CHAPTER 6

Taxation

TWO ARGUMENTS FOR PROGRESSIVE TAXATION

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> If progressive or unequal taxes are permitted, the time cannot be distant when the majority of the voters will confiscate private property under the cloaks or pretense of taxation, and the worst follies and crimes of history will be repeated.
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> William D. Guthrie,
> *Lectures on the Fourteenth Article of Amendment to the Constitution of the United States*, 1898

1. Introduction

In 2013 Warren Buffett, the multimillionaire investor, gave an interview to CNN in which he stated that his secretary paid a larger share of her income in taxes than he does.[1] He went on to argue that this was "clearly" unfair and unjust: How could it be that ultra-rich people like himself—members of the 1%—pay a smaller share of their income in taxes than average income earners?[2]

Many Americans would agree with Buffett.[3] In this chapter, I want to discuss some reasons as to why Mr. Buffett is correct in judging this distribution of the tax burden unfair and why a fair distribution of the tax burden requires that rich people, like Mr. Buffett, should pay a larger share of their income in taxes than poor people.[4]

In what follows, I will discuss two arguments in favor of progressive tax burdens. First, the argument that progressive taxation is an effective instrument for realizing a just distribution of burdens and benefits over society. Next, I will discuss an often-heard objection to that type of argument. Answering the objection leads me to discuss a principle that justifies a duty to pay taxes in general. In the final sections, I will show how that principle, combined with some other considerations, leads to the conclusion that progressive tax rates are required, which will be the second argument.

2. Progressive Tax Rates as an Instrument for Distributive Justice

For most philosophers, the question how the burdens of taxation should be distributed is part of a larger question of distributive justice.[5] Justice is not only about the distribution of the burdens; it is also a matter of the distribution of the benefits. If one focuses exclusively on the distribution of burdens, then one is guilty of what Liam Murphy and Thomas Nagel call "myopia."[6] Such an exclusive focus is myopic for two reasons. First, a tax is a burden, but "burden" is a relative notion: Something is a burden relative to some benchmark.

Many are inclined to think that taxation is a burden relative to the pretax income distribution. However, this ignores the amount of state activity that was needed to enable taxpayers to earn their pretax income in the first place. The state was instrumental for setting up a system of rights and rights protection in the form of contract law, criminal law, courts, and police. In addition, it was involved in the creation of infrastructure and other public goods and services that make economic transactions possible in the first place.

Second, it also ignores what is subsequently done with the tax revenues. For example, suppose A and B are both farmers and earn the same pretax income of $100,000. Suppose that A has to pay $5,000 in taxes while B has to pay $10,000. We could not say whether that is fair or unfair to B, unless we also look at what the state does with the tax revenue. If, for example, B receives an agricultural subsidy of $5,000 while A does not, we could not maintain that B is treated unfairly in comparison to A.

If this is correct, then it's a form of intellectual "myopia" to focus on the burdens of taxation in isolation of what made the pretax income possible and what is done with tax revenues. Furthermore, it follows that the pretax income distribution is not morally relevant for determining the just distribution of burdens and benefits. Therefore, Mr. Buffett's tax burden and that of other members of the "1%" must be assessed against the overall picture of the economic outcomes.

Rather than asking "Is it fair that Mr. Buffett faces a smaller effective rate than his secretary?" the question should be "How should Mr. Buffett and his secretary be taxed so as to realize most effectively and efficiently a just distribution of benefits and burdens?"[7] Note that on this way of thinking about taxation, there is no *special* question whether progressive taxation is fair; what matters is whether the overall outcomes of state activity are fair. Taxation on this view is just one of the instruments that states use to achieve their policy aims. For this reason, I will call this type of approach *instrumentalist*.[8]

Philosophers, like everybody else, tend to disagree about what makes a distribution just. Some argue for equality of well-being; others claim that justice requires equal opportunities for all; some accept inequality as long as it is to the benefit of the least well off; etc. Suppose that a just society is one with a moderate level of inequality where no one is below a certain level of economic circumstances ensuring that a decent life is possible. A decent life is one where you don't have to beg for food or health care, where you have a roof over your head, where you can look your fellow citizens in the eye, and where you have equal standing before the law. Full disclosure: I subscribe to that view. I believe that affluent

societies, like the United States, have a duty not to let their residents fall below this threshold.

On such a view of distributive justice, there are many things that are potentially worrying about the tax burdens of Warren Buffet and other members of the "1%." For example, one could question the impact this distribution of tax burdens has on economic outcomes. If the least advantaged people are even less well off because of a lack of progression in tax burdens such that they fall below the threshold of a decent life (e.g., because certain welfare programs will be underfunded) then this would be a reason to increase the rate for individuals like Buffet. Similarly, there is (hotly disputed) statistical evidence that high rates of inequality correlate with all types of social and health problems not just for the less advantaged, but also for the middle classes and the rich.[9] In addition, there are (again, hotly disputed) worries of political equality concerning the extreme disparity in political influence the very rich have.[10] One of the remedies for all these injustices is taxation. Progressive taxation, on this view, is an instrument for the realization of a just overall distribution of economic and political outcomes.[11] This instrumentalist approach is the prevailing type of argument for progressive taxation.

3. A Violation of Property Rights?

There are challenges to this way of thinking about the fairness of progressive taxation. For starters, if this is how one would defend progressive taxation, the case for progressive taxation depends on what view of distributive justice is correct. Given that there are fierce debates within philosophy, politics, and law on this matter, chances of consensus are slim.[12] In the absence of an agreement, this does not seem a very promising strategy to pursue. However, this is not a problem unique to assessing the justice of tax burdens: Any question of fair distribution will have to confront that problem sooner or later.

There is a more fundamental objection: Such an instrumentalist approach to taxation violates people's property rights to their labor income. A good example of this view is the libertarian philosopher Robert Nozick, who argued that all taxation is a form of forced labor: "Taxation of earnings from labor is on a par with forced labor. Some persons find this claim obviously true: taking the earnings of *n* hours labor is like taking *n* hours from the person; it is like forcing the person to work *n* hours for another's purpose."[13] Nozick goes on to explain what he finds wrong with "taking the earnings of *n* hours of labor." It is a violation of the property rights that people have in their own bodies and the fruits of their efforts.[14] Since your labor income is one of these fruits, it means that you have a property right to your pretax labor income. We can extend this argument to other forms of income and wealth. For example, savings is nothing but the accumulated labor income not consumed. Inheritance is a source of income that is the result of labor and effort of previous generations, etc. Taxation, therefore, on this view, essentially is a form of theft.

To have a property right in something, Nozick continues, means that you have the right to determine what shall be done with it. Obviously, that right is

restricted. As long as you do not violate the rights of others, you have absolute control over your property. If the state, or anybody else, claims part of your property, they are mistaken, and if they seize it without your consent, they are thieves. This is a powerful argument that resonates with how many people feel when they receive their tax assessments. The state is seen as forcefully taking away what rightfully belongs to citizens.[15] If one is defending taxation—especially if one is defending progressive taxation—it needs to be answered.

There are several ways in which philosophers and others have tried answering it. For instance, some argue that we *did* consent to the state taxing us and that taxation, therefore, is not a violation of our rights. They argue that, for example, by voting we appointed representatives and gave them the authority to levy taxes on us. More generally, they would argue that by participating in society, we implicitly gave our consent to the state, and that included consenting to its authority to tax us.

