

# From Taxation to Justice: Extending the Search for a “Just Tax”

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Taxation has become one of the key policy challenges in most advanced countries. Demographic trends reinforce the prospective threat of increased pressure on taxpayers to fund existing welfare programs, while institutional competition between European countries and from other regions plays an increasingly decisive role in keeping governments in check. Central and Eastern European countries adopting proportional taxation systems have attracted additional investment from elsewhere and generated incentive structures conducive to entrepreneurial risk-taking. Other regions such as Asia and the United States enjoy marginally superior economic growth than many parts of Europe thanks to a less penalizing environment for production. Partly as a result, government debt – which may be viewed as deferred taxes – has reached new highs in many countries.

Mature democracies thus find themselves in a seemingly inextricable situation. Although known and recognized as unsustainable, high levels of government spending, not least for pension and other welfare programs,<sup>1</sup> enjoy widespread popularity. Notions such as “social justice”, “solidarity”, and “socially acceptable reforms” give the moral high-ground to those politicians and public policy officials who advocate redistributive schemes maximizing such benefits. Opponents to such views generally do not oppose heavy tax burdens on grounds of justice, but defensively criticize their levels for their alleged detrimental effects on economic growth and job creation. On their own, however, such arguments

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<sup>1</sup> See in particular the report prepared by a group of experts chaired by Ignazio Visco, Central Manager for International Affairs at the Banca d'Italia, at the request of the Group of Ten and presented at the G10 meeting of September 25, 2005, “Ageing and Pension System Reform: Implications for Financial Markets and Economic Policies”, published by the OECD.

seem ineffective: Voting majorities, as repeatedly evidenced, do not necessarily seek to maximize wealth, but often prefer maintaining high levels of redistribution in favor of people like themselves by “taking the money where it is” through government as an intermediary, regardless of constitutionally enshrined property rights. Legal and constitutional constraints to taxation prove particularly ineffective if the assumed motive behind governmental action is “do-goodism”, and taxes are least resisted when policies are seen by most people as benevolent.<sup>2</sup> Progressive taxation plays a central role in sustaining such perceptions. Most governments explicitly share the well-established notion that each taxpayer should pay taxes “according to ability” – a condition that graduated tax rates seem to fulfill.

The aim of this paper is to provide a critical analysis on taxation and justice. It starts by addressing the topic with an examination of government spending, which for the most part rationalizes taxation. It then moves on to a theoretical and an empirical discussion of the nature of both taxation and justice, looking into the case for individual property rights and equality before the law. It further assesses progressive, proportional, regressive, and equal taxation in the light of the preceding discussion, and explores other possible means of financing government that are consistent with justice or, in a necessarily imperfect real world, at least nearing consistency under some conditions.

## I. Taxation and justice

### “Tax justice” and government spending

The recent tax reductions in the United States are symptomatic of the prevailing mindset on “tax justice”. Although criticized for favoring “the rich”, President George W. Bush’s tax cuts have shifted a larger share of the individual income taxes paid to higher income taxpayers.<sup>3</sup> In 2005, with most of the tax cut provisions fully in effect (lower tax rates, a one-thousand-dollar child credit and “marriage penalty” relief), the projected tax share for lower-income taxpayers falls, while the tax share for higher-income taxpayers rises: The share of taxes paid by the bottom 50 percent of taxpayers drops from 4.1 percent to 3.6 percent; the share of taxes paid by the top one percent of taxpayers climbs from 32.3 percent to 33.7 percent. And the average tax rate for the bottom 50 percent of taxpayers falls by 27 percent as compared to a 13 percent decline for taxpayers in

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<sup>2</sup> Geoffrey Brennan and James M. Buchanan, *The Power to Tax: Analytical Foundations of a Fiscal Constitution*, The Collected Works of James M. Buchanan, Vol. 9 (Indianapolis, In.: Liberty Fund, [1980] 2000), p. 196; Carolyn Webber and Aaron Wildavsky, *A History of Taxation and Expenditure in the Western World* (New York, N.Y.: Simon and Schuster, 1986), p. 333.

<sup>3</sup> The example of the current U.S. government, often perceived as being more oblivious than others to “social justice”, is particularly telling of the overwhelming prevalence of the ability-to-pay principle.

the top one percent.<sup>4</sup> From the government's standpoint, this is a positive argument in favor of the enacted reform.

In Germany, where the Historical School gave the intellectual foundations for the European welfare states at the height of Chancellor Otto von Bismarck's government, the concept of justice is the most persistently professed ideal of taxation. The German government considers tax policy as a means to "strengthen social justice".<sup>5</sup> In her program, new Chancellor Angela Merkel promises more "tax justice" by closing "tax loopholes" and discontinuing "tax savings plans".<sup>6</sup> The latest savings tax directive at European Union level has been similarly celebrated by the German Ministry of Finance as a step toward more "tax justice" and "a victory of all honest taxpayers".<sup>7</sup> The notion of justice, however, is used by the German government in the context not only of new taxes or tax hikes, but also of tax rebates, for example on pension income (financed by taxes) of up to 20,000 euros.<sup>8</sup> The evidence suggests that "tax justice" is not grounded on any set of principles, but serves mostly as a rationalization to support *any* tax policy taken by a particular government.

To stay in power government officials have an interest in presenting their policies in the most favorable light and appearing to give voters what they want. Indeed, however benevolent individual politicians might be, the nature of government provides strong incentives to supply benefits to well-organized special-interest groups and rent-seekers at taxpayers' expense.<sup>9</sup> While the cost for any single taxpayer is likely to be relatively small, the aggregate electoral support of different groups of beneficiaries might be significant. This incentive structure explains the short-term time horizon (usually up to the next elections) of most government programs and their chronic need for "reforms": Politicians seeking to remain in power tend to support policies that generate current benefits in exchange of future costs, which are often difficult to immediately identify and may be shifted to future taxpayers through debt. The same observation is valid for bureaucrats: Since they spend other people's money, they are likely to be less sensitive to costs and seek instead to expand their budgets, programs, and career opportunities, while promoting pet causes in which they might genuinely believe. And in most cases, poor performance and failure to achieve set objectives are used as arguments to increase government funding.

And what could effectively oppose it? While bankruptcy weeds out inefficiency in the private sector, there is no parallel mechanism in the

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<sup>4</sup> "Who Pays the Most Individual Income Taxes?", United States Department of the Treasury, Office of Public Affairs, Fact Sheet, March 2, 2005.

<sup>5</sup> Hans Eichel, *Unsere Steuerpolitik* (Berlin: German Ministry of Finance, 2005), p. 4.

<sup>6</sup> "Deutschlands Chancen nutzen", Government Program of CDU and CSU, July 11, 2005, p. 16.

