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Abstract

Today's views and analyses about taxation are dominated by the social-welfare approach based on various categories of utilitarianism, most notably those developed by the optimal-tax literature.

By contrast, this paper focuses on the ethical foundations of taxation and analyses a tradition that harks back to the 17th century. In particular, it emphasises the notion of legitimate taxation in the history of economic thought from the libertarian, the classical-liberal and socialist perspectives. By means of this very notion, the article defines the essence of a desirable tax structure and draw conclusions in regard to today's tax policies.

Keywords: Taxation, justice, fairness

JEL Classification: B40, B12, B21, H20, H21

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Legitimate tax structures: lessons from the past

1. Introduction

Taxation is about forcing individuals to give away part of their property to the government, which can spend the sums received at its discretion. Put differently, “taxes are compulsory and are unrequited” (Cox 2022). Clearly, the violation of property rights begs the questions of establishing under which circumstances private property can be encroached upon and by whom.

The general answer to these questions refers to principles of justice. Hence, one’s views on taxation ultimately depend on his/her views about justice and contribute to drawing the line between legitimate taxation and theft: “Justice being taken away, then, what are kingdoms but great robberies?” (St. Augustin, *The City of God*, Book IV). For example, the analyses of legitimate taxation generate significantly different conclusions, depending on whether one belongs, for example, to the transcendental, the relativist or the consequentialist camp. As Schmidtz (2006: 7) put it, everybody would agree that “justice concerns what people are due”, but assessing what one is due has been the object of dispute for centuries.

Indeed, defining justice and making use of this notion in order to identify fair rules of the game for social interaction have been the backbone of political philosophy since Aristotle’s *Nicomachean Ethics*, and possibly earlier. Over two millennia later, however, the debate on the concept of justice is still open and the efforts devoted to

offering an overarching theory remain unsatisfactory. Not only do different authors put forward different theories, but even celebrated thinkers often have second thoughts. In recent times, John Rawls and Robert Nozick were prominent examples. Of course, the debate on justice also regards the “just” role of government, the gradual expansion of which has underscored the need for moral criteria that legitimise economic policy-making in general and redistribution in particular.

Rather than offering a new view on justice or taking sides, this article assesses how different views about what “people are due” have affected the shape of one crucial aspect of policy-making: taxation. In particular, by drawing on the history of economic thought, these pages analyse the operational meaning of “legitimate taxation”: what should be taxed and according to which criterion. Hence, and in contrast with the prevailing literature on taxation, this contribution replaces the notion of optimal taxation with those of just and fair taxation. In this respect, it improves on a long tradition that culminated with Seligman (1894), but that later never went beyond the analysis of the foundations of progressive taxation.

The article is organised in two parts. The next section outlines some relevant issues raised by the various theories of justice. These will help develop a new categorisation of the tax-policy guidelines, which will then be put forward in sections 3 and 4. Section 5 examines the modern cornerstone of legitimate policy-making (representation). The second part of the article discusses what legitimate taxation means in practice: sections 6 to 8 investigate different tax criteria, while sections 9 and 10 focus on tax bases. Section 11 concludes.

2. *Relativism and natural rights*

Echoing Schmidtz (2006), Miller (2017) reminds us that justice relates to how each individual is treated. In turn, this claim begs the question of assessing what “just treatment” means. This is where the analysis begins.

From a historical viewpoint, two different approaches have characterised the attempts to identify just or unjust actions. According to the relativist view,¹ just actions consist in giving to each individual what he/she can reasonably expect in accord with standards shaped by history, culture and tradition. In order to reduce arbitrariness and solve tensions between conflicting expectations, policy-makers are required to follow common wisdom and shared values, which in today’s societies are usually defined through majoritarian decision-making procedures. Within this framework, the classical liberal tradition also emphasised the need to prevent abuse: “whoever has the legislative or supreme power in a common-wealth, is bound to govern by established and standing laws, promulgated and known to the people, and not by extemporary decrees; by indifferent and upright judges who are to decide controversies by those laws” (Locke 1689, book II, § 131). A similar view characterises Hayek’s emphasis on the rule of law (1960), which combines relativism and procedural rigour (compliance with shared and appropriate procedures).

The second view corresponds to what Sen (2010, Introduction) defined as the transcendental approach: justice consists in all actions that protect the natural rights of

¹ For example, Aristotle (340BC, Book V, chapters 7 and 8) emphasised the role of conventional evaluations (custom) when assessing what is due to each individual. In more recent times, David Hume, Friedrich Hayek and Amartya Sen followed the same approach.

the individual. Not surprisingly, however, differences come to the surface when defining one's natural rights. For example, the libertarian and part of the classical liberal tradition would consider survival and freedom from aggression as key natural rights. Instead, the Rawlsian view focuses on the so-called "original position", which is the quintessence of the principles of freedom, equality and fairness, and emphasises the individuals' fundamental right to see that the hypothetical social contract driven by the difference principle is enforced.² Others would define justice as the right to liberty, this being understood as the ability to interact with others on an equal footing, which in turn requires equality (Simpson 1976 and Dworkin 2000).

