debated), is not only valuable in itself but also promises to tilt the balance of public reason justifications, at least more than Vallier concedes, towards *unconditional* UBI. First, in section 3, I argue that the empirical evidence about the relative merits and demerits of conditional and unconditional cash

transfer programs fails to determine the superiority of one type over another as an institutional mechanism for cultivating social trust. Then, in sections 4-5, I turn to a more philosophical mode, to discuss the theoretical foundations of the arguments for basic income from F. A. Hayek (1982) and Charles Murray (2016) that illuminate some of the potentially trust-eroding and trust-bearing features of the Open Society. This discussion speaks to one of Vallier's own themes, namely, the trust-carrying powers of the civil society, to make an "immanent critique" of the plausibility of his public reason justifications for conditional social insurance. Finally, in section 6, I conclude by suggesting that, although the evidence remains inconclusive, based on a careful reassessment of the combined empirical and philosophical justifications, an unconditional UBI may indeed be equally or more justifiable (even to some critics of the welfare state) than its alternatives.

2. THE LIBERAL DEMOCRATIC WELFARE STATE

Vallier argues that appeals to radical alternatives to the liberal democratic order, whatever their appeal, fail the test of public reason. All things considered, "liberal democracy is the best we can do" (p. 10). He defends a version of "welfare state capitalism" (p. 140) that protects the private property rights and other basic liberties of its citizens but also potentially corrects the market in several ways, including through the provision of public goods and the regulation of externalities, monopolies, and business cycles. He argues that despite some negative effects on taxes and productivity, "the welfare state helps create political trust" through its positive effects on such things as economic performance, public corruption, and rent-seeking, although he acknowledges that "the causal connection remains unclear" (p. 141). He summarizes his position in a succinct paragraph with distinct Hayekian echoes:

> The closer we can approach a social insurance *Rechtsstaat*, that is, a regime governed by the rule of law, the more essential the welfare state will be for generating social and political trust in the real world. What we want is to avoid large bureaucratic bodies with the power to tinker with political and economic life, as these agencies will be targeted for capture and corruption. We should instead entrench certain universal welfare programs in the constitutional order. Doing so will also create greater stability (p. 146).

Here, Vallier joins the emerging chorus of classical liberal and libertarian scholars (Hayek 1944, 1960, 1982; Friedman 1962; Brennan and Buchanan 1985; Buchanan 1997; Buchanan and Congleton 1998; Tomasi 2012; Murray 2016; Munger 2018; Lehto 2021; Lehto and Meadowcroft 2020) in arguing for a reorientation of the welfare state away from the discretionary, highly bureaucratic administrative state, towards a "liberal constitutional order that can only engage in redistribution in a universal fashion" through programs such as "a simple, predictable negative income tax" that would take the place of many "targeted social programs" (p. 146). In short, "a welfare state that is operated in a procedurally fair and noncorrupt fashion" implies a rule of law framework that is compatible with securing "the welfare rights of citizens through forms of social programs that are universal, routinized, and predictable and that leave little room for corruption and incompetence in their administration" (pp. 145-146). This is supported by the trust literature where one major contributor to the high level of social capital in Nordic welfare states has been argued to be their "strong reliance on universal social programs" (Kumlin and Rothstein 2005, p. 362).

Vallier is also partially sympathetic to a full-blown constitutionalized UBI, or a Friedmanite Negative Income Tax (NIT), (Friedman 1962) that would "replace most social welfare programs, with the possible exception of catastrophic health insurance" (p. 147). However, Vallier argues that some amount of conditionality might have to be incorporated into the system. He thinks that welfare programs that combine broad universalism with some amount of limited conditionality can better "appeal to the diverse moral reasons of persons with distinct and incompatible worldviews" as required by public justification in a diverse society (p. 23). Public justification requires that "the extent of social insurance will be qualified by concerns

about deservingness, inefficiency, crowding out, and coercion" (p. 153). He therefore favours universal "programs whose benefits goes to most members of society based on simple, largely non-means-tested criteria" (p. 142). For example, if access to "negative income tax could be [made] somewhat conditional in ways that are hard to fake, that would speak in favor of the tax. Such a policy could be publicly justified, and would help to create social and political trust in the real world" (p. 147). Such programs are "correlated with higher social trust than welfare programs that target the poor," through their link to lower corruption, strengthened rule of law, increased citizen solidarity, reduced stigma towards the poor, lowered incentives to cheat, and increased satisfaction with public bureaucracies (p. 142). Vallier offers a few examples of programs that satisfy the criteria of public reason, including the U.S. *Social Security* and *Head Start* programs as well as the Brazilian *Bolsa Família* program: "The genius of Bolsa Família is to provide largely unconditional cash transfers to the poor by combining assistance with relatively low barriers to qualification in the form of vaccination requirements and school attendance" (p. 147).

I agree with him that such programs are good candidates for building up a broad-based welfare state convergence, but I disagree with his hasty exclusion of unconditional benefits from consideration. Although he acknowledges that "relying on complex work requirement criteria work is bureaucratically complex and would undermine the streamlining effects of a negative income tax," he nonetheless thinks that "[c]onservatives and libertarians are entirely reasonable in insisting that people only receive welfare benefits if they are unable to work" (p. 147). He therefore stops short of advocating a system of fully unconditional redistribution that "many would reasonably find unfair" to the extent it does not discriminate between the truly needy and the merely lazy (p. 147). The view is not limited to conservatives and libertarians either. Already Rawls (1988, p. 257), the father of public reason liberalism, argued that "[t]hose who are unwilling to work [such as] those who surf all day off Malibu must find a way to support themselves and would not be entitled to public funds." Similarly, Jon Elster (1987, p. 719) pointed out that an unconditional UBI "goes against a widely accepted notion of justice: it is unfair for able-bodied people to live off the labor of others." If such views remain common, surely Vallier is right to be skeptical that an *unconditional* UBI/NIT could ever meet the standards of public reason (except perhaps in the negative sense of uniting people to *reject* it!). So, a fully unconditional UBI/NIT would combine the ("good") principle of universality with the ("bad") principle of unconditionality in a way that would be "trust-increasing in some respects but trust-reducing in others" and difficult to recommend from a public reason standpoint (p. 147).