<sup>7</sup> "Mehr Steuergerechtigkeit, EU-Zinsertragsteuerrichtlinie tritt am 1. Juli 2005 in Kraft", German Ministry of Finance, June 21, 2005.

<sup>8</sup> Eichel, *op. cit.*, p. 21.

<sup>9</sup> For public-choice analysis of the political process, see for example James M. Buchanan, *Politics as Public Choice*, The Collected Works of James M. Buchanan, Vol. 13 (Indianapolis, In.: Liberty Fund, 2001); and James M. Buchanan and Gordon Tullock, *The Calculus of Consent*, The Collected Works of James M. Buchanan, Vol. 3 (Indianapolis, In.: Liberty Fund, [1962] 1999). For a superior analysis of the intrinsic nature of political power, see Anthony de Jasay, *The State* (Indianapolis, In.: Liberty Fund, [1985] 1998).

government sector. There are no signals from the capital markets and no real competition. Nor is there a consumer test since funding is based on coercion. Without the profit motive, government lacks a clear yardstick of success and failure. The objectives of government spending cannot be measured in monetary terms, nor can they be checked by conventional dual accounting as there is no direct link between tax revenues and specific expenditures. Bureaucratic cost control must limit itself to compliance with laws and regulations; economic calculation is simply impossible.<sup>10</sup>

Against this background it is understandable that high-tax governments attempt to promote their tax policies with positively laden terminology such as justice, and avoid questioning spending despite the wealth of empirical evidence illustrating the systemic inefficiency of government control over resources.<sup>11</sup> Since a tax is not levied for the sake of it, but spending and taxation are both sides of a same coin, before discussing a just system of government financing, it is essential to recognize that government spending has been proven beyond doubt an inefficient means of allocating resources. Given this inefficiency, governments, including those controlled democratically, should in no case be viewed from the outset of this discussion as legitimate corrective devices that always do the right thing or necessarily undertake policies that promote the general welfare.

### **Individual property rights and taxation**

Whether associated with perceived government benevolence or not, throughout history the power to tax has been concomitant to military power. On the one hand, governments have needed revenue to finance their armies; on the other hand tax collection could only be enforced through the threat of violence. Because not all rulers were wealthy and not all wars were successful, very early in history governments came to rely on taxes. In Mesopotamia, starting in the third millennium B.C., for example, the kings regularly leased seed, cattle, and surplus land to cultivators in exchange for interest, paid in kind. But Mesopotamian kings also derived regular income from temple prostitutes.<sup>12</sup> In

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<sup>10</sup> Ludwig von Mises, *Bureaucracy* (Grove City, Penn.: Libertarian Press, [1944] 1996), p. 52.

<sup>11</sup> The unsuccessful experiences of the former Soviet bloc and its subsets, as well as the current difficulties of most African and many other “emerging” countries and “mixed” economies of various degrees have been extensively documented and are beyond the scope of this paper. For empirical studies on the adverse relationship between government size and economic well-being, see in particular James Gwartney, Randall Holcombe, and Robert Lawson, “The Size and Functions of Government and Economic Growth” (Joint Economic Committee of Congress, April 1998; also *Cato Journal*, Vol. 18, No. 2, Fall 1998, pp. 163-190), which analyzes all OECD countries and 60 other nations over 36 years; cf. also Gary Becker and Casey Mulligan, “Deadweight Costs and the Size of Government”, National Bureau of Economic Research, Working Paper No. 6789, November 1998; Andrea Bassanini and Stefano Scarpetta, “The Driving Forces of Economic Growth: Panel Data Evidence for the OECD Countries”, Organization for Economic Cooperation and Development Economic Studies, No. 33, 2001/II, p. 30; and Patrick Minford and Jiang Wang, “Public Spending and Growth”, IREF Studies on Debt and Growth, 2005. For a descriptive account of the devastating effects of welfare state spending on civilization beyond economic consequences, see James Bartholomew, *The Welfare State We’re In* (London: Institute of Economic Affairs, 2004).

<sup>12</sup> Webber and Wildavsky, *op. cit.*, p. 43.

ancient Rome, Augustus innovated with the establishment of the *Fiscus*, which in practice was not separated from the emperor's property. Overtaxation would be one of the factors evoked, among others, for the collapse of the Roman Empire's Western provinces centuries later.<sup>13</sup>

Without proper recognition of property rights, taxation was more akin to confiscation, and it was not until the nineteenth century that merchants developed enough confidence in governments to invest in large, immobile factories. Before then, accumulated capital had to be protected through concealment, making it difficult to invest. Arbitrary assessments and unpredictable timing were common, even for established feudal dues.<sup>14</sup> Mostly because of regular public revolts and the disruption on economic activity, rulers were encouraged to give up arbitrary expropriation in favor of predictable, regular taxation at stipulated rates. First in England and Holland, monarchic governments lost their power to impose arbitrary levies, while parliaments, in which the merchants were strongly represented, gained the authority to impose taxes.<sup>15</sup> Taking property by law and judicial proceedings proved more advantageous for governments in the long run. Although the amounts taken were increasing, the predictability of rates and collection times also allowed merchants to calculate profits on investment. This historical evolution from confiscation to taxation has major implications in emphasizing the coercive nature of taxation: Despite nominal property rights, governments still have the capability of legalizing violations of these rights, that is, by all conventional definitions, of legalizing theft and stretching beyond their legitimate function as protectors of the residents' property.<sup>16</sup> Regardless of the size and functions of a particular government, if a taxpayer refuses to pay taxes in part or in full he faces severe penalties or asset seizure: The monopoly of force and control over the police, armed services, and law courts enjoyed by governments give taxpayers no choice. Is this just?

From Aristotle on to Thomas Aquinas and later philosophers such as Ayn Rand, individual property rights have been considered central to any consistent conception of justice: Justice is the virtue through which each person enjoys his own possessions in accordance with rightful laws applied equally to everyone. It precludes legalized theft. By definition, however, property rights entail obligations on others, who may not use one person's property without the owner's permission. Why, then, are such rights morally founded and just? The reasons can be objectively found in human nature. From a utilitarian standpoint, an individual's rights over his own person and the fruits of his labor are required for nothing less than life: To sustain their livelihoods and improve their well-being, human beings must be able to apply their abilities and resources to the production of goods and services of value to themselves and others. Property

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<sup>13</sup> Norman Davies, *Europe: A History* (New York, N.Y.: Oxford University Press, 1996), p. 240.

<sup>14</sup> Nathan Rosenberg and L. E. Birdzell, Jr., *How the West Grew Rich: The Economic Transformation of the Industrial World* (New York, N.Y.: Basic Books, 1986), p. 119.

<sup>15</sup> *Ibid.*, p. 121.