3. On fairness and justice

As mentioned in the previous section, the relativist approach considers justice a matter of consistency with culture and tradition, responsiveness to public opinion and compliance with shared procedures. In this light, this article defines as "fair" the rules based on relativism. Hence, fairness corresponds to the ideas of positive justice and social justice: each individual has a right to what is determined by tradition, culture or shared procedures, and the other members of society have a duty to satisfy those rights/needs. In a sentence, fair rules identify positive rights and taxation provides the resources necessary to guarantee that all the members of a community enjoy their rights. On the other hand, this article defines as "just" the rules that protect the very nature of

² See Wenar (2017). In short, I submit that the Rawlsian considers one's original rights as his/her right to see that natural inequalities are made good. In this light, however; the Rawlsian social contract is not a theory of social justice, but rather a desert-based a-priori that justifies the difference principle.

the individual, i.e. his/her freedom from physical aggression, which also extends to one's private property. A biologist would refer to "nature" as the individual's hardwired features, which include the instinct to survive, to reproduce his/her genes, and to consciously look for pleasure (the pursuit of happiness). To simplify, I shall thus consider "just" the rules consistent with the deontological concepts that philosophers have called "negative justice" or "negative reciprocity": "avoid doing what you would blame others for doing" (Thales), or "do not do to others what you do not want done to yourself" (Confucius).

To summarise the argument so far, taxation is an act of aggression. As such, it raises a fundamental problem – legitimacy -- which belongs to the realm of social philosophy.³ Legitimacy has two sources: the principle of fairness (positive justice) and the principle of justice (negative reciprocity). Until the early 20th century, this distinction was not overly relevant for social policy-making as we understand it today. The role of government was limited,⁴ and the authorities were not expected to do much beyond preparing for war, containing violence at home and enforcing property rights. In brief, for most policy-making purposes, and consistent with the view maintained by many classical liberal scholars, legitimacy was generally considered a close synonym for justice (negative reciprocity). As Adam Smith (1759, II.ii.1.9) put it, justice is "a negative virtue, and only hinders us from hurting our neighbour. The man who barely abstains from violating either the person, or the estate, or the reputation of his

³ I am grateful to an anonymous referee of this Journal for having encouraged me to underscore this point.

⁴ In the Western developed countries, the share of government expenditure in national income remained below 10% until the Great War.

neighbours, has surely very little positive merit. He fulfils, however, all the rules of what is peculiarly called justice, and does everything which his equals can with propriety force him to do, or which they can punish him for not doing”.⁵ In particular, there was no room for redistribution (Smith, 1776: book V, chapter 1) or state-financed charity (Birch 1998).

Indeed, the 19th century was dominated by the classical liberal tradition, which is here identified as a vision that allows for limited government expenditure to finance defence, law and order and basic infrastructure (minarchism), but otherwise sticks to the Cicero/Smith definition of (negative) justice. In regard to taxation, it followed the principle proposed by Thomas Aquinas (if not earlier):⁶ taxes were the contribution paid by each member of the community to cover the cost of producing a limited range of services supplied by the government. For example, “every one who enjoys his share of the protection [provided by the government], should pay out of his estate his proportion for the maintenance of it” (Locke 1689, §140). Put differently, the sums required to finance goods and services produced by the government are in fact prices, as argued by Meltzer and Richard (Mueller 1987). I call this the classical-liberal approach to taxation. For example, social security contributions are the premium each worker pays if he subscribes to fully funded governmental pension schemes. Likewise, taxes levied to

⁵ Adam Smith actually reproduced Cicero’s notion of justice, i.e. compliance with the *sum cuique* principle, which “is breached when a person’s liberties are violated, his possessions are taken from him or trespassed upon, when his obligor defaults, or when he is forced to render involuntary benefits to others.” (quoted in De Jasay, 2002: 154).

⁶ See Meredith (2008: 41).

finance public works or to compensate the victims of pollution (when this happens) are prices people pay for the services and goods they are consuming. Vehicle taxes and excise duties on fossil fuels are well known examples.

The view on expenditure and taxation moved away from the classical-liberal approach mentioned above – minarchist government with average-cost based taxation -- when scientism, social constructivism and utilitarianism gradually gained traction in academic and political circles, and the idea of collective interest went beyond the notion of protection from aggression and became what was known as welfare consequentialism (Morey 2018). Indeed, nowadays most people have few doubts about the existence of a common good, the content of which goes far beyond the protection of the individual; or about the primacy of some collective interests over the rights and preferences of the individual. This is the principle of fairness in action; and I label its proponents as “socialists”.

4. Taxation, legitimacy and the size of government: four different views

Of course, the widening of the scope of government has sparked an intense debate about the perimeter of economic policy making, and also the need to assess the instruments through which government intervention takes place. In regard to taxation, the economics profession has followed different routes: the libertarian view, the classical-liberal agendas, the socialist perspectives, and the search for efficient taxation.

