Should Only the Richest Pay More?

Alex Raskolnikov†

This paper challenges the leading academic, political, and cultural narrative supporting greater redistribution. The narrative holds that redistribution should come at the expense of a very restricted group of the highest earners: the one percent, the super-rich, the billionaire class. I argue that many reasons offered in support of this view call for redistribution from a much broader group that includes the affluent—those with incomes in the ninetieth to ninety-ninth percentiles of the distribution. Whether one looks at the recent trends in income concentration, wealth concentration, social mobility, political representation, or the rise of populism, the affluent are as great—and sometimes greater—contributors to these problems as those in the top one percent. Remarkably, contemporary legal scholarship has ignored the affluent almost completely, greatly limiting the magnitude of possible economic transfers as well the forms that these transfers may take. This paper reveals the analytical weakness of the prevailing narrow view. Higher taxes on the affluent should fully enter distributional debates.

Table of Contents

† Columbia Law School. Comments welcome: ar2280@columbia.edu.

Introduction

Congress recently considered imposing a major new tax on American billionaires (Sword 2021). The idea had popular support, including from more than 250 "patriotic millionaires" (as they call themselves) who wrote a letter to the powers that be in Washington urging them to enact the tax (Adams 2021). Curiously, the letter said nothing about extending the tax to millionaires themselves, or even to people earning close to a million dollars a year—a princely sum given that U.S. median family income is about $68,000 (Shrider et al. 2021, 2) and the Adjusted Gross Income (AGI) that puts one into the top half of all federal tax returns is under $44,000 (Dungan 2021, 41:9). Perhaps, the millionaire signatories did not think of themselves as rich enough to merit a major tax increase.[1]

About a year before "patriotic millionaires" sent their tax-the-billionaires letter to Congress, a large group of tax academics and public finance economists from around the country (and even from abroad) wrote a letter to the New York State legislature urging it to convene an emergency session in order to adopt a new state tax on New York's 121 billionaires (Shanske, Gamage, and Saez 2020). If New York legislators followed the academics' advice in the waning days of 2020, they would have made New York billionaires immediately liable for $23 billion in tax already due on the date of the law's enactment. The letter emphasized the need to "fill New York state's ballooning deficit and ensure safety and security for all its residents," but said nothing about raising taxes on well-off New Yorkers who are not billionaires—a large group of high-income taxpayers that likely includes some of the letter's signatories. More examples are easy to find.[2]

Calls for taxing "the rich" are common these days. Discussions of where, exactly, is the line separating "the rich" from the rest are rare. And efforts to justify any particular line are rarer still. It is as if everyone agrees who "the rich" are, and why they—but not others—should pay more in taxes. Alas, no such agreement exists.

This paper asks what taxing "the rich" *should* mean and concludes that the group of taxpayers whose taxes should go up is much broader than what is generally assumed. The current all-but-unquestioned pro-redistribution view favors higher taxes only on a narrow group of very high

[1] The letter did support several smaller tax increases on "high wealth individuals" like its signatories (Adams 2021).

[2] A group of two hundred nineteen academics urged the Senate to include a new tax on billionaires into President Biden's Build Back Better legislation (Abreu 2021). Again, the letter said nothing about higher taxes on anyone with less astronomical wealth. A similar effort took place in California (Galle et al. 2021).

income earners: the one percent, the super-rich, the billionaire class. Moreover, the trend is to make this group narrower, not broader.

This paper claims that the prevailing trend is exactly backwards. We should radically expand the range of incomes that should be considered as sources of additional revenue. And the reasons for this expansion are the very reasons that are commonly offered in support of taxing "the rich" as this term is currently understood. These reasons simply do not match the narrow understanding of "the rich" that pervades contemporary distributional debates. Eliminating this mismatch reveals that many taxpayers who agitate for new and higher taxes on "the rich" should start paying higher taxes themselves.

The paper's focus is on a group with incomes just below the top one percent threshold—those in the ninetieth to ninety ninth percentiles of the income distribution. I call this group "the affluent." Economists disagree about the current income share of this group and the changes in that share over time. But no economic research supports restricting redistributive efforts to the top one percent while excluding the affluent.

Changes in income shares are just one of many ways of evaluating inequality. This paper considers numerous alternatives, revealing that plenty of reasons support the paper's central claim.

One reason to turn attention to the affluent is that there is more to the income story than income shares alone. The rise in the earnings gap between college-educated (and, even more so, post-graduate degree holders) and the rest may well be more consequential for the lives of most Americans than the rise of the top one percent income share. The highly educated affluent, and not just the one-percenters, have distanced themselves from the rest.

Turning from income to wealth we find more reasons to raise taxes on the affluent. Tax revenue depends on the tax rate and the tax base. The latest wealth estimates (uncertain as they are) suggest that even though wealth is extremely concentrated at the very top, the wealth of the top one percent as a group is smaller than the wealth of the affluent as a group. Moreover, the growth in average wealth of these two groups is comparable as well. If wealth accumulation is the justification for higher taxes, the affluent should face a tax increase.

Another reason offered to tax "the rich" is that their staggering economic success is destroying the American Dream. This is an argument about declining or stagnating economic mobility possibly caused by rising inequality in American society. The concept of economic mobility is complex, encompassing at least four distinct meanings. Remarkably, a close look at each of the four reveals that when it comes to mobility, the affluent may be more appropriate targets for higher taxes than anyone else.

The same is true of the implications of social comparisons and Americans' self-perceptions. The literature is quite clear that people tend to compare their circumstances to those just above them on the economic ladder, not the distant owners of mega-mansions and luxury yachts. So for the middle class and the upper middle class, it is the affluent who are "responsible" for the endless (and largely futile) efforts to out-do "the Joneses." Moreover, there are powerful philosophical and cultural arguments that the affluent really are responsible (no scare quotes this time) for perpetuating their advantage at the expense of everyone else.

Proponents of redistribution have relied on international comparisons to bolster their case for taxing "the rich." These comparisons have doubtful normative significance, but they do offer useful information. Extending these comparisons to the affluent bolsters the case for taxing them more. Tax-the-rich advocates emphasize that although the U.S. and European one-percenters pay a similar share of their incomes in taxes, the U.S. one-percenters capture a much greater share of national income. In contrast, American and European affluent capture similar income shares. But the European affluent pay much higher taxes. So compared to Europeans, the U.S. affluent have a better tax deal just as the U.S. one-percenters do.