<sup>16</sup> The nineteenth-century French economist Frédéric Bastiat very tellingly called this perversion of the role of government "organized injustice"; cf. Bastiat, *The Law* (Irvington-on-Hudson, N.Y.: Foundation for Economic Education, 1998), p. 27.

rights, therefore, are indispensable for human exchange through the division of labor and reflect the need for productive activity in order to live. More essentially, property rights are morally founded because they reflect the *origin* of the value of the goods and services produced to sustain human life. Indeed, all wealth must be *created* through individual effort, whether intellectual or physical: Even the most abundant natural resources do not have any intrinsic value before someone finds a use for them. The wealth creation process necessarily implies that *there can be no moral claim on something that would not exist but for an individual's decision to engage in productive activity and create it*. Any violation against property rights must be an expression of force, just as would be body assault: Property rights are a direct outgrowth of the right to life and as such are morally inviolable.

As a corollary, equality before the law is the only principle consistent with the endless diversity, evolution, and unpredictability of an individual's condition, values, and preferences. Since it is impossible for anybody to predict his or her own future, let alone for a government to predict the future of residents within its jurisdiction, universal validity of laws is a vital feature of justice. The alternative would be arbitrariness.

Since governments are but a particular form of human association, they should be assessed by exactly the same standards as everyone else and therefore prevented from violating individual property rights. Any naïve or mystical view of government as an intrinsically legitimate, benevolent, or God-given entity regardless of property rights violations merely opens the door to arbitrary rule and totalitarianism, as it has throughout history. In all great religious systems, governments are opposed on precisely those grounds. In Judeo-Christian morality, the greatest influence on Western ethics, respect for property rights is an explicit demand of the Decalogue. Not only theft, but envy toward someone else's property is considered a violation of ethical behavior.<sup>17</sup> Also in the Hebrew Scriptures, God very candidly warns Israel of the expropriating consequences of instituting a king,<sup>18</sup> thereby preemptively refuting the claims of many rulers to follow who pretended (and sometimes still pretend) to act as moral authorities or, worse, "in the name of God".

As opposed to the recognition of individual effort as the source of wealth creation, many redistributive policies providing a basis for taxation are based on the erroneous assumption that wealth *exists* in a given quantity and that the main policy challenge is to achieve a just redistribution of that wealth. This zero-sum game conception of economic life simply fails to see that through the division of labor, each person already capitalizes on his distinct abilities, however modest, to sustain his own life and improve his well-being. It also ignores that wealthier individuals build up their wealth as a result of directing their abilities and resources to productive uses, creating products of value that others voluntarily purchase for their own benefit.

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<sup>17</sup> Exodus 20:15, 17 and Deuteronomy 5:19, 21. The same rules apply to Islam; cf. Qur'an 5:38, 39 and 4:32.

<sup>18</sup> I Samuel 8:11-17.

Even if supposedly grounded on altruism and not the false understanding of wealth creation just criticized, government redistribution overlooks that wealthy people help less able individuals in much better ways by allocating their resources freely, thereby raising living standards through innovation and employment, rather than give away, coercively or not, their wealth to “the poor” on altruistic grounds.

More often, however, instead of altruism redistributive policies betray a human instinct to give in to envy toward those who have created more wealth, and to live and prosper at least to some degree at their expense: Whether it is financing one’s idleness after the arbitrary age of 65, sponsoring one’s favorite arts, or educating one’s children, once government enjoys a potential claim on all property, the “good causes” it can finance are limitless. As Frédéric Bastiat has famously put it, government in such a situation soon becomes “that great fiction by which everyone tries to live at the expense of everyone else”:<sup>19</sup> Outright theft being unacceptable, people turn to government as an intermediary.

Such policies, of course, have nothing to do with justice.<sup>20</sup> Even if supposed to provide relief to less fortunate individuals rather than redistribute favors at other people’s cost, legalized theft violates the property rights of others in addition to having the counterproductive effects implied above. Recognizing these consequences does not imply that altruism should disappear altogether, on the contrary: Compassion tends to be an inherent feature of human nature. But in order to be ethical, charitable giving cannot be based on coercion; it must be voluntary and subsidiary, grounded on the principle of encouraging self-help, self-reliance, and independence. Moreover, current government monopolies all too often conceal that the market and the nonprofit social sector can provide real and affordable alternatives against the risks of illness, accidents, disability, or unemployment.<sup>21</sup>

By the same token, attempting to legitimize legalized theft on grounds that it is done democratically misses the point of the moral implications of individual property rights entirely.<sup>22</sup> Whether a majority outvotes a minority is of course irrelevant in this context. As Benjamin Franklin is attributed to have said,

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<sup>19</sup> Bastiat, *op. cit.*, p. ix.

<sup>20</sup> Yet to give intellectual credibility to the contrary, the consistent view of justice as respect for an individual’s right to his due has been challenged by the much contended notion of “social justice”. For detailed refutations of this non-concept, see in particular Ludwig von Mises, *Human Action: A Treatise on Economics* (Auburn, Ala.: Ludwig von Mises Institute, [1949] 1998), pp. 849-850; and Friedrich A. von Hayek, “Social’ or Distributive Justice” in: Chiaki Nishiyama and Kurt R. Leube, ed., *The Essence of Hayek* (Stanford, Cal.: Hoover Institution Press, 1984), pp. 62-113.

<sup>21</sup> For a discussion of the ethical and economic sham of welfare state spending, see for example David Kelley, *A Life of One’s Own: Individual Rights and the Welfare State* (Washington, D.C.: Cato Institute, 1998).

<sup>22</sup> Legalized thieves, of course, come up with all kinds of rationalizations for their deeds. Cases in point, the Norwegian and Swiss governments have recently invented the concept of “multifunctional agriculture” in favor of subsidized farmers, thereby seeking to defend interventionist and protectionist policies in the context of World Trade Organization negotiations. In the same vein, some taxes, such as on alcohol and tobacco, are allegedly levied on grounds of health, but ironically the Swiss government, for instance, earmarks an equal portion of tax revenues from tobacco sales to subsidize both smoking prevention and tobacco farming.

democracy so understood is little more than “two wolves and a sheep voting on what they will have for dinner”. To claim any legitimacy, political democracy must be constrained by justice and therefore individual property rights.<sup>23</sup> Unbridled majority rule as the expression of a “general will” is grounded on a collective or national mystique that may well be recognized and accepted by some individuals, but would certainly not legitimize coercion on others. As the Austrian School economist Ludwig von Mises identified, the market, rather than politics, provides the better democratic test, where no vote, even a minority vote, is cast in vain: Every currency unit saved, invested, or spent by an individual has the power to affect the production process.<sup>24</sup> Alleged choice in the political process, on the other hand, is mostly restricted to an institutional status quo, submission to majority opinion, and marginal changes that often run counter to an individual’s own preferences. Contrary to political democracy, market democracy, which implies privatizing illegitimate government activities, is fully consistent with individual property rights, and therefore justice.