Such objections are, of course, major obstacles for the public justification of UBI. But Vallier proceeds too hastily to eliminate unconditional forms of UBI/NIT from full consideration. According to his principles, in order to fail the standards of public reason, one group of citizens needs to have strong "defeater reasons" against a particular policy that override all the other reasons for it. He defines a defeater reason as "a reason that successfully undercuts or rebuts a proposed justification for some moral, legal, or constitutional rule" (p. 38, footnote 38). One worry with such a vague definition is that it might create an unreasonably stringent institutional filter. Even a single intransigent veto, if given too much weight, could lead to a deliberative standstill where no public reason convergence can ever be reached. Thankfully, Vallier minimizes this problem by making it clear that, for something to count as a defeater reason, it is not enough that somebody is made merely *unhappy* by a given proposal; this unhappiness has to cut deep and be publicly justifiable (p. 137). But given this much, I find his claim that there exist sufficient defeater reasons against unconditional basic income unconvincing. This is true *even* if one accepts Vallier's "convergence conception of justificatory reasons, on which reasons offered to justify coercion need not be shared or even accessible to citizens" but only sufficiently intelligibly "justified for the person who has them based on the person's own evaluative standards" (Vallier 2014, p. 6; see also 2021, pp. 40-42). The typical objections to an unconditional UBI/NIT, while they count as *prima facie* reasons against UBI on diverse evaluative standards, in the sense that they make some citizen groups very unhappy with the policy, do not classify as "defeater" reasons against UBI *except* if they prevail in the full trial-by-fire of public justification. To settle the matter, citizen groups would have to marshal extensive evidence *for and against* UBI in a way that is fair to all sides and

entertains all the best arguments. In this way alone, will we know how each citizen group's "own evaluative standards" translate into public convergence (or divergence) in the face of real-world data.

At most, Vallier succeeds in showing that UBI will have a hard time passing through the selection filter of public reason unless it overcomes the widespread opposition against it. But we knew this already. What Vallier *fails* to do is to show that UBI will have a *harder* time in public justification than its competitors if public opinion is susceptible to ongoing learning and fact-sensitive persuasion. Indeed, popular support for UBI has been rising in the polls and is currently net favourable in several countries (UBI Center 2022). The arguments *against* unconditionality may not be quite as strong as suspected, or the arguments *for* unconditionality might be stronger than suspected, or both. We need to know more about the expected long-term effects of conditional vs. unconditional programs on outcomes that can contribute to public justification, such as corruption, rent-seeking, employment effects, economic growth, happiness, virtue, and social trust. In the next section, I offer a brief survey of some of the relevant empirical facts. Then, in the latter half of the paper, I offer some trust-relevant reasons to favour UBI from libertarian and conservative perspectives. This combined evidence will *not* be enough to show the superiority of UBI over conditional programs, but it *will* be enough to refute the claim that an unconditional UBI is an obviously unviable institutional alternative.

3. IN EVIDENCE WE TRUST: A BRIEF SURVEY OF THE (INCONCLUSIVE) DATA

Knowing how the principle of social insurance can and should be implemented in each institutional setting requires carefully studying the predicted and observed socioeconomic effects of experimental pilots and randomized control trials, all the while taking account of the inherent scientific limitations of such experiments (Widerquist 2005; Lehto 2018). I will not attempt to summarize decades of research but only highlight some of its key findings. First, I will look at the ambiguous empirical evidence from experiments on *conditional* and *unconditional* cash transfer programs (CCTs and UCTs) around the world to show that both have their advantages and disadvantages. Although there have been dozens of UBI experiments around the world, many of them suffer from small sample size, unrepresentativeness, poor data collection, politically motivated data interpretation, and other scientific flaws (Lehto 2018, pp. 21-33). For this reason, I limit myself to the analysis of well-documented cash transfer programs and only a handful of the most robust and influential UBI experiments to date, namely, the Finnish UBI experiment (2017-2018), the North American 1960s-1980s NIT/UBI experiments, and a few scoping meta-studies. The purpose is to see how unconditional programs may, through multiple mechanisms, contribute to and undermine social trust. The evidence, while inconclusive, suggests that unconditional benefits *may* be publicly justifiable.

CCT programs like *Bolsa Família,* which Vallier defends, have shown positive effects on reducing extreme poverty and income inequality. (Soares, Ribas, and Osório 2010, p. 186). CCTs have also been documented to achieve desirable effects on outcomes such as schooling and vaccination (Banerjee and Duflo 2011). One study estimates that "*Bolsa Família* has been effective in both increasing school attendance and decreasing dropout rates, as have other CCTs" (Soares, Ribas, and Osório 2010, p. 186). However, the same study noted little-to-no effect on infant vaccination (Ibid.). The situation is complicated by the fact that several *unconditional* cash transfer programs have shown comparable improvements in schooling, health, poverty, and inequality (Banerjee and Duflo 2011; Banerjee, Niehaus, and Suri 2019). Often, at least in the developing world, the choice of "conditionality does not seem to matter at all" (Banerjee and Duflo 2011, p. 80). There is also little evidence to support the worry that the relaxation of conditionalities leads to antisocial, immoral, or otherwise reprehensible behaviour, such as "increases in conflict or temptation good consumption" (Haushofer and Shapiro 2016, p. 37). According to UNICEF (2016, p. 1), "[e]vidence on the added value of conditions is inconclusive. In practice, the policy choice of conditionality vs unconditionality is often not as stark as the debate implies." For these reasons, "UNICEF does not actively promote the use of conditions."