There has been no shortage of claims that "the rich" should pay more because they threaten American democracy. Perhaps "the rich" really do run the country, or maybe the affluent do, or maybe the two groups reinforce each other's efforts. Political science offers surprisingly little support for choosing between these claims. Not only that, but there is now some evidence that the extreme positions that threaten to destabilize our political system come from the many, not the few. Whether this turns out to be true, both the affluent and the one-percenters should remain under scrutiny as we search for what troubles American democracy.

Tax scholars have argued that the reason to raise taxed on "the rich" is that our tax system is broken at the top. The U.S. tax system really does have serious shortcoming ranging from weak enforcement to nontaxation of accrued gains. Some of these problems do point toward the need to raise taxes on the one-percenters. However, although crucial facts are barely known, the same problems point to the affluent as well.

The clear takeaway is that there are plenty of reasons to have a serious conversation about taxing the affluent more. Yet when we turn from evidence evaluation to contemporary arguments about inequality and redistribution, the affluent disappear from the view. Remarkably, a large body of scholarship arguing for greater redistribution from "the rich" gives the affluent a pass with no explanation whatsoever. Even more remarkably, on rare occasions when scholars do mention the affluent, it is to shield them from higher taxes.

How do reform-minded tax scholars justify their focus on "the rich," narrowly understood? Some adopt very high, mostly multi-million-dollar thresholds from proposals of progressive politicians without any inquiry into why higher taxes should be limited in such a way. Some restrict their analysis to similar thresholds without giving any reasons for targeting only a sliver of the top one-percenters. And some mention no specific thresholds at all, though their discussions make clear that the aim is the top one percent or its upper tier.

In contrast with tax scholarship, several recent critiques grounded in culture and political economy do focus on the affluent and do mention potential tax reforms among many other changes. But the proposed reforms are narrow, sometimes call for lower rather than higher taxes, and do not come close to advocating for anything remotely comparable to the kinds of taxes aimed at "the rich."

The almost complete refusal to consider higher taxes on the affluent is by no means a minor omission in an obscure academic debate. Reform advocates whose work is discussed here are among the foremost tax thinkers of the day. They include present and former high-ranking government officials as well as public intellectuals commanding huge audiences and constant attention from the nation's most influential media.[3] That these scholars give the affluent a tax pass is bound to have major consequences for the country.

These consequences are not happy ones. A major source of additional revenue—the total income or wealth of the affluent—is ignored. Contorted tax policies advocated by leading Democratic politicians are given a pass. A new source of revenue that is both obvious and obviously needed—a value-added tax—is not supported. Instead, much attention is paid to a different new tax (a wealth tax) that has very little chance of being either enacted or upheld by the Supreme Court. Last but not least, the literature cannot escape an awkward outcome where "the coastal professional class" (and not just the coastal one) advocates policies that raise taxes on "the rich" while sparing "the coastal professional class" itself (Rubin 2020).

A simple response to all these criticism may be summarized in a single word—politics. The reason the affluent are ignored is that raising taxes on the one-percenters is difficult enough. Add the affluent to the mix and you might as well give up on the entire enterprise.

This objection may be entirely correct, but it explains nothing. Scholarship considered in this paper does not appear in policy briefs, party platforms, or proposed legislation (although many of the arguments reviewed here appear there as well). Whatever the political constraints are, academic work aims to abstract from them at least in the first stage of analysis. Tax scholarship is full of ideas that are entirely unrealistic yet have been advanced, defended, and in some cases debated for decades. Going outside of tax offers even starker examples. The 1972 article "Should Trees Have Standing? Toward Legal Rights for Natural Objects" (Stone 1972) has more than twenty five hundred cites on Google Scholar. Can one seriously argue that it is worthwhile to think about legal standing for trees but not about higher taxes on the affluent? Politics is important, but political realities can never explain the absence of a conceptual inquiry. This project starts the inquiry and argues that taxation of the affluent should fully enter distributional debates.

The paper has four main parts. Part I explains why the affluent are a distinct group worthy of special attention in tax policy discussions. Part II considers numerous justifications for taxing "the rich" and shows that all of them support taxing the affluent. Part III reveals that contemporary tax scholarship ignores the affluent almost completely without justifying the decision to limit the discussion of higher taxes to the one-percenters or their upper tier. Part IV explains why this narrow focus limits the plausible scope of redistribution, misses an opportunity to improve the lives of millions of low-income Americans (and perhaps non-Americans as well), and exposes advocates of redistribution to an unfriendly and biting critique. The Conclusion reiterates the answer to the question posed in the paper's title—not *only* the richest should pay more. Higher taxes on the affluent should be on the table in any future conversation about taxation and redistribution.

[3] Consider Lawrence Summers, https://www.hks.harvard.edu/faculty/lawrence-h-summers, Michael Sandel, https://hls.harvard.edu/faculty/directory/10761/Sandel/, and Thomas Piketty, https://en.wikipedia.org/wiki/Thomas_Piketty.

I. Meet the Affluent

Tax law is vast and complex, but its main choice is simple and seemingly straightforward: who pays taxes and at what rates. The universally accepted general answer is that the rich should pay more than the rest while the poor should pay little or nothing. And it is here that tax system designers encounter an inevitable problem. There is no self-evident way to delineate any given part of the income or wealth distribution. How rich is rich? How poor is poor?

At the very top the issue is not too pressing. Whether one talks about the top 0.1 percent (about $2 million and up in annual income[4]), the millionaires, the oligarchs, the plutocrats, or the "billionaire class" (Astor 2019), one is talking about "the rich" no matter how one defines this term. But what happens when we lower our gaze below the peak?

This Part re-examines the most common and most accepted threshold used to separate "the rich" from the rest for the purposes of reforming the nation's tax-and-transfer policy: the top one percent of the income distribution. Although this threshold is useful, it turns out that there are more reasons for its usefulness than is commonly understood. This is because there is a strong case for separating the top of the income distribution into three groups rather than two: the really rich (the top 0.1%), the pretty rich (the next 0.9%) and the affluent (the next 9%), with the one percent threshold delineating the upper edge of the affluent group. That group, this Part explains, is distinctive enough and economically successful enough to merit serious consideration in any conversation about greater redistribution.

A. The Really Rich, the Pretty Rich, and the Affluent

"We Are the 99 Percent" slogan captured popular imagination during the heyday of the Occupy Wall Street movement. References to the "one percent" are now ubiquitous in the press and academic literature,[5] due in no small part to the pioneering work of Thomas Piketty and Emmanuel Saez (PS) along with their multiple collaborators (Piketty, Saez, and Stantcheva 2011; 2014; Alvaredo et al. 2013). "There is a familiar story about rising inequality in the United States, and its stock characters are well known. The villains are the fossil-fueled plutocrat, the Wall Street fat cat, the callow tech bro, and the rest of the so-called top 1 percent," wrote Matthew Stewart in a 2018 Atlantic essay (Stewart 2018). A year later, Saez and Gabriel Zucman (SZ, and together with Piketty, PSZ) reiterated in a book published on the eve of the 2020 presidential campaign: "the main fault line in the American society is … between the 1% and everybody else" (Saez and Zucman 2019c, 6).