That is an unconvincing answer: If participating in society is to be construed as a form of freely giving consent, it must be possible not to consent. If the answer is that you can always emigrate if you do not like it, that is like saying that the Mafioso, who points a gun at your knee and offers you the choice between losing a kneecap or giving up your wallet, offers you a real choice; and that when you give up your wallet, you have freely consented to do so. In general, consent-based arguments for taxation are not very convincing.[16]

4. Absolute Property Rights?

So how can we answer Nozick's objection? Notice that Nozick can argue that taxation is theft by positing the premise that people have property rights to their income. Any claim on that income by others is illegitimate. Defenders of the instrumentalist approach to progressive taxation typically deny that premise. People do not own their pretax labor income precisely because they still owe taxes to the state. Taxation, therefore, is not a violation of property rights—because you never had a property right in your pretax income.[17] You are, as it were, the administrative placeholder where the pretax revenues of your activities are deposited. They will become yours only after all legitimate claims—including fiscal claims—on that income have been met. If this is correct, the notion that the state takes "your" money when taxing you is an illusion: It was never yours to begin with.[18]

Both the argument that taxation is theft and this reply assume that Nozick is right about what it means to have a property right to something: that you have the right to determine what shall be done with it. Such a right, it is assumed, is incompatible with claims of others on it. This is why Nozick can argue that taxation is theft and why his critics can argue that nobody owns their pretax income.

However, is this characterization of a property right as a kind of absolute right correct? Suppose I lend you $10 and you promise to pay it back to me. It now is yours to spend and do with what you want (assuming you do not use it to violate people's rights). That is, it is your property; however, you do have to repay me at some time. So it seems you can have full property in something while at the same time there are legitimate claims of others on that something. Why would this be different for the state and the tax claims on its residents? This explains

why people are correct that the state is taxing their property. At the same time, it might explain why the state is not engaging in an activity that is morally on a par with theft, but only if we can show that taxpayers have a moral obligation to the state to pay their taxes.

5. Fairness and Taxation

Taxation can be regarded as a legal instrument whereby the state imposes duties on residents to achieve certain goals. The choice of instrument is not neutral. Each type of instrument comes with its own factual and normative constraints. For example, one cannot use taxation to make citizens get out of bed each day at 7 a.m. It is not a suitable instrument for that. This is a factual constraint. An example of a normative constraint is that every time the state imposes a tax, it imposes a duty on those subject to it that was not there before. This is only possible if there is a justification as to why the state has such powers. If there is not, this claim of the state is unsuccessful and the tax measure fails to meet essential normative constraints.

If we develop this thought a bit further, it means that we should start looking for a principle that explains why the state can impose new (fiscal) duties. We have already seen one such principle, consent, and rejected it. Consent is not suitable for grounding the power of the state to impose tax duties on residents.

Another, more promising principle is the principle of fairness.[19] The principle of fairness says that whenever you benefit from a cooperative enterprise, you are under an obligation to carry a share of the burdens. For example, suppose A and B dig a well. If C now uses the well to get some water, C is obliged to share in the maintenance of that well. Stated in this crude form, the principle is implausible. What if the benefits to C are purely accidental? (For example, because the well regularly spills over, thus inadvertently irrigating C's land.) What if C doesn't want the benefits bestowed on her by A and B? What if the obligation to contribute is very burdensome in comparison to the benefit enjoyed?[20]

A more plausible formulation of the principle of fairness says that the receipt of benefits from a good produced in a cooperative scheme generates an obligation to support provision if (1) the good can be presumed to benefit the recipient; (2) the good is worth the recipient's effort in supporting provision, and (3) the benefits and burdens are fairly distributed.[21] Suppose A and B dig the only well in the middle of a desert. Once it is there, there is water in abundance. If C now uses the well to get some water (so we can safely assume that the water is of benefit to C), A and B can require that C contribute to the maintenance of that well, provided the water is worth the effort for C and the effort required from C is proportionate to how much she benefits.

This formulation of the principle goes a long way in answering the questions above. The principle only applies to those who benefit from the cooperative scheme: the residents of the state. It specifies that the burdens the state imposes on residents have to be fair: They should be proportionate to the benefits received. The principle of fairness, therefore, specifies a prohibition of free riding on the efforts of others in maintaining a just and beneficial society.[22]

If this is correct—and a lot more will have to be said about this, to take away all worries that opponents still might have—we can see why there is an obligation to pay the taxes that the state levies upon us. They represent our share in the burdens in the maintenance of a just and beneficial state. It also explains why there are principled limits to how much or how little you can be taxed. Taxation that goes beyond what is proportionate is ruled out, as is taxation for purposes other than maintaining a just and beneficial state.

6. A Non-instrumentalist Argument for Progressive Taxation

What exactly are the benefits of living in a just and beneficial state? To begin with, the state provides all kinds of goods and services that are beneficial to all: a legal system that regulates and makes possible an efficient economy, provides protection against crime, delivers safety from foreign incursions, creates infrastructure, etc. Some argue that if this is *all* that the state does, then we should not have a progressive tax rate, but a flat tax.[23] This raises an important question: What's the best way to determine a proportionate share of the burden of maintaining a just and beneficial state?[24]

Here is one proposal: Tax each individual to the extent that the marginal benefit from public spending equals the marginal benefit from private spending.[25] Since people differ in how much they benefit from the state, this means that we should have a differentiated tax rate schedule. If we further assume that Warren Buffett profits much more both in absolute and relative terms from the legal protection of property than an average wage earner, a progressive rate would be called for. For example, one could argue that Warren Buffett and other members of the "1%" benefit from the presence of a well-educated labor force to work in their companies; they benefit from a well-maintained network of roads to ship the goods their factories produce to their customers; they benefit from the protection that police and courts offer them against threats to their homes and possessions, etc. Less-well-off people benefit less, if at all, from these opportunities and protections.[26]

There is a better argument for progressive taxation based on this principle of fairness. Note that even the most ardent supporters of a flat tax defend a tax exemption or earned income allowance for part of one's income. The result is that the effective rate is progressive.[27] What is the justification for this exemption? On the instrumentalist argument, the state should exempt less advantaged people because taxing them at the same rate as rich people would lead to an unjust distribution. Such a justification does not fit well with a non-instrumentalist defense of taxation. A more appropriate justification that does not appeal to any particular conception of distributive justice is the ability-to-pay principle. This principle says, roughly, that the strongest shoulders should carry the heaviest burdens. As a consequence, if your "strength" is not enough or only barely sufficient to support yourself, you cannot be asked to shoulder an additional tax burden.[28]

Stated this crudely, the obvious question will be how to measure one's ability to pay. One answer says that one's ability should be measured in subjective terms; others argue for more objective criteria.[29] Both, however, would lead one to conclude that progressive tax rates are permissible.

At this point, it might be argued that this combination of the principle of fairness with the ability-to-pay principle would lead to quite limited progression and quite limited tax burdens for the "1%." After all, there is only a duty to pay taxes for those goods and services from which one actually benefits. However, this is too limited a view of the benefits that the state provides. We benefit in a great many ways, and these additional benefits increase our fairness obligations, constrained by the ability to pay.

Here is why. We have duties to others. Many of these duties are negative: They forbid us to do certain things to others. We should not harm others, steal their property, etc. Such duties are what Kant calls *perfect* duties: One must always do them, and there is but one way in which one can perform them.[30] In addition, we have *imperfect* duties, duties we may not disregard but there is discretion in how we discharge these. An example of this latter kind of duty is the duty to help people in need if we can do so at reasonable cost to ourselves. Suppose that there is a natural disaster like a flood, an earthquake, or a tornado. We then have a duty to offer help and relief to the victims. This is an imperfect duty, but a duty nevertheless. It is impermissible to do nothing.

We could, of course, go to the disaster area with soup and blankets, but we will discharge this duty most effectively and efficiently if we coordinate our help efforts. The state provides such coordination services. In fact, a just and beneficial state will have invested in specialized emergency services, like the Federal Emergency Management Agency (FEMA), for this reason. Such services can only function if enough people contribute to these services. Under such circumstances, the imperfect duty to assist people in need has become a perfect duty to contribute to an institutionalized cooperative scheme that discharges that duty at reasonable cost.[31] Even though we don't directly benefit from such emergency services, we do benefit indirectly in that there is a decent, effective, and efficient scheme that discharges our duty to assist people in need at reasonable personal cost. In other words, just as we are under a fairness obligation to contribute to the state for the public goods and services it provides that benefit us directly (like a system of law, infrastructure, etc.), we are under a fairness obligation to contribute to the state for the coordinated efforts it undertakes to collectively discharge our imperfect duties to assist people in need. This holds for our duty to assist people who are victims of natural disasters, but it also holds for our duties to people who are vulnerable or fall below a decent level.