Several experiments have also been conducted on the UBI/NIT family of policies. The Finnish unconditional UBI experiment (2017-2018) is notable for being one of the most robust UBI trials up to date,

wherein 2,000 randomly selected long-term unemployed citizens of Finland from across the country were given an unconditional cash payment of €560 per month for a period of two years. It produced highly interesting results for the trust debate. Although far from conclusive, they suggest that unconditional benefits may, in fact, lead to increased institutional trust and a higher optimism towards the future:

> Basic income recipients experienced less stress and symptoms of depression and better cognitive functioning than the control group. In addition, the financial well-being of basic income recipients was better. They reported to be more often able to pay their bills on time. *Trust and confidence were stronger among basic income recipients. The treatment group reported that they trusted other people and social institutions more than the control group.* Moreover, they had higher confidence in their future possibilities. Basic income recipients also experienced less bureaucracy than the control group (Kangas, Jauhiainen et al. 2020, pp. 188-189, my italics).

In the experiment, *universal* benefits alone were *not enough* to achieve the positive results without the principle of unconditionality. This is shown by the fact that the experimental group reported higher trust and confidence than the control group who had access to a similar level of income supported by conditional unemployment benefits. Regarding labour market participation, "no significant employment effect was observed", which means that the people on UBI worked roughly the same as the control group and, indeed, a bit more (p. 188). Meta-analyses of past experiments caution against generalizing these results, however, since minor-to-moderate reductions in working hours have been observed elsewhere (Widerquist 2005, pp. 68-69). Whether such expected labour market effects sow the seeds of social and institutional distrust remains a concern, but the "common argument against basic income, that it will lead to *major* reductions in employment, is not supported by the evidence" (Gibson, Hearty, and Craig 2020, p. e173; see also Kangas, Jauhiainen et al. 2020, p. 188).

Beyond the labour market effects, past basic income studies have reported "modest to strong positive effects on a number of health outcomes, including low birthweight, infant obesity, adult and child mental health, service use, and nutrition [, linked to] reduced stress, improved parenting quality, and reduced financial strain" (Gibson, Hearty, and Craig 2020, p. e173). The Canadian guaranteed income experiment of the 1970s correlated with reductions in overall hospitalizations and mental health diagnoses (Forget 2011, p. 299, 2013). In addition, the preliminary results of a recent, small-scale UBI experiment in Stockton, California reported that "the treatment group experienced clinically and statistically significant improvements in their mental health that the control group did not" (West, Baker et al., 2020, p. 17). However, at a sample size of 125 people, the scientific value of the data is small. Thankfully, we also have data available from decades of basic income experiments. In their meta-analysis, Gibson, Hearty, and Craig (2020, p. e173) report "positive effects on child labour, health, and a wide range of structural determinants." These kinds of outcomes are only weak proxies for trust, for sure, but there seems to be a positive correlation between improved health, reduced stress, and social trust. UBI type policies may, in fact, successfully tackle contributors to social distrust such as income inequalities, work-related stress, bureaucracy-related stress, lack of confidence in the future, and poor mental and physical health.

Lastly, unconditional benefits also have a distinct (and almost self-evident) advantage in their ability to satisfy the stringent demands of the *human rights approach* to national and international law, according to which "the enjoyment of [basic human] rights by all individuals is not conditional on the performance of certain actions or the meeting of requirements. Rather, these are inherent rights which are essential to the realisation of human dignity" (Sepúlveda and Nyst, 2012, pp. 49-50). If this is so, the unconditionality of UBI may become relatively more attractive to citizens if conditional and targeted social security schemes lead to government failures that systematically violate the citizens' right to basic economic security (Lehto 2024, forthcoming). The evidence of the past failures of conditional programs suggests that "the imposition of conditionalities"—however modest—"has the potential to impede the enjoyment of human rights by the beneficiaries in a number of ways" (Sepúlveda and Nyst 2012, p. 48). This can result from some combina-

tion of incompetence, false expectations, and willful negligence. It is therefore not surprising that UNICEF (2016, p.1) recommends that "[u]nconditional transfers are the preferred option in humanitarian contexts."

So, various complex ethical and economic considerations go into the public justification arguments for and against UBI. Of course, critics of UBI may still insist that *even a single person* having the ability to freeride is objectionable, in which case the fact that *most* recipients will work hard might not be enough to satisfy them. But such hardline objections seem inconclusive from the point of view of public reason since equally strident hardline arguments can be raised *in favour* of UBI as well. So, although UBI gives some people the ability to freeride, this *might* be a price that most citizen groups are willing to pay if they are convinced of some overriding (moral or economic) benefits. This is especially plausible if people factor in the fact that conditional schemes may retain *equal* or *greater* opportunities for exploitation, cheating, and freeriding (Buchanan and Congleton 1998; Lehto and Meadowcroft 2020). Many conservatives and communitarians may even come to recognize, according to their *own* private standards of evaluation, that a lot of important social contribution takes place outside of paid labour, including within the family and the civil society, so that the mere fact that some people are not engaged in wage labour does not automatically mean that they are not *contributing* to society (Murray 2016). All this begs the question, should public reason liberals promote conditionalities if the evidence is ambiguous at best? It seems me that the answer is "probably not" as long as public opinion is modestly sensitive to caring and learning about their *actual* and not merely *intended* effects on various socioeconomic outcomes. And *even if* all we care about is acquiring the consent of intransigent citizen coalitions, it is not at all clear whether the intransigent views against UBI are fact-insensitive, reasonable, intelligible, potent, and numerous enough to count as sufficient defeater reasons to undermine public convergence.

Overall, unconditional UBI/NIT might have trust-increasing properties that need to be taken seriously. These might not be enough to eliminate the strong moral aversion that many people have towards wholly unconditional programs but at least *some* of the economic and moral arguments for conditionality are weakened. Overall, the evidence supports the view that a) universal and simple benefits have proven effective at solving various social problems; that b) conditional benefits can be legitimate means of pursuing social objectives; and that c) the relaxation of conditionalities often makes little difference in poverty reduction, income inequality, work contribution, school attendance, public health, or other social outcomes. The empirical data is too messy and complex to conclusively settle the debate between conditional and unconditional benefits. But this is exactly what I wanted to prove, namely, that *both* are viable institutional alternatives whose pros and cons should be debated in the public arena. Given the tradeoffs involved, many of the "reasonable" objections to unconditionality start to appear rather… unreasonable. Institutionalizing the principle of unconditionality, although it comes with its own set of institutional hazards, and although it makes some citizen coalitions unhappy, may be a publicly justifiable foundation for a liberal democratic welfare state. It is worth emphasizing, finally, that there is no panacea, since UBI/NIT comes with its own rent-seeking opportunities and implementation challenges that make it less than ideal (Boettke and Martin 2012). Faced with radical uncertainty about the long-term consequences of the different institutional alternatives, society must carefully balance out the expected costs and moral hazards of an unconditional UBI/NIT with the expected costs and moral hazards of conditional benefit schemes.