The libertarian tradition is straightforward. It considers taxes a violation of individual property under the threat of violence. Since violence goes against the principle of negative justice, taxes lack legitimacy. No exceptions are admitted: “A man’s natural

rights are his own, against the whole world; and any infringement of them is equally a crime, [...] whether committed by one man calling himself a robber, [...] or by millions, calling themselves a government” (Spooner, 1870: 10). In other words, a libertarian tax is just only when the taxpayer has consented to being taxed – either directly or through a representative to whom each taxpayer has given an explicit mandate.

Libertarians would thus reject John Locke’s argument, according to which enjoying the benefit of a service provided by the government is equivalent to accepting the legitimacy of government (1689, §119-121); and also his majority-wins argument, following which taxation is legitimate with the taxpayer’s “own consent, i.e. the consent of the majority, giving it either by themselves, or their representatives chosen by them” (1689, §140). Likewise, libertarians would feel uncomfortable with Bastiat, who rejected the majority-wins principle, but followed Augustine of Hippo, Thomas Aquinas and Hobbes in legitimising taxation to finance protection, and also with those authors who include infrastructure within the realm of public expenditure.⁷

As mentioned earlier, according to the classical-liberal view, taxes are in fact the prices one pays in exchange for a limited range of services. In particular, during the past decades, scholars in the classical-liberal tradition have actually focused on two issues. One emphasises the principle of proportional taxation (the so-called “flat tax”),

⁷ Bastiat (1850/1996: 567, fn 1) actually quotes Say by claiming that “Public taxes, even with the nation’s consent, are a violation of property rights, since they can be levied only on values that have been produced by the land, the capital, or the industry of private individuals. Thus, *whenever they exceed the indispensable minimum necessary for the preservation of society*, they may be justly considered as an act of plunder” (my italics).

consistent with the Lockean argument mentioned above.⁸ Another line of research has examined how to obtain minarchism or, more generally, rein in tax pressure and public expenditure (Hayek 1960 and 1979). This is known as the “exogenous-tax perspective”, which argues in favour of “constitutional constraints on the taxing power in advance of the budgetary period, constraints that will act to bind the exercise of fiscal authority” (Brennan and Buchanan 1980: 222).

A third set of authors – the “socialists” -- assumes that a desirable tax system should raise the resources needed to carry out policy-making and pursue the common good, and be consistent with the principles of social justice. Within this context, the emphasis is on the equal sharing of the tax burden (Meade 1964), redressing previous wrongdoing, and possibly realising a new society based on equality and access to basic goods and services (Piketty 2019 and Simpson 1976, 1980). The references to equal sharing of the burden and redressing earlier wrongdoings correspond to two well-known criteria: “distributive justice based on equal sacrifice” and “corrective justice”, respectively.

A fourth viewpoint characterises the so-called optimal tax literature and concentrates on efficiency (e.g., Ramsey 1927 and Mirrlees 1971). As Diamond and Saez (2011: 165) put it, “models in optimal tax theory typically posit that the tax system should maximize a social welfare function subject to a government budget constraint, taking into account that people respond to taxes and transfers”. Put differently, the advocates of optimal

⁸ In truth, rather than claiming that the flat tax reflects some kind of average-cost pricing, many advocates of the flat tax argue that it is efficient, since it harms growth less than other forms of taxation. Under such circumstances, they actually border with the optimal-taxation literature (see below, in this section), and should thus be excluded from the definition of classical liberalism proposed here, let alone the libertarian camp.

taxation ignore that taxation is first and foremost a problem of political philosophy, and proceed as if the world of politics defined the goals and outcomes of public expenditure by following shared standards of fairness and social justice.⁹ In their view, taxation is an instrument through which the authority gathers the resources required, and at the same time minimises distortions in relative prices and deadweight losses, prevents tax avoidance, tax evasion and various categories of tax shifting. Moral concerns are a kind of exogenous constraint to include in economic models. However, since this article focuses on legitimacy, rather than on efficiency, the pages that follow will ignore the optimal-tax literature.

5. A digression: consent and representation

Although the libertarian position is the only position unambiguously consistent with the definition of justice presented in these pages, it currently plays a minor role in the public debate. Yet, it helps underscoring two important methodological issues: it emphasises the role of explicit consent and sheds light on the meaning of representation.

In regard to consent, the libertarians emphasise that the fact that individual A enjoys a positive externality (a free ride) created by individual B does not mean that A would agree to pay any price – or indeed a price -- for the benefits produced by B. Certainly, B can rightfully ask for compensation if A violates his property, but from the libertarian viewpoint free rides that involve no violent action create no obligations to A. The very

⁹ Relativist justice and fairness have often been considered synonymous (Rawls 1958, Nemo 2017, Bouillon 2020: 21-26). See also De Jasay (2015, part I) for a critical investigation of the notion of social justice.

fact that B's actions generate benefits does not imply that compensation is due to B, let alone that B can determine how much is due to him/her. Of course, A's attempts to oppose B's request do not mean that A recognises B's demands as legitimate. From the libertarian standpoint this also applies to the relationship between the individual and the state, and extends to taxation: "[t]o take a man's property without his consent, and then to infer his consent because he attempts, by voting, to prevent that property from being used to his injury, is a very insufficient proof of his consent to support the Constitution" (Spooner 1870: 52).