If we apply the ability-to-pay principle to these fairness obligations as well, we see that this obligation does not hold in the same degree for people who find themselves in such needy circumstances. They cannot be asked to contribute to such a scheme, whether they are victims of a natural disaster or are victims of dire economic circumstances, like welfare recipients. To do so would exceed what are reasonable costs to them. Similarly, extremely rich people can and should be asked to contribute substantially more than average wage earners to contribute to such a scheme. And that amounts to an argument for a progressive tax rate provided taxes are also used for providing emergency relief and income support for people in need.

7. Conclusion

A lot more needs to be said about this type of argument. Why is assisting others an imperfect duty? How much is a reasonable sacrifice for discharging such a duty? How effective and efficient must the state be before the imperfect duty is made perfect for ordinary taxpayers? How much more than ordinary taxpayers should extremely rich taxpayers pay? However, I hope to have shown that there are both instrumentalist and non-instrumentalist reasons why progressive income taxation with the aim of supporting the least well off in our society is not a form of institutionalized theft but is compatible with what justice and fairness require from us.

COMPREHENSION QUESTIONS

1. When people talk about "distributive justice," what are they talking about?
2. Define "myopia." Why is it important?
3. What is progressive taxation?
4. What is the principle of fairness and its function?
5. What are our duties to others on Verbeek's view?

DISCUSSION QUESTIONS

1. What are the benefits of the state, and how do citizens gain access to them? Do all people have equal access to those benefits? Equal responsibility to support their provision? Why?
2. Describe the differences between a flat and progressive tax. Which structure seems better in principle? Which seems better in practice?
3. Give examples of perfect and imperfect duties as Verbeek understands them. Do you think that there's a perfect duty to support the least well off through progressive taxation?

Case 1

Some politicians want to increase the top marginal income tax rate: say, to 70%, which means that for every dollar a person earns over $10 million, she would get $0.30. Others want to expand the estate tax.* Finally, some want to tax wealth itself:† Earnings aside, if someone already has over $50 million, that money would be taxed each year. As an article in *The Atlantic*‡ puts it:

> [Experts say] that there was nothing unusual or even that radical about [higher marginal income-tax rates]. Higher rates were common throughout the 20th century, with the top marginal rate averaging 78 percent from 1930 to 1980 and climbing up to 90 percent in the late 1950s and early '60s . . . That said, if the goal is to raise more money for redistributive policies and to ensure that millionaires pay their fair share, [this] proposal isn't particularly efficient. It might not even raise that much money, instead discouraging employers from paying workers more than $10 million or workers from trying to earn more than that threshold. Imagine you were a lawyer who often earned in the high millions a year; if you hit the $9 million mark in the fall, you might work somewhat less,

Case 1 (continued)

knowing that much of what you made over $10 million would get taxed away. The tax rate would, in effect, reduce inequality in pretax incomes, as well as in posttax incomes. (It would also encourage the very rich to hide income above $10 million.)

A better way to extract money from top earners would be to get rid of the loopholes, deductions, and exemptions they use to shelter income from taxation in the first place, economists said. "Broadening the tax base is generally more efficient than changing rates," said Kyle Pomerleau of the Tax Foundation, a think tank in Washington, D.C. "That would include getting at what I would call the Big Three, which is the charitable deduction, the home-mortgage-interest deduction, and the state- and local-tax deduction."

The charitable deduction allows very high earners to spend on nonprofit causes that they find interesting and valuable, as opposed to turning that money over to Uncle Sam for what the broad public wants and needs . . . The home-mortgage-interest deduction prompts the rich to buy even fancier houses than they could otherwise afford. And the state and local deduction[§] reduces the tax bills of rich families who happen to live in high-tax states. Together, the Big Three cost the government something like $100 billion a year.[**]

How does all this relate to Verbeek's argument? What can Verbeek say about the worry that high tax rates simply create strange incentives for the wealthy—where they work less or hide their money to avoid giving it to the government? Finally, suppose that we could address our main needs, as a country, simply by adopting a flat tax and closing loopholes. Why wouldn't that satisfy Verbeek?

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[*]https://www.nytimes.com/2019/01/31/us/politics/bernie-sanders-estate-tax.html

[†]http://gabriel-zucman.eu/files/saez-zucman-wealthtax-warren.pdf

[‡]https://www.theatlantic.com/ideas/archive/2019/02/here-are-progressive-tax-policies-democrats-need/581830/

[§]http://www.taxpolicycenter.org/sites/default/files/briefing-book/6.3.1-how_does_the_state_and_local_tax_deduction_work.pdf

[**]https://www.taxpolicycenter.org/briefing-book/what-are-largest-tax-expenditures

TAX BREAKS FOR THE RICH
MICHAEL HUEMER

1. Background

Let's assume for the sake of argument that government is necessary for any livable society.[32] Let us assume also that taxation is the only feasible means of financing a government. The question is: How should the tax burden be distributed? In the United States and other liberal democracies, tax rates tend to be highly *progressive*—that is, individuals with higher incomes pay a higher percentage of their income in taxes. In addition, governments commonly run social welfare programs designed to transfer wealth from high- to low-income citizens.

Nevertheless, in public political discourse, it is common to hear calls to shift more of the tax burden to the rich. A representative remark from the advocacy

Table 6.1 Income and Taxes by Income Group, United States, 2013

	LOWEST QUINTILE	SECOND QUINTILE	THIRD QUINTILE	FOURTH QUINTILE	HIGHEST QUINTILE
Market Income	15,800	31,300	53,000	88,700	253,000
Government Transfers	9,600	16,200	16,700	15,000	12,000
Federal Taxes	800	4,000	8,900	17,600	69,700
Net Tax	−8,800	−12,200	−7,800	2,600	57,700
Net Tax Rate	−55.7%	−39.0%	−14.7%	2.9%	22.8%
Net Tax Share	**−28%**	**−39%**	**−25%**	**8%**	**183%**

group Americans for Tax Fairness reads, "It's time for the wealthiest Americans and big corporations to pay their fair share of taxes."[33] At the same time, politicians and journalists on the left often attack their political opponents for offering "tax breaks for the rich."

What basis is there for declaring taxes on the rich to be unfairly low? Rarely does one hear an *argument* for this conclusion. Those calling for higher taxes on the rich often cite facts about just how wealthy the wealthy are; rarely if ever do they cite facts about how much those same individuals are already paying in taxes. A cynic might suspect that the implicit principle at work is something like the following: "As long as anyone remains rich, taxes on the rich are always too low."

Needless to say, we should not accept such a principle. No one is undertaxed merely in virtue of being wealthy. Whether one is undertaxed depends not only on how much money one earns, but also on how much tax one is currently paying. Therefore, we need to look at statistics on actual tax rates. Table 6.1 shows some data for tax year 2013.

These data are from a 2016 report by the nonpartisan Congressional Budget Office, based on government statistics.[34] They apply to the United States only. I have added the last three rows of the table, calculated from the data in the preceding rows. "Lowest Quintile" refers to the bottom fifth (that is, the bottom 20%) of income earners, "Second Quintile" to the next 20%, and so on. The numbers in the table are *averages* for each group; for instance, the average market income for people in the top 20% was $253,000. Of course, these averages do not apply to every person. For instance, you may be in the second quintile but *not* be receiving $16,200 in government benefits; this does not show any error in the table. "Market Income" refers to an individual's income from nongovernment sources. "Government Transfers" refers to money and in-kind benefits individuals receive from federal, state, or local governments (social security, welfare, and so on). "Federal Taxes" includes individual income taxes, payroll (or social insurance) taxes, corporate income taxes, and excise taxes.