Before concluding this section, it is worth observing that the whole *Bolsa Família* program, so admired by many, was recently scrapped by President Bolsonaro in favour of another program, *Auxílio Brasil*, that offers stricter conditionalities and "variable benefits that are connected to the academic and sports performance of beneficiaries" (Pires 2021). This highlights the fragility of even supposedly popular and successful programs. Bolsonaro's reform has predictably exacerbated the partisan divisions in an already polarized country (Ibid.). Scrapping the benefits launched by one's political opponents is a potent means of political warfare that undermines the possibility of political convergence and trust-building. Of course, UBI might well be *equally* fragile. All such programs require robust safeguards; and none are foolproof.

Finally, let me discuss a hypothetical scenario that further illustrates the capacity of conditionalities to deteriorate into political warfare. Vallier (p. 147) claims that the requirement to vaccinate children attached

to *Bolsa Família* was a reasonable conditionality. I tend to agree. But imagine that *Bolsa Família* is the income of last resort for significant segments of the population. I have little doubt that some form of vaccination mandates (on both children *and* adults) can become publicly justifiable in a liberal democratic state. However, if they are tied to access to basic material security, such conditionalities may become contentious, and even lead to political warfare, in the presence of widespread disagreement about what kinds of behaviours can be legitimately coerced on dissenters. Under conditionalities, however benign ones, people lack what Van Parijs (1995) dubbed "real freedom": the power to do what one wants, including the power to make one's own lifestyle, health, and educational choices. One of the primary ways of interference in the modern society may be the imposition of behavioural and demographic conditionalities on access to basic economic resources that people need to survive (Widerquist 2013). Republicans like Philip Pettit (2007, p. 5) have dubbed this the problem of *domination*: "If I am not assured a basic income, there will be many areas where the wealthier could interfere with me." Indeed, such worries regarding the potential abuse of conditionality requirements as means of partisan political warfare and paternalistic overreach may coalesce into strident "defeater reasons" against conditional programs. Furthermore, conditionalities, even if acceptable to begin with, may have a tendency to balloon and multiply beyond their initial scope unless political agents are sufficiently constrained to keep their paternalistic, rent-seeking, and logrolling behaviour in check (Brennan and Buchanan 1985; Buchanan and Congleton 1998; Lehto and Meadowcroft 2020). Buchanan & Congleton (1998, p. 151) warned that "the introduction of means testing will increase rent seeking or political inefficiency as it promises to reduce, somewhat, conventional excess burdens. Classical liberals, especially, should beware of following a false god." Similar worries extend, I believe, to many conditionalities beyond means-testing. Buchanan himself interpreted the constitutional rule of law perspective to recommend an *unconditional* UBI scheme to "legitimize redistributive democracy and increase public trust in its institutions" (Lehto and Meadowcroft 2020, p. 156). If unconditional programs, with all their flaws, are seen as better safeguards against rent-seeking and regulatory capture by partisan citizen groups, they might become more palatable to a diverse society composed of "persons with distinct and incompatible worldviews" (p. 23).

In the next sections, I will turn to a more philosophical mode to show that Vallier misses another important strand of public reason argumentation relevant to his own concerns, aside from the empirical literature discussed above, that helps to recontextualize and strengthen the public reason case for the liberal welfare state while somewhat modifying its concrete policy recommendations towards the principle of unconditionality. I will argue that a careful study of Hayek (1982) and Murray (2016) as liberal proponents of basic income is less important for their substantive conclusions (which remain inconclusive) and more for their capacity to open up an intriguing, untapped dimension of trust-bearing public justifications for basic income that should be incorporated, according to Vallier's own premises, into the overall balance of reasons for and against the welfare state of law.

4. THE OPEN SOCIETY AND THE *SENTIMENTAL MALADAPTATION* PROBLEM

Vallier takes up the Hayekian argument that the *welfare state of law*—i.e. a redistributive state centred on the rule of law—would have epistemic and incentivizing advantages over *the welfare state of administration* that engages in "constant *state tinkering*" (p. 203). This indeed is a central pillar of Hayek's argumentation. Vallier (pp. 13-14) also recognizes the importance for "tribal psychologies" for social trust building, which suggests the importance of the *sentimental* basis of social cooperation. In this section, I tie these two topics together in a hopefully illuminating way to show that Hayek's argument for a *guaranteed minimum income* is intimately tied to his sociological analysis of the evolutionary transition from a Closed Society to an Open Society ("Great Society"). I will explain how, according to Hayek, the breakdown of tribal care relations contributes to *sentimental maladaptation* and therefore *social distrust*. This analysis expands the scope of public reason justifications for and against the normative desirability of basic income under the welfare state of law. That said, Hayek's specifications of guaranteed minimum income are vague enough to be equally compatible with some conditionalities (Rallo 2019) or a fully unconditional UBI (Zwolinski 2015,

2019). So, the following discussion does not settle the conditionality debate on its own but it sheds light on the kinds of justifications that Hayekians informed by public reason liberalism can make for and against the welfare state and its manifold concrete manifestations. At the same time, this discussion unfortunately leads to some glum and unwelcome conclusions, since it suggests that "rule of law" based remedies like UBI are likely to somewhat calm, but unlikely to (alone) fully satisfy, our atavistic sentiments.