What about optimizing tax revenues at an “ideal” tax rate with minimal disincentives on production? Could such a solution be considered a just compromise between government demands and respect for property rights – a way to satisfy both sides, as it were? The Laffer Curve hypothesis from which this view is derived certainly has some intellectual merit, notably by illustrating the uneven relationship between changes in tax rates and changes in tax revenues, but a policy based on this assumption would have no moral merit. On the contrary, it would violate individual property rights on grounds of presumed optimality. As we have seen, however, most government spending is likely to be *inefficient*. The revenue-optimizing idea is therefore both morally offensive and economically mistaken.

Whether government is at all necessary for its supposedly core functions, such as contract enforcement and the provision of security, which would seem at this stage to justify some degree of taxation, is beyond the scope of this paper.<sup>25</sup> The latest scholarship, however, challenges preconceptions on the necessity of government monopolies even confined to the functions of security, and it cannot be dismissed lightly.<sup>26</sup> Governments having secured quasi-exclusivity in essential areas such as armed services or the administration of justice, they have an advantage arguing that these services can only be provided by them, since no

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<sup>23</sup> Another Benjamin, the classical liberal philosopher Benjamin Constant, observed that in a democracy “the people’s sovereignty is not unlimited: it is circumscribed by justice and the individuals’ rights”. The will of an entire people, according to Constant, cannot make just what is unjust, or legitimate what is illegitimate; cf. Constant, *Principes de politique* (Paris: Guillaumin, 1872), p. 16.

<sup>24</sup> Mises, op. cit., p. 273.

<sup>25</sup> For a contemporary defense of this view, see George Reisman, *Capitalism: A Treatise on Economics* (Ottawa, Ill.: Jameson Books, 1998), p. 21; and Ayn Rand, “The Nature of Government” in: *The Virtue of Selfishness* (New York, N.Y.: Signet, 1964), pp. 125-134.

<sup>26</sup> See for example Hans-Hermann Hoppe, “The Private Production of Defense”, *Essays in Political Economy*, Ludwig von Mises Institute, 1998; and David Friedman, *The Machinery of Freedom*, 2<sup>nd</sup> ed. (La Salle, Ill.: Open Court, 1989), pp. 114-120. See also the works by Anthony de Jasay, in particular *The State* (referenced) and *Against Politics: On Government, Anarchy, and Order* (1997).

alternative is clearly visible. But in the complexity of the real world private arbitration courts and private security services already exist and thrive as their governmental counterparts' performance has failed to live up to expectations.<sup>27</sup>

### **Fairness and taxation**

Attempts have been made to justify taxation by defining justice as fairness. However, no consistent theory of fairness as distinct to justice has ever been provided; it has merely been used as a rationalization of mere intuitions or arbitrary preferences “under a veil of ignorance”, as defended in particular by the welfare state apologist John Rawls.<sup>28</sup> In fact, fairness can at best be viewed as a synonym for justice, in particular in the context of equality before the law. Attempting to justify taxation on grounds of a “fair” redistribution of wealth, however, only betrays the moral relativism inherent to thinkers seeking to rationalize the unconscionable, namely, legalized theft. Notions of “tax fairness” such as “spreading the sacrifice fairly”, or taxation according to ability to pay, fail to take into account the logical inconsistency between taxation and justice grounded on individual property rights, as discussed above, and should be dismissed as unsound.

## **II. In search of a “just tax”**

Taxes come in all shapes and sizes. The following section of the paper evaluates the main structures of tax systems in the light of our discussion of the nature of both taxation and justice so far, in particular in terms of individual property rights and equality before the law, before extending the analysis to alternative means of government financing. The intention is not to deal with every single kind of tax but with the structures where most taxes can fit in. In most countries, progressive income taxes are a major way of raising government revenues; derivatives such as wage taxes to fund pay-as-you-go pension systems, for example, can be considered as proportional taxes on income.

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<sup>27</sup> The International Chamber of Commerce's International Court of Arbitration, for example, has administered over 13,000 international arbitration cases involving parties and arbitrators from more than 170 countries and territories since its founding in 1923. Demand for its services grows year by year. Even in domestic contexts, parties increasingly prefer the ICC's less costly and time-consuming alternatives to court litigation. ICC arbitration provides confidentiality and freedom for the parties to choose the arbitrators, the place of arbitration, the applicable rules of law and even the language of the proceedings. This is in stark contrast with government courts, where delays, conflicts of interest, and lack of specialization often exacerbate problems and lead to systemic injustice, even in the most advanced countries.

<sup>28</sup> John Rawls, author of *A Theory of Justice* (1971) and widely regarded as the most influential social philosopher, has been characterized as the John Maynard Keynes of philosophy for his confused thinking. For a refutation of his premises, see for example Antony Flew, “Enforced Equality – or Justice?”, *Journal of Libertarian Studies*, Vol. VIII, No. 1, Winter 1986, pp. 31-41.

## Progressive taxation

As we have seen, graduated tax rates are a common form of taxation and are often perceived as intrinsic to “tax justice”. Although associated with Marxism,<sup>29</sup> progressive taxation has long been argued on grounds of justice. The French Declaration of the Rights of Man in 1789 stipulated that taxes “ought to be equally divided among all citizens according to their faculties”.<sup>30</sup> Even Montesquieu argued that laws should tend to make “large fortunes smaller and small fortunes larger”.<sup>31</sup> The perceived justice of this system has led to its near-universal embrace. In a relatively free country such as the United States, in 2002, the latest year of available data, the top *five percent* of taxpayers paid *more than one half* (53.8 percent) of all individual income taxes, but reported less than one third (30.6 percent) of income. The top one percent of taxpayers paid 33.7 percent of all individual income taxes in 2002. This group of taxpayers has paid more than 30 percent of individual income taxes since 1995. Moreover, since 1990 their tax share has grown faster than their income share.<sup>32</sup>

The typical pattern of tax burdens under progressive taxation highlights its basic feature: discrimination against higher incomes according to ability to pay and in violation of equality before the law. This can hardly be considered as just: As we have seen, wealth is created through individual effort, and there can be no moral claim on something that would not exist but for the effort of those who created it. Moreover, if some individuals generate more income than others, it means that they are particularly successful in fulfilling the needs and wants of others. They have not prevented anybody else from becoming equally or more affluent, nor have they robbed anybody (in which case they would not file their income with tax authorities). Progressive taxation, then, is particularly destructive: It penalizes economic efficiency in greater proportions as efficiency increases. It is a disincentive against highly productive work and entrepreneurship. As a consequence, it is not only adverse to those taxpayers being taxed, but to society as a whole, who would benefit from the better and cheaper products that are not created or whose creation is retarded because of taxation. By reducing saving and investment incentives for the most productive individuals, progressive taxation is especially detrimental to lower-income people, who enjoy less employment opportunities and lower wages as a result. Instead of being discriminated against, wealthier individuals should rather be seen as whom economist George Reisman called “the poor’s best friends” as they boost capital accumulation and economic progress through investment and innovation.<sup>33</sup> Graduated tax rates can at best assuage cheap feelings of envy toward “the rich”, in blatant disregard for economic truth, but they are certainly *never* just.

