

NEOLIBERAL SOCIAL JUSTICE AND TAXATION

BY NICK COWEN*

Abstract: Liberal egalitarians argue that the state is justified in taxing members of a political community to achieve distributive justice and ensure political equality and regime stability. This involves an uneasy compromise between equality and efficiency, a compromise that many argue has recently been undermined by the growth of unchecked wealth and income inequality. This essay argues that there is also a trade-off between selecting fair processes for taxation and aiming for particular distributive outcomes. The way people accumulate wealth, and the way states tax often matters more than distributive outcomes. Policymakers must allow for the fair assessment of tax liabilities, avoid excessive enforcement costs and prevent political actors from using tax systems to achieve their partial ends. Recognizing these considerations justifies a systematic scheme of taxation while constraining the mechanisms for collecting revenue. I justify this position using comparative analysis, which I contrast with the conceptual intuitionistic approach associated with egalitarianism.

KEY WORDS: Realism, wealth inequality, wealth tax, comparative analysis, knowledge problem, incentive problem

I. INTRODUCTION

Taxation is an increasingly important concern for normative theorists.¹ Egalitarian debates in the twentieth century focused on the feasibility of socialism and the radical reworking of existing economic systems.² Today, for the most part, egalitarians acknowledge the necessity of some market institutions for the provision of many kinds of goods and services.³ The question is how to reconcile elements of capitalism with philosophical commitments to equality, especially the class-based inequalities associated with the intergenerational transfer of wealth. A radically reformulated tax system that redistributes wealth to achieve egalitarian outcomes appears to be the most promising institutional solution.

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¹ Martin O'Neill and Shepley Orr, eds., *Taxation: Philosophical Perspectives* (Oxford University Press, 2018), <https://doi.org/10.1093/oso/9780199609222.001.0001>.

² G. A. Cohen, *Why Not Socialism?* (Princeton, NJ: Princeton University Press, 2009).

³ Nick Cowen, "Introduction: Symposium on Robust Political Economy," *Critical Review* 28, nos. 3–4 (2016): 420–39, <https://doi.org/10.1080/08913811.2016.1264158>.

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In acknowledging the contestability of moral commitments to equality, some liberal egalitarians have taken a realist turn.⁴ They propose that a substantial degree of material equality is required for democratic accountability and stability.⁵ Robeyns, for example, proposes that anyone committed to democracy must also endorse robust redistributive taxation. Many classical liberals agree that the stakes are high in the wake of contemporary antidemocratic sentiment and democratic regime backsliding.⁶ However, they differ over the key sources of societal risk. They are concerned that a burdensome tax system, even when intended to apply only to the wealthy, will reduce economic growth—growth that they regard as the surest way to improve the conditions of the relatively disadvantaged.⁷ Economic stagnation is also a plausible source of democratic instability. Moreover, a discretionary tax system could itself become a source of regime instability by offering more scope for a political elite to prey on the relatively less connected.

So, both egalitarians and classical liberals have a claim to dealing with realistic problems when defending their preferred approach to taxation. I argue that classical liberal fears surrounding arbitrary government are more realistic and urgent compared with societal risks associated with private wealth inequality. My position is that societies can be relatively prosperous while also having relatively high taxes on income and at least on some sorts of wealth, which is why I classify my position as neoliberal rather than classical liberal.⁸ However, to be stable, tax systems must be systematically constrained by a substantive rule of law. The rule of law does not preclude progressivity as such but does constrain the capacity for tax policy to aim at achieving particular wealth patterns and to guarantee some particular level of equality.

My core argument is that the process of taxation is generally more important for ensuring democratic stability than the outcomes of taxation in terms of wealth and income distribution. There are three elements to my argument for prioritizing process over outcomes. First, people's intuitions about

⁴ Robert Jubb, "The Real Value of Equality," *The Journal of Politics* 77, no. 3 (2015): 679–91, <https://doi.org/10.1086/681262>; Thomas Christiano, "Money in Politics," in *The Oxford Handbook of Political Philosophy*, ed. David Estlund (New York: Oxford University Press, 2012), <https://doi.org/10.1093/oxfordhb/9780195376692.013.0013>.

⁵ Christiano, "Money in Politics."

⁶ Aris Trantidis, "Building an Authoritarian Regime: Strategies for Autocratisation and Resistance in Belarus and Slovakia," *The British Journal of Politics and International Relations* 9 (2021): 136914812097896, <https://doi.org/10.1177/1369148120978964>; Aris Trantidis and Nick Cowen, "Hayek versus Trump: The Radical Right's Road to Serfdom," *Polity* 52, no. 2 (2020): 159–88, <https://doi.org/10.1086/707769>.

⁷ James D. Gwartney and Robert A. Lawson, "The Impact of Tax Policy on Economic Growth, Income Distribution, and Allocation of Taxes," *Social Philosophy and Policy* 23, no. 2 (2006): 28–52, <https://doi.org/10.1017/S0265052506060158>.

⁸ Nick Cowen, *Neoliberal Social Justice* (Cheltenham, UK: Edward Elgar Publishing, 2021); Andreas Bergh, "Hayekian Welfare States: Explaining the Coexistence of Economic Freedom and Big Government," *Journal of Institutional Economics* 16, no. 1 (2020): 1–12, <https://doi.org/10.1017/S1744137419000432>.

fairness are typically focused on processes that they can observe in their everyday interactions. Second, processes that establish stable expectations allow for the discovery and maintenance of ways of cooperating at scale and elicit effort in sustaining the social order. When assessing whether to follow established rules, people look to future opportunities for personal advancement and well-being, rather than their relative economic position. Third, because of the asymmetry of power inherent to all political organizations, including democracy, the power to tax must be procedurally constrained to prevent predation and arbitrariness. My justification for this is based on comparative theorizing rather than ideal theorizing. Ideally, of course, we want fair processes and outcomes. In reality, we should prioritize fair processes.

The structure of this essay is as follows. I begin by outlining the liberal egalitarian approach to conceptualizing the economy and democratic politics. I show how this produces a particular way of relating ideal theory to the assessments of real-world tax policies. I argue that this approach to policymaking relies too much on real agents and institutions conforming to their place in the ideal model. I then contrast this approach with an emergent account of social order that assesses institutional arrangements based on a comparison of realistic alternatives rather than a theoretical ideal. I discuss the role of procedural rules in explaining why real-world democracies remain stable even amid wealth inequality. Finally, I outline the implications for designing good tax systems by recognizing the monopolistic position of tax authorities.

II. THE LIBERAL EGALITARIAN JUSTIFICATION FOR TAXATION

Liberal egalitarianism is the political paradigm most closely associated with analytical philosophy. While ultimately a broad school with many individual variations, several characteristics are closely associated with the tradition. This includes an attempt to divide questions of fact from opinion as well as an emphasis on conceptual analysis—reflecting on and refining the meaning of words used in ordinary language to explain social facts and ethical positions.⁹ Facts about the physical world are presumed to be discoverable through empirical science. When it comes to normative theorizing, this means taking moral intuitions as the data to be analyzed.¹⁰ The underlying motivation for this approach was to clear out unwarranted references to untestable metaphysical assumptions without losing the ability to discuss normative claims altogether.