Yet the data—including the data produced by PSZ themselves—tell a somewhat different story. Graphs in Figure 1 come from the latest (2022) update to the 2018 PSZ paper that reflects the

[4] See Part I.B.

[5] "Take the new rock star of economic history, Thomas Piketty. For him, inequality is pretty much all about the top 1 percent" (Reeves 2017, 21). "In recent years there has been considerable interest in the top 1 percent of the income distribution from both policymakers and the general public" (Auten, Gee, and Turner 2013, 170). "In the United States and other advanced economics, much of the recent debate on inequality focuses on the richest 1% and, increasingly, the 0.1%, the groups that have enjoyed the lion's share of income growth in recent decades" (OECD 2015, 20). "Political and academic debates often focus on the distinction between households in the top 1% of the income distribution ('the rich') and the bottom 99% ('the rest')" (Hemel and Rozema 2017, 679); (Zolt 2013, 644).

authors' most recent view of the historic income distribution in the United States.[6] Panel A shows income share trajectories over the entire period for which data are available for three groups: the top 0.1 percent (the really rich), the next 0.9 percent (the pretty rich), and the next 9 percent (the affluent).

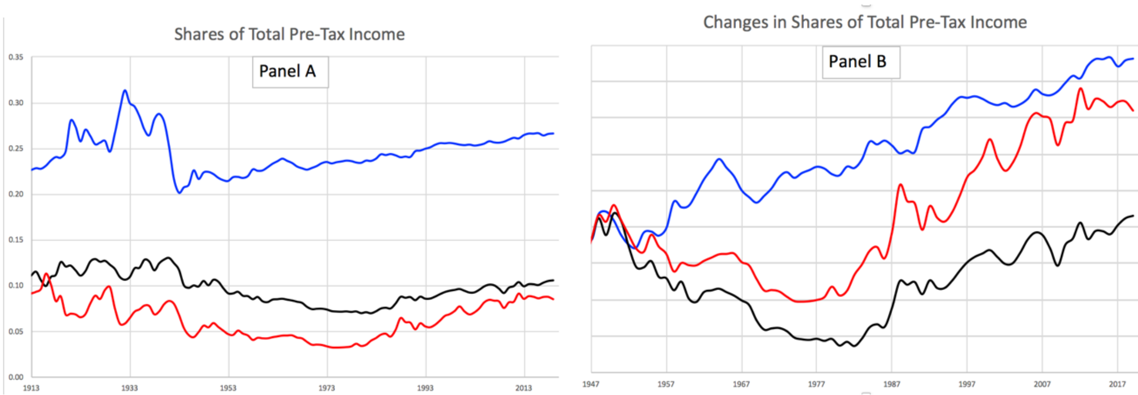

Figure 1. **Panel A**: Shares of Total Pre-Tax Income, 1913-2019, for the top 0.1% (red), the next 0.9% (99-99.9 percentile, black), and the next 9% (90-99 percentile, blue). **Panel B**: Changes in Shares of Pre-Tax Income, 1947-2019, for the top 0.1% (red), the next 0.9% (99-99.9 percentile, black), and the next 9% (90-99 percentile, blue).

For all three groups, income shares reveal a lot of volatility in the first half of the twentieth century. This is hardly surprising given that these decades featured a succession of dramatic and idiosyncratic periods: the roaring twenties, the Great Depression, and World War II. In the post-war era, income shares of the pretty rich and especially the really rich declined and then rose again while the income share of the affluent increased throughout the period. In contrast, income shares of the eight, seventh, and lower deciles (not shown) did not increase and, at lower deciles, declined precipitously.[7] These observations alone suggest that we should pay attention to the affluent.

Panel B shows why we should pay a lot of attention to that group. This panel depicts changes in income shares for the same three groups as in Panel A with two key differences. First, Panel B covers only the post-war era, avoiding idiosyncratic periods that preceded it. Second, the curves are shifted so that all three start at the same level in 1947.[8] The focus is on the changes from that point forward.

Two facts are clear from Panel B. First, the income share of the affluent has not only increased much more steadily than the shares of the other two groups, it increased by more than the rest.

[6] The data is available at http://gabriel-zucman.eu/usdina/, and it updates (Piketty, Saez, and Zucman 2018).

[7] A recent paper based not on tax records but on a newly constructed long-term series of the Survey of Consumer Finances comes to the same conclusion. Only the income share of the top ten percent increased (by 15 percentage points) between 1950 and 2016 (Kuhn, Schularick, and Steins 2020, 3488). The bottom 50 percent share fell by a third, and the income share of those in the 50-90th percentiles dropped by six percentage points.

[8] The graph starts in 1947 which is an arbitrarily picked date shortly after the end of World War II. The graphs would not change in any meaningful way if the starting date is anywhere close to the end of that war, that is, anywhere between 1945 and 1955.

The income share of the really rich has fluctuated but has now approached that of the affluent. In contrast, the pretty rich—the bulk of the one-percenters—have not done nearly as well. Their income share both fluctuated and failed to increase past its 1947 level.

To be clear, Panel B does not suggest that the really rich and the affluent have done equally well. The income share of the affluent increased by 5 percentage points and the income share of the really rich increased by 3.6 percentage points. But the base levels on which these increases took place are very different: 21.6 percent 1947 income share for the affluent, 4.9 percent 1947 income share for the really rich. In other words, the really rich saw an almost a 75 percent increase (from 4.9 percent to 8.5 percent) while the affluent saw a much more modest 23 percent increase (from 21.6 percent to 26.6 percent).[9] Nonetheless, in terms of the additional chunks of the total income share that each group captured in the post-war era, the affluent captured more.

Gerald Auten and David Splinter (AS) have a different take on the same data. Their well-known disagreement with PSZ is that once the proper adjustments to incomes and family units are made, the rise of the top one percent income share between 1960 and 2020 is not nearly as dramatic as what PSZ claim: from about 10 percent to about 14 percent rather than from about 9 to about 20 percent according to PSZ (Auten and Splinter 2022, 35).[10] But it turns out that AS and PSZ analyses have an important similarity—and the one that has remained unacknowledged in the literature as far as I can tell. That similarity lies in what their data tell us about the economic fortunes of the really rich, the pretty rich, and the affluent.

