

contribution to the project of using formal methods to help each of us analyse, clarify and ultimately address the foreseeable and inevitable mutability of taste.

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Reference

Wittgenstein L. 2009. *Philosophical Investigations*. Tr. G.E.M. Anscombe, P.M.S. Hacker and J. Schulte. Revised 4th ed. by P.M.S. Hacker and J. Schulte. Chichester: Wiley-Blackwell.

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The Triumph of Injustice: How the Rich Dodge Taxes and How to Make Them Pay, Emmanuel Saez and Gabriel Zucman. W.W. Norton, 2019, xvi + 232 pp., \$27.95 (hbk), ISBN: 9781324002727
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Emmanuel Saez and Gabriel Zucman's *The Triumph of Injustice* opens with a scene from one of the 2016 presidential debates. During that debate, Democratic candidate Hillary Clinton confronted her Republican rival Donald Trump about reports that Trump had paid no federal taxes in the only year for which his tax returns were publicly available. In response, Trump boasted: 'That makes me smart!' We now have good reasons to believe that that specific year was not an exception for Trump. According to a recent report by the *New York Times*, Trump has paid no federal income taxes in 10 of the last 15 years, and he only paid \$750 in the first year of his one-term presidency and the same amount in the previous year (Buettner *et al.* 2020). While Trump's case might be extreme, it is not unique. It is well known that the ultra-rich often pay proportionally little income taxes. Warren Buffet, for one, has often publicly decried the fact that he pays a lower effective income tax rate than his secretary (although what he doesn't mention as often is that one of the main reasons why he pays so little in taxes is that the company in which most of his fortune is invested and the companies it acquires do not distribute dividends). Saez and Zucman's book, however, goes well beyond this sort of anecdotal evidence. One of its main accomplishments is to paint a comprehensive and detailed picture of the American tax system, one that aims to account for all taxes at all levels from federal to local. In Chapter 1, Saez and Zucman describe in broad strokes the current American tax system. They summarize their main finding as follows: 'Today, each social group funnels between 25% and 30% of its income in taxes into the public coffers, except the ultra-wealthy who barely pay 20%. The US tax system is a giant flat tax – except at the top, where it's regressive' (14).

In Chapter 2, Saez and Zucman take their readers on an historical journey through the process that took the American tax system from being (at least on paper) one of the most steeply progressive in the world to one that is effectively regressive at the very top. In Chapter 3, they explain that, contrary to Trump's boast, the reason why the ultra-rich pay proportionally little in taxes is not that they are smart but that the American tax system provides them with preferential treatment and with ample opportunities for what is often euphemistically referred to as 'tax avoidance'. Saez and Zucman then go on to bust a number of popular myths about taxation, such as the myth that tax avoidance by the rich is inevitable (Chapter 3), that economics has 'proven' that the capital income should be tax-free (Chapter 5), that a wealth tax would prove impossible to implement (Chapter 7), or that tax competition among tax havens will inevitably lead to the effective disappearance of corporate taxes (Chapters 4–6). Along the way, they make a number of interesting and innovative proposals, including a system of remedial corporate taxes to collect from multinational corporations that book most of their profits in tax shelters (Chapter 6), a mechanism to implement a wealth tax (Chapter 7), and a flat national income tax to fund a generous welfare state (Chapter 9).

The Triumph of Injustice is primarily written for an audience of non-specialists and, as far as I can tell, it is mostly successful in making a rather dry and esoteric topic both interesting and accessible to a broad audience. In that respect, Saez and Zucman seem to be following in the footsteps of their sometime co-author (and Zucman's doctoral advisor) Thomas Piketty, who saw his *Capital in the 21st Century* (Piketty 2014) become an unlikely bestseller. Like Piketty, Saez and Zucman see taxation as one of the main tools to stem the tide of economic inequality. However, unlike Piketty, Saez and Zucman offer a more detailed and varied set of tax policy proposals to achieve a wider array of objectives.

While readers of this journal are arguably not the intended audience of *The Triumph of Injustice*, the book is still likely to be of interest to many of them. In particular, the various tax policy proposals made by Saez and Zucman are worthy of serious consideration. Consider, for example, their proposal to implement a wealth tax (such as the one proposed by US Senator Elizabeth Warren, which would impose a 2% tax on fortunes above US\$ 50 million and 3% on fortunes above US\$ 1 billion). Their proposal largely addresses two standard objections against taxing wealth – i.e. the valuation objection (which claims that it is difficult to determine the current value of certain categories of assets, such as unique artworks or shares in closely held businesses) and the illiquidity objection (which claims that it is problematic to tax illiquid wealth). Saez and Zucman estimate that the vast majority of wealth owned by the top 0.1% wealthiest Americans consists of assets with ascertainable market values (such as equities, bonds or real estate), while the remainder of their wealth is mostly invested in shares of closely held businesses. Saez and Zucman argue that the value of closely held businesses can be estimated with methods similar to those regularly used by financial analysts. This shows that the valuation objection is largely overstated. The centrepiece of Saez and Zucman's proposal is that the government would give wealthy taxpayers the option to pay the wealth tax in kind and then would sell those shares in an oppositely created public market. For example, the owners of agribusiness giant Cargill (whose shares have never been publicly traded) could opt to transfer 2% of their shares to the government if they

cannot pay the wealth tax in cash and the government would then auction those shares in the oppositely created market. This would kill two birds with one stone. First, no person subject to the wealth tax could claim that they do not have the means to pay the tax, which would avoid the illiquidity objection. Second, it provides some assurance against the overvaluation of assets that do not have clear market values, which assuages the valuation objection.