⁹ Daniel McDermott, "Analytical Political Philosophy," in *Political Theory: Methods and Approaches*, ed. David Leopold and Marc Stears (Oxford; New York: Oxford University Press, 2008), 11–28.

¹⁰ Nick Cowen, "Hayek's Appreciative Theory and Social Justice," *Cosmos and Taxis* 7, nos. 5 and 6 (2020): 10–19, <https://doi.org/10.2139/ssrn.3452939>.

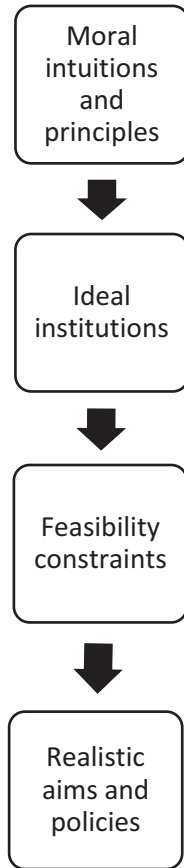


Figure 1. Theorizing from Intuitions.

This division of epistemic labor (See Figure 1) lends itself to philosophical approaches to the social sciences that attempt to distinguish technical from normative questions. For example, legal positivism is a doctrine that holds that valid law takes the form of commands issued by a legitimate authority independently of the character and content of the commands.¹¹ A normatively bad law, at least on the classic legal positivist account, can be perfectly valid. Similarly, neoclassical economics became influential through its proponents presenting it as a strictly positive science.¹² It promises to offer a technical language and set of predictions based on evidence that policy-makers could use to achieve their ends, however chosen.

For example, moral intuitions might establish basic principles like commitment to free and equal citizenship, or equality of concern and respect for

¹¹ H. L. A. Hart, *The Concept of Law*, 3rd ed. (Oxford: Oxford University Press, 2012).

¹² Milton Friedman, "The Methodology of Positive Economics," in *Essays in Positive Economics* (Chicago: University of Chicago Press, 2001), 3–43.

all persons, and what that might mean for obligatory social and economic outcomes. This might be egalitarianism, prioritarianism, sufficientarianism, limitarianism or any other doctrine that is argued to best instantiate the meaning of freedom and equality. This approach puts any existing social institutions, such as voluntary contracting and property rights, on notice. Whatever their origins, they certainly have not been established based on explicit moral foundations in conditions of equality.¹³ These institutions, as well as the resource allocations and transfers they have legitimized up until now, must be justified afresh in the light of the theorist's normative baseline.¹⁴ Hence, for many liberal egalitarians, it is not taxation that needs justification, but rather any unequal property holdings that are otherwise liable to be taxed.¹⁵ Taxation levied by a legitimate authority aiming to achieve distributive justice is *pro tanto* justified.

This is where some political philosophers finish their work and defer on the question to social scientists and policymakers; although some, notably Rawls among them, offer a broader framework with the institutional implications thoroughly spelled out.¹⁶ When theorists do offer institutional proposals, however, it is with the normative underpinnings driving the analysis. For example, democratic theory in the radical formulation starts with the assumption of freedom and equality between people, then asks what this means for appropriate democratic institutions. The answer is normally along the lines that democratic institutions should give everyone an equal say in all issues that affect them, and that policymaking should be responsive to the interests and values of the whole community while respecting the separateness of all persons.¹⁷ This is then taken as the baseline by which to judge existing political institutions.

Of course, all existing political regimes fall far short of offering everyone an equal share in collective governance. Even stable democratic regimes sanction violence against vulnerable minorities while failing to prevent a great deal of violence in civil society. Income and wealth inequality persists for morally arbitrary reasons. Even formally democratic regimes are more responsive to the ideas and interests of the wealthy and connected. The questions that radicals then face is:

1. Why do political arrangements fail to instantiate moral commitments that are inherent to our everyday understanding of moral language such as fairness? and

¹³ Daryl Glaser, "Liberal Egalitarianism," *Theoria* 61, no. 140 (2014), <https://doi.org/10.3167/th.2014.6114003>.

¹⁴ Daniel Halliday, "Justice and Taxation," *Philosophy Compass* (2013): 1114.

¹⁵ Liam B. Murphy and Thomas Nagel, *The Myth of Ownership: Taxes and Justice* (Oxford; New York: Oxford University Press, 2002).

¹⁶ John Rawls, *A Theory of Justice* (Oxford: Oxford University Press, 1971).

¹⁷ Thomas Christiano, *The Constitution of Equality: Democratic Authority and Its Limits* (Oxford; New York: Oxford University Press, 2008).

2. How can we establish a preferred regime where power and resources are more equally distributed?

A Marxian answer is that existing arrangements work well enough for the ruling class who, in addition to hoarding formal political power and wealth, disseminate divisive and false information through education systems and the mass media to prevent people from recognizing that existing arrangements are an affront to their moral intuitions. The only solution, and an inevitable outcome, on this account, is an eventual revolution.

For a variety of reasons, including an aversion to violent conflict and concern about the probability of a genuinely successful revolution, many normative theorists seek more nuanced solutions.¹⁸ Economists like Arthur Okun, James Meade, and, most recently, Thomas Piketty offer help with this enterprise in the form of technical expertise that explains the emergence of inequality using a mechanistic account of capitalism as well as strategies for addressing it.¹⁹ Meade is the most explicit about the role of economic science and its relationship with radical reform. In one of his books, he addresses the “intelligent radical”—radical because she is committed to changing social institutions in a substantively egalitarian direction but intelligent because she will listen to the economist when figuring out what policies will work.²⁰

What this approach to economics purports to offer is a technical explanation for how capitalist institutions produce relative prosperity while also inevitably increasing inequality, the trade-offs associated with taxing the relatively advantaged, and ways of navigating around these trade-offs. Although all three of these economists offer a similar account of inequality, Okun is early and influential in terms of debates about taxation. He identifies the naturally accumulating and compounding nature of income differences as the source of wealth inequality.²¹ On his account, most people spend as they earn, relying on compulsory social insurance for old age and ill-health. The difference between the income of the working and the middle class amounts to the capacity to consume more durable goods, such as cars, housing, and furniture. By contrast, the wealthy can consume much less than their income and are thus able to grow their assets, especially financial investments in business and real estate, indefinitely into the future.²²

¹⁸ Joseph Persky, *The Political Economy of Progress: John Stuart Mill and Modern Radicalism*, *Oxford Studies in History of Economics* (New York: Oxford University Press, 2016).

¹⁹ Arthur M. Okun, *Equality and Efficiency: The Big Tradeoff*, *The Godkin Lectures on the Essentials of Free Government and the Duties of the Citizen* (Washington, DC: Brookings Institute, 1975); James Edward Meade, *Efficiency, Equality and the Ownership of Property* (Abingdon, Oxon; New York: Routledge, 2012); James Edward Meade, *The Just Economy*, Volume IV, *Principles of Political Economy* (Abingdon, Oxon ; New York, NY: Routledge, 2013); Thomas Piketty, *Capital in the Twenty-First Century*, trans. Arthur Goldhammer (Cambridge, MA: The Belknap Press of Harvard University Press, 2014).