Let me start by summarizing Hayek's argument. He claimed that biological and cultural evolution have endowed us with certain atavistic instincts and values that hinder our adaptation to life in a market society: "The values which still survive from the small end-connected groups whose coherence depended upon them, are (…) not only different from, but often incompatible with, the values which make possible the peaceful coexistence of large numbers in the Open Society" (Hayek 1982, p. 294). The argument goes back to his friend Popper (1966, p. 171) who argued that in the Open Society we tend to find a civilizational strain of "deeply rooted unhappiness" associated with the breakdown of tightknit, organic community ties. Therefore, the longing for the "organic" or "tribal" or "closed" society periodically reasserts itself. This is a case of *sentimental maladaptation*: "For although society has become abstract, the biological make-up of man has not changed much; *men have social needs which they cannot satisfy in an abstract society*" (Popper 1966, pp. 174-175, my italics). The path of progress invites a "perennial revolt against freedom" (Popper 1966, p. 188).

Several strands of contemporary research, although they come from wildly different methodological premises, independently lend some credence to the Popperian-Hayekian sentimental maladaptation hypothesis. This includes evolutionary psychology, behavioural psychology, and psychoanalysis. Even if only a portion of this research is valid, it seems incontrovertibly true that there is something inflexible and maladaptive in human psychology that has evolved to be less than fully congruent with our cultural environment. Indeed, the maladaptation problem is widely accepted in biology although the extent to which it can be legitimately extended to human psychology remains debatable. For example, in medicine, it is widely accepted that the study of our ancestral history "provides important insights into current burden of lifestyle diseases" such as diabetes and obesity (Andrews and Johnson, 2020, p. 226). Since cultural evolution outpaces biological evolution, "we are still adapting to this rapid change in our diet and environment" (Ibid., p. 234). It is hardly a stretch to suggest that our "still adapting" biological constitution, which includes our capacity for emotional bonding, judging, and trust-making, contributes to the current burden of civilizational problems, including social distrust and conflict. One does not have to accept the full research program of evolutionary psychology, with all its controversial aspects, to be persuaded by the well-documented claim that our sentiments and values, however flexible they may be (and this flexibility, too, is amply documented), *partially* reflect the social conditions of a long-gone environment of evolutionary adaptiveness (Haidt 2012; Tomasello 2014; Turchin 2016). This is compatible with saying that this very same constitution, in the right cultural environment, provides adaptive tools of *overcoming* various collective action and coordination problems. It only suggests that some problems are more intractable than others because they go against our emotional propensities, which is arguably the case in adaptation to the abstract rules of the Open Society. Already Freud (1962) argued, although with unfortunate exaggeration, that the biological sex drive, which he called the *libido* (or *Eros*), was necessarily frustrated in a civilized society. Independently, behavioural psychology has exposed certain other predictably irrational features of the human psychology, *biases and heuristics*, that exacerbate the sentimental maladaptation problem by ensuring that rational solutions often lose out to emotional or intuitive reasoning (Tversky and Kahneman, 1974, 1981). Again, one does not have to fully accept neither the behavioural psychological nor the Freudian psychoanalytic research programs to see that such arguments, if at least *partially* true, support the sentimental maladaptation hypothesis. The anthropological record, too, supports the fact that human societies have been characterized, until very recently, by tribal relations composed of close-knit networks of "mutual aid" (Kropotkin 1889) and "shared intentionality" characterized by in-group cooperation and a preference for our nearest kin over distant strangers (Tomasello 2014). The gradual evolution of the morality of the Open Society,

which is composed primarily of loosely connected strangers, appears as an unevenly "expanding circle" that is fragile on the margins and susceptible to periodic regressions (Singer 2011).

Freud (1962) may be right to claim that "civilizational uneasiness" (*das Unbehagen in der Kultur*) is not an exclusive property of modernity but a structural feature of *any* civilizational order that suppresses individual desires. Nonetheless, it seems that the Open Society is *especially* prone to the failure to satisfy our sentimental needs. So, if we wish to publicly defend the Open Society—as any liberal is tempted and even obliged to do—we face the task of placating our maladaptive sentiments or face a civilizational collapse. This requires pragmatic institutional strategies that strike a sufficient balance between placating our maladaptive sentimental needs and pushing for further Open Society reforms based on the abstract rules of justice.

Having noted the tendency of the Open Society to generate distrust and resentment towards itself, Hayek makes his most forceful case for a guaranteed minimum income:

> The assurance of a certain minimum income for everyone, or a sort of floor below which nobody need fall even when he is unable to provide for himself, appears not only to be a wholly legitimate protection against a risk common to all, but *a necessary part of the Great [aka. Open] Society in which the individual no longer has specific claims on the members of the particular small group into which he was born* (Hayek 1982, p. 395, my italics).

Let me unpack this argument. Even if it is only partially correct, it should be included in the public justifications for and against the trust-bearing welfare state. Hayek claims that in the tribal society people lived in "small groups" characterized by communitarian care relations giving rise to "specific claims." In such a society, people who fell on tough times could, on average, count on their extended family, friends, and neighbours to help them out. The need for collective social insurance arguably does not exist in the Closed Society where intragroup relations are characterized by sufficient mutual trust and mutual aid. It only arises as society transitions towards the *abstract* and *general* laws of the Open Society. Without something like basic income (whether or not this is fully unconditional), the unsatisfied sentiments of the people might lead the people to clamour for authoritarian solutions, such as centrally planned socialism, that undermine the Open Society under the banner of "social justice" (Hayek 1982, p. 226f). These are the sentimental origins of the infamous "road to serfdom" (Hayek 1944). Hayek thought that classical liberals have the duty to entertain solutions like guaranteed minimum income that are compatible with the rule of law (Hayek 1982, p. 249). In this sense, the Hayekian UBI can be publicly justifiable as a pragmatic tool of institutional adaptation that gives added security to people who have been expelled from the tribal Eden and shipwrecked across the ocean of frustrated (catallactic) expectations. However, it seems unlikely that UBI alone could suffice. Even in the best-case scenario, UBI would not *eliminate* lingering sentimental maladaptations but only *somewhat placate* the anger of the civilizational discontents by giving people enough security and freedom to *calm their anxious sentiments* and hopefully prevent a civilizational collapse.