Figure 2, Panel A is based on Auten and Splinter data that is publicly available online.[11] It shows income share changes for the three groups of interest here from 1960 forward. For comparison, Panel B shows the PSZ data for the same groups and the same time period (rather than for the entire post-war era as in Figure 1, Panel B).

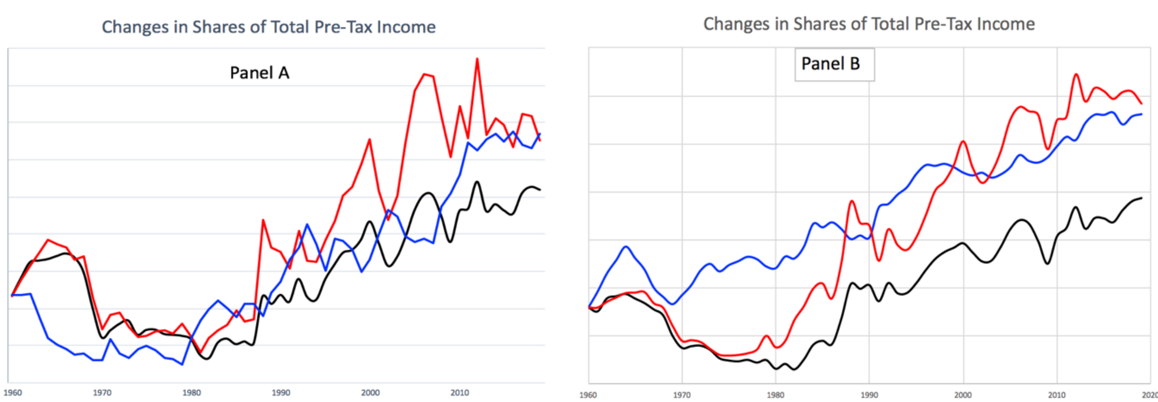

Figure 2. Changes in Shares of Pre-Tax Income, 1960-2019, for the top 0.1% (red), the next 0.9% (black), and the next 9% (blue). **Panel A**: AS. **Panel B**: PSZ.

[9] See Figure 1, Panel A.

[10] The 2022 PSZ update shows the increase for top one percent share from 12 percent to 20 percent. Four other groups of researchers working with the same and additional sources reached results close to those of AS (Auten and Splinter 2022, 4). All teams find increases in the top one percent income shares, but no team except for PSZ find a large increase in that share.

[11] Data is available at http://davidsplinter.com/AutenSplinter-IncomeIneq.xlsx.

The graphs speak for themselves. Both AS and PSZ show that between 1960 and 2019, the really rich have done slightly better than the affluent in terms of capturing additional income share. Both graphs also show that the pretty rich have lagged behind. AS and PSZ also reach similar conclusions about the much less optimistic picture for the rest of the population, especially after 1990's in AS estimates (Auten and Splinter 2022), Online Appendix, Table C2).

B. Distributional Fault Lines

We can now re-examine the one percent meme. Vigorous debates between PSZ and AS notwithstanding, the results from both research groups reject PSZ's as well as the popular view that the main economic fault line in American society is between the one-percenters and everyone else. It is simply not the case that the one-percenters as a group have done great while the rest have been treading water or worse. "We are the 99 percent" is a misleading slogan.

If one percent is indeed the magic number, it is not for the reason commonly assumed. If we considered anew which group (or groups) to focus on in addressing income inequality given the data just described, the two leading candidates would be the really rich and the affluent. The really rich would make the list because they experienced the most dramatic increase in their income share in recent decades. The affluent would make it because they have seen the most steady increase in their fortunes throughout the post-war era, and the largest absolute increase in their income share during that period. The case for focusing on the pretty rich—the bulk of the proverbial one percent—is significantly weaker by comparison.

Notably, the pivotal PS paper that kick-started the contemporary inequality debate did pay attention to the affluent and not just to the one-percenters (Piketty and Saez 2003).[12] Yet over time, PS' focus shifted decidedly towards the top one percent and its upper decile (the really rich), leaving the affluent mostly out of the picture (Atkinson, Piketty, and Saez 2011; Alvaredo et al. 2013; Saez 2017; Piketty, Saez, and Zucman 2018). The same shift took place on a much broader scale as well. The contribution of the affluent to income inequality faded into obscurity. Yet PSZ's own data as well as AS results clearly show that this forgetting of the affluent is not justified.

The discussion so far has focused on changes in income shares, and it has done so for two reasons. First, one needs to start somewhere. Second, it were these changes, reported by PS in their 2003 paper (Piketty and Saez 2003), that started the contemporary economic, cultural, and political debates about redistribution. Needless to say, changes in income shares are just one way of measuring inequality. Changes in wealth, economic opportunity, and political influence are among other relevant factors. As the later discussion will show, the affluent turn out to be significant—and in some cases primary—contributors to the growth of inequality measured in these other ways as well.

[12] Granted, the paper emphasized the steep rise in income shares of the top 1% and top 0.1%. But it also pointed out that "tax units within the top decile form a very heterogeneous group, from the high middle class families deriving most of their income from wages to the super-rich living off large fortunes" (Piketty and Saez 2003, 5).

C. Who Are These People?

Percentile thresholds are precise but abstract. Dollar thresholds are easier to grasp. And professions and career paths offer an even richer understanding. So who, exactly, are these affluent that this paper focuses on? And how do they differ from the one-percenters, that is, the pretty rich and the really rich?

Looking at tax returns, the top ten percent threshold was just under $152,000 in Adjusted Gross Income (AGI) according to the latest available 2018-tax-year data from the Statistics of Income Division (SOI) of the Internal Revenue Service (Dungan 2021, 41:9). But millions of Americans do not file tax returns, so the SOI threshold is surely too high. According to PSZ's Distributional National Accounts, the top-ten threshold in 2014 was $119,000, or about $137,000 in 2022 when adjusted for inflation (Piketty, Saez, and Zucman 2018, 575).[13] That number is too high as well. Distributional National Accounts allocate to individuals all income generated in the country (the so-called imputed national income), including, for instance, imputed rents (Piketty, Saez, and Zucman 2018, 561-62). So a conservative estimate of the top ten threshold today is about $150,000—conservative because the real threshold is probably quite a bit lower.