The last three rows are the most interesting. "Net Tax" refers to federal taxes paid *minus* government transfers received. "Net Tax Rate" refers to one's net tax

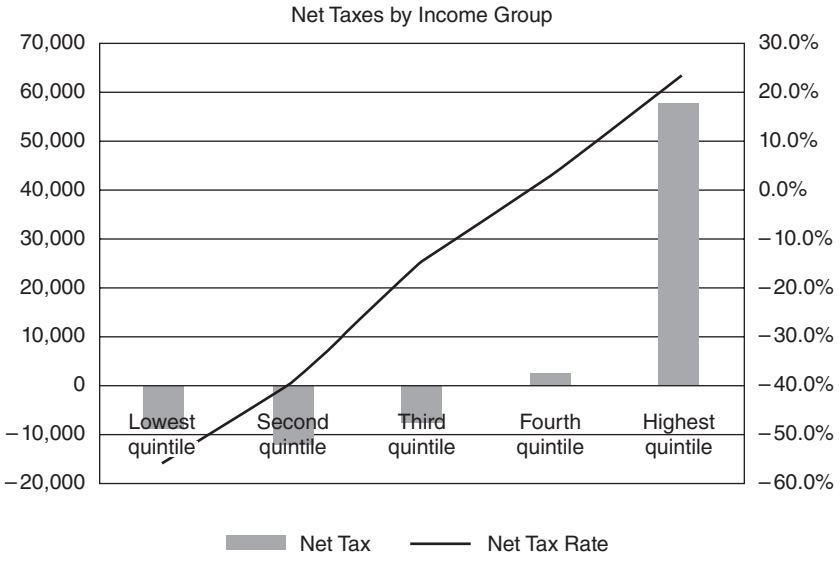

Figure 6.1
Net taxes by income group

expressed as a percentage of the income one earns from nongovernment sources. Negative numbers indicate that the government pays you more than you pay them (Figure 6.1).

What matters for assessing fairness of burdens is obviously *net* taxes (rows 4 and 5), not nominal taxes (row 3). If, for example, the government gives me $1 million but then immediately taxes all of it away, this is equivalent to no change; this would be no more or less fair than my current situation. I could not complain of injustice due to my tax rate having soared to 1,000% of my market income or 91% of my total income (assuming my market income is $100,000). Similarly, when the government gives a poor citizen $9,600 and then charges him $800 in taxes, this is equivalent to giving the citizen $8,800 with no tax.

Finally, "Net Tax Share" refers to the percentage of the total net tax burden carried by each group (that is, the group's net tax divided by the sum of net taxes for all groups, expressed as a percentage). The fourth quintile pays 8% of the net burden, while the top quintile pays *183%* of the net tax burden. The number exceeds 100% because, in addition to paying enough to give everyone else a free ride, the top group pays 83% more, in order to provide rebates to the bottom three quintiles.

2. What Is a Fair Tax?

On the face of it, it is easy to see how these facts could lead to a complaint of unfairness on behalf of the rich. But is there some conception of fairness on which the above facts add up to the rich paying unfairly *low* tax rates? Let us consider three theories about fair tax distribution.

Taxing by Ability to Pay

Perhaps individuals should be taxed in proportion to their *ability to pay*. Since one's ability to pay is determined by how much money one has, this would suggest a flat percentage *wealth* tax, rather than an income tax—that is, that individuals should pay a fixed percentage of their total accumulated wealth each year, rather than a percentage of their income over the past year. Would this be fair?

I don't think so. Note, first, that the preceding suggestion does not genuinely provide us with a *reason* for favoring high taxes for the rich. The argument simply starts from the assumption that individuals should be taxed according to their "ability to pay," which is understood in terms of their wealth: This assumption is just equivalent to the claim that people should be taxed according to how wealthy they are. This begs the question; whether people should be taxed according to how wealthy they are is what is in dispute in the first place.

Granted, it would be unjust to demand that individuals pay more than they can afford, since one cannot be obligated to do what one cannot do. Thus, the state obviously could not justly demand that poor citizens pay more than their total income in taxes. Nor could the state justly demand more than citizens can *reasonably afford* (e.g., so much that the citizens, after paying their tax bill, could no longer afford food, clothing, and shelter). But it does not follow from any of this that taxation should be *proportional to wealth*. All that follows is the much weaker claim that taxes, for any income group, should be capped at the most that individuals could reasonably afford, whatever that amount may be.

Nor does the ability-to-pay principle accord with common-sense moral judgments in other cases. Try this experiment. Go out to dinner with four friends. When the bill arrives, suggest that the person who has the most money, whoever that is, should pay for everyone else. Prediction: Your suggestion will be immediately rejected by all four others at the table. If you yourself are the person with the most money, then your offer to pay *might* be accepted since you are volunteering your own money—though even in this case, most friends with a sense of decency will protest. But if the person with the most money is someone else, someone who does not want to pay for everyone else, then everyone else at the table will categorically reject your suggestion. They will not accept the claim that it is *only fair* to expect the wealthiest person at the table to pay for everyone.

You might object to this analogy on the grounds that, in the restaurant case, it is easy to identify what portion of the total bill is attributable to each person: Just look at the prices of the items that each person ordered. But in the case of government, it is not so easy to separate out portions of the budget attributable to different individuals. This is because much of what the government provides are *public goods*: goods that, when provided, are automatically provided to everyone in the area, and whose availability for others is not diminished when one person receives them. For instance, when the government provides national defense, it automatically provides this to everyone in the country, and if you receive this good, your doing so does not diminish the amount available for anyone else. So,

unlike the case of the restaurant bill, we cannot apportion military expenses according to how much of the good each individual consumed. Perhaps, then, the ability-to-pay principle applies to these sorts of public goods.

In reply, it is easy to modify my example to include public goods. Suppose that at the restaurant, you and your friends agree to hire a mariachi band. The band provides its musical entertainment to everyone at the table, and any one person's enjoyment of the music does not diminish the amount of music available for the others to enjoy. So, just as in the case of national defense, it is impossible to apportion the expense according to how much of the entertainment each diner consumed.

The band finishes its delightful music, then hands you a bill for $500. Only then do you and your friends start to discuss what would be a fair division of the bill. Again, no normal group of friends would accept the principle of dividing up the bill according to each person's bank account balance. (Nor, of course, would they accept the idea of assigning the bill to just two of the five diners, with those two paying extra in order to give *rebates* to the three diners with the least funds.) Most likely, the friends would agree to divide the bill evenly: $100 for each person.

An added unfairness inherent in the idea of a wealth tax is that it penalizes individuals for saving. Two individuals both start out with $1,000; one saves it and the other spends it. The one who saves must pay a tax on that money year after year, for as long as he holds the savings (if he holds it long enough, the entire amount will eventually be taxed away). By contrast, the one who spends accumulates no wealth and thus incurs no liability under a wealth tax. Intuitively, this is unfair to the saver.

Taxing by Benefits Received

Here is a more plausible principle of fair distribution: Individuals should be taxed in proportion to the value of the benefits they receive from the state. This seems to follow common sense: In the restaurant example, it would normally be considered fair to divide the tab according to what each diner ate. Similarly, why not say that each taxpayer should pay taxes proportional to the *benefits* that person receives from the government?

On the face of it, this suggestion fails to support progressive taxation, since the wealthy do not consume markedly more government services than the poor or the middle class. But one might argue that the *value* of government services to the wealthy is greater than the value of these services to the poor. The reason is that the general law and order provided by the state protects everyone's existing wealth and ability to earn income. The economic value, to a given person, of the general protection of property rights is roughly proportional how much property that person has. If one has no property, then the general protection of property is of very little value to one; if one has vast wealth, then the protection of property rights is of great financial value to one. Similarly, the state's general provision of law and order makes it possible for most individuals to earn much greater incomes than they could in a lawless world. The economic value of this service

to a given individual is roughly proportional to how much income that person in fact earns in the law-and-order world (minus whatever income they would still earn in a lawless world). Thus, one might argue that the wealthy should pay much higher taxes than the poor. This argument would seem to suggest a flat income tax and perhaps a flat wealth tax.