While Saez and Zucman's proposal goes a long way toward meeting the valuation and illiquidity objections, opponents of the wealth tax might argue that problematic cases are still likely to arise. For example, suppose that the (adult) child of a famous artist has inherited some of her artworks, each of which is valued at over US\$ 100 million. If the heir cannot afford to pay the wealth tax levied on them by the government, then they would seem to face a choice between either selling some of the artworks to pay the wealth tax on the others or transferring a 2% share of ownership in the artworks a year to the government (which would eventually result in their becoming a minority owner of the artworks). If the artworks have for them a value that goes beyond their economic value, then opponents of the wealth tax might claim that neither option is fair. While Saez and Zucman might reply that cases like this are rare, it is not clear if this is true,¹ and it is even less clear how to avoid them without either creating potential loopholes or making wealth taxes as unpopular as inheritance taxes.

Moreover, Saez and Zucman's mechanism can only work if the agency responsible for the valuation of the assets is genuinely independent and is not susceptible to regulatory capture. Nevertheless, given that so much of the wealth of the ultra-rich is currently invested in assets that have well-defined market values, at least for the time being, these worries should not prevent governments from implementing an imperfect wealth tax. However, worries such as these will become increasingly relevant, as, once the wealth tax is implemented, the tax dodging industry is likely to design schemes to allow the ultra-wealthy to hide some of their wealth in assets that are harder to value or even identify.

However, many readers of this journal are also likely to be somewhat disappointed by Saez and Zucman's reluctance to engage with neighbouring disciplines, and, in particular, with philosophy.² Saez and Zucman are part of a new breed of economists who are increasingly comfortable with openly crossing the line between the descriptive and the normative.³ However, while this is undoubtedly a positive trend, Saez and Zucman do not seem to think that this

¹For example, the genuine art collector might be neither wealthy nor merely interested in the economic value of their art collection. They might have simply been in the right place at the right time or they might have a good eye for art. However, if we exempt art collections from the wealth tax, then the ultra-wealthy will increasingly invest their wealth in artworks.

²It is also surprising that Saez and Zucman largely ignore the political science literature on the political influence of the ultra-rich and of its effect on economic policy in general and tax policy in particular (for an overview of some of the issues see e.g. Hacker and Pierson 2011; Gilens 2012). Saez and Zucman seem to put a lot of faith in the capacity of democratic institutions to rectify the injustice of the American tax system (e.g. viii or 195–197). However, in light of the contemporary political science literature on the topic, their optimism comes across as somewhat naïve.

³Saez and Zucman's ambivalence toward normative analysis, however, is still reflected by their occasional insistence that their work is primarily descriptive (e.g. viii).

requires a genuine effort to engage with normative ethical or political theory. With the exception of a single section that contains a brief reference to John Rawls and an allusion to utilitarianism (130–131), the book proceeds almost as if nothing has ever been written about distributive justice (let alone about the normative foundations of taxation).⁴ No mention is made of thinkers such as Robert Nozick, Ronald Dworkin, G.A. Cohen or Elizabeth Anderson. Moreover, although, technically, Rawls is mentioned twice in the book, both references occur in the context of a single paragraph that introduces the Difference Principle (130–131) and, while Saez and Zucman appeal to the Difference Principle to make their case for progressive taxation, the only reason they give their readers for accepting that principle is a brief (and somewhat perplexing) appeal to authority – the Difference Principle, they assure their readers, ‘has broad support among social scientists’ (130). Immediately after that and without skipping a beat, Saez and Zucman abruptly switch to a thoroughly utilitarian justification of progressive taxation (131 and especially note 3). Even later, they end up advocating for confiscatory taxes on the ultra-wealthy (157–159), which seems to presuppose a form of radical egalitarianism that condones what political philosophers call levelling down and which seems to be incompatible with their earlier appeal to utilitarianism. It is unclear whether Saez and Zucman are simply oblivious to the profound tensions between these different normative approaches or whether they are aware of them but have no interest in relying on a coherent normative framework. Either way, from a book that is ultimately a book about applied distributive justice, one would expect a more serious and sustained attempt to engage with the extant theoretical literature on distributive justice.