²⁰ James Edward Meade, *The Intelligent Radical's Guide to Economic Policy: The Mixed Economy* (London: Allen and Unwin, 1975).

²¹ Okun, *Equality and Efficiency* (1975).

²² Arthur M. Okun, *Equality and Efficiency: The Big Tradeoff*, *The Brookings Classics* (Washington, DC: Brookings Institution Press, 2015), 64.

Okun's realistic concern is with the long-run political implications of a small class amassing ever more wealth. Correlatively, Okun also acknowledges F. A. Hayek's criticism of public ownership from the perspective of civil liberties. If the state is the sole employer in a society, then critics, dissenters, and the otherwise disfavored can be deprived of the ability to earn an income, while in market economies with many independent firms, people can be politically sidelined but with fewer implications for their broader employability.²³ For this reason, Okun finds the prospects of introducing a socialist economy to the United States unpromising. Instead, he sees piecemeal reforms aimed at bringing about greater equality of opportunity as more compatible with liberal commitments. Progressive tax reforms are a central feature of what we might characterize as this social-democratic agenda.

While attempting to establish a middle-ground position between capitalism and socialism, Okun relies on several controversial foundational assumptions that align with the liberal egalitarian conception of society. First, he conceptualizes the market as a complete system that accomplishes the technical task of transforming resource inputs into outputs that are goods for consumption. He sees this allocative function of markets, the function that calculates the most valuable use of these given resources, to be only loosely connected to the distributive outcomes that markets produce. The only connection is the incentive required, absent a command economy, to call an efficient amount of labor into existence and ensure it is allocated to appropriate tasks.

Second, Okun presumes a similarly holistic account of political institutions and a positivistic notion of legal constitutions. Drawing on social contract theory, he describes the political process as establishing a domain of civil rights that cannot be alienated through commercial transactions. By contrast, economic rights are excluded from this domain of protection because there is no explicit constitutional constraint on state intervention in the economic sphere. The democratic process can legitimately make almost any claim on the income and wealth of citizens subject to it. The collective citizenry has priority over individual moral claims to the assets they have acquired:

Neither rights to ownership of any class of physical assets nor rights to after-tax income are given constitutional safeguards; in principle, they could be curbed drastically by a vote of 51 percent of the elected representatives of the public. And a majority could easily wish to curb them drastically.²⁴

Finally, at least at the first stage of idealization, the market and the state operate as distinct independent spheres of human activity for Okun. The market's function is to produce goods for consumers and allocate capital, while the state decides the size and scope of public goods provision and how

²³ Trantidis and Cowen, "Hayek versus Trump," 159–88; Hayek, *The Road to Serfdom*.

²⁴ Okun, *Equality and Efficiency* (2015), 31.

to distribute the gains from collective cooperation. Incursions from one domain into the other are deviations from this model. Hence, the use of private wealth to game a political system is problematized. Correlatively, the use of the political system (such as excessive professional licensing) to restrict legitimate market competition is also to be discouraged.

This paradigm certainly has its strengths in terms of clarifying the way people use normative concepts, including the implications of prioritizing democratic decisions. As an enterprise for discovering sound institutions for living well together, however, I believe it has some notable weaknesses. One weakness is the limited scope this approach gives to alternative conceptions of institutions developed through empirical analyses and historical assessments. For example, normative discussion of political freedom and equality does not necessarily tell us very much about the difference between real-world democracies and autocracies. Increased wealth inequality, virtually by definition, represents a departure from a radical conception of democracy. However, levels or increases in wealth inequality might not explain or even predict a transition from a competitive democracy to autocracy in the real world.²⁵ Somewhat perversely, given the overall aims of philosophical analysis, the result is some confusion between facts and norms. The failure of institutions, even comparatively successful ones, to conform to normative theory is presumed to be a problem that should engender urgent reform rather than a moment to revisit the model of appropriate institutions.²⁶

Another weakness is excessive positivism when it comes to the examination of economic phenomena. The neoclassical approach treats entities such as income, wealth, capital, employment, and leisure as tractable objects that can be objectively measured and that exhibit systematic tendencies that can be predicted. Observations of rising wealth inequality over time imply that inequality will continue to grow unless deliberately stopped. By contrast, other important parts of the economic process that cannot be directly observed, such as the subjective beliefs, valuations, and intentions of economic actors, as well as the norms and institutions in which they act, are relatively neglected. This is a problem because it is subjective beliefs both about fairness and the prospective gains of ongoing cooperation that play an important role in legitimizing existing tax and property arrangements. A final weakness is a presumption that market society and politics typically exist apart from one another. This does not necessarily represent either a realistic normative aim or an empirical reality.

²⁵ Kenneth Scheve and David Stasavage, "Wealth Inequality and Democracy," *Annual Review of Political Science* 20, no. 1 (2017): 451–68, <https://doi.org/10.1146/annurev-polisci-061014-101840>.

²⁶ Gerald F. Gaus, *The Tyranny of the Ideal: Justice in a Diverse Society* (Princeton, NJ: Princeton University Press, 2016).

III. A COMPARATIVE JUSTIFICATION FOR TAXATION

There is an alternative approach to normative theorizing for realistic settings. Like the analytic tradition, it is broad and comes under several labels, which today include *philosophy, politics and economics, moral science*, as well as what Brennan describes as “non-ideal non-theory.”²⁷ It has a characteristic interest in explaining the mechanisms by which people are or can become morally motivated as well as the inclusion of strategic aspects of cooperation. In terms of intellectual tradition, it represents an attempt to revive the Scottish Enlightenment approach to political economy that combines what became the separate disciplinary enterprises of moral philosophy, jurisprudence, politics, and economics.

The starting point for this sort of theorizing is different from the analytic tradition. It begins with the observation that the historical and, more controversially, *natural* condition of humanity is one of poverty, vulnerability, and violence.²⁸ Moreover, the natural capacities of isolated persons are extremely limited. In particular, we know little directly about the world through our perception outside our immediate circumstances.²⁹ In fact, we start without even the categories of thought we use to order our perceptions and must be acculturated, through shared language, even to these basic understandings. Yet some societies, increasingly a majority, have grown to become comparatively prosperous and peaceful. Moreover, people are now capable of using knowledge and resources from outside their area of personal knowledge and control.³⁰ In other words, in developed societies there is widespread cooperation at a remarkable scale. Perhaps surprisingly, many successful forms of cooperation appear to have emerged without people having a clear idea of how they work, with substantial disagreement about how they work even once observed, and with disagreement over how long they will continue to work.³¹ This suggests that a great deal of variations in social outcomes have been hitherto the result of the unintended consequences of people aiming to achieve something else or alleviate some other ill.³²

²⁷ Jason Brennan, “Libertarianism after Nozick,” *Philosophy Compass* 13, no. 2 (2018): e12485, <https://doi.org/10.1111/phc3.12485>.