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<sup>29</sup> In their *Manifesto of the Communist Party* (1848), Karl Marx and Friedrich Engels advocated “a heavy progressive or graduated income tax”.

<sup>30</sup> Webber and Wildavsky, op. cit., p. 347.

<sup>31</sup> Frédéric Passy, “L’impôt progressif et l’impôt sur le revenu”, *Pages et discours* (Paris: Guillaumin, 1901), p. 52.

<sup>32</sup> Source: United States Department of the Treasury.

<sup>33</sup> Reisman, op. cit., pp. 307-310.

Marxist and other collectivist defenses of progressive taxation, such as a desire for more economic equality, betray arbitrary preferences and are as baseless as the feelings of envy that often motivate them. They imply a limitless claim on every person's property. Such theories violate justice in many ways. Not only do they deprive individuals of their property rights, but they allow a democratic majority to persecute a minority of wealthier residents by imposing on the latter higher taxes to which the former is not subject. Collectivism also undermines personal responsibility by redistributing resources from those who earned them to those who did not. Ideologically grounded progressive taxation abandons all pretenses at connecting government services and government funding. It systemically legitimizes legalized theft. For all practical purposes, it is organized crime under another name.

### Proportional taxation

A proportional tax, or flat (rate) tax, can be seen as an improvement compared to a progressive system, since it seems, at least at first sight, to fulfill the equality-before-the-law principle, whereby more or less everyone pays taxes at the same rate.<sup>34</sup> Depending on its design, other advantages of such a system are that it minimizes double taxation of the same income and substantially reduces compliance costs by limiting the number of deductions and special treatments.<sup>35</sup>

Yet proportional taxation still discriminates according to income. If taxes are viewed as the price to pay for government services, then there is no reason why they should be proportional. After all, other goods and services are not priced proportionally to income: Would there still be a reason to try to generate more wealth if they were so? A proportional tax, like a progressive tax, is inconsistent with the notion of government as a service provider. It places the emphasis on raising government revenues at arbitrary levels rather than on the individual resident as a consumer. A prominent redistributionist such as philosopher John Rawls supported it. Although a proportional tax is less discriminatory than a progressive tax and has become a fashionable tax reform proposal, it is grounded on the same ability-to-pay principle, thereby clearly violating equality before the law.

The deepest flaw of proportional taxation is that it allows tax revenues to grow *automatically* as incomes rise as a result of personal success and economic growth. In the market, on the other hand, real prices for goods and services tend to decrease over time thanks to innovation. With proportional taxation tax

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<sup>34</sup> A proportional taxation system has been applied in Jersey since 1940, in Hong Kong since 1948, and in Guernsey since 1960. In continental Europe, Estonia led the way with the adoption of a similar system in 1994, and was followed by ten former communist countries since then. Proportional taxation, however, was already applied in nineteenth-century Europe, when direct taxes on income became commonplace and before progressive taxation replaced them in parallel to the expansion of the welfare state.

<sup>35</sup> For a contemporary, practicable model of what a proportional tax system would look like, see in particular Robert Hall and Alvin Rabushka, *The Flat Tax*, 2<sup>nd</sup> ed. (Stanford, Cal.: Hoover Institution Press, 1995).

revenues increase without the need of any justification on the government's part for more spending. Not only is there no rationale for automatic increases of tax revenues given the documented inefficiency of government expenditures, but this is also unacceptable from the standpoint of justice because individual property rights are further weakened by the resulting increase in the government's relative leverage derived from the higher tax revenues.

One traditional attempt to justify taxes proportional to income has been to argue along the lines of the relative benefits that taxpayers are supposed to obtain from government protection. According to this common theory, a person who owns more property and generates more income would benefit more from government services. By making the tax burden dependent on the taxpayer's personal financial situation at any given time, however, such an approach legitimizes the same kinds of violations of privacy as under a progressive tax regime since it is still necessary to determine taxable income. And if income or wealth were legitimate criteria to assess individual benefits derived from government services, why would hair color or the way to dress not qualify? Does an inconspicuous multimillionaire living in a modest apartment or, alternatively, securing the private services of a bodyguard benefit more from government protection than a less wealthy person who neglects to equip his ostentatious house with an alarm system or lives in an ordinary building in a depressed neighborhood in the outskirts of Paris?

Even if the *potential* value of goods owned by a wealthy individual requiring protection is higher than that of a lower-income person, unlike a private insurance a government will not pay any replacement costs. A comparison between proportional taxes and differentiated insurance premiums therefore misses the mark. Whether a snatched wallet belonging to a lower-income person contains 10,000 euros and another belonging to a wealthy individual 100 euros, or the other way around, the cost of catching the criminal is arguably the same. Moreover, there is *no way* to measure the subjective value placed on the 10,000 or the 100 euros of their respective owners. Contrary to a voluntary transaction between a seller and a buyer in the market, there is strictly no way to identify the subjective utility derived individually from government services under a coercive system of taxation.

These examples bring to light the infinite variety, complexity, and sheer unpredictability of human situations, values, and preferences at any given moment – which is precisely why equality before the law can be the only just standard. Even more absurd would be the attempt to apply the benefit principle to current regimes of welfare state redistribution, which proportional taxation indirectly implies by raising government revenues according to the ability-to-pay principle: Under this assumption, then, the least affluent residents should pay the most taxes since they are the most likely recipients of government subsidies.

At best, proportional taxation can be viewed as an improvement from progressive taxation provided that the change leads to tax reductions for each resident and therefore to greater respect for property rights, but in terms of justice it has *in itself* little merit.

Although often viewed as a preferable alternative, a proportional consumption tax is but another name for an income tax, as economist Murray Rothbard has convincingly shown.<sup>36</sup> The usual argument in favor of taxing consumption rather than income is that a consumption tax would encourage savings and therefore capital accumulation. In the real world, however, any payment of taxes to the government, whether they are purportedly based on consumption or income, necessarily reduces a taxpayer's net income. A tax on consumption is merely a tax on income, and therefore savings, at another point in time in the economic process. Instead of taxing income after it is distributed, a consumption tax reduces income by taxing production factors at the level of the seller. Since an increase in production costs is rarely imputable directly to consumers (in which case sellers could raise prices at their discretion), the tax reduces labor, land, and interest income. A tax on consumption is therefore an *indirect* tax... on income.