As liberals celebrate, communitarians should panic. It is possible that having a UBI ends up facilitating, speeding up, and legitimizing the sociological breakdown of tightknit community bonds with no real replacement in sight. I share the worry that the liberal welfare state—even a Hayekian one—may end up doing a poor job at substituting for the more organic tribal relations. Perhaps this process results in a kind of a globalized monster; an abstract cybernetic order with no heart or soul. Do we want to live in an abstract market society that suppresses the natural sentiments of man and our capacity for organic communities consisting of tightknit networks of mutual aid? Such a society does not sound very conducive to trust-building in the long run. As Vallier (p. 3) emphasizes, one of the contemporary manifestations of this civilizational uneasiness is the renewed popularity of identity politics and other forms of neo-tribalism. Francis Fukuyama (2018) has argued that the push for tribal identitarianism stems from a suppressed Hegelian "struggle for recognition" that reflects the failure of the lofty promises of liberal universalism. Indeed, the allure of identity politics may appear today as the most satisfactory fix to the sentimental maladaptation

of human beings. This pessimistic vision is hard to reconcile with the more optimistic belief that our sentiments can be harmonized with the impersonal needs of social and institutional adaptation. If Hayek is right, there may be a permanent *trust deficit* in capitalist societies. Generating sustainable social trust in a complex capitalist society requires recognizing, repairing (where possible), and substituting (where necessary) for tribal bonds torn asunder by cultural evolution. Indeed, in order to guard themselves against sentimental, authoritarian backlash, pragmatic Open Societies may have to accept a thin layer of sentimental or communitarian politics that surrounds and protects the core of abstract liberal values. Is this a compromise worth making to make the Open Society sustainable? Let me put it this way: *if it takes a bit of occasional flag waving and symbolic identitarianism to secure our economic and political freedoms, is this a devil's bargain that liberals should (reluctantly) accept?*

However, in the next section, I offer an alternative approach. Perhaps what we need is *not* diluting liberal democracy with a thin layer of neotribalism but pushing even harder than before for the amplification and utilization of the *associational*, *care-relational,* and *meaning-endowing* capacities inherent within the liberal order itself? This is an argument that Vallier should be sympathetic to. Perhaps what we need, following Tocqueville and Murray, is a reemergence of the liberal civil society as a domain of shared meaningfulness, trust, and care?

5. CHARLES MURRAY ON BASIC INCOME AND ASSOCIATIONAL FREEDOM

Vallier (pp. 88-118) places high value in "Civil Society and Freedom of Association" as cornerstones of the liberal democratic society. Freedom of association is a foundational "publicly justified primary right" (p. 101). Since involving the government entails coercion in need of public justification, there is "a *presumption on behalf of civil society* in providing for the needs of the poor and protecting economic justice [that] can only be overcome by empirical data that strongly support the greater effectiveness of government-provided services" (p. 151, italics in the original). Murray (2016), too, prioritizes the social value of civil associations, and provides a complementary mechanism, absent in Vallier, for the transmission and reactivation of virtue and communitarian care through a restructuring of the welfare state. Like with Hayek, my concern is not so much to defend Murray's substantive conclusion as to introduce an underappreciated justificatory (classical liberal) argument in favour of UBI that public reason liberals like Vallier, according to their own premises, should take seriously.

Murray draws on Tocqueville's (2012, p. 902) famous assertion that one of the cornerstones of democratic self-governance is the continued practice of "the art of associating." For Tocqueville (and also Vallier 2021, p. 95), "intellectual and moral associations are as necessary as the political and industrial ones (…), and perhaps more." People uniting for a common cause is the lifeblood of a free society that produces a rejuvenating "circulation of sentiments and ideas." Indeed, the "morals and intelligence of a democratic people would run no lesser dangers than their trade and industry, if the government came to take the place of associations everywhere" (Tocqueville 2012, pp. 900-901). The conservative Tocquevillean story, which is often used to criticize the welfare state, can be accused of understating the productive role of the state sector in facilitating a healthy civil society. However, the general trend towards the *institutionalization of care* is incontrovertible. Even in communitarian societies that combine an active welfare state with as strong ethos of care, like Sweden, the proportion of care work conducted in impersonal, state-affiliated institutions like elderly care facilities, hospitals, and welfare bureaucracies has continued to increase with the general expansion of the welfare state. This trend has only somewhat been mitigated by the countermovement towards humanitarian "de-institutionalization" in areas like psychiatry since the 1960s (Burrell and Trip 2011).

Murray (2016, unpaged) is no fan of the welfare state either, but he claims, paradoxically enough, that "UBI returns the stuff of life to the hands of civil society." He writes: "The effects of the UBI on America's civic culture are potentially transforming and, in my view, are likely to constitute the most important single contribution of the UBI." Indeed, if it turns out that an unconditional UBI, despite its costs, is apt at "returning the stuff of life to the hands of civil society," this might remove one of the main conservative/libertarian/

communitarian objections to UBI that Vallier, too, relies on to argue for the retention of some conditionalities. To make his case, Murray focuses on two interlinked social processes in the Tocquevillean civil society: 1) "The Inculcation of Virtue in the Next Generation" and 2) "The Dynamics of Vital Communities." I will tackle these processes in order.

a) The Inculcation of Virtue in the Next Generation

Murray argues for a direct link between the inculcation of virtue and the maintenance of social trust: "A free market cannot work unless the overwhelming majority of the population practices good faith in business transactions." If the chain of trust is an intergenerational process fueled by education and learning, a free society must inculcate and transmit virtues to its children to remain trustworthy and operational: "Allowing people to adopt any lifestyle they prefer will not work if a culture does not socialize an overwhelming majority of its children to take responsibility for their actions, to understand long-term consequences, and to exercise self-restraint." Here, one may question how thick and substantive these shared social norms must be. It seems inappropriate to claim, as Murray does, that these social norms *must* be built upon Aristotelean or Christian ethics. The primary function of virtue, at any rate, is to install a sense of "responsibility" for oneself and one's community: "In a society where that responsibility remains with ordinary citizens, the development of virtue in the next generation is invigorated." On the flipside, "in a society where the responsibility for coping with human needs is consigned to bureaucracies, the development of virtue in the next generation is impeded." There is nothing in his analysis, so far, that public reason liberals may not agree with. But Murray makes the further claim that *an unconditional UBI could contribute to the development of virtue*.