²⁸ Steven Pinker, *The Better Angels of Our Nature: A History of Violence and Humanity* (London: Penguin, 2012); Nick Cowen, “Why Be Robust? The Contribution of Market Process Theory to the Robust Political Economy Research Program,” in *Interdisciplinary Studies of the Market Order: New Applications of Market Process Theory*, ed. Peter J. Boettke, Christopher J. Coyne, and Virgil Storr (London: Rowman and Littlefield International Ltd, 2017), 63–85.

²⁹ Nick Cowen, “Hayek: Postatomic Liberal,” in *Critics of Enlightenment Rationalism*, ed. Gene Callahan and Kenneth B. McIntyre (Cham: Springer International Publishing, 2020), 179–92, https://doi.org/10.1007/978-3-030-42599-9_12.

³⁰ Friedrich A. von Hayek, “The Use of Knowledge in Society,” *American Economic Review* 35, no. 4 (1945): 519–30.

³¹ Deirdre N. McCloskey, “1780–1860: A Survey,” in *Measurement and Meaning in Economics: The Essential Deirdre McCloskey*, ed. Stephen T. Ziliak and Deirdre N. McCloskey (Cheltenham: Edward Elgar, 2002), 96–129.

³² Mark Pennington, *Robust Political Economy: Classical Liberalism and the Future of Public Policy*, New Thinking in Political Economy (Cheltenham, UK; Northampton, MA: Edward Elgar, 2011).

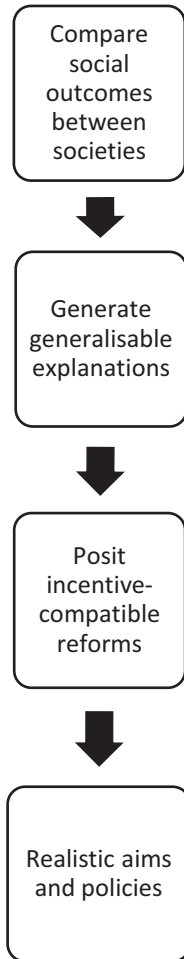


Figure 2. Theorizing from comparison.

The comparative approach (See Figure 2) takes the relative success and failures of social arrangements as the data for analysis. The idea is to propose and, when possible, test, generalizable theories about what explains the difference between successes and failures. Conjectures about the value of hitherto uninstantiated regimes, including theoretical regimes such as liberal socialism or property-owning democracy, can also be included in this analysis. However, on the comparative account, these regimes ought to be assessed partly based on their capacity to solve challenges of social cooperation where some regimes have succeeded and others have failed in the real world.³³

³³ Cowen, *Neoliberal Social Justice*.

What has this approach to theorizing come up with in terms of institutions that produce relatively attractive outcomes? One repeated discovery is the significance of secure property rights, voluntary exchange, enforceable contracts, and the widespread legal capacity to establish firms and associations.³⁴ These institutions allow people who do not know each other well, and in some cases not at all, to cooperate at a significant scale over time and space. This means that people can rely less on close personal relationships when engaged in self-protection or cooperation but instead make use of abstract rules to which everyone is subject.³⁵

The importance of institutions that incentivize widespread cooperation through competition for willing consumers is part of the mainstream consensus in institutional economics. Somewhat more controversially but still within the comparative framework, market process theorists add an epistemic dimension.³⁶ It is not only the case that people require incentives to contribute to economic production. People also do not know what particular attempts at cooperation—which enterprises and which ventures—will ultimately prove to make effective use of social resources. This can be discovered through the trial and error of continuous attempts to reconcile plans with the reality of available resources and the demands of consumers in a competitive market.³⁷ Which plans among innumerable possibilities should even be attempted? Private-property markets allow investors to make this decision by putting their own capital at risk, facing loss for failures, and realizing profit with successes.³⁸ In other words, what market processes permit is the internalization of much of the risk and costs of failed ventures. It is on this epistemic basis that the allocative and distributive aspects of markets cannot be unbundled. You cannot remove the loss and reward associated with investment, as opposed to effort as a

³⁴ Simeon Djankov, Edward Glaeser, Raphael LaPorta, Florencio Lopez-de-Silanes, Andrei Shleifer, “The New Comparative Economics,” *Journal of Comparative Economics* 31, no. 4 (2003): 595–619, <https://doi.org/10.1016/j.jce.2003.08.005>; Daron Acemoglu and Simon Johnson, “Unbundling Institutions,” *Journal of Political Economy* 113, no. 5 (2005): 949–95; Douglass C. North, *Institutions, Institutional Change, and Economic Performance* (Cambridge ; New York: Cambridge University Press, 1990); Timur Kuran, “Why the Middle East Is Economically Underdeveloped: Historical Mechanisms of Institutional Stagnation,” *Journal of Economic Perspectives* 18, no. 3 (2004): 71–90.

³⁵ Randy E. Barnett, *The Structure of Liberty: Justice and the Rule of Law*, 2nd ed. (Oxford: Oxford University Press, 2014).

³⁶ Peter J. Boettke, Vlad Tarko, and Paul Aligica, “Why Hayek Matters: The Epistemic Dimension of Comparative Institutional Analysis,” in *Advances in Austrian Economics*, ed. Peter J. Boettke and Virgil Henry Storr, Volume 21 (Bingley: Emerald Group Publishing Limited, 2016), 163–85, <https://doi.org/10.1108/S1529-213420160000021006>; Peter J. Boettke, “Information and Knowledge: Austrian Economics in Search of Its Uniqueness,” *The Review of Austrian Economics* 15, no. 4 (2002): 263–74.

³⁷ David Ramsay Steele, *From Marx to Mises: Post-Capitalist Society and the Challenge of Economic Calculation* (La Salle, IL: Open Court, 1992).

³⁸ Israel M. Kirzner, *Discovery and the Capitalist Process* (Chicago: University of Chicago Press, 1985); Charles Delmotte and Nick Cowen, “The Mirage of Mark-to-Market: Distributive Justice and Alternatives to Capital Taxation,” *Critical Review of International Social and Political Philosophy* 25, no. 3 (2019): 1–24, <https://doi.org/10.1080/13698230.2019.1644585>.

worker, without also losing a great deal of the epistemic value of private enterprise.

What does the comparative approach indicate when it comes to collective action, such as the provision of common and public goods, including, of course, the state? Stable institutions of collective governance are those that can be self-enforcing when they are at a relatively small scale,³⁹ or involve the distribution of selective benefits to those tasked with enforcement at a larger scale.⁴⁰ One way of looking at this would be to say that politics at scale is inevitably an elite enterprise. A more neutral way of looking at it would be to suggest that governance is subject to similar gains from trade and specialization as other sorts of enterprises.⁴¹ Just as we cannot all be good bakers, neither can we all be good and alert legislators.⁴² On this account, what distinguishes contemporary consolidated democracies from authoritarian regimes is not equality of political participation or power but rivalry and competition between elites in the relative absence of violence.⁴³ Democracy works by constraining governance specialists (including administrators, legislators, judges and executive officials) in such a way that their pursuit of ambition and personal success aligns with the broader interests of the people. Formal equality of political participation, in terms of rights to vote, speak, associate in groups and parties, and stand for office, are key parts of that institutional framework as they expose incumbents to viable competition from wider civil society. However, as in markets, this competition does not take place against a substantively egalitarian baseline. Better resourced candidates for office have distinct advantages but ultimately win through satisfying more voters than their competitors.⁴⁴

Although those directly involved in political activity derive personal benefits from their work, coalitions in democracies win by supplying public

³⁹ Elinor Ostrom, James Walker, and Roy Gardner, "Covenants with and without a Sword: Self-Governance Is Possible," *The American Political Science Review* 86, no. 2 (1992): 404, <https://doi.org/10.2307/1964229>; Elinor Ostrom, *Governing the Commons: The Evolution of Institutions for Collective Action*, The Political Economy of Institutions and Decisions (Cambridge; New York: Cambridge University Press, 1990).