There are two main replies to this argument. First, note that the above rationale still does not justify anything like the current tax regime, in which the bottom three-fifths of society have net negative tax rates (it is not the case that the bottom 60% of society have received negative benefits—they are still benefiting from law and order and the general enforcement of property rights). Thus, we should still favor massive tax breaks for the rich.

Second, the idea of payment proportional to *the value to oneself* of the benefits one receives does not match our common-sense notion of fairness. Return to the restaurant example. Suppose that you happen to have a wonderful time at dinner. Everyone enjoys the dinner, and everyone wants to be there; it's just that you enjoy the whole dinner experience much *more* than the others. It does not follow from this that you owe much more for the restaurant bill than everyone else. If you tell your friends that you feel obligated to pay for almost all of the bill, because you clearly had a better time than they did, any decent friends will reject the suggestion out of hand.

Rather, what seems to be accepted in our common-sense notion of fairness is that one's fair share of the bill is determined by *the cost to the group* of the benefits one receives. Thus, one would be expected to pay according to the price, as written on the bill, of the food and drink one ordered, regardless of how much personal benefit one did or did not derive from those items. That is the common-sense interpretation of the principle of payment according to benefits received. This leads us to our third theory of fair distribution.

Taxing by Costs Incurred

Perhaps the fair tax distribution is one in proportion to how much each individual costs the state through his use of government services. This, at last, seems like an intuitively fair principle for the distribution of costs incurred in a collective enterprise. But it does not support progressive taxation. The wealthy do not cost the government markedly more than the poor. Indeed, it is most likely the poor who cost the government the most.

Some government programs are expressly limited to low-income (or at most moderate-income) citizens, so that the wealthy cannot use them even if they wish to—for example, Temporary Assistance to Needy Families ("welfare"), the Supplemental Nutrition Assistance Program ("food stamps"), and Pell Grants (need-based financial aid for college students). Even when they are permitted to do so, the wealthy sometimes decline to use government services since they prefer higher-quality private services—as in the case of private schools and private security guards.

In other cases, the wealthy and the poor seem to use about the same amount of government-provided goods; for example, people of all income levels are

roughly equally dependent on roads. As noted earlier, some of the most important services provided by the government are *public goods*, such as national defense. These are "used" equally by everyone; as with the mariachi band in our earlier example, common sense suggests an equal division of the costs of these goods.

What about the goods of police protection, law and order? It is well known that the poor receive less law and order than the wealthy—that is, they suffer higher crime rates.[35] This reflects a failure of the state to adequately protect the poor from crime. But this does not mean that the wealthy are *costing the state more* for their protection. The reason the poor suffer higher crime is not that the state spends more money on protecting the wealthy; the reason is that criminals tend to be low-income individuals, who tend to victimize the other low-income individuals in their own neighborhoods. Thus, the poor as a class are almost surely costing the government more money for law enforcement than are the wealthy. There is no support for progressive taxation to be had here.

(Aside: This is all compatible with the fact that the government does a terrible job of protecting the poor and often actively harms them—for example, through police shootings and harmful laws such as drug prohibition. These government shortcomings are not the fault of the wealthy per se, and they do not at all suggest that the wealthy are paying an unfairly low share of the tax burden.)

3. What Is Best for Society?

We have just discussed what is a *fair* distribution of the tax burden. Another question is: What distribution of tax burdens is overall best for society, regardless of whether it is fair to the rich?

Diminishing Marginal Utility

There is one popular social-welfare-based argument for assigning most of the tax burden to the rich: The rich need their money less than the poor do. That is, wealth has *diminishing marginal utility*: The more wealth one has, the smaller the benefit one derives from gaining an additional dollar, and the smaller the harm one suffers from losing a dollar. Thus, other things being equal, taking a dollar in taxes from a wealthy person should cause less harm than taking a dollar from a less wealthy person.

This argument is certainly correct as far as it goes. The principle of diminishing marginal utility is uncontroversial, and it clearly implies that taking from the rich does the least *immediate* harm. I emphasize "immediate," however. There are two reasons why a progressive taxation scheme might cause more harm in the *long* run than a flat tax.

Incentive Effects

The first problem is a familiar one: Taxes on income and wealth reduce *incentives for productive activity*. "Productive activity" is a broad term: It can mean working hard, or it can mean choosing to save and invest money instead of immediately spending it. It can mean taking a more productive job, or it can mean going to

school to acquire the skills to do a more valuable job in the future. All of these are choices that, on average, increase one's contribution to the economy, at the same time as they result in one's acquiring a higher income. They also carry costs to the individual: Working hard is often less fun than slacking off; investing entails delayed gratification as well as the risk of loss; higher-paying jobs are often more demanding or less enjoyable than lower-paying jobs; education requires spending time and money. When we decide whether to undertake productive activities, we weigh these costs against our expected future profit. High taxes on income or wealth reduce the potential reward and thus tip the scales more in the direction of *not* choosing productive activity. Of course, this does not mean that everyone stops being productive; it means that the *marginal* productive activity stops: People who are just barely willing to undertake a productive activity (because they value the increased income slightly more than whatever they have to give up) will tip over into being barely *un*willing to undertake it, if their income tax rate increases.

Progressive taxation results in high (marginal) income tax rates for individuals at the high end of the income scale. Thus, it leaves significantly lower incentives for those individuals, who tend to be the most economically productive citizens, to undertake added productive activities. The result is that there will be slower economic growth and less total wealth in the future.[36]

The Rate of Investment

For the economy to grow, some individuals must give up immediate consumption in favor of saving and investment, where investment entails a nontrivial risk of loss. The overwhelming majority of this saving and investment is done by the wealthy; little is done by the middle class and almost none by the poor.

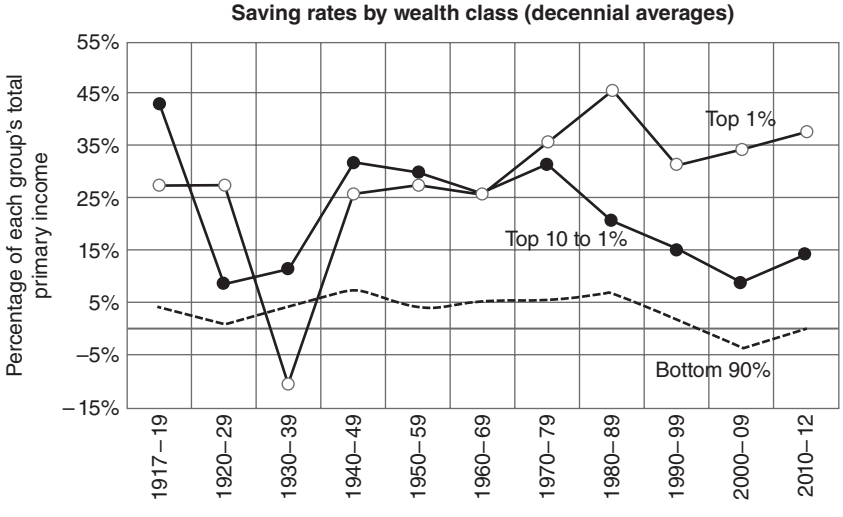

Figure 6.2
Saving rates by wealth class (decennial averages)

Importantly, the *percentage* of one's income that goes to saving and investment rises as one's income and wealth rise (Figure 6.2).[37]

Therefore, shifting the tax burden toward the wealthy lowers the overall saving and investment rates of society. For every $100 taken from a taxpayer, investment is lowered by whatever portion of that money the taxpayer would have devoted to investment. Since wealthier people invest a higher proportion of their money, taking $100 from a wealthy person reduces investment by more than taking $100 away from a poor or middle-class person.