How does he reach this conclusion? His argument has six steps:

1) A trusting free market society requires the development of virtue.
2) The development of virtue requires the free exercise of self-responsibility and care for others.
3) A bureaucratic welfare state impedes self-responsibility and care for others.
4) A UBI-centric state facilitates self-responsibility and care for others.
5) Therefore, a UBI-centric state contributes to developing virtue.
6) Therefore, a UBI-centric state supports a trusting free market society.

As it stands, the argument is suggestive. But it has some weak links. Most obviously, premise (4) can be questioned. It is not at all clear whether UBI would facilitate the norms of self-reliance and community care, or, as its critics claim, the norms of state-dependence and free-riding. This is an issue that must be settled empirically. The existing evidence, as I have shown, is inconclusive. Another potential weak link lies in the logical jump from (3) to (4). Even if we grant that the bureaucratic welfare state impedes public virtues (3), this leaves the door open, not only for UBI (4), but also for some "not-quite-UBI" alternatives (4*), including some conditional schemes. At any rate, Murray's argument may be the *most* supportive of a fully unconditional scheme that involves giving the least power to bureaucracies over the civil society. This conclusion is strengthened if we also consider his second argument below.

b) The Dynamics of Vital Communities

Murray's second Tocquevillean argument is that the welfare state undermines the strength of the "tendrils" of the civil society, which means the networks of "affiliations that draw communities together and give them vitality." Could these be a substitute for the thick tribal care relations that, according to Hayek, are attenuated or lost in the Open Society? I believe so. For Murray, social trust requires both the creation and transmission of virtue and the capacity of that virtue to manifest in dynamic and vital civil communities. He claims that there exists a "causal connection between such apparently disparate events as the establishment of a welfare bureaucracy and the reduced likelihood (after the passage of some years) that, when some-

one dies, a neighbor will prepare a casserole for the bereaved family's dinner." In this analysis, the *sociological network density of care relations* is weakened by the *institutional substitution effect*, already noted by Tocqueville, between the civil society and the state. As the state domain increases, the civil domain shrinks in turn. Thus, "the logic of the social engineer" has unintended trust-eroding effects: "By hiring professional social workers to care for those most in need, it cuts off nourishment to" the care-giving and problem-solving capacities of the civil society.

The final step of Murray's argument is that UBI could be used to reverse this trend. Replacing the welfare state with UBI would decentralize power to the civil society by curtailing the power of social engineers and social workers. An obvious problem with this logic is that most proponents of UBI reject the libertarian framework of implementation. They would prefer a welfare state that combines UBI *with* social engineers and social workers. Since democratic deliberation is unlikely to lead to a libertarian UBI, the real question is, could a compromise UBI scheme that is married to a modest welfare state function as an improvement over the *status quo*? I think the answer is still '*yes*.' Public reason liberals can acknowledge, as Vallier does, that a free society can accommodate a broad range of welfare state programs and regulations aside from basic income itself as long as these conform to the rule of law. Moving *towards* unconditionality and *towards* the civil society may well be a significant move in the right direction, *even if* the welfare state were to retain some of its meddlesome powers. Murray's stringent libertarianism is likely to fail the test of public justification, but it is possible to accommodate his Tocquevillean argument into a moderate welfare state scheme that goes some way (if not *all the way*) towards improving the virtue-transmitting and network-generating properties of the civil society. Such a scheme may become publicly justifiable, not only to libertarians and conservatives but also to social democrats and progressives, although the *precise* point of convergent public reason equilibrium, I believe, cannot be known *a priori*.

If Murray is correct in his optimistic estimate that a highly libertarian UBI can play a positive role in the renaissance of civil associations, it may be publicly justifiable:

> These are my reasons for thinking that the effects of the UBI on civic culture are likely to be transforming. The grant will put in each individual's hands the means to take care of himself under ordinary circumstances. But some will not take care of themselves. (…) The responses to the needs posed by these cases will be as flexible as their causes. (…) *Nothing stands in the way of the restoration of networks that are appropriate and generous, and that actually solve problems, except the will to put the responsibility for those problems back in our hands*" (Murray 2016, my italics).

If Murray is right, a UBI that curtails the administrative state can plausibly contribute to more responsible, self-reliant, caring, and trusting citizenry. Indeed, cultivating a dynamic civil society with UBI might be a good remedy for the Hayekian problem of sentimental maladaptation. UBI could be justified either as a *permanent institution* of the Open Society or, at least, as a *transitional measure* that helps society move *towards* increased openness. This suggests that schemes that give more *unconditional* power (and real freedom) to the self-governing communities themselves have some Tocquevillian advantages. At the same time, the results are unpredictable and uncertain. Civil associations may equally contribute to the *erosion* of social trust, "for example in building isolated associations that encourage people to distrust outsiders" (p. 103). Furthermore, UBI might have to be implemented in a less libertarian fashion than what Murray proposes. This would make it more politically palatable but also less transformative of the civil society. However, even in a compromised form, a UBI-centric welfare state might transmit virtue and trust *better* than an administrative welfare state. Since Vallier, too, wants to move *towards* such a scheme, up to a point, he can comfortably come along for the ride. What is important is that *moving towards* simple and universal benefits (with minimal, or zero, conditionalities) can be made, under some assumptions, publicly justifiable.

6. CONCLUSION

When Hobbes laid the first foundations of social contract theory, people were so divided on politics that they could at best hope to agree not to kill each other. Today, with some luck and patience, people can sometimes agree on, or at least tolerate, a lot more. A core insight of public reason liberalism is that even people who have deep and intractable disagreements may come to agree on a basic rights structure. Vallier has convincingly shown that this may include, among other things, a system of universal, simple, and nondiscriminatory social insurance. His Hayekian institutional recommendation for a *welfare state of law* is appealing to many liberal scholars who care about agreement-in-diversity. The contemporary literature on basic income experiments lends credence to the contention that "we should probably want to err on the side of universal welfare programs to help the poor and marginalized" (p. 143). Ample evidence, both empirical and theoretical, demonstrates the beneficial effects of minimally conditional programs like *Social Security* and *Bolsa Família* and fully unconditional programs like *Universal Basic Income* and the *Negative Income Tax*. However, whether public reason liberals should prefer *conditionality* or *unconditionality* remains unresolved.