⁴⁰ Mancur Olson, *The Logic of Collective Action: Public Goods and the Theory of Groups* (Cambridge, MA: Harvard University Press, 2003), 21.

⁴¹ Peter T. Leeson and Peter J. Boettke, "Two-Tiered Entrepreneurship and Economic Development," *International Review of Law and Economics* 29, no. 3 (2009): 252–59, <https://doi.org/10.1016/j.irle.2009.02.005>.

⁴² See Jason Brennan, *Against Democracy* (Princeton, NJ: Princeton University Press, 2016).

⁴³ Mancur Olson, "Dictatorship, Democracy, and Development," *The American Political Science Review* 87, no. 3 (1993): 567, <https://doi.org/10.2307/2938736>; Barry R. Weingast, "The Political Foundations of Democracy and the Rule of Law," *The American Political Science Review* 91, no. 2 (1997): 245–63, <https://doi.org/10.2307/2952354>; Gary W. Cox, Douglass C. North, and Barry R. Weingast, "The Violence Trap: A Political-Economic Approach to the Problems of Development," *Journal of Public Finance and Public Choice* 34, no. 1 (2019): 3–19, <https://doi.org/10.1332/251569119X15537797528769>.

⁴⁴ Donald A. Wittman, *The Myth of Democratic Failure: Why Political Institutions Are Efficient*, (Chicago: University of Chicago Press, 2004).

goods.⁴⁵ For this reason, it is plausible to conceptualize real democracy as polyarchy.⁴⁶ Its defining characteristic is contestability.⁴⁷ In contrast to the ideal type of separate spheres between government and markets, this comparative approach suggests that the relationship between markets and politics varies significantly within different capitalist regimes. In all cases, however, they are substantially entangled, and sometimes in more problematic ways than others.⁴⁸ Like other service providers, states perform better when subject to competition and accountability. States, where ordinary citizens have the right and practical capacity to exit and join other jurisdictions, are disciplined to provide more public goods and protect people's rights.⁴⁹

What does this comparative approach imply for justifying taxation specifically? It justifies taxation not according to fundamental moral principles but through comparison with feasible alternatives. Following Nozick, many libertarians object to taxation because it violates natural rights.⁵⁰ Moore, for example, argues that taxation is equivalent to forced labor and is therefore clearly objectionable.⁵¹ On a comparative and realistic account of social order, acknowledging the ineliminable coercion inherent to social relations and all forms of governance, this parallel between taxation and forced labor makes it a beneficial institution. Taxation provides a procedurally transparent substitute for forced labor as well as other more unpredictable and violent means of elite predation such as banditry. It creates a source of rents that can be used to compensate potentially predatory actors in return for subjecting themselves to law.⁵²

⁴⁵ Bruce Bueno de Mesquita, Alistair Smith, Randolph M. Siverson, and James D. Morrow, *The Logic of Political Survival*, paperback edition (Cambridge, MA: MIT Press, 2005).

⁴⁶ Robert A. Dahl, *Polyarchy: Participation and Opposition* (New Haven, CT: Yale University Press, 1971).

⁴⁷ Aris Trantidis, "Is Government Contestability an Integral Part of the Definition of Democracy?" *Politics* 37, no. 1 (2017): 67–81, <https://doi.org/10.1177/0263395715619635>.

⁴⁸ Randall G. Holcombe, *Political Capitalism: How Political Influence Is Made and Maintained*, (New York: Cambridge University Press, 2018); Richard E. Wagner, ed., *Politics as a Peculiar Business: Insights from a Theory of Entangled Political Economy*, New Thinking in Political Economy (Cheltenham, UK; Northampton, MA: Edward Elgar Publishing, 2016).

⁴⁹ Barry R. Weingast, "The Economic Role of Political Institutions: Market-Preserving Federalism and Economic Development," *Journal of Law, Economics, and Organization* 11, no. 1 (1995): 1–31; Albert O. Hirschman, *Exit, Voice, and Loyalty: Responses to Decline in Firms, Organizations, and States* (Cambridge, MA: Harvard University Press, 2004); Ennio E. Piano and Alexander W. Salter, "The Fundamental Coase of Development: Property Rights Foundations of the Effective State," *Journal of Institutional Economics* 17, no. 1 (2020), 1–16, <https://doi.org/10.1017/S1744137420000260>; Alexander William Salter, "Sovereignty as Exchange of Political Property Rights," *Public Choice* 165, nos. 1–2 (2015): 79–96, <https://doi.org/10.1007/s11127-015-0293-4>.

⁵⁰ Robert Nozick, *Anarchy, State, and Utopia* (New York: Basic Books, 2013).

⁵¹ Adam D. Moore, "Taxation, Forced Labor, and Theft: Why Taxation Is "On a Par" with Forced Labor," *The Southern Journal of Philosophy* 20 (2020), sjp.12395, <https://doi.org/10.1111/sjp.12395>.

⁵² Douglass C. North, John Joseph Wallis, and Barry R. Weingast, *Violence and Social Orders: A Conceptual Framework for Interpreting Recorded Human History* (Cambridge; New York: Cambridge University Press, 2009).

When the implications of this pessimistic perspective are acknowledged, then there is also room for optimism from a sturdier base.⁵³ Once the initial social dilemma has been solved, peace generally produces enormous mutual gains because of the substantially reduced costs of people not having to manage their own security. This means only a small portion of taxed resources need to be distributed upward to the elite to keep them satisfied. As a result, liberal and social democracies with developed economies dedicate greater portions of taxed resources to the provision of public goods and social insurance. Although the origins of taxation, as well as contemporary means of its enforcement, might be objectionable according to some classical liberal ideal theory, a realistic comparison of the alternatives is sufficient to justify it in the circumstances in which we find ourselves. Tax is the way that states raise revenue in ways that are compatible with maintaining stable expectations of ordinary citizens engaged in commercial and civic life.

IV. WEALTH INEQUALITY AND DEMOCRACY

An egalitarian theorist might propose that this comparative account is simply giving away too much normatively. A society without substantive political equality is in an important sense unjust on their account. In response, I acknowledge that this might be true for ideal normative theorizing, but it does not pass the threshold of realistic concerns so easily. It is important to distinguish between real-existing democracy, which I take to be enormously valuable, and the radical conception of democracy against which it is often measured less favorably. A Rousseauian vision of political equality, where everyone participates and is subject equally to the same laws in a total absence of private corruption of the policy process is tantalizing. However, it is also austere and severe even by the way many of its proponents describe it.