As a particularly costly and invasive variant of a consumption tax, the value added tax as practiced in much in Europe and cartelized at European Union level adds a higher degree of bureaucratic burden on sellers, but does not differ in its fundamental nature from a general sales tax or any other type of taxes allegedly levied on consumption.<sup>37</sup> The only "advantage" of such indirect taxation could be that it makes the tax burden less apparent, thereby allowing governments to increase tax levels with less resistance from taxpayers. From the point of view of justice, however, such a tax is in no way different from any other proportional tax on income.

### **Regressive taxation**

Although proportional taxes have been called regressive because they fail to impose a comparatively greater tax burden on more affluent taxpayers, such a definition would be a clear abuse of language, grounded on premises conflicting with the equality-before-the-law principle. Regressive taxation means that tax rates are graduated so that the rate decreases as the amount taxed increases. Although this system is less frequent in practice, it has been applied since 2004 in the Swiss canton of Schaffhausen.<sup>38</sup> The cantonal tax rate there is just under

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<sup>36</sup> Murray Rothbard, "The Consumption Tax: A Critique", *Review of Austrian Economics*, Vol. 7, No. 2, 1994, pp. 75-90.

<sup>37</sup> In Switzerland, for example, the economic cost of levying the value added tax has been estimated at 70 cents for each franc of tax revenue raised; cf. Frank Bodmer, "Die Mängel der (schweizerischen) Mehrwertsteuer und einige Reformvorschläge", University of Basel, 2003, and "Globalisierung und Steuersystem in der Schweiz", Staatssekretariat für Wirtschaft, Strukturberichterstattung, No. 16, 2002. According to the latter study, a full transfer to indirect taxation would lower GDP growth by 0.8 percentage point. The erroneous notion of replacing direct by indirect taxes as a more efficient means of raising tax revenues (since they both have a similar economic incidence) has also been shown by Alex Beck and Christa Aregger, "Mehr Wachstum dank Steuerumbau?", Credit Suisse Economic & Policy Consulting, 2004.

<sup>38</sup> In December 2005, the citizens of the canton of Obwalden in central Switzerland have adopted the same system by a majority of 86 percent in a popular referendum, responding to competitive pressure from other cantons in the region, which harbors some of the most fiscally attractive jurisdictions in Europe.

seven percent for income of 100,000 Swiss francs and rises to a peak of around 11.5 percent for income between 600,000 and 800,000 francs. Thereafter, the rate declines with each additional income increment: 10.9 percent at one million francs; 9.4 percent at 1.5 million francs; 7.7 percent at 3 million francs; and just over 6.5 percent for income totalling more than 10 million francs.<sup>39</sup>

Schaffhausen applies the same kind of regressive rates to taxation of wealth in order to attract well-off taxpayers. However, affluent individuals still pay more taxes in absolute terms: It is not so that a greater tax burden falls on less affluent taxpayers. Rather, higher-income residents are less penalized for their productivity than under a conventional progressive tax system. Significantly, Schaffhausen legislation also provides that in case of a substantial increase in tax revenues thanks to the arrival of one or more particularly wealthy taxpayers, the government is obligated to cut taxes for all residents accordingly; it is not allowed to spend the additional money.

Regressive taxation has some utilitarian value since capital allocated by wealthier people tends to generate more returns in terms of innovation and employment than that of less affluent individuals. And from the standpoint of taxpayers in the progressive tax brackets, the arrival of higher-income taxpayers who will pay more taxes in absolute terms might allow general cuts in tax rates as a result of the additional government revenues. Despite such advantages, a regressive tax evidently violates the equality-before-the-law principle and puts raising revenues before any other consideration, such as the proper scope of government activity and respect for property rights. From the point of view of justice, it discriminates according to income and is barely different from progressive taxation, even if it may lead to marginally better protection of individual property rights.

### **Equal taxation**

The only tax system which can be said to conform to the principle of equality before the law is a tax of fixed amount regardless of individual income or wealth, in other words an equal tax (also known as a head tax or poll tax). This system is consistent with the idea that every resident within a government's jurisdiction benefits equally from it: Government as a particular form of association among human beings endowed with equal fundamental rights should not be financed according to arbitrary criteria such as income or wealth, but on the basis of residence. The prevailing ability-to-pay principle legitimizing other forms of taxation is based on the misunderstanding of government as a redistributive agent. As we have seen, however, redistributive policies that make up most of government spending and therefore justify most taxes violate individual property rights and lead to economic inefficiencies, thereby lowering prosperity for society as a whole. An equal tax implies discontinuing such policies in order to become affordable, as in relative terms it falls more heavily on those residents with more moderate means.

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<sup>39</sup> Online tax calculator of the State of Schaffhausen (<http://www.sh.ch/wf/str/steuern.cfm>).

It would nevertheless be wrong to believe that an equal tax is detrimental to individuals with lower income potential. An equal tax hinders capital accumulation less than any other tax system. The incentive to save and invest does not decrease to the same extent as with taxation discriminating against those with higher income and wealth. Consequently, an equal tax does not retard as much the tendency toward rises in wages. Moreover, an equal tax encourages people of all abilities to engage in productive work and wealth creation, since additional income exclusively increases its recipient's wealth, without being taxed.<sup>40</sup> For lower-income earners, an equal tax would therefore result in better wages, higher incomes, and more job opportunities than with any other tax system.

Another advantage of an equal tax is that it applies to individual residents as consumers of government services: It is consistent with the idea of government as a particular form of human association. Today's tax systems, on the other hand, do not only tax income and wealth, but things, such as cars, and organizations, such as corporations. Such an animist view of taxation negates that all money paid in taxes must, of course, come from real human beings. The dispersion of the tax base only serves as a means to reduce the residents' natural opposition to an ever increasing tax burden. If a tax system should be transparent, as are market prices, then an equal tax is the only system that fulfills this requirement. With corporate taxation, for example, it is impossible to establish in which proportion the tax is paid by stockholders, employees, or customers. With a value added tax, it is hardly practical to keep track of all taxes paid individually during one year on goods and services purchased: The time and effort that such a complex calculation would require make it expensive and prone to error.

Contrary to most other taxes and tax constellations, the transparency of an equal tax would help to adjust the scope and level of quality of government services as compared to the amount of the tax. Individual taxpayers would know the tax burden directly and fully rather than have it diluted through intermediaries with the same adverse consequences on property rights and economic efficiency. Resistance to tax hikes would therefore be much higher than it is today, since governments could no longer play majorities against minorities as they do with other types of taxes.