In a similar vein, the notion of representation plays a crucial role in modern democracies and has been regarded as the cornerstone of legitimate policy-making. Its consequences in regard to taxation are apparent. As Sir William Blackstone put it, "no subject of England can be constrained to pay any aids or taxes, even for the defence of the realm or the support of government, but such as are imposed by his own consent, or that of his representatives in parliament" (1753: 140). Blackstone's wording is important, since it rejects Locke's theorising of implicit consent and majoritarian legitimacy, and underscores the libertarian view on consent: the enjoyment of a benefit does not imply consent and does not involve a duty to pay.

More generally, Blackstone's reference to representation exemplifies the inner ambiguity of this term, with consequences for the legitimacy of taxation.¹⁰ In particular,

¹⁰ Several 18th-century authors liked to think of "consent through representation" as a prerequisite for legitimacy, but used the term rather offhandedly Rousseau (1755: 25), certainly not a standard-bearer of the classical-liberal and libertarian views, is a good example: "Cette vérité, que les impôts ne peuvent être établis légitimement que du consentement du peuple ou de ses représentants, a été reconnue généralement de tous les philosophes et jurisconsultes qui se sont acquis quelque réputation dans les matières de droit

and in contrast with the unambiguous libertarian perspective, Blackstone's approach to representation opens the way to two normative guidelines. First, claiming that tax laws are legitimate insofar as the taxpayers are represented in accord with shared constitutional procedures (e.g., parliamentary representation) suggests that taxpayers, and only taxpayers, are the source of authority on tax matters. According to this line of reasoning, therefore, the power of each representative to legislate on tax matters should be proportional to the taxable income or wealth of those who live in his electoral district, or perhaps to the tax revenues levied in that district. In other words, each unit of taxable income/wealth or of tax revenue would have the same voting power in a legislative assembly.¹¹ A second insight derived from the Blackstonian perspective regards those residents who believe that no candidate can represent them properly and, therefore, abstain from voting. Under these circumstances, consistency would then take

politique". Of course, the Rousseauvian "consent by the people" is not the same as Locke's or Blackstone's, but rather compliance with the General Will, a rather ambiguous term that characterises good laws, the definition of which is however circular, and begs the question whether nature does really create identical individuals: "c'est à la loi seule que les hommes doivent la justice et la liberté. C'est cet organe salutaire de la volonté de tous, qui rétablit dans le droit l'égalité naturelle entre les hommes" (Rousseau 1755: 11).

¹¹ This would lead to weighted parliamentary voting rights on tax issues. An alternative consists in having a separate House endowed with the exclusive power to deliberate on tax matters, the members of which are elected only by taxpayers (the no-representation-without-taxation principle) according to a weighted-voting criterion. It may be worth noting that in 1789, French revolutionaries led by the influential Abbé Sieyès went further and asked that only taxpayers enjoy political rights (Badinter, 1989: 138-9).

us closer to the libertarian position, and suggest that abstained voters should be exempted from taxation.

Blackstone's statement also raises other questions: What about those who express their electoral preferences in favour of a candidate who fails to win a seat? It is apparent that nobody is actually representing such voters in the law making body. Moreover, would a parliamentary majority represent -- and have the authority to take property away from -- an individual who did not vote for that majority? By extension, the same line of thought could apply to those represented by a losing minority. Of course, a libertarian would pursue the argument further, and deny legitimacy even when one's representative is part of the majority: Since "no individual who may be injured in his person or property, by acts of Congress, can come to the individual electors, and hold them responsible for these acts of their so-called agents or representatives [...] these pretended agents of the people, of everybody, are really the agents of nobody" (Spooner 1870: 74).

6. Setting the stage: three views on legitimate taxation

To summarise, the history of legitimate taxation presents three perspectives.

1. According to the libertarians, taxation is unjust: current tax systems violate private property, obstruct the individual's right to choose the supplier he/she prefers and ignore one's right to decide not to make any purchase. In other words, the mere fact that policymakers produce does not create obligations for the individual.