The recent realist turn in political theory attempts to fill in this gap. The central claim is that emerging wealth inequalities are not merely unjust from an ideal standard, but that they systematically distort democratic accountability in realistic settings. On this account left unchecked, the continuous accumulation of wealth will create a new plutocratic class that will permanently undermine democracy. The solution on this view is not just to tax income in increasing proportions to raise revenue for the states, but to tax in a manner designed to proactively reduce existing wealth holdings and to prevent wealth from becoming so concentrated again.

How persuasive are these concerns and related solutions? The principal evidence for this approach comes from Piketty and colleagues who have collected data comparing the distribution of wealth and income over time

⁵³ Cowen, "Why Be Robust?"

and, increasingly, between a range of countries.⁵⁴ They find that both income and wealth inequality has increased substantially in the last fifty years. Their accounts, although compelling and robust in many respects, are still somewhat controversial—and the normative implications even more so. Deciding whether wealth inequality has increased depends on which part of the distribution scholars take to be the most salient.⁵⁵ More substantively, there is a question of what changes in wealth inequality mean for the experience of citizens and imply for the future institutional character of regimes. Acemoglu and Robinson suggest that Piketty's assumption of capital as self-accumulating through the simple compounding of interest does not explain historical wealth holdings very effectively.⁵⁶ They point out that the history of both Sweden and South Africa, when considered exclusively through the lens of Piketty's economic data, are quite similar. Of course, Sweden is an inclusive social democracy with a high standard of living and strong social and legal protections for all, while South Africa was a non-democracy and a violent segregationist regime for much of the period studied. It remains a society struggling with discrimination and a substantial racial wealth gap. Sweden has inclusive economic institutions while South Africa has a history of extractive institutions based on property seizure and labor coercion.

This means that aggregate inequality statistics miss relevant detail about the economic structure of the societies being evaluated. The different experience of citizenship and economic participation in Sweden and South Africa is not found in the outcomes in terms of wealth distribution, but in the process by which those outcomes come about, namely differences in the degree of security of persons and property, the rule of law, and equal treatment.

Moreover, the relationship between wealth inequality and democratic stability is weak.⁵⁷ Neither a particular level of wealth inequality, nor an increase in wealth inequality, are predictive of democratic failure. This presents a puzzle. There are intuitive reasons to believe that responsive democracies will engage in egalitarian redistribution. This means it is also plausible that the rich will try to capture the political system to protect their

⁵⁴ Piketty, *Capital in the Twenty-First Century*; T. Piketty and G. Zucman, "Capital Is Back: Wealth-Income Ratios in Rich Countries 1700–2010," *The Quarterly Journal of Economics* 129, no. 3 (2014): 1255–1310, <https://doi.org/10.1093/qje/qju018>; E. Saez, "Striking It Richer: The Evolution of Top Incomes in the United States (Updated with 2009 and 2010 Estimates)," *Pathways Magazine*, 2012, <http://elsa.berkeley.edu/~saez/saez-UStopincomes-2010.pdf>.

⁵⁵ James B. Davies, Rodrigo Lluberas, and Anthony F. Shorrocks, "Estimating the Level and Distribution of Global Wealth, 2000–2014," *Review of Income and Wealth* 63, no. 4 (2017): 731–59, <https://doi.org/10.1111/roiw.12318>; Wojciech Kopczuk, "What Do We Know about the Evolution of Top Wealth Shares in the United States?" *Journal of Economic Perspectives* 29, no. 1 (2015): 47–66, <https://doi.org/10.1257/jep.29.1.47>.

⁵⁶ Daron Acemoglu and James Robinson, "The Rise and Decline of General Laws of Capitalism," *Journal of Economic Perspectives* 29, no. 1 (2015): 3–28.

⁵⁷ Scheve and Stasavage, "Wealth Inequality and Democracy."

advantages. So why does neither happen consistently given the persistence of democratic regimes characterized by wealth inequality?

I believe that part of the answer is that people's notions of fairness tend to focus on procedural justice.⁵⁸ People are content with inequality so long as the process that causes it to emerge is relatively transparent and resistant to manipulation or domination by a controlling entity. Market processes, that no one personally controls and where no one can predict their outcomes *ex ante*, satisfy this everyday understanding of fairness. This psychological disposition might be especially prominent at the scale of a commercial society where much of the wealth of the rich is not explicitly flaunted in front of people but exists mostly as mundane legal entitlements to stocks and bonds, besides additional goods and services that are consumed in private settings. While the link between democracy and redistribution is limited, there is substantially better evidence for the connection between democracy and economic growth.⁵⁹ It could be that growth, and the prospect of improvements in future income and consumption, is more attractive to citizens than redistribution. The prospect of doing well without making a direct claim on the resources of others appears to be more attractive.⁶⁰

A second part of the explanation could be that Piketty's approach emphasizes static snapshots of inequality. It is easy to imagine when looking at data on aggregate distributions of income that citizens generally remain in one income bracket throughout their lives and that existing capitalist systems are rigidly class-bound. However, individual citizens might not view their own conditions as a snapshot but rather consider their past and future prospects as well. Life-course analyses of income find that the majority of the measured increase in inequality in the United States disappears once individuals changing income levels at different points in their lives is taken into account.⁶¹ That is not to deny the persistence of class. Rather a life-course lens merely suggests that capitalist societies may not have become *more* class-bound in the twenty-first century and that people tolerate income inequality around them because they have either experienced higher income levels in the past or expect to do so in the future.

⁵⁸ Yarrow Dunham, Allison Durkin, and Tom R. Tyler, "The Development of a Preference for Procedural Justice for Self and Others," *Scientific Reports* 8, no. 1 (2018): 17740, <https://doi.org/10.1038/s41598-018-36072-1>.

⁵⁹ Daron Acemoglu et al., "Democracy Does Cause Growth," *Journal of Political Economy* 127, no. 1 (2019): 47–100, <https://doi.org/10.1086/700936>; Dennis P. Quinn and John T. Woolley, "Democracy and National Economic Performance: The Preference for Stability," *American Journal of Political Science* 45, no. 3 (2001): 634, <https://doi.org/10.2307/2669243>.

⁶⁰ John Tomasi, *Free Market Fairness* (Princeton, NJ: Princeton University Press, 2012); Nick Cowen, "Basic Economic Liberties: John Rawls and Adam Smith Reconciled," *The Independent Review*, 2021, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3596764.

⁶¹ Deirdre Bloome and Jane Furey, "Lifetime Inequality: Income and Occupational Differences and Dynamics in the US," *Research in Social Stratification and Mobility* 70 (2020): 100470, <https://doi.org/10.1016/j.rssm.2019.100470>.