In contrast to a proportional tax, the total amount of taxes raised by government under an equal taxation system could only increase automatically with the arrival of additional residents within the government's jurisdiction. Personal success and economic growth would no longer lead to more government revenue. This evolution would break the unwarranted link between wealth creation and government resources. Competition among governments would also increase to attract new residents as a result, with subsequent incentives to raise the quality of services provided at the lowest possible costs. While the current multiplicity of taxes makes it impossible to calculate the cost of government for any individual resident, an equal tax allows straightforward geographical and time comparisons between jurisdictions: This would tend to reduce the size and

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<sup>40</sup> Pascal Salin, *Libéralisme* (Paris: Odile Jacob, 2000), p. 447; Mises, *op.cit.*, p. 731.

scope of government as the costs of rent-seeking behavior become immediately apparent. In other words, equal taxation opens a virtuous circle of corollaries, reinforcing property rights and undermining legalized theft.

Despite its advantages, equal taxation has been criticized for allegedly taxing a person's very existence, seemingly implying that the government owns all of its "subjects", body and soul.<sup>41</sup> An equal tax, however, does substantially limit potential government infringement on the residents' privacy since it no longer requires so much information on a person other than he or she living within its jurisdiction. It also seems consistent with the established democratic notion of "one man, one vote": Voting rights in political democracies, after all, are not attributed according to income or wealth, but on an equal basis grounded in the reasoned belief that each citizen is *equal before the law*. It is therefore only logical that such a system leads to an equal tax or at least illogical that it should lead to any other system of taxation. A more acceptable criticism of the equal tax is that like any other tax it is based on coercion. Every resident is forced to pay it even if for one or more of them the value of government services is less than the amount of the tax or, worse, negative.

### **Voluntary government funding**

However just the equal tax might otherwise seem in terms of equality before the law, could taxation be "voluntary" in order to avoid the problem of coercion and respect individual property rights? Since government, properly understood, is not the owner of the residents' income within its particular jurisdiction, it clearly should not hold a blank check on that income, a situation nonetheless implied by all types of taxation, coercive by their very nature. With voluntary financing, instead of being viewed as a ruler, government would be put to its rightful place as a service provider in an exchange relationship between human beings.<sup>42</sup> This view of government seems consistent with political traditions of countries such as Switzerland or the United States, historically built from the bottom up on the idea of a particular form of association among people. It runs contrary to the traditions of most European countries with a monarchical heritage where government was viewed and is often still viewed as an omnipotent and omniscient entity. Regardless of tradition, however, voluntary government financing would substantially restore each person's otherwise largely unchallenged individual sovereignty as a consumer of goods and services.

As with an equal tax, voluntary financing of government would require rolling back most of its illegitimate and inefficient programs. Voluntary financing would necessarily imply that government provides only sought-after services that no one else would produce. In that sense, it would be highly limited. The experience of Dubai, fast becoming one of the major business cities of the world, seems to corroborate the practicability of such a system. Dubai, whose GDP

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<sup>41</sup> Murray Rothbard, *Making Economic Sense* (Auburn, Ala.: Ludwig von Mises Institute, 1995), p. 219.

<sup>42</sup> Reisman, op. cit., p. 37, note 20; Rand, "Government Financing in a Free Society" in: op.cit., pp. 135-140.

growth was 16 percent in 2005, knows no taxes at all, no income or capital taxes, and no withholding tax. The government relies exclusively on fees for the services it provides, at the sole exception of the oil industry<sup>43</sup> and domestic banking, whose business interests are largely owned and controlled by the ruling family. The municipality runs a “customer service center” where all “civic transactions” can be done under one roof. Dubai also benefits from a number of double tax treaties with high-tax countries that are often used in international tax planning by major corporations, thereby protecting productive capital from tax authorities. In addition, there are no information exchange agreements for tax purposes with other countries, and the highly flexible and confidential banking system enjoys complete freedom of capital movement.<sup>44</sup>

User fees as practiced in Dubai take away the coercive nature of government financing. They end what has been characterized as legalized theft for the violation of individual property rights necessarily involved in taxation. In particular, the user-fee approach allows each resident to make a rational decision as to the purchase of government services. This system is highly consistent with justice since those benefiting from government services pay for them. Under such a system there can be no undue income redistribution, although fees could reasonably include some component to offset government overhead costs, as do prices for market goods and services. Not only do user fees solve the coercion problem that makes taxation indistinguishable from theft, but they would limit government activities to its legitimate functions, determined by consumer choice.

As another means of voluntary government financing, self-interested wealthy individuals could choose to finance some government services, exempting residents of lesser ability who would still enjoy the benefits of legal protection, such as those offered by the armed forces, the police, and the courts dealing with criminal offenses. These benefits could be regarded as a bonus to less affluent individuals, made possible without any sacrifice of wealthier individuals to the former.<sup>45</sup> Although this idea might seem far-fetched, it used to be practiced relatively successfully in classical Athens and the Roman republic. Indeed, in the birthplace of Western civilization, taxation was generally considered as tyranny. User fees on public facilities and limited taxes on commercial transactions raised some government revenues, but most Athenians did not pay taxes. Instead, they relied on voluntary contributions, the *liturgies* (the Greek word for public service), made by wealthy individuals, who attracted attention to their generosity.<sup>46</sup> Affluent citizens maintained public facilities, including the municipal gymnasium, funded religious festivals, and provided military equipment for defense. The Romans adapted this system of public management in provincial cities in Italy and their western provinces during the last two

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<sup>43</sup> Oil constitutes only 5.8 percent of Dubai’s GDP (2005).

<sup>44</sup> In the latest World Economic Forum Global Competitiveness Report (2005), the United Arab Emirates (which include Dubai) rank 18<sup>th</sup>, in front of such European countries as Estonia, Austria, Luxembourg, or Ireland. In the Fraser Institute Economic Freedom of the World 2005 Annual Report, the UAE rank 9<sup>th</sup>, tying with Australia, Estonia, and Luxembourg. Dubai alone would rank higher than the UAE as a whole.

<sup>45</sup> Rand, *op. cit.*, p. 139-140.