Notice that this point is independent of the incentives argument above: Even if all wealthy people retained an absolute commitment to maximizing their productive activities, their productive activities would still decline as a result of taxation, since taxation confiscates some of the funds that they would have invested.

As a result, the policy of shifting the tax burden onto the wealthy reduces the overall economic growth rate of society. Because economic growth compounds over time, progressive taxation incurs exponentially growing costs as we move further into the future.

In the long run, the harm of reducing the rate of economic growth, per the arguments of the "Incentive Effects" and "The Rate of Investment" sections, probably outweighs the advantage cited in the "Diminishing Marginal Utility" section.

4. Conclusion

In modern liberal societies, the wealthy are a favorite scapegoat. Many people assume as a matter of course that "the rich" or "the super-rich" as a class are immoral, that they are taking advantage of the rest of us, that they are failing to do "their fair share" for society. The truth is the exact opposite: It is the rest of us who refuse to do our fair share. It is we who are exploiting the rich. Through our representatives, we impose tax laws that force the wealthy to carry the entire burden of paying for government *and then some*—we expect them not only to pay for all government services, but to pay extra money to be given to us. It is as though five friends went out to a restaurant, four of them demanded that the other one pay for everyone's food, plus some kickbacks to three of the diners, and then the four complained loudly and indignantly that the one who had paid for them wasn't "paying his fair share."

Besides its basic unfairness, progressive taxation is most likely holding back economic growth and harming future generations. A fairer and less harmful policy would be a flat tax on income over a certain amount, with a cap on the total dollar amount of tax any one person may be asked to pay. It is time for the poor and the middle class to start paying their fair share of taxes.

COMPREHENSION QUESTIONS

1. What is the difference between a wealth tax and an income tax?
2. What is the difference between a flat tax and a progressive tax?

3. What is diminishing marginal utility, and how is it relevant to debates about taxation?
4. Why does Huemer think a wealth tax would discourage long-term savings?
5. What is the ability-to-pay principle?

DISCUSSION QUESTIONS

1. Why does Huemer claim taxing the wealthy is unfair and may limit economic growth? Do you agree or disagree with his assessment? Why?
2. How does the dinner party analogy relate to taxation practices? Is this a useful thought experiment? Why or why not?
3. Why does Huemer believe the rich deserve massive tax breaks? Do you agree or disagree with his conclusions? Why or why not?

Case 2

On January 25, 2019, Noah Smith—a writer for Bloomberg—tweeted this:

> A good illustration of left-populism vs. social democracy.
> For left-populism, the important thing is that rich people have less.
> For social democracy, the important thing is that poor and middle-class people have more.
> It's a big difference in emphasis.

Of course, these goals aren't mutually exclusive: You can give more to poor and middle-class people by taking more from rich people. But Smith does seem to be right that it's "a big difference in emphasis," and it helps us focus on the question of whether inequality is bad in itself. Some people have thought not. Here's Harry Frankfurt, a famous philosopher:

> Economic equality is not, as such, of particular moral importance. With respect to the distribution of economic assets, what is important from the point of view of morality is not that everyone should have the same but that each should have enough. If everyone had enough, it would be of no moral consequence whether some had more than others.[††]

Here, by contrast, is someone who describes himself as "Nobody from nowhere" on Twitter:

> Part of the appeal of Left populism is that it attempts to address . . . the outsized political power that extremely wealthy people have in our system. Redistributive policies need to address the distribution of power.[‡‡]

What do you think of Frankfurt's view? What do you think about this worry regarding power? To what degree should we be trying to distribute resources more equally? What methods are acceptable to achieve that end?

[††]Harry Frankfurt, "Equality as a Moral Ideal," *Ethics* 98 (October 1987): 21.

[‡‡]https://twitter.com/buvox/status/1088847181581246464

REPLY TO MICHAEL HUEMER
BRUNO VERBEEK

Michael Huemer gives a spirited defense of a remarkable claim: that the United States (and other Western democracies that have progressive taxation) treat the rich unfairly. A just and efficient tax system would exempt the poorest citizens and would demand that everybody else pay the same percentage of their market income with an upper limit in absolute dollar amounts. He thinks, in other words, that a just and efficient tax system would be regressive rather than progressive.[38] There's much to say, but I'll have to be content with three points.

I.

Huemer argues that higher tax burdens for the rich are unfair. His main argument is an analogy with a group of friends having dinner in a restaurant. I think that analogy is misleading. For example, the reason as to why it would be wrong to make your richest friend pay for the entire meal and give some further funds to the poorer friends is not that this is unfair, but because this is not how friends treat each other. Similarly, the reason why decency demands that you pay for yourself even if your rich friend offers to pay for the meal is that accepting such an offer is demeaning. So, any lessons that you might draw about the fairness of the various ways of splitting the restaurant bill are irrelevant for figuring out the fairness of progressive taxation. Taxpayers are not friends and the state is not a restaurant.

II.

In my contribution, I distinguished between two very different ways one can look at the fairness of the tax system. The first way, which I called instrumentalism, evaluates the tax system in relation to the overall distribution of burdens and benefits. Huemer's claim that progressive taxation is unfair and inefficient is instrumentalist because he looks at the net taxes of various groups. Notice moreover that he is only partly instrumentalist as he does not include all benefits people receive but only some.[39] For example, he includes income subsidies like Medicare and social security but excludes other benefits that are financed by the state. That is inconsistent: If he is going to reason in this fashion, he should include *all* benefits and burdens.[40]

However, I think Huemer's instrumentalism is the wrong way to look at taxation. Taxation is not a neutral instrument that the state can employ to realize the distribution of burdens and benefits it thinks desirable. It is a legal instrument that imposes legal duties. This sets a number of constraints on the use of taxation. One of these constraints is that the tax burden should be fair. This is not determined by only looking at the overall distribution of burdens and benefits as Huemer claims in his introduction. Doing so would imply that there is no special question about the fairness of progressive taxes in and of themselves.

III.

Huemer rejects the ability-to-pay principle, a traditional principle of taxation in virtually all states in the world.[41] Huemer claims it only determines an *upper limit* to one's tax burden. However, this is not how that principle traditionally has been conceived of by scholars and economists.[42] First, the ability-to-pay principle sets a lower limit below which one should not be taxed in the first place. Second, it says that one's fair contribution is proportionate to one's ability to pay. The reason for this has to do with the special nature of taxation. Taxes are the contribution that everybody pays for public goods the state provides. That means that once they are there, nobody can be excluded from consumption.[43] As a result, we cannot use market mechanisms to distribute such goods. Since we cannot rely on the price mechanism to determine the value of the goods and services the state provides, we need another way of determining everyone's fair share. That's where the ability-to-pay principle comes in: It says that in those situations, the fair contribution is proportionate to what one can afford.

Huemer might reject the ability-to-pay principle, thus understood. However, that raises the question how we should determine the fairness of the distribution of the costs of a public good. Huemer owes us a principle for this. He cannot claim that the current distribution is unfair without a plausible explanation as to why it is unfair.

COMPREHENSION QUESTIONS

1. What is a regressive tax?
2. What is a personal exemption, and how does it relate to the ability-to-pay principle?

DISCUSSION QUESTIONS

1. Is there a difference between (a) the state taxing you to finance the police and military and (b) a benevolent gangster coercing you to pay protection money?
2. Is the ability-to-pay principle an appropriate way to distribute the costs of public goods and benefits that cannot be distributed through normal markets? Why or why not?

REPLY TO VERBEEK
MICHAEL HUEMER

I would like to thank Professor Verbeek for his thoughtful remarks on progressive taxation. We agree on at least two points: First, one must examine the fairness of the overall distribution of burdens and benefits the state creates, not merely the nominal tax rates each individual pays; second, income below a certain amount should be exempt from taxation.