Similar considerations apply to the lack of a coherent account of the normative foundations of taxation. Early in the book, Saez and Zucman nonchalantly assert that the tax system is the ‘most important institution of any democratic society’ (viii) (personally, if forced to pick one, I would have chosen its electoral system). Then, they seem to embrace an instrumentalist account of taxation as a tool to enable social cooperation and economic growth and, in the same breath, a quasi-expressivist account (‘Without taxes there is no cooperation, no prosperity, no common destiny’ (viii)). Later in the book, they seem to argue that a just tax system is required to promote trust in government (‘Development is about building trust in institutions, including, most importantly, governments. When governments take more from the poor than from the wealthy, sustained trust becomes impossible’ (177–178)). Eventually, it seems that the primary role of taxation is to keep economic inequality in check. While these approaches are not straightforwardly inconsistent with one another, Saez and Zucman’s normative case would be on a much more solid footing if it rested on a clear account of the normative foundations of taxation rather than on such a perplexing hodge-podge of insipid platitudes and unsubstantiated assertions.

However, I should also note that, while Saez and Zucman’s failure to genuinely engage with the relevant philosophical literature might not be justifiable, it is not

⁴As far as I can tell, the only philosopher/political theorist other than Rawls mentioned in the book is Geoffrey Brennan (who, however, is introduced as a political scientist). However, since the book lacks an index, I am not entirely sure that I have not missed any other occasional mention.

entirely inexcusable either. Although it is true that Saez and Zucman arguably had a scholarly responsibility to, at least, acknowledge (if not address) the vast philosophical literature on distributive justice, it is also true that that literature has been often too far removed from the practical concerns of economists (as well as those of other social scientists and of the wider public). More specifically, so far, taxation has received very little philosophical attention in its own right,⁵ and it has often been merely relegated to playing the role of *deus ex machina* in theories of distributive justice.⁶

At the risk of preaching to the choir, let me therefore conclude this review with a call for greater dialogue, exchange and cooperation between economists and philosophers. Philosophers need to do more to make their work accessible and relevant to the concerns of economists (as well as those of scholars in other neighbouring fields, policymakers and the broader public). Among other things, this requires overcoming the discipline's ill-disguised disdain for 'applied' topics, such as taxation. Economists, on their part, have to make more of an effort to engage with relevant work outside of the narrow confines of their discipline, including relevant work by philosophers (and other social scientists).⁷

To illustrate my point, consider, for example, Saez and Zucman's case for a national income tax to fund, among other things, universal healthcare. Their case rests on the claim that healthcare is necessary for an adequate standard of living, which, itself, is a universal human right (179). However, it would seem that a much more powerful case can be made by pooling the resources of philosophy and economics. For example, Saez and Zucman could have adopted an account of taxation along the lines of the one sketched by Ronald Dworkin (see, in particular, Dworkin 1981). The basic idea is that taxes can be (partly) understood as premiums on an insurance policy against strokes of (brute) bad luck (such as an illness). One of the advantages of this account is that it seems to fit well with the economic literature on adverse selection pioneered by George Akerlof (1970), as universal health insurance seems to be the best solution to the problem of adverse selection that besets private health insurance markets. More work would need to be done to combine these insights into a full-fledged account of taxation and to motivate its application to Saez and Zucman's case (e.g. should the premiums paid by each individual be proportional to their income?). However, the result would seem to be preferable to a vague appeal to an alleged derivative human right to healthcare.

⁵As evidence of this, the *Stanford Encyclopedia of Philosophy* has currently no entry on taxation (although of course taxation is discussed in a number of other entries) and *PhilPapers.org* has no category for taxation. Murphy and Nagel's (2002) *The Myth of Ownership* and Brennan and Buchanan's (1980) *The Power to Tax* are the only two monographs on the general topic of taxation whose authors include philosophers. The topic, however, has been receiving more focused attention from philosophers lately (e.g. Dietsch 2015; O'Neill and Orr 2018).

⁶It is telling, for example, that, according to the index to the revised edition of *A Theory of Justice*, the only section that discusses taxation is §43 (Rawls 1999).

⁷An excellent example of the sort of mutual engagement between the two disciplines that is sorely needed is the recently published collection edited by O'Neill and Orr (2018) (reviewed for this journal by Alexandre Sayegh (Forthcoming)).

In sum, while *The Triumph of Injustice* has much to recommend it, it would have likely been an even better book if its authors had been more willing to engage with work in other relevant disciplines.

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Faces of Inequality: A Theory of Wrongful Discrimination, Sophia Moreau. Oxford University Press, 2020, xi+260 pages.
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A movie director casts only male actors for the role of Romeo in his upcoming adaptation of *Romeo and Juliet*. A restaurant owner does not employ female chefs because if they become pregnant, he will have to hire a replacement. One exclusion is unproblematic, the other is wrongful discrimination. What explains the difference? In *Faces of Inequality*, Sophia Moreau sets out to answer when and why discrimination is wrong. Her main audience are moral and political philosophers, as well as lawyers. But the book is also of interest to economists