When considering wealth at the very top, a similarly dynamic picture is in evidence.⁶² A specific concern of Okun and Robeyns is that today's entrepreneurs will produce tomorrow's rentiers. Certainly, from a normative egalitarian standpoint, or even a standpoint that values hard work and fair contributions from those capable, the idea of multiple generations living off unearned wealth is problematic. But is this a complete picture of the super-rich? At least in the United States, the "old money" billionaires did not prevent the emergence of a new generation of even wealthier technology billionaires who came from multiple income classes and, indeed, from all over the world. So, it is possible, in a consolidated democracy with open markets like the United States, that the more likely outcome is a cycle of new billionaires consolidating their wealth into old money passed on to their children who dominate for a time, followed by a new generation of new money when new ways of doing business emerge.⁶³

A third part of the explanation for why inequality persists in consolidated democracies is that the very wealthy may not have a particularly cohesive political project. The impact of the policy views of the wealthy on the political process is contested. In broad surveys, admittedly those less able to single out the very rich, national variations on policy issues are more determinative than class identity. For example, working-class citizens in the United States are, on average, more likely to oppose redistribution than many middle-class citizens of European countries.⁶⁴ Page, Bartles, and Seawright argue that the rich are more conservative in the United States, especially when it comes to economic issues, and that a small percentage of the one percent are particularly conservative.⁶⁵ On the other hand, Goss identifies a group of younger active policy philanthropists who hold socially liberal views and are dedicated to progressive causes such as protecting the environment, the legality of abortion, and gun regulation.⁶⁶ So, those with private wealth hold a variety of political views. The one thing the rich tend to agree on systematically is fiscal conservatism.⁶⁷ In other words, unsurprisingly they generally want to keep more of their wealth and income. From a radical standpoint, this is precisely the problem because the rich are using their means to resist distributive justice. But from the standpoint of real-existing democracies, it is not so problematic because

⁶² Steven N. Kaplan and Joshua Rauh, "It's the Market: The Broad-Based Rise in the Return to Top Talent," *Journal of Economic Perspectives* 27, no. 3 (2013): 35–56, <https://doi.org/10.1257/jep.27.3.35>.

⁶³ Benjamin A. Rogge, *Can Capitalism Survive?* Principles of Freedom Series, Principles of Freedom Committee 9 (Indianapolis, IN: Liberty Press, 1979).

⁶⁴ Arvid Lindh and Leslie McCall, "Class Position and Political Opinion in Rich Democracies," *Annual Review of Sociology* 46, no. 1 (2020): 419–41.

⁶⁵ Benjamin I. Page, Larry M. Bartels, and Jason Seawright, "Democracy and the Policy Preferences of Wealthy Americans," *Perspectives on Politics* 11, no. 1 (2013): 51–73.

⁶⁶ Kristin A. Goss, "Policy Plutocrats: How America's Wealthy Seek to Influence Governance," *Political Science and Politics* 49, no. 3 (2016): 442–48.

⁶⁷ H. Lukas R. Arndt, "Varieties of Affluence: How Political Attitudes of the Rich Are Shaped by Income or Wealth," *European Sociological Review* 36, no. 1 (2019).

apart from the issue of wealth itself, the rich are not consistently pushing the political process in any particular direction. Wealth inequality appears in some times and some places to be less problematic than egalitarians and limitarians predict.

Finally, amassing financial wealth does not come at a cost to everyone if and when financial assets are used to coordinate production that transforms resources into valuable goods and services, rather than to support the consumption of the wealthy. The pertinent question is whether capital investment leads to greater consumption opportunities for everyone, and especially the disadvantaged. Whether it does so is substantially a supply-side question. In other words, are entrepreneurs permitted to produce goods and services that benefit everyone, and especially the less advantaged? The most successful entrepreneurs tend to be those that produce goods within the price range of ordinary consumers and subject to increasing returns to scale. For example, industrialization permitted new levels of wealth at the very top but also reduced consumption inequality by making a range of essential and luxury goods accessible to many more people.⁶⁸ When people save and invest in productive enterprises that meet consumer needs, their observable wealth may rise, but possessing that wealth does not come at the expense of anyone else's consumption.⁶⁹ For this reason, a more predictably progressive tax is one levied on the income and consumption of the wealthy rather than their capital.

V. IMPLICATIONS FOR TAX SYSTEMS

Comparative analysis indicates how tax policy should be designed to augment the protective and productive aspects of state activity while minimizing levels of predation.⁷⁰ Radical conceptions of government precede from an assumption of positive state sovereignty where any legal formulation is technically possible and practically implementable both to do good and bad. On this account, states ultimately have no one but themselves (and possibly diffuse social norms) as constraints on their power.⁷¹ By contrast,

⁶⁸ Vincent Geloso, "The Fall and Rise of Inequality: Disaggregating Narratives," in *Austrian Economics: The Next Generation*, ed. Steven Horwitz, Volume 23, *Advances in Austrian Economics* (Bingley: Emerald Publishing Limited, 2018), 161–75, <https://doi.org/10.1108/S1529-213420180000023012>; Vincent Geloso and Peter Lindert, 'Relative Costs of Living, for Richer and Poorer, 1688–1914', *Cliometrica*, 22 January 2020, <https://doi.org/10.1007/s11698-019-00197-8>.

⁶⁹ Ludwig von Mises, *Human Action: A Treatise on Economics* (Auburn, AL: Ludwig Von Mises Institute, 1998), 270–71; Nick Cowen, "Mill's Radical End of Laissez-Faire: A Review Essay of the Political Economy of Progress: John Stuart Mill and Modern Radicalism," *The Review of Austrian Economics* 31, no. 3 (2018): 373–86, <https://doi.org/10.1007/s11138-017-0387-y>.

⁷⁰ James M. Buchanan, *The Limits of Liberty: Between Anarchy and Leviathan*, The Collected Works of James M. Buchanan, Volume 7 (Indianapolis, IN: Liberty Fund, 2000).

⁷¹ Stephen Holmes and Cass R. Sunstein, *The Cost of Rights: Why Liberty Depends on Taxes* (New York: Norton, 1999).

insights from comparative political economy suggest that states perform well and respect rights when constrained by independent actors in civil society and where citizens can choose different jurisdictions in which to locate.⁷²

On the understanding that states work best when facing external constraints on their power, how should tax systems be implemented? The principal way to proceed is to acknowledge the monopolistic character of tax authorities and constrain the way they relate to citizens on that basis. Geographic monopolies are often the most efficient providers of certain goods and services, and this is probably the case for many of the goods that states provide, especially security and the rule of law.⁷³ Nevertheless, monopolies can behave badly and partially toward their customers. They can underproduce and overcharge for their services. An important way to constrain monopolists is to oblige them to offer the same service for the same price equally to all. Unlike providers of private goods, it is appropriate to prohibit monopolists from turning away customers and bargaining individually over prices. There is no market to ensure such negotiations are voluntary. To reduce the harm of monopoly power, tax systems should be based on simple, transparent, and general rules publicized well in advance of people becoming liable to pay taxes based on their activities and property holdings. This limits the tendency of tax to become a source of predation.⁷⁴

These constraints of equity can be interpreted quite broadly to include some forms of progressivity. A monopolist charging proportionately more for a different service in a transparent and general way can be acceptable. A public railway network can charge more for a first-class ticket or to use a faster train route. A postal monopoly can charge more for a parcel rather than a letter, or for expedited delivery. This is permitted even if the price differential has little relationship to the marginal cost of provision. Similarly, citizens ultimately benefit from the bundle of goods and services supplied by states in different ways. The relatively disadvantaged may benefit more from welfare services and direct transfers, but the advantaged arguably benefit relatively more from use of the civil legal system to protect their larger and more complex property entitlements, education and

⁷² Piano and Salter, "The Fundamental Coase of Development"; Trantidis and Cowen, "Hayek versus Trump"; Debin Ma and Jared Rubin, "The Paradox of Power: Principal-Agent Problems and Administrative Capacity in Imperial China (and Other Absolutist Regimes)," *Journal of Comparative Economics* 47, no. 2 (2019): 277–94, <https://doi.org/10.1016/j.jce.2019.03.002>.