Before I get to our philosophical disagreements, I'd like to correct one misconception: Warren Buffett does not pay a lower total tax rate than his secretary; that is a mistake by Mr. Buffett. His *personal* income tax rate is lower, due to the

low capital gains tax rate. But if we count *corporate* taxes, which are really paid by the owners of corporations, then Buffett pays much more than his secretary.

Now, on to the arguments for progressive taxation. Verbeek mentions three main arguments.

1. The Personal Exemption

First, Verbeek defends the *personal exemption* (the policy of exempting income up to a certain amount from taxation), on the grounds that those below a certain income level cannot afford to pay taxes, and it would be unfair and unreasonable to ask them to do so. For example, perhaps there should be no tax on the first $10,000 of income that an individual earns. Verbeek counts this policy as "progressive taxation," even if one has flat marginal tax rates on all income above the threshold.

I agree with this policy and the argument for it, but I would not count that as progressive taxation for purposes of this debate. Since virtually no one on either the left or the right disagrees with the personal exemption, we should presumably be debating some more controversial question, something that liberals and conservatives disagree about, such as whether the income tax system should be *more* or *less* progressive than it currently is, or whether there should be increasing marginal rates *for those who pay income tax*.

2. The Benefits Received by the Rich

Wealthy people receive greater benefits from the state than poorer people do; therefore, it is fair that they pay higher taxes. (Verbeek mentions this argument but then seems to reject it in an endnote.) The problem with this argument is that it does not support progressive taxation. The wealthy receive greater *absolute* benefits, so they should pay a higher *absolute* tax—that is, a larger dollar amount. It does not follow that they should pay a higher *percentage*. Plausibly, the value of the government's service of protecting property rights is proportional to the amount of property one has—so this would support a tax in proportion to wealth (that is, a fixed percentage of one's wealth). If we add that it is unfair to tax the same money over again every year merely because the citizen decided to save rather than immediately spending it, then we arrive at the idea that the tax should be a fixed percentage of one's income each year—that is, a flat tax.

That is assuming that the government's only service is the protection of one's wealth. But the state provides other benefits, most of which either benefit everyone equally or tend to benefit the poor more. A fair tax would be a fixed dollar amount for the goods and services that benefit everyone equally, plus a fixed percentage of one's income for the service of protecting property. This would amount to a *regressive* system—that is, one in which the tax *rate* decreases with one's income level. (All other goods and services have "regressive" pricing in that sense.)

It is not obvious in any case that a fair tax is one proportioned to the benefits received, rather than one proportioned to the costs the state incurs on one's behalf. On the latter view, the poor might need to pay higher absolute taxes. The

higher crime rates in poor neighborhoods mean that the state must expend more law enforcement resources on them; hence, perhaps the poor should pay *more* for law enforcement.

3. The Duty of Charity

Verbeek suggests that we have a duty to assist those in need. The taxation system is a convenient tool for helping us satisfy this duty, since the state can run aid programs for the needy and charge all of us the appropriate amount for them. Those who are better off are obligated to give more than those who are badly off are obligated to give. Hence, it makes sense that the wealthy pay higher taxes.

But how does this support progressive taxation? Granted, those who are very poor should not have to give to charity—that is just the personal exemption issue again. Among those who can afford to give to charity, it makes sense that those with more income should be expected to give more money. But it remains unclear why they would have to give a higher *percentage* of their income. Why shouldn't everyone who can afford to give to charity simply give, say, 10% of their income to it?

It is also extremely dubious that the government is an effective instrument of charity. Some question whether government aid reduces poverty at all, rather than *increasing* it (these critics argue that welfare programs create a cycle of dependency in which the poor never learn to become self-supporting).[44] Even if government aid is beneficial, it certainly isn't optimal—that is, there are much more effective ways of doing good. The charity review organization GiveWell regularly reviews private charities and reports on the most efficient ones, which are vastly superior to government programs.[45] If we want to satisfy our duty to aid those in need, we should give all our charitable dollars to the top-rated GiveWell charities, and none to the government. Except that if we do that, the government will send armed men to take us prisoner and forcibly extract our resources. So tell me again how the government is efficiently helping me satisfy my duty of charity?

COMPREHENSION QUESTIONS

1. On what two points does Huemer agree with Verbeek?
2. What is the difference between a greater absolute tax for higher earners and a progressive tax system?

DISCUSSION QUESTIONS

1. Why does Huemer think giving to private charities would be better than spending on government aid? Do you agree? Why or why not? Do you think public or private giving is more effective or appropriate for addressing our duties to others?
2. How would you interpret a common-sense approach to taxation, according to which you should pay your fair share (beyond a reasonable personal exemption)? How many different ways of interpreting "your fair share" can you imagine?

FURTHER READINGS

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NOTES

1. Chris Isidore, "Buffett Says He's Still Paying Lower Tax Rate than His Secretary," CNN Money, March 4, 2013, http://money.cnn.com/2013/03/04/news/economy/buffett-secretary-taxes/index.html
2. Buffet is concerned with effective rates, which is what I will focus on as well. Effective rates—the actual percentage of your income you pay in taxes—differ from statutory rates, the official rates of the income tax. For example, suppose that the official tax rate is 10% over the first $10,000 of your taxable income and 20% over the rest. Suppose, moreover, that there is an exemption of the first $8,000. A person with a pretax income of $10,000 would owe $200 in taxes, an effective rate of 2%. Somebody earning $20,000 (i.e., twice that income) would pay $2200, an effective rate of 11%.
3. "Top Frustrations with Tax System: Sense that Corporations, Wealthy Don't Pay Fair Share" (Washington, DC Pew Research Center, April 14, 2017), http://www.people-press.org/2017/04/14/top-frustrations-with-tax-system-sense-that-corporations-wealthy-dont-pay-fair-share/
4. I simplify matters considerably here. First, because besides federal income tax, there are many other forms of taxation (e.g., sales tax, dividend tax, corporate gains tax, inheritance tax, etc.). Second, because there are different kinds of taxpayers. Apart from natural persons, companies and other legal persons are taxable. I ignore all these nuances here.
5. E.g., John Rawls, *A Theory of Justice* (Cambridge, MA: Harvard University Press, 1971); R. M. Dworkin, *Sovereign Virtue: The Theory and Practice of Equality* (Cambridge, MA: Harvard University Press, 2000); Liam Murphy and Thomas Nagel, *The Myth of Ownership: Taxes and Justice* (Oxford: Oxford University Press, 2002).
6. Murphy and Nagel, *Myth of Ownership*.
7. "The real issue of political morality is the extent to which social outcomes are just, and knowledge of the distribution of real tax burdens is important only insofar as it helps us advance that aim." Murphy and Nagel, *Myth of Ownership*, 131.
8. It is in practice quite hard to determine whether a particular tax regulation is instrumentalist in this sense. See Henk Vording, "The Concept of Instrumentalism in Tax Law," *Coventry Law Journal*, May 1, 2013, 41–60.