I have shown that conditional benefits may be easier than UBI to justify to a public whose members have strong moral and economic objections to people freeriding off the labour of others. They are therefore better at accommodating the widespread objection that it is morally wrong and/or economically unwise to give money to the "undeserving" poor. Economically speaking, they often require lower taxes than a full-blown UBI. However, there is only weak and contradictory evidence that conditional benefits are better at tackling unemployment or minimizing cheating and rent-seeking opportunities than unconditional benefits. The *economic* objections to unconditionality appear less compelling than the *moralizing* ones. Excluding the undeserving poor from access to basic income may be hard to publicly justify if unconditionality does not impose significant economic costs (or externalities) on the broader society. One of the main objections to unconditionality is thereby seriously weakened. This may facilitate public reason convergence around UBI on the basic liberal principle of "live and let live."

Unconditional programs have some distinct advantages as well. Some people may have strong reasons in favour of unconditional benefits that are able to effectively support the real freedom of the recipients, strengthen the rule of law, revitalize bottom-up civil society engagements, and eliminate contentious partisan struggles over the scope of "acceptable" conditionalities. The data from the Finnish, Canadian, and other basic income studies seem to suggest that unconditional programs might produce beneficial effects on institutional trust, faith in the future, and other crucial socioeconomic metrics that are similar to or greater than those of conditional programs. Giving people "free money" may correlate with elevated levels of social and institutional trust. Picking a program like Brazilian *Bolsa Família* or the U.S. *Social Security* may be a good starting point for building public convergence. However, unconditional programs may end up appealing equally well, or even better, to multiple diverse viewpoints. I therefore tentatively agree with Buchanan and Congleton's (1998, p. 151) assessment of conditional and means-tested benefits as a "false god" that even the most intransigent sceptic groups, including libertarians and conservatives, should be persuadable, under some empirical assumptions, to abandon, without having to change their basic principles. However, maintaining an open mind is a virtue in this complex and dynamic world. A full and final judgment remains as elusive as ever.

In the second half of my paper, I turned to more philosophical themes that public reason liberals like Vallier who place great value on the liberal rules of the Open Society and the trust-bearing attributes of the civil society should be motivated to incorporate into their comprehensive analysis according to their own standards of justification. First, I showed that the problem of *sentimental maladaptation* identified by Popper and Hayek, which is supported by several strands of contemporary psychology, remains an underappreciated problem for welfare state governance. Hayek's attempt at a rule-of-law welfare state was partially an attempt to overcome this problem. Programs like UBI or *Bolsa Família* may be cynically seen as ways to bribe the consent of the poor. And yet, I suggest that something more is required than giving people ac-

cess to material resources. The problem is that it is not clear how well governments can *ever* cater to man's search for meaning. Governments that have tried to impose a more substantive moral order have done so at great cost to human freedom. The psychotherapist Viktor Frankl (2000, pp. 84-85) famously argued that finding a sense of purposefulness was the key to survival in the Nazi concentration camps and, by extension, life in general: "Woe to him who saw no more sense in his life, no aim, no purpose, and therefore no point in carrying on." One part of the solution might lie in the promotion of some forms of tribal collectivism in the form of non-virulent nationalism, such as semi-harmless flag-waving, to set some other "sentimental" side constraints on the abstract constitutional order of the Open Society. A sense of tribal unity encoded in shared symbolism may help to forestall political polarization. But this has its obvious downsides. I have therefore argued, in an appeal to Vallier's own liberal motivations, that it may be preferable to follow the Murray/Tocqueville route of amplifying the powers of the civil society to generate bottom-up networks of care, trust, and meaning. The welfare state, despite its many contributions to the continued advancement of human flourishing, threatens to instill habits of subservience and helplessness that are liable, over time, to erode "the custom of associating in ordinary life" that is our best means of moral and spiritual advancement (Tocqueville, 2012, p. 898). The enforcement of benefit conditionalities, even modest ones, contains an ineradicable element of paternalism that erodes the habit and custom of self-governance (Murray 2016). If this is even *approximately* right, let alone *substantially* so, a dynamic and evolutionary Tocquevillean civil society may require an *unconditional* basic income.

Combining Hayek and Murray, it seems to me that the only sustainable solution to the *sentimental maladaptation* problem of the Open Society lies in facilitating the Tocquevillean tendrils of civil association and self-governance within which individual, group, and collective meaningfulness can spontaneously grow beyond such materialistic aims as "utility maximization" or "GDP growth." This is the only way to make the Open Society, with all its dangers and flaws, sentimentally palatable to the *demos*. Beyond bread and circuses, and beyond sanitized flag-waving, the welfare state needs to offer a robust "associational" platform for moral and spiritual discovery. This is what Tocqueville and Murray argue for. A good welfare state not only takes care of the poor and the needy but does so in a way that encourages continuous moral and spiritual learning through the facilitation of the bottom-up experimentation with, and discovery of, new varieties of human flourishing. Such a society would combine the public provision of public goods, careful regulations, and income redistribution with the encouragement of associational freedom and economic freedom. It would encourage meaningfulness without imposing a uniform moral order; it would therefore be somewhat "communitarian" in its aims but "liberal" in its means. It would be agnostic about whether meaningfulness is best sought in religious or secular contexts (Vallier 2014). It would update the evolutionary liberalism that Hayek and Popper cultivated. It would also meet, I believe, the exacting standards of Vallier's variety of public reason liberalism. Such a society would not only provide the abstract skeleton of a good society but also the bloodstreams, sinews, and nerve endings that generate and rejuvenate organic bonds of community care and trust.

NOTES

1 Unless otherwise stated, pagination refers to this work.

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