2. According to the classical-liberal vision, taxation *stricto sensu* is fair if it is moderate¹² and reflects the price one should pay to cover the cost of producing the services supplied by the state (see sections 3 and 4). Actually, in the early 17th century de Sully recommended that taxation should be proportional to the benefits the individual enjoys from the consumption of government services: “[L]’impôt ... devrait être proportionné aux avantages qu’en retire le contribuable”.¹³ Proposals to cover production costs by means of proportional taxation on income or wealth -- the cost-based criterion -- came later (Locke), perhaps as a way of circumventing the impossibility of measuring the benefit: “men [...] would be taxed on the *supposition*, that they respectively imposed a cost on Government proportionate to the income each of them enjoyed” (Sargent, 1862: 347, italics in the text).
3. According to the socialist view, each household needs a given income in order to enjoy a satisfactory living standard. This justifies tax exemptions for low income earners, while incomes above that threshold correspond to a rent (or surplus),

¹² The request for moderate taxation draws from the minarchist tradition and rests on the belief that it is indeed possible to restrain government action. Victor R. de Mirabeau was a remarkable exception – see Delmas (2009: 85). The current constitutional-economics literature follows that tradition and often becomes an exercise in constitutional constructivism.

¹³ Quoted from De Girardin (1850: 168). In a similar vein, Adam Smith (1776, V.2) maintained that “the subjects of every state should contribute towards the support of the government, as nearly as possible, in proportion to their respective abilities; that is, in proportion to the revenues they respectively enjoy under the protection of the state”.

which is considered a proxy for the so-called ability to pay (tolerable sacrifice).¹⁴ Thus, the government identifies the amount of public expenditure required to pursue the public interest, quantifies the “satisfactory living standard”, and puts in place the tax structure necessary to cover expenditure. However, disagreements emerge on how the policy-maker considers the ability to pay:

- a. According to a soft form of socialism, rents carry no moral stigma. Although the poor deserves sympathy and charity, there is nothing intrinsically bad in being rich, and just taxation amounts to obtaining distributive justice based on equal sacrifice. Montesquieu, Jean-Baptiste Say and John Stuart Mill were in this camp.
- b. By contrast, the hard socialists believe that the rent originates from privileges, acquired by violence or natural accidents (theft, luck, talent or birth). Consistent with the principle of corrective justice, therefore, taxing the rent amounts to making good the undeserved advantages enjoyed by the rich. Rousseau was an early advocate of this view. As a result, today’s hard socialists would follow Rawls (1972: 104) in claiming that since all one has comes from nature or from his initial position, nobody deserves anything. Hence, since all what individuals

¹⁴ This is of course questionable, since the rent is actually the difference between the net present value of one’s income flows, and the net present value of the expenses/investments that the individual has incurred to generate those income flows (see also section 8). More generally, it is worth emphasising that the notion of sacrifice is subjective and that, therefore, hedonic arguments can hardly provide policy-making insights (White 2017).

have is undeserved, pure egalitarianism is the normative principle that should drive policy action, including taxation.

7. Tax criteria follow: the classical liberal and the socialist cases

Each of the visions mentioned above leads to different tax criteria. Of course, for the libertarians the just tax rate is zero. This is not the case for the classical liberals, who have usually recommended a rather articulated approach. Consistent with the idea that government services consist primarily in protecting the individual's physical integrity and allowing him to enjoy the fruits of his labour, Hobbes (1651, chapter 30: 181) drew attention to two points. First, since the cost of protecting the life of an individual is the same for all individuals, capitation is the appropriate tax to finance security. However, insofar as the benefits generated by safety translate into the "enjoyment of life", and since such enjoyment depends on one's consumption, taxation should be a constant portion of private consumption.¹⁵ Of course, this is consistent with the benefit-based principle of taxation mentioned at point 2 of section 6. In this vein, some classical-liberal authors also regarded taxation as some kind of membership fee to enter "le grand lien, le nœud fédératif, le vinculum sacrum de la société" (Du Pont de Nemours 1768, § XIII), or the revenue to which the state is entitled as alleged supreme owner of the land (Mirabeau 1763, chapter V: 61). Hence, since it is presumed that the government

¹⁵ To be fair to Hobbes, it should also be pointed out that he recommended that (a) a master pay capitation also for his servants (to whom the master owes their labour services); and (b) the sovereign collect enough funds to care for those "unable to maintain themselves by their labour; they ought not to be left to the charity of private persons" (ibid.).

protects all units of wealth to the same extent, the tax burden required to finance the protection of private property should be the same on each unit of wealth, regardless of the identity and the affluence of the owner. From this viewpoint, taxation should then be a constant share of the value of one's material assets.

For example, consider the expenses typical of the minimal classical-liberal state: protection of the individual and his property (armed forces, police and judiciary) and some infrastructure. In 2018 and 2019, these items accounted for about 3% (protection) and 3% (infrastructure) of GDP in the EU area. This implies that in today's world 75% $((3.0+1.5)/6.0)$ of the tax revenues should originate from proportional taxation on income and the remaining 25% from a poll tax.¹⁶ If one imagines a country in which total expenditure by a minarchist government is 5% of GDP, then the proportional tax rate would be 3.75% of income, while the poll tax would be, on average, equal to 1.25% of income.