9. Richard Wilkinson and Kate Pickett, *The Spirit Level: Why Greater Equality Makes Societies Stronger* (New York: Bloomsbury Press, 2011 [reprint edition]).
10. Martin Gilens, *Affluence and Influence: Economic Inequality and Political Power in America* (Princeton, NJ: Princeton University Press, 2012).
11. Alternatively, one could think of taxation as one's premium in a social insurance scheme that ensures people against falling below that standard of a decent life. An example of such an approach is Philipp Kanschik, "Why Sufficientarianism Is Not Indifferent to Taxation," *Kriterion* 29, no. 2 (2015): 81–102.
12. Even the rather minimal "sufficientarian" view that I suggested above is hardly uncontested.
13. Robert Nozick, *Anarchy, State and Utopia* (New York: Basic Books, 1974), 169.
14. Nozick, *Anarchy, State and Utopia*, 171.
15. Murphy and Nagel call this disapprovingly "everyday libertarianism." Murphy and Nagel, *Myth of Ownership*. They are careful to note that the straightforward inference from the quote of Nozick to the view that all taxation is theft is unwarranted and Nozick would be the first to say so. In fact, on Nozick's theory of entitlements, current pretax market outcomes are anything but just since they are the result of many grievous rights violations in the past (distant and not so distant). See Nozick, *Anarchy, State and Utopia*, 231.
16. There is much more that can be said about consent-based arguments for the authority of the state, including the authority to tax. E.g., A. John Simmons, *Moral Principles and Political Obligations* (Princeton, NJ: Princeton University Press, 1979), Chapters 3 and 4.
17. E.g., Murphy and Nagel, *Myth of Ownership*.
18. Thus, it is guilty of the kind of intellectual "myopia" mentioned above.
19. H. L. A. Hart, "Are There Any Natural Rights?" *Philosophical Review* 64, no. 2 (1955): 175; *John Rawls: Collected Papers*, edited by Samuel Freeman (Cambridge, MA: Harvard University Press, 2001), 117–129.
20. These questions reflect the criticisms of Nozick, *Anarchy, State and Utopia*, 93–95.
21. George Klosko, *The Principle of Fairness and Political Obligation*, Studies in Social & Political Philosophy (Lanham, MD: Rowman & Littlefield, 2004 [new edition]), 39.
22. For more discussion about fairness obligations to the state, see Klosko, *Principle of Fairness*, 35–36. My interlocutor in this volume rejects the existence of such obligations to the state. Michael Huemer, *The Problem of Political Authority: An Examination of the Right to Coerce and the Duty to Obey* (Basingstoke, UK: Palgrave Macmillan, 2013), 51.
23. A "flat tax" is a tax with the same proportionate rate for everybody. For example, if everybody is required to pay 10% of their income in taxes, this is a flat tax.
24. For a criticism of this conclusion, see Barbara H. Fried, "Proportionate Taxation as a Fair Division of the Social Surplus: The Strange Career of an Idea," *Economics and Philosophy* 2, no. 19 (January 16, 2004): 211–239.
25. This is the essentially the proposal offered by Erik Lindahl. It is endorsed even by instrumentalists like Murphy and Nagel. Erik Lindahl, "Just Taxation—a Positive Solution," in *Classics in the Theory of Public Finance*, edited by Richard Abel Musgrave and Alan T. Peacock (London: Macmillan Press in association with the International Economic Association, 1958 [5th edition]), 168–176; Liam Murphy and Thomas Nagel, "Taxes, Redistribution, and Public Provision," *Philosophy & Public Affairs* 30, no. 1 (2001): 53–71.
26. I doubt that this is convincing for either Nozick or his critics. After all, a welfare recipient benefits perhaps even more from the state than Warren Buffett and his friends, but it would be pointless to insist welfare recipients pay for the service. See also John Stuart

Mill, *Principles of Political Economy with Some of Their Applications to Social Philosophy* (London: Standard Library Co., 1848), Chapter 2.

27. Suppose that the statutory flat rate is 10% and that there is a tax exemption over the first $10,000 of one's income. Then an income of $10,000 or less is taxed at 0%; an income of $20,000 is taxed at 5%; an income of $30,000 is taxed at 6.6%, etc., resulting in a (slowly) increasing tax rate.
28. The ability to pay has been defended by authors like Adam Smith, *An Inquiry in the Nature and Causes of the Wealth of Nations*, The Glasgow Edition of the Works and Correspondence of Adam Smith (Oxford: Oxford University Press, 1979); Mill, *Principles*. The first precise formulation of this idea can be found in the writings of Arnold Jacob Cohen Stuart, who makes the analogy with a bridge: Before a bridge can carry anything it has to be strong enough to carry its own weight. Cohen Stuart, "On Progressive Taxation," in *Classics in the Theory of Public Finance*, edited by Musgrave and Peacock, 48–71.
29. See also Bruno Verbeek, *Philosophical Explorations of Justice and Taxation: National and Global Issues*, edited by Helmut P. Gaisbauer, Gottfried Schweiger, and Clemens Sedmak, vol. 40 (Heidelberg: Springer, 2015), 67.
30. Immanuel Kant, *Groundwork of the Metaphysics of Morals: A German-English Edition* (Cambridge: Cambridge University Press, 2011), Ak. 421.
31. Allen Buchanan, "Perfecting Imperfect Duties: Collective Action to Create Moral Obligations," *Business Ethics Quarterly* 6, no. 1 (1996): 27–42.
32. For arguments against this assumption, see my *The Problem of Political Authority* (New York: Palgrave Macmillan, 2013).
33. Americans for Tax Fairness, "Tax Fairness Briefing Booklet" (2014), p. 20, https://americansfortaxfairness.org/files/Tax-Fairness-Briefing-Booklet.pdf, accessed January 7, 2018.
34. U.S. Congressional Budget Office, "The Distribution of Household Income and Federal Taxes, 2013" (2016), p. 2, https://www.cbo.gov/publication/51361, accessed January 7, 2018.
35. U.S. Department of Justice, "Criminal Victimization in the United States, 2008: Statistical Tables" (2011), Table 14, https://www.bjs.gov/content/pub/pdf/cvus0801.pdf, accessed January 7, 2018.
36. On the evidence for this, see Alan Reynolds, "Marginal Tax Rates," in *The Concise Encyclopedia of Economics*, edited by David R. Henderson (Carmel, IN: Liberty Fund, Inc., 2008 [2nd ed.]), http://www.econlib.org/library/Enc/MarginalTaxRates.html, accessed January 10, 2018.
37. Edward N. Wolff, "Household Wealth Trends in the United States, 1962 to 2016: Has Middle Class Wealth Recovered?", National Bureau of Economic Research Working Paper 24085 (2017), Table 6, http://www.nber.org/papers/w24085>, accessed January 7, 2018; Emmanuel Saez and Gabriel Zucman, "Wealth Inequality in the United States Since 1913: Evidence from Capitalized Income Tax Data," *Quarterly Journal of Economics* 131 (2016): 519–578, https://doi.org/10.1093/qje/qjw004 (Figure 6.2 in the text is copied from p. 564).
38. A regressive tax system is one where as one's income rises, one pays a smaller percentage of one's income in taxes. A flat tax rate with a lower limit and upper limit as Huemer proposes would entail that those with middle incomes face the highest effective tax burden. Now there is something to be said for the claim that currently the middle-income earners do not pay their fair share in taxes, but that does not justify reversing the situation completely.

39. What Huemer call "net taxes" are the taxes you pay minus income subsidies, such as social security, Medicare, etc.
40. Also, why restrict the argument to federal taxes alone? There are many other taxes besides federal income taxes. Some of these offset the progression of the federal income tax.
41. In some countries this principle is even enshrined in the constitution (e.g., in Germany).
42. See, e.g., Cohen Stuart, "On Progressive Taxation"; Musgrave, Richard. 1959. *The Theory of Public Finance: A Study in Public Economy*. New York: McGraw-Hill.
43. Not, as Huemer seems to suggest, that these goods are non-rival, which is that once they are there, my enjoyment of them does not diminish in any sense your enjoyment of them. The mariachi band in Huemer's example is such a good: One friend's enjoyment of the music does not take away from the enjoyment of the other friends. Not all public goods are non-rivalrous (in fact, most are not), but they are non-excludable.
44. See Charles Murray's famous study, *Losing Ground: American Social Policy, 1950–1980* (New York: Basic Books, 1984). For criticism, see Christopher Jencks, *Rethinking Social Policy: Race, Poverty and the Underclass* (Cambridge, MA: Harvard University Press, 1992), Chapter 2, and Tyler Cowen, "Does the Welfare State Help the Poor?", *Social Philosophy and Policy* 19 (2002): 36–54.
45. See www.givewell.org.