For the one-percent cutoff the numbers are significantly higher. It took AGI of almost exactly $540,000 to end up in the top one percent of the 2018 tax returns (Dungan 2021, 41:9). Given millions of non-filers, this threshold is too high as well. Two measures widely used in the income inequality literature are fiscal income and imputed national income. "In 2014, the top 1% and top 0.1% thresholds in the fiscal income series are $390K and $1.58M, respectively and in the imputed national income series are $420K and $1.88M" (Smith et al. 2019, 1685).[14] Rounding, updating for inflation, and taking a rough mid-point between these estimates, we can think of the one percent income threshold as about $500,000 and the top 0.1 percent threshold as about $2 million a year.[15]

What do these numbers mean? With earnings between $500,000 and $2 million a year, the pretty rich make enough to guarantee what people in this group often call "comfortable" lives. Successful lawyers, doctors, engineers, software developers, mid-level executives, and even some academics in select fields all belong to this group, especially if they are members of two-earner households. These workers are quite different from top executives, superstar lawyers and doctors, and successful business owners, as well as real estate and finance professionals, who belong to the really rich category (Bakija, Cole, and Heim 2012, 56–57; Smith et al. 2019, 1677).

At the same time, many of the affluent look nothing like any of the top earners just mentioned. Anyone starting a career as a Big Law associate, or as an associate at a Wall Street firm, or as a doctor in just about any surgical practice, or a software engineer in one of the top tech companies immediately joins the ranks of the affluent. There are, of course, many other members of this group, as the later discussion emphasizes. Perhaps, it is this group's great heterogeneity that lies at the heart of persistent confusion about how to define this group and even how to call it.

[13] The inflation adjustment is made using the Federal Reserve of Minneapolis calculator available at https://www.minneapolisfed.org/about-us/monetary-policy/inflation-calculator.
[14] For an explanation of the two income concepts see id. at 1684.
[15] Saez and Zucman reach a similar bottom line, concluding that the cutoff for the top one percent in 2019 was $500,000 (Saez and Zucman 2019c, 134).

Some monikers are quite creative. There are HENRYs—high earnings not rich yet—that apparently include the 95-99th percentiles of the income distribution (Fox 2021). Howard Gleckman calls the same group "merely rich" (Gleckman 2021) and Charles Murray calls it the "new upper class" (Murray 2012, 33). Saez refers to "upper middle income families and individuals (up to the top 1 percent threshold[)]" (Saez 2004, 149). Saez and Zucman define those in the 90-99th percentiles as "upper middle class" (Saez and Zucman 2019c, 4). Richard Reeves uses the term "upper middle class" to refer to those in the 80-99th percentiles of the income distribution, calling them "dream hoarders" as well as the "affluent" (Reeves 2017, 22, 104). Hoarders or not, calling someone in the 98th percentile "middle income" (Saez) or "middle class" (Saez and Zucman, as well as Reeves), even with an "upper" attached, is more than a little Lake-Wobegonian.

Americans' views about where the boundaries lie reflect similar confusion. Asked by Pew Research Center whether they view themselves as members of the "upper class, upper-middle class, middle class, lower-middle class, or lower class," only 1-2% of respondents picked the first category. About 15 percent—eighty-third to *ninety-seventh* percentiles of respondents—chose upper-middle class (Reeves 2017, 23). Karlyn Bowman and Eleanor O'Neal report that among respondents to the 2018 General Social Survey with incomes above $150,000 (surely placing every respondent in the top ten percent of the income distribution in that year), only 16% identified themselves as the "upper class," 64% called themselves "middle class," and 19% thought that they belonged to the "working class" (Bowman and O'Neil 2021, 245). The clear takeaway is that there is no generally accepted category describing people who are neither rich nor in the middle—not in academic discourse, not in political debates, and not in common imagination.

This conceptual and definitional ambiguity both reflects a problem and produces one. It reflects lack of clarity about an important group that has succeeded in American economy over the past seven decades. This lack of clarity, in turn, makes it very difficult to have a coherent discussion about redistribution from this group. It is hard to decide how to tax people without knowing who these people are!

This paper demonstrates that the affluent are a group that deserves special attention. Incomes between $150,000 and $500,000 may not seem particularly high to those who earn them (including many of those writing about taxation and redistribution for a living), but these incomes do delineate a cohort that has had significantly more economic success than everyone below it. This is true, as we have already seen, if we look at income shares. It will be also true when we look at other indicators of economic fortunes later on.

D. Why Incomes, Why Individuals?

There are two more ways to define targets of greater redistribution. First, targeting may focus on individuals' wealth rather than income. Second, corporations are often mentioned alongside "the rich" as plausible sources of additional tax revenue. Both approaches are plausible, but neither is taken in this paper.

The reason to foreground income rather than wealth is that we still know too little about wealth distribution, and we certainly know much less about it than we do about the distribution of incomes. Estimates of the wealth distribution are not new (Wolff 1998), but efforts to update and improve them kicked into high gear only recently (Piketty, Saez, and Zucman 2018; Bricker et al. 2016; Smith, Zidar, and Zwick 2020; Saez and Zucman 2016). These efforts produced many valuable, high-profile results that energized political campaigns in recent years. Most experts agree that wealth inequality has increased over the past decades. Yet great uncertainty remains.

Reviewing SZ's most recent numbers and comparing them to alternatives, Wojciech Kopczuk points out that not only SZ estimates differ from those by other researchers by trillions of dollars, but their own "headline estimate of an increase in the [wealth] share of the top 0.1 percent until 2012 has changed by 3.4 percentage points or $2.2 trillion between" 2016 and 2019 (Kopczuk 2019, 521). Kopczuk also explains, persuasively, why several highly unusual assumptions that SZ make in estimating wealth shares at the bottom of the distribution produce misleading results.

Anmol Bhandari and co-authors have recently taken a close look at the survey data that was the sole source of earlier wealth inequality estimates[16] and is critical to all of the most recent ones (Bhandari et al. 2020). Their conclusion is worth quoting in full:

> Survey data on businesses are a central input to studies of wealth inequality since rising business incomes account for most of the growth in the top 1 percent share. Even for researchers who use administrative IRS data and capitalize taxable incomes, survey data serve as the only check on distributional assumptions and capitalization factors. We find issues with both and therefore conclude that there is currently *no reliable estimate of wealth inequality for the United States* (Bhandari et al. 2020, 446) (internal citations omitted, emphasis added).

Clearly, changes in the wealth distribution are much more uncertain than changes in the income distribution are, and the same is true of their levels. Thus, this paper focuses primarily on income inequality, considering wealth only when income does not offer an alternative means of evaluating the arguments.

As for large corporations, the discussion of how they impact the distribution and redistribution of income and wealth is surely relevant to this paper. But this discussion deserves a separate treatment.