<sup>46</sup> Webber and Wildavsky, *op. cit.*, pp. 102-103.

centuries of the republic. There, voluntary contributions were called *munera* (the Latin equivalent for public service). The wealthiest citizens not only paid for local religious festivals, Olympic games, and local gladiatorial shows, they also performed day-to-day tasks of municipal administration and donated additions and repairs to public facilities such as heated public baths, roads, drains and sewers, and city walls.<sup>47</sup> The principle of personal responsibility underlying Greek liturgies has been virtually abandoned in the Western world, as it has been replaced by coercion.<sup>48</sup> But it effectively demonstrates that the common assumption that taxes are “the price we pay for civilized society” is baseless. In fact, *Western civilization was born in the quasi-absence of taxes.*

### Exit options

If voluntary government financing in the form of user fees seems optimal, it still ignores a problem specific to the nature of government: territorial monopoly over a particular geographical area. Contract enforcement *might* indeed be difficult if each resident within a particular jurisdiction could suddenly choose his own government and pay his taxes, say, in Bermuda, Liechtenstein, or Switzerland while living in France or Germany. This is nevertheless what an undiscerning comparison of government services with private transactions would entail, since markets imply that any producer and any consumer are free to engage in exchange wherever they are. With government enjoying monopoly power over a particular area, however, that freedom of choice is severely restricted. Within their jurisdictions governments could therefore still charge excessively for their services as a result of the lack of competition at any single location.<sup>49</sup>

Moreover, the larger and the more unified a country, the more unconstrained government becomes. As counterintuitive as it may seem, larger political jurisdictions do not lead to economies of scale and cost reductions. Increased monopoly power tends to favor rent-seeking and special interests, decreasing the likelihood that centralized decision-making will be matched with the differing needs and wants of individual residents. Taxpayers could still move from one jurisdiction to another, but the greater costs of moving would make it less likely, notwithstanding that migration is subject to many restrictions.

To protect individual property rights, another condition must therefore be fulfilled: institutional competition on a small scale, making the costs of moving from one jurisdiction to the other affordable to any individual resident. In other words, a government’s territorial monopoly over a given jurisdiction must be limited to a small area. The absence of centralization multiplies exit options that constrain governmental action by their mere existence as an easily enforceable

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<sup>47</sup> Ibid., p. 104.

<sup>48</sup> It should be noted that in the freest and therefore most prosperous countries, private philanthropy in the fields of education, healthcare, or the arts is still very prevalent.

<sup>49</sup> This contradiction has been criticized from a different perspective by David Osterfeld, “Internal Inconsistencies in Arguments for Government: Nozick, Rand, and Hospers”, *Journal of Libertarian Studies*, Vol. IV, No. 3, Summer 1980, pp. 331-340.

threat.<sup>50</sup> Evidence from Switzerland, by far the most non-centralized country in Europe, shows that institutional proximity and face-to-face relations make it less likely that individual property rights will be abused despite territorial monopoly.<sup>51</sup> Cantonal tax sovereignty allows greater respect for individual preferences: The apparent chaos from the diversity of 26 tax regimes in a country of 7.5 million people results in a *relatively* good match, however marginal and imperfect it may have become, between government policies and the choices of residents. So do different tax rates and tax systems between the various European countries, but of course to a lesser extent.

Another advantage of a multiplicity of small jurisdictions close to each other is that it decreases the risk of collusion among nominally competing governments. Tax cartelization at European Union level, for example, although advanced by high-tax governments to limit their residents' exit options, is proving challenging for its proponents given that some member governments have refused to go along with such plans (not to mention the ease to move capital to other regions in the world).

Historically, system competition and the absence of centralization were decisive factors in the Renaissance, the Enlightenment, the Industrial Revolution, and Europe's consequent rise to prosperity.<sup>52</sup> After the fall of Rome, fragmentation allowed the most productive citizens to "vote with their feet" together with their capital. And with the division of authority dissent flourished, leading, as we have seen, to the emergence of parliaments and free cities limiting predatory taxation, and sparking emulation in other places.

Regardless of the means, voluntary or coercive, just or unjust, to finance government, the presence of a high number of jurisdictions proves to be essential to minimize government violations of individual property rights. Small, open jurisdictions, free from the suffocation of an overwhelming or corrupt center of power, competing for productive residents, are a *sine qua non* condition to a higher degree of justice.

### III. Conclusion

Current systems of taxation imply that governments have a prior claim on the fruits of a person's labor. Such a notion is fundamentally *immoral* and can never be just, despite government claims to the contrary. Since most government spending has been shown inefficient, there cannot be any rationalization of taxation on the grounds of raising government revenue at arbitrary levels, either.

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<sup>50</sup> Robert Nef, *Lob des Non-Zentralismus* (Sankt Augustin: Academia Verlag, 2002), p. 73; Brennan and Buchanan, *op. cit.*, p. 210.

<sup>51</sup> See for example Lars P. Feld, Gebhard Kirchgässner, and Christoph A. Schaltegger, "Decentralized Taxation and the Size of Government: Evidence from Swiss State and Local Governments", CESifo Working Paper No. 1087, 2003.

<sup>52</sup> David S. Landes, *The Wealth and Poverty of Nations: Why Some Are So Rich and Some Are So Poor* (New York, N.Y.: Norton, 1998), pp. 36-39; Rosenberg and Birdzell, *op.cit.*, pp. 136-139.

Any tax policy based on the concept of justice should seek to minimize the tax burden by discontinuing most government activities, reinforcing civil society and the free market economy. In most OECD countries, core government competencies<sup>53</sup> could be financed with 10 to 15 percent of current tax revenues, that is, with a share of three to five percent of current GDP at most.<sup>54</sup> Compared to current, highly discriminatory and complex tax systems, an equal tax of a fixed amount paid by each resident is the only system consistent with equality before the law. Still, it could not be considered as just since it would imply a violation of individual property rights.

In order to attain justice, market solutions to voluntarily fund government activities, most notably by way of user fees, can be the only ones taken into consideration, with the necessary safeguard of institutional competition between small and open jurisdictions, thereby multiplying exit options. No level of legalized theft, however lenient and unavoidable it is deemed to be, will ever be just in principle: Any other statement would be a contradiction in terms.

Discontinuing coercive government financing may seem to require foregoing some supposed benefits in the short-term, especially in countries where the government illegitimately and inefficiently stretches far beyond its proper function. But as Ludwig von Mises observed, reasonable action is precisely distinguished from unreasonable action by involving provisional sacrifices that will soon be outweighed by favorable consequences.<sup>55</sup> As our analysis shows, what is just is also efficient. Recognizing this truth implies that preventing further erosion of individual property rights, while regaining them where they have been lost, is the only course of action worthy of pursuit in the quest for more justice.

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<sup>53</sup> As we have seen, however, both the most advanced theoretical scholarship and empirical evidence effectively challenge at least to some extent the government's monopoly on security, often conclusively viewed as its only legitimate role.

<sup>54</sup> This evaluation is based on total government spending in a typical European welfare state (Switzerland) at local, state, and federal levels for the year 2003 and represents the share of expenditures for the armed forces, police and fire services, and the courts (source: Swiss Federal Administration of Finance).

<sup>55</sup> Mises used the following metaphor: "The person who avoids tasty but unwholesome food makes merely a provisional, a seeming sacrifice. The outcome – the non-occurrence of injury to his health – shows that he has not lost, but gained." Cf. Mises, *Liberalism in the Classical Tradition* (New York, N.Y.: Foundation for Economic Education, [1927] 1985), p. 8.

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