By contrast, and consistent with the socialist theorising on the rent, socialist taxation turns out to be progressive. This comes in two "soft" versions and a "hard" one. The first soft form was originally suggested by James Steuart in 1767, and later adopted by several 19th century authors, including J. Bentham and J.S. Mill. It is the so-called "degressive tax" criterion, which envisages a threshold below which the base (income or wealth) is tax free, and above which a constant tax rate applies. In other words, no tax applies to what is required to enjoy a satisfactory living standard, and a constant tax rate hits the rent. For example, in 2018 government expenditure in the European Union

¹⁶ To simplify, the text assumes that half of the expenditure on protection benefits the individual's physical integrity and half benefits his property.

(without the UK) amounted to 46.7% of GDP and the risk of poverty (after social transfers) affected 16.8% of the population.¹⁷ If one assumed that those at risk of poverty paid no taxes, that the remaining 83.2% of the people had on average a taxable basis twice as large as those exempted, and that income is the base, then a degressive tax system would require a constant tax rate of about 51.4%.

A second version of soft socialist taxation is based on utilitarian grounds, and claims that taxes should hit the rent at moderately increasing rates.¹⁸ Its soft socialist advocates imagine that the intensity of superfluosity increases with the size of the rent. Hence, “it is evident that any transference of income from a relatively rich man to a relatively poor man of similar temperament, since it enables more intense wants, to be satisfied at the expense of less intense wants, must increase the aggregate sum of satisfaction” (Pigou 1920/1932: 81).¹⁹ In other words, the soft-socialist policy-maker assesses one’s decreasing marginal utility of income/wealth and enforces equal-sacrifice distributive justice by means of moderately progressive taxation.

¹⁷ See European Parliament (2020) and Eurostat (2020).

¹⁸ See the final paragraph of section 6.

¹⁹ To be fair, one should also observe that two lines later Pigou added “Any cause which increases the absolute share of real income in the hands of the poor, *provided that it does not lead to a contraction in the size of the national dividend from any point of view*, will, in general, increase economic welfare” (my italics). Yet, and in partial contradiction with the proviso quoted above, Pigou also agrees with – and enlarges – an argument previously advanced by J.S. Mill and E. Rignano. In their view, the welfare of the rich does not depend on how much he consumes, but on how much he consumes relative to the other rich members of society (Mill/Rignano); whereas for the poor satisfaction depends primarily on absolute consumption (Pigou).

Finally, the hard socialists suggest severe progressivity: the expropriation of the rent makes good previous undeserved appropriation and enforces corrective justice. How the government subsequently employs the revenues plays a secondary role. In this version of socialism, rents are taxed with a view to equalising incomes, perhaps subject to the Pigouvian proviso regarding aggregate income/wealth. The burden of taxation, therefore, depends on the elasticity of the labour supply: on how the taxpayers react to egalitarian taxation, and on whether the tax revenues encourage the beneficiaries to expand production. Under such circumstances, the median income will then be higher than the no-tax income level before the tax if the drop in production is limited; it will be lower in the opposite case.

To summarise, letting the libertarian case aside, classical-liberal legitimacy would advocate a regressive tax system, which results from a large proportional component and a smaller share of tax revenues originating from capitation. The soft socialist approach would go for degressive or moderately progressive taxation, depending on one's view on equal sacrifice. Hard socialism would strive to redress previous injustice and go for heavy taxation, possibly mitigated to account for the trade-off between egalitarianism and wealth creation.

8. A note on regressive taxation

Regressive taxation has usually received a bad press in the history of economic thought. Yet, some of the perspectives analysed so far are quite sympathetic with regressive taxation, although for different reasons. For example, a utilitarian would stress that the purpose of policy-making includes growth: regressive taxation can encourage people's

efforts to produce and earn,²⁰ and also attract high-income earners who contribute to the welfare of the community as net givers. Classical liberals might argue that the marginal cost of providing protection against the violation of private property declines with the size of one's property and that, in a similar vein, the cost of contract enforcement rises proportionately less than the size of the contract. Hence, insofar as taxes are legitimised by the need to ensure protection of private property and contract enforcement, regressive taxation follows.

More generally, one should also consider whether a regressive tax on income is truly regressive.²¹ Indeed, if one defines the rent as the difference between the net present value of happiness and the net present value of the cost incurred to obtain happiness (the opportunity cost of present consumption),²² then one should accept that the size of the rent does not necessarily rise proportionately faster than income. In fact, it may even happen that high incomes do not present rents, but intertemporal losses. True, the size of such losses may drop as income increases. But they are still losses. The line of reasoning is rather simple. All incomes depend on one's efforts, talent, luck, education, self-confidence and attitude towards risk. Surely, education and efforts imply opportunity costs. Education requires expenses, lost earnings and risk taking, but a

²⁰ This was in fact Stalin's view, who implemented regressive taxation on incomes (Olson 1993).

²¹ See Hayek (1960: 308-318) and Rothbard (1977: 149-151) for the traditional arguments against progressive and proportional taxation. This paper omits the discussion on wealth, since wealth amounts to cumulated savings, which are generated by past income flows.