Needless to say, corporations neither suffer nor benefit from growing profits, rise in political influence, or changes in inequality—people do. Figuring out who these people are is a difficult task. To identify real beneficiaries of corporate profits we need to know what is their source (normal returns or above-normal, windfall returns called rents) and how these profits are divided among owners, workers, and (possibly) holders of other claims. To the extent shareholders benefit, we need to know who they are—who owns corporate shares, and, in particular, how is ownership of large companies distributed by wealth or income. To the extent that workers capture part of the benefit, we need to know whether all workers benefit equally or some workers gain more than others. If one concludes that policy intervention is appropriate, one would need to understand how various reforms would change answers to all of the questions just raised. For example, would an increase in the corporate tax rate, a tightening of antitrust enforcement, and a

[16] Wolff's estimates were based entirely on the Survey of Consumer Finances (Wolff 1998).

significant increase in the minimum wage all have similar effects on the source, magnitude, and allocation of corporate profits? These questions require more attention than may be fairly given to them here. Thus, the rest of the paper focuses on individuals rather than corporations, and considers these arguments almost exclusively by reference to incomes rather than wealth.

* * * * *

This Part offers what a lawyer may call a *prima facie* case for redistributing from the affluent, especially if one believes that we should redistribute from the one-percenters. A close examination of the income data that likely gave rise to the "we are the ninety-nine percent" meme shows that the affluent deserve our attention. Income share estimates show that in the post-World War II era, the affluent have outperformed the bulk of the one-percenters in a sense that compared to the latter, income shares of the former have risen more, more steadily, or both. Thus, if the argument for greater redistribution from "the rich" rests on the rise in top income shares, the argument must include the affluent as well.

But income shares are not the be all and end all. The next Part considers many other possible reasons to tax "the rich," revealing that they apply to the affluent to the same—and even greater—degree.

II. The Case for Taxing the Affluent

During the decades leading to the 2008 Financial Crisis, much higher taxes on the rich were not a major topic of political, cultural, or academic conversation. The prevailing conceptual framework—the optimal tax theory—did not support these taxes. In any case, that framework had only a remote resemblance to the actual U.S. tax system, weakening the framework's practical significance (Raskolnikov 2013). In an important book published in 2002, Liam Murphy and Thomas Nagel advanced an alternative, comprehensive, and much more pro-redistribution view of taxation than that offered by optimal tax theorists. Yet even these two political philosophers were uncertain about "whether large inequalities toward the top of the economic distribution are objectionable, independently of the value of lifting the standard of living and opportunities of those toward the bottom" (Murphy and Nagel 2002, 186). "[B]ringing the top down, unless it is a means of bringing up the rest, is not a policy that can be easily defended by politically attractive arguments," they concluded (187).

But things started to change soon after Murphy and Nagel's book came out, and by now the calls for taxing "the rich" rely on a well-known set of arguments that unfolds along the familiar lines. Ever since the Reagan presidency, "the rich" captured a grossly disproportionate share of national income. This process, turbocharged by abject flaws of our income tax laws, led to accumulation of enormous wealth at the top. The dramatic growth in income and wealth inequality undermined social mobility and allowed "the rich" to capture the U.S. political system, enabling them to retain their wealth and increase it further. In turn, these developments demoralized vast swaths of Americans, ultimately leading to political polarization and the rise of populism.[17] The solution is to tax billionaires out of existence, and also to impose high (though

[17] See, e.g., (Stiglitz 2012), (Saez and Zucman 2019c), (Stewart 2021).

not fully confiscatory) taxes on "the rich" to maximize the revenue for much-needed social programs.[18]

This Part considers these arguments with an eye toward the affluent. Research cited in support of these arguments focuses mainly on the one-percenters and, in some cases, only on their upper fraction. But a close reading of this research reveals surprising insights about the affluent as well. Putting these insights together leads to an inescapable conclusion: there is no reason to disregard the affluent as potential sources of significant new tax revenue.

A. Who Earned All Extra Income?

The most intuitive and possibly the most convincing argument for taxing "the rich" is that they have captured a very large portion of U.S. economic gains since the late 1970s. But as we have already seen, there is a reason to doubt this claim. It is well-known that the bulk of one-percenters have not done nearly as well as the really rich (Guvenen and Kaplan 2017). That the pretty rich have not done nearly as well as the affluent seems to be completely unrecognized. Yet the analysis in the previous Part leaves little doubt that this is exactly what happened.

Moreover, there are other ways of looking at income changes—ways that suggest that we should pay plenty of attention to the affluent. To start, it turns out that in absolute terms, the affluent have captured a great share of recent economic gains. As David Autor explains,

> Consider the earnings gap between a college-educated two-earner husband-wife family and a high school-educated two-earner husband-wife family, which rose by $27,951 between 1979 and 2012 (from $30,298 to $58,249). This increase in the earnings gap between the typical college-educated and high school-educated household earnings levels is *four times as large* as the redistribution that has notionally occurred from the bottom 99% to the top 1% of households. What this simple calculation suggests is that the growth of skill differentials among the "other 99 percent" is arguably even more consequential than the rise of the 1% for the welfare of most citizens (Autor 2014).

Richard Reeves offers another way of making a similar point. Citing data from Congressional Budget Office, he points out that while the average salary of the top quintile of earners grew by 58 percent since 1979, the average salary of the same group excluding the top one percent grew by 44 percent—a large fraction of the overall gain (Reeves 2017, 29). Looking at the totals rather than the averages reinforces the takeaway. Between 1979 and 2013, "the top 1 percent saw a jump of $1.4 trillion in pretax income, while those between the eighty-first and ninety-ninth percentiles saw a gain of $2.7 trillion" (Reeves 2017, 26). There is a lot more income to redistribute downward if one looks below the top one percent.[19] If we wanted to share *all* recent income gains more broadly, surely the affluent should do some sharing.

[18] Bernie Sanders memorably tweeted during the last presidential campaign that "There should be no billionaires" in America, https://www.cnn.com/2019/09/24/politics/bernie-sanders-ultra-wealth-tax-billionaires/index.html.

[19] The seeming dissonance between the curves representing dramatically growing top income shares in Figure 2.A and the Reeves' analysis reflects disagreements about the distributional allocation of economic growth. As Auten and Splinter, explains, the "approach of PS [(Piketty and Saez 2003)] implies that 58 percent of the increase

Furthermore, rather than focusing on inequality of incomes, we may consider inequality of lifetime earnings. That is, we can look at lifetime rather than annual numbers, and at people rather than incomes. Doing this is challenging because one needs to know entire earning histories of millions of workers. A recent working paper by Fatih Guvenen and colleagues offers new insights into lifetime earnings inequality (Guvenen et al. 2021). They find that inequality has been increasing over time, but at varying rates.