⁷³ Nick Cowen, "Robust Against Whom?" in *Austrian Economics: The Next Generation*, ed. Steven Horwitz, *Advances in Austrian Economics*, Volume 23 (Bingley: Emerald Publishing Limited, 2018), 91–111, <https://doi.org/10.1108/S1529-213420180000023008>.

⁷⁴ Charles Delmotte, "Tax Uniformity as a Requirement of Justice," *Canadian Journal of Law and Jurisprudence* 33, no. 1 (2020): 59–83, <https://doi.org/10.1017/cjlj.2019.30>; Charles Delmotte, "The Conception of Taxation: The Conventional versus the Constitutional Point of View," in *Interdisciplinary Studies of the Market Order: The Political Process and Political Order*, ed. Donald Boudreaux, Christopher J. Coyne, and Bobbi Herzberg (New York: Rowman and Littlefield International, 2019), 131–56.

infrastructure that improves their productivity, and very often subsidies for their economic activities. So, it is reasonable for states to vary tax rates that reflect different abilities to pay among income groups. Tax schedules are minimally compliant with classical liberal constraints so long as they are applied based on general rules that do not allow prejudicial or discriminatory implementation at the individual level or of vulnerable minorities.⁷⁵

Taxing wealth, as opposed to income, is associated with additional costs and uncertainties but can be feasibly implemented in a few areas. While income, by definition, is the result of a voluntary transaction with a price agreed by the recipient, a great deal of wealth is held in forms that are hard, occasionally impossible, to value. Capital goods, including tangible and intangible assets, might produce enormous value when employed in a productive enterprise but be rendered worthless should the enterprise fail for unpredictable reasons. This means that generalized wealth taxes are either going to overlook a great many kinds of assets or will involve delegating a dangerous degree of discretion to tax authorities for assessing taxable wealth. A more feasible approach to addressing wealth inequality is to expand the tax base to include more income derived from assets. This can be applied to things like the private enjoyment of real estate by the relatively advantaged, which can be taxed based on imputed rent.⁷⁶

On the other hand, this approach rejects tax policies that effectively target particular individuals or households at particular rates. A confiscatory income tax—for example, one pursuing limitarian ends—is essentially an invitation for states to exercise their monopoly power to engage in price discrimination. When asking how much the rich should pay, the monopolist's answer is: "What have they got?" However, this is not a practical prohibition on receiving an income or maintaining wealth above a certain threshold. It is only a denial that the state will legally protect economic compensation above a certain level, thus raising the costs of securing that income for firms and individuals. This makes informal alternatives to engaging openly in mutually beneficial transfers relatively more attractive. There are a range of extralegal strategies for channeling resources to compensate people whose official compensation is lower than what an open market rate would command. Employees and contractors can accept in-kind compensation, choose who to work for based on their social network or preferred colleagues, or deal with people who are prepared to help their friends, family, and trusted associates. In a liberal tax regime where contracts are enforced without discrimination, the incentive to engage in these inefficient side-payments is reduced. In a punitive tax regime, however, these indirect means of compensation not only become common but,

⁷⁵ See Trantidis and Cowen, "Hayek versus Trump."

⁷⁶ Delmotte and Cowen, "The Mirage of Mark-to-Market"; Philip Booth, "Introduction," in *Taxation, Government Spending and Economic Growth*, ed. Philip Booth (London: Institute of Economic Affairs, 2016), 1–23.

because of their illegality, generate opportunities for broader corruption that connected insiders can leverage for both greater wealth and power.

A response to this criticism is that this is an enforcement problem that is ultimately surmountable, especially for a powerful state and a committed citizenry. On a comparative account, successful and enduring rules tend to be those that are substantially self-enforcing—that is, rules that make sense for relevant parties to follow. By contrast, market prohibitions create valuable rents that powerful actors, whether state officials tasked with enforcing tax rules, or organized crime, will pursue and consolidate.⁷⁷ The spiraling costs associated with drug prohibition—corruption and external social impacts, both domestic and global—illustrate how dangerous a prosecutorial approach against economic forces can be.⁷⁸ In attempting to prevent mutually agreeable transactions for distributive ends, confiscatory tax reforms encourage the state to retreat from regulating and facilitating a large range of voluntary exchanges, thus expanding the likely reach of the shadow economy that can itself become a site for violent conflict. Attempts to use the tax system to generate egalitarian or limitarian patterns of wealth undermine the unique strength of modern states: their capacity to ensure ongoing cooperation among relative strangers.

VI. CONCLUSION

This essay defends a neoliberal approach to taxation on a comparative basis. Taxation is distinctive from other forms of government action to raise revenue because it follows transparent, general procedures. This makes it compatible with the rule of law and conducive to maintaining civil and economic liberty. It is characteristic of modern states that can claim widespread legitimacy. Many egalitarian philosophers have observed the ease with which states can tax and have concluded that it is possible to use this process to achieve distributive outcomes in addition to the funding of public goods. Moreover, they claim that such a policy is necessary to ensure democratic stability.

While some redistribution is possible through the tax system, I have argued that attempts to generate a particular pattern of wealth and income come at a cost to procedural integrity, which is important for people recognizing the fairness of the system. Increases in observed wealth and income inequality that are supposed to instantiate unfairness do not take account of relevant features of wealth in a commercial society, such as changes in

⁷⁷ Chris Paul and Al Willhite, "Illegal Markets and the Social Costs of Rent-Seeking," *Public Choice* 79, nos. 1–2 (1994): 105–15; Aaron D. Simowitz, "How Criminal Law Shapes Institutional Structures: A Case Study of American Prostitution," *American Criminal Law Review* 50 (2013): 417–53.

⁷⁸ Daniel Mejia and Joanna Csete, "The Economics of the Drug War: Unaccounted Costs, Lost Lives, Missed Opportunities" (New York: Open Society Foundations, 2016), https://doi.org/10.1163/2210-7975_HRD-9709-2016005.

income levels throughout people's lives. Substantial wealth inequality within a liberal constitutional framework does not appear to constitute a practical threat to democratic stability. On the other hand, enabling discretionary state action to redistribute wealth according to substantive aims, thus departing from general rules, is a more plausible threat as it will encourage more corruption and predation within state institutions.

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