²² This is not the same notion of rent presented at the beginning of section 3. In this case, the emphasis is not on one's position in regard to the threshold, but rather on the opportunity cost of present consumption.

prolonged stay in the educational system does not necessarily guarantee fat returns. Likewise, efforts and responsibilities involve giving up on leisure and tranquillity. The upshot is that one cannot rule out that the cost of obtaining higher incomes increases with incomes, so that the outcome on the size of the rent is uncertain. This is even more true if one considers that individuals are generally risk averse and that, therefore, they are inclined to underinvest into their own human capital. If so, social engineers pursuing “efficiency” might actually suggest regressive taxation as a way of correcting for this bias.²³

9. Tax bases

The previous sections drew attention to different views about the legitimate tax. The libertarian take is that taxation is a form of robbery and, therefore, the just tax is an oxymoron. The classical-liberal and the soft socialist approaches see taxation as payments that cover the cost incurred to produce government services that a community deems desirable. In particular, the classical-liberal framework emphasises the cost of providing safety/protection and – more generally – reducing transaction costs; while soft socialism focuses on the ability to pay. By contrast, the socialist hard version considers the position of the haves as undeserved and taxation as a way of making good illegitimate enrichment.

²³ Nowadays, providing subsidised access to education compensates for the bias. It would be certainly interesting to examine whether social efficiency requires subsidised education rather than regressive income taxation.

Analysing the purpose and nature of taxation is also crucial to identify the appropriate tax base. In this regard, since the libertarians consider taxation an intolerable encroachment upon private property, selecting the tax basis is not matter of legitimacy, but rather of finding ways to make abuse visible. Hence, the ideal form of taxation is the one that triggers the greatest disapproval by the largest numbers. In this light, the best candidate is probably a wealth tax hitting all forms of property, including real estate and pension plans. Given the level of public expenditure in today's advanced economies, this would imply a yearly burden equal to some 8% of one's average wealth. It would be painful, especially for those who would be forced to sell the property in which they live in order to pay their dues.

What about the other approaches? As mentioned earlier, the classical-liberal view regards taxes as the prices one should pay for the protection services enjoyed. Such services include military expenses to protect the residents from foreign aggression, and the police and judiciary to protect individuals and their property against aggression originating within the community. Although capitation may not be the ideal way of financing the military,²⁴ it is probably the least objectionable option (see also section 7). The same is also probably true for security services against domestic aggression, unless one believes that rich people are more likely to be aggressed and that the government actually spends more for their safety. In fact, it is plausible to assume that all individuals get the same amount of protection, which explains why some of them buy extra

²⁴ Objections could come from those who consider the aggressor a better ruler, those who prefer to leave the country in case of aggression, or those who believe that the money spent on the military is at least partially wasted.

protection services on the market. Certainly, the notion that some individuals need or deserve more protection paid by other individuals makes little sense in a classical-liberal context.

Financing the judiciary is different, since these services fall into two categories. In an ideal world, the judiciary helps ensure that contracts are enforced and fraudulent actions punished. Moreover, it contributes to solving disputes when they arise. In regard to the first set of cases, income and turnover – for individuals and companies, respectively – may be rough proxies for the expected amount of the judicial services required, possibly at declining rates (hence, regressive taxation). On the other hand, since there is no persuasive reason to believe that recourse to the judiciary to settle interpersonal disputes rises with the income or wealth of those involved, capitation (or perhaps a regressive tax on wealth) appears suitable.

Let us conclude with the socialist perspectives. Selecting the appropriate tax base(s) from a soft-socialist standpoint amounts to choosing the variables that best capture superfluous consumption. Of course, in this case, the distinction between “actual” and “potential” superfluous consumption is important. The emphasis on actual consumption implies the adoption of a consumption tax, which however all but rules out progressivity (a partial and questionable exception is the introduction of higher tax rates on sumptuous consumption). The emphasis on potential consumption can perhaps apply to wealth, and allows progressivity.²⁵ Thus, soft-socialist taxation faces a dilemma.

²⁵ Yet, wealth is a poor proxy for superfluous consumption for at least two reasons. One may decide not to transform his wealth into consumption, say for precautionary or altruistic reasons. Or one may decide

Either the legislator targets the taxpayer's enjoyed rent proxied by actual consumption, but gives up on discriminating among the different marginal degrees of superfluity, and thus among the abilities to pay;²⁶ or he targets the individual's current ability to pay, regardless of his superfluous consumption, which hardly meets a criterion based on fairness.

Instead, the hard socialist choice of the suitable tax basis is relatively simple. Tax pressure would be particularly high on wealth (a partial exception could be made for residential property) and rise steeply with incomes. Consumption and excise taxes would be discarded, since they would affect the have-nots.

10. Income and consumption taxes, once again

To recap, income taxes have little to do with the classical-liberal tradition because they are a poor proxy for the cost incurred by the government to protect the individual and his property, or for enforcing contracts.²⁷ The only exception are perhaps taxes designed to cover the cost of judicial services to individuals.