Guvenen and coauthors trace 31 years of wage earnings for cohorts of workers between ages 25 and 55 starting in 1957 and ending in 1983 (in the main sample). They find that for cohorts turning 25 between 1957 and 1967, the 99th percentile of earners experienced a much faster growth in lifetime earnings compared to those in the 95th and 90th percentiles: 51.91% compared to 21.33% and 15.98% respectively (the median rate was 9.02%) (Guvenen et al. 2021, 16). But the picture was very different for the 1967 to 1983 cohorts whose observed earnings histories ended between 1998 and 2014. For them, earners in the 99th percentile of the 1983 cohort had lifetime incomes 10.67% higher than those in the 1967 cohort. The numbers were 14.05% for earners in the 95th percentile and 9.92% for earners in the 90th percentile. In other words, during a longer and more recent period, wage earners with incomes in the 99th percentiles did about as well as those in the 90th percentile and worse than those in the 95th (16).

One should keep in mind that these findings report only changes in lifetime earnings inequality of wages. They include neither self-employment income nor capital appreciation—two important components of incomes at the very top (Piketty, Saez, and Zucman 2018; Smith, Zidar, and Zwick 2021b). Nonetheless, the new evidence produced by Guvenen and coauthors adds to doubts about the merit of a sharp separation between the one-percenters and the affluent.[20]

Another possible justification for taxing "the rich" comes from asking not who captured most income but how they captured it. If they did so by contributing to economic growth, perhaps no policy intervention is needed. But if they captured more income while imposing negative externalities (or failed to capture it while creating positive externalities), government may need to intervene by adjusting the tax law. This line of reasoning would tell us to focus on the very top of the distribution if that group of is particularly "guilty" of creating negative externalities.

Ben Lockwood, Charles Nathanson, and Glen Weyl consider how the optimal tax policy would account for the fact (if true) that high-income professions impose negative externalities while low-income profession give rise to positive ones. Individual earners do not take externalities into account but a social planner should. So the hypothesis is that taxing high incomes would incentivize individuals to choose socially valuable professions and forgo less socially valuable

in fiscal income between 1979 and 2019 went to the top one percent of tax units [see also (Atkinson, Piketty, and Saez 2011a, 8)]. PSZ [(Piketty, Saez, and Zucman 2018)] pre-tax income estimates imply 31 percent went to the top one percent. In comparison, our estimates imply that only 22 percent of the increase in pre-tax income went to the top one percent" (Auten and Splinter 2022, 20).

[20] How could it be that lifetime incomes of those in the 99th percentile grew slower than of those in the 95th percentile while top 1% income shares increased much faster than all others? The answer is that the cross-sectional results depicted in Figures 1 and 2 are not directly comparable to the panel studies of lifetime incomes, as explained in detail in (Guvenen et al. 2021, 31–33).

pursuits. More engineers, teachers, and researchers; fewer finance types and, perhaps, a bit fewer lawyers as well (Lockwood, Nathanson, and Weyl 2017, 1646).

Lookwood and co-authors' paper is best described as an application of very rigorous economic theory to very sketchy empirical inputs (which the authors candidly call "highly uncertain extrapolations from heterogenous and not easily comparable studies") (Lockwood, Nathanson, and Weyl 2017, 1660). The empirical inputs are the assumptions about externalities produced by various professions. Finance gives rise to the largest negative one. Law is slightly negative but close to zero.[21] Engineering is slightly positive. Teaching is quite positive. And research is extraordinarily positive (no doubt because the estimate for research is for medical research) (1661). Still, while the specific externality estimates are questionable, their rough ordering seems plausible, so it is interesting to trace the implications.

What lessons do Lockwood, Nathanson and Weyl draw from taking seriously an effort to reflect these externalities in tax rates? The paper's abstract offers a clear answer:

> Estimates from the literature suggest that high-paying professions have negative externalities, whereas low-paying professions have positive externalities. A calibrated model therefore prescribes negative marginal tax rates on middle-class incomes and positive rates on the rich. *The welfare gains from implementing such a policy are small and are dwarfed by the gains from profession-specific taxes and subsidies*. These results depend crucially on externality estimates and labor substitution patterns across professions, both of which are very uncertain given existing empirical evidence (1635, emphasis added).

This conclusion makes perfect sense. If finance is a socially unproductive activity, the solution is to tax everyone working in it—from an aspiring analyst to the CEO. And if that policy were implemented, plenty of affluent finance workers would see their taxes go up.

Casey Rothschild and Florian Scheuer explore an even more complicated model of tax responses to rent-seeking in which government efforts to tax it also burden productive activities because it is difficult to separate the two either across or within professions (Rothschild and Scheuer 2016, 1225–26, 28–29). The optimal policy turns out to be much more complex than a simple Pigouvian taxation of externalities due to general equilibrium effects. Remarkably, this remains true even if at some point in the distribution the social planner knows that all income is from rent-seeking (1227). Informational demands of taxing income resulting from activities giving rise to negative externalities are overwhelming.

The implications of this discussion are easy to see. Whether one focuses on the magnitudes of income gains or their origin, there is no reason to ignore the affluent as sources of greater redistribution. Excluding the affluent from higher taxes would leave a lot of revenue on the table—much more revenue, in fact, than *all* the revenue available by restricting redistribution to the one-percenters. If some professions are bad for society and if a tax is a solution to this problem, the affluent members of these professions should be taxed more. Overall, then, if the

[21] The reader should not confuse a description of these assumptions with an agreement with them. Countries without the rule of law are not pleasant places to live in!

goal is to redistribute from those who have done particularly well in the past decades as measured by their incomes, redistribution from the affluent should be part of the conversation.

B. Who Got Rich?

Turning from incomes to wealth, it is worth repeating that wealth estimates are even more speculative than income estimates are. But given the importance of wealth inequality as well as the renewed policy and academic interest in wealth taxation, we now consider the wealth estimates with an eye toward the affluent.

The most recent and detailed estimates of wealth distribution come from PSZ (Piketty, Saez, and Zucman 2018), from Matthew Smith, Owen Zidar and Eric Zwick (SZZ) (Smith, Zidar, and Zwick 2021b), and from a team of Federal Reserve economists (Batty et al. 2019). As with income distribution, the PSZ team estimates diverge from others, showing both the greatest wealth concentration within the top one percent and the strongest growth in the wealth of that group. The main reasons for this divergence are well-understood, and PSZ estimates are probably too high.[22]

In any case, the overall trajectories of changes in wealth concentration and the current wealth shares are fairly similar for all estimates. All show an increase in the wealth share of the top one percent from the mid-1970's and a decrease in the wealth share of the bottom ninety percent over roughly the same period. The wealth share of the affluent has been stable since the mid-1980s.