The soft-socialist camp should also discard income taxes, because current income is a poor measure of the ability to pay. For example, Kaldor (1956) severely opposed

to deplete his assets to finance consumption in periods when income is low. In both cases, there would be no superfluous consumption.

²⁶ See however Kaldor's proposal, later in this section.

²⁷ Of course, the physiocrats (including Turgot) thought differently, and insisted on taxing income. It was a residual choice, though, since they rejected all taxes on consumption and wealth (see Delmas 2009: 88-89).

progressive taxation on personal income. In his view, progressive taxation ignores that the upper classes are able to consume out of inherited wealth. Hence, Kaldor's proposed to exclude savings from the tax base, and replace the progressive tax on personal income with a progressive tax on personal expenditure.²⁸ However, income taxes certainly make sense for the hard socialists, who believe that high incomes are undeserved, possibly the outcome of present or past violence (exploitation) and, therefore, unjust.

In regard to taxing consumption, 19th-century classical liberals and later authors like Alfred Marshall, Arthur C. Pigou and Irving Fisher tended to encourage it: although they discriminate between tangible/monetary and intangible flows, consumption taxes eliminate double taxation. More importantly, a consumption tax that replaces all other forms of taxation is simple, less expensive to manage, and prevents the government from prying into people's life, possibly violating their privacy in the process (Salin, 1985). On the other hand, consumption taxes are generally discarded by those – the socialists are among them – who follow the ability-to-pay criterion and are less concerned about privacy and administrative costs.²⁹

²⁸ According to Kaldor, an income tax hits savings twice: when they are earned (the share of income that is not consumed), and when they later generate capital income.

²⁹ As mentioned earlier, in this respect Nicholas Kaldor is an important exception. Rather unexpectedly, John Rawls (1972: 277-280) also presumes that under some circumstances a proportional consumption tax would be preferable to a progressive income tax. In particular, he advocates a consumption tax because it “imposes a levy according to how much a person takes out of the common store of goods and not according to how much he contributes.”; and because it “treats everyone in a uniform way.” (278-9). There are reasons to argue, however, that neither Rawls' common pool argument

11. Summary and conclusions

This article has considered taxation from a political-philosophy viewpoint. Thus, it has focused on legitimacy and has drawn lessons from the history of economic thought to develop insights into the structure of taxation: tax rates and tax bases. Legitimacy means principles. These fall into two categories: compliance with everlasting moral standards (e.g., freedom from coercion and private property), or conformity with the objectives defined by the representatives of the members of a community. To clarify matters, this article has classified different visions on taxation according to the *a priori*s of their advocates. Consequences follow.

- The libertarian view does not accept the notion of implicit contract, objects to majoritarian decision making, and considers taxation an intolerable violation of property rights. Hence, in a world where taxes are unavoidable, the best tax is a proportional wealth tax (section 9): it does not discriminate among individuals and is visible.
- According to the classical-liberal perspective, a tax is the price one should pay to cover the cost of the government services consumed. In particular, if the role of the state is limited to protecting individuals against violence and enforcing contracts (minarchism), consistency implies resorting to capitation, plus regressive taxation of personal gross incomes and corporate turnover (section 7).

nor his uniformity argument justifies proportional consumption taxation within a Rawlsian conception of justice (see on this Elkins 2020).

- The soft-socialist position considers the ability to pay a proxy for the rent individuals enjoy. In this light, one's views on utilitarianism will lead to constant or moderately increasing tax rates on current income or wealth (section 9).
- Finally, the hard socialists would prefer strongly progressive tax rates on income and wealth, and avoid forms of indirect taxation that would necessarily hit the have-nots (section 9).

Certainly, today's economies do not feature tax systems anywhere close to the libertarian or hard socialist frameworks, and theorising about the optimal design of taxation overshadows all other concerns. The current prevailing debate takes the size of public expenditure for granted and focuses on how to feed it. Legislation concentrates on how to restrain tax avoidance and tax competition among the various jurisdictions, while scholars make recommendations for limiting the effects of taxation on people's welfare and economic growth.

In general, the real world has moved towards increasingly softer socialist (degressive or moderately progressive) taxation: in the Western economies "top marginal rates have declined, marginal income tax schedules have flattened, and commodity taxes are more uniform and are typically assessed on final goods" (Mankiw et al. 2009). Yet, inconsistencies abound. For example, the very fact that about one third of total government revenues in the OECD area comes from indirect taxation on consumption and that tax progressivity is declining seems to vindicate the classical liberals.³⁰ On the other hand, the fact that most income taxes are actually paid by a rather small portion of the population seems closer to the socialist perspective.

³⁰ See Godar et al. (2015).

Perhaps the only conclusion one can draw is that the economics profession has ignored the lessons of the past and has been unable to offer clear guidelines; while the world of politics has frequently preached about fairness, but in fact followed expediency to gather electoral consensus.

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