PSZ report that the top one percent share is about 35 percent while the share of the affluent is a slightly higher 36.5 percent.[23] SZZ estimate the 31-33 percent range for the top one percent a 35-38 percent range for the affluent as of 2016 (Smith, Zidar, and Zwick 2021b, 71, App 94). The Fed team's estimates are about 32 percent for the one-percenters and a larger 38 percent for the affluent (Batty et al. 2019, 26). A slightly more recent estimate from the Joint Committee on Taxation shows an even greater difference: 30.8 share for the one-percenters and 38.4 percent share for the affluent (Joint Committee on Taxation 2021, 22). Thus, all research groups report that the affluent as a group hold more wealth than the one-percenters as a group—either slightly or significantly.

Turning from wealth shares to wealth growth rates yields similar conclusions. "Average wealth of the bottom 90 increased modestly by 17% from 2001 to 2016,[[24]] whereas average wealth for P90-99 and the top 1% rose by 40% and 49% respectively," SZZ report (Smith, Zidar, and Zwick 2021b, 48).[25] From the turn of this century, the wealth of the affluent and the one-

[22] There are three major reasons for the divergence. The first one is Saez and Zucman's implausible assumption that returns on fixed income assets do not vary by wealth. The second one is their decision not to assign wealth to individuals showing net tax losses even though tax losses (often due to large depreciation deductions) by no means equate with zero net worth. And the third reason is their choice of imputing the value of corporate equity based in large part on realized capital gains rather than dividends. All three reasons are recognized in the literature, with the first and the largest cause of the difference being pretty much undisputed (Bricker, Henriques, and Hansen 2018, 3; Smith, Zidar, and Zwick 2021b, 6, 47).

[23] The most recent updates are available at http://gabriel-zucman.eu/usdina/.

[24] The change was from $120K to $140K in 2016 dollars.

[25] The changes were from $1.0M to $1.4M for the affluent and from $7.7M to $11.5M for the one-percenters.

percenters grew at similar rates.

PSZ report that between 2000 and 2019, the wealth share has not changed for the affluent, has increased by a bit less than 0.8 percentage points (or 5.1 percent) for the pretty rich, and has grown by 1.7 percentage points (or 10.7 percent) for the really rich. Yet again, and with the caveats about the likely skew in PSZ's estimates, the affluent look do not look much different from the pretty rich.

Edward Wolff has been extracting wealth statistics from the Survey of Consumer Finances for many years. This source is informative overall but not particularly reliable in producing wealth estimates, especially at the top (Bhandari et al. 2020; Smith, Zidar, and Zwick 2020). With that in mind, and given the paucity of data, what do we see in Wolff's numbers (Wolff 2021)?

His latest summary captures years up to 2019. Two results are relevant for our purposes. First, the top one percent of wealth holders owned 38.2 percent of all wealth in the United States. The next nine percent owned 39.8 percent (48). Again, we see very comparable numbers. Second, the top one percent of wealth holders saw their wealth grow by 157.2 percent between 1983 and 2019. The growth is higher, at 187.9 percent, for the next four percent of the wealth distribution (that is, the top near-half of the affluent); and it is 118.3 percent for the following five percent (the rest of the affluent) (50).

Clearly, whether one looks at wealth shares or wealth growth, at the administrative tax data or at the survey data, the affluent have done well. Their wealth as a group exceeds that of the one-percenters. If one seriously considered taxing wealth, excluding the affluent would shrink the plausible tax base by more than half.

Of course, the affluent are nine times more numerous that the one-percenters are. So their individual wealth has not grown as much as that of the one-percenters. And their taxes should probably not grow as much either. But leaving the affluent out of the conversation about new revenue sources altogether amounts to a position that their taxes should not grow at all. That position is difficult to justify given the great wealth of the affluent.

The data on wealth distribution just discussed does not include one major source of wealth—the estimated $58 *trillion* in the present value of future Social Security benefits (Bricker et al. 2016, 307). Zucman's arguments in support of this exclusion have been rebutted, convincingly in my view (Sylvain, Miller, and Sarin 2020, 44–45). Perhaps it makes sense to include less than the full present value of Social Security benefits in light of their illiquidity and (partial) non-inheritability. But ignoring one of the two main sources of wealth for the bottom 90 percent of the distribution is not justified.

Taking Social Security into account leads to predictable results. The top one percent share drops from the range (in various studies) of 25-40% to the range of 20-30%. More dramatically, the growth in the top one percent share becomes only minimal or disappears altogether (Smith, Zidar, and Zwick 2021b, 40–41; Sylvain, Miller, and Sarin 2020, 46–47). Thus, accounting for Social Security further weakens the exclusive redistributive focus on the one-percenters. If their wealth is a reason to tax them more, the same is true for the affluent taken as a group.

C. Who Ruined the American Dream?

Almost all income and wealth inequality studies come with a major caveat: they measure trajectories of incomes and wealth, not people. A finding that the income share of the top one percent doubled in ten years may reflect, in extreme, a situation where *none* of the one-percenters in year one remain in the top percentile in year ten. The opposite would be true in a society with very low mobility where the elites are entrenched and are perpetuating their status, passing it on to their children. If America happens to be such a society, the key question for our purposes is who causes low (or declining) mobility, and, in particular, are the affluent part of the problem.

Researchers of economic mobility have studied four separate mobility concepts, each significant in its own way. Mobility can be relative or absolute, and it can be intra- or inter-generational. Relative intra-generational mobility "shows how the income of households changed over time relative to the incomes of other households" (Auten and Gee 2009, 306).[26] Relative inter-generational mobility is "a child's chance of moving up [or down] in the income distribution relative to her parents" (Chetty, Hendren, Kline, Saez, et al. 2014, 141).[27] Absolute intra-generational mobility "shows how the real incomes of households changed over time" (that is, how much they rose or declined) (Auten and Gee 2009, 306). And absolute inter-generational mobility tells us what fraction of children earn more money than their parents (Chetty et al. 2017).[28] We will consider these four kinds of mobility in turn.

1. Relative Intra-generational Mobility

Gerald Auten and Geoffrey Gee pioneered the use of tax data to evaluate U.S. relative intra-generational mobility (Auten and Gee 2009, 309).[29] In contrast with earlier studies, Auten and Gee data included the highest income earners.[30] They found that of households with incomes in the top one percent in 1996, only 41.5 percent *also* happened to have incomes in the top one percent in 2005 (307). Importantly, this does not mean that at least 41.5 percent of households *stayed* in the top one percent continuously from 1996 to 2005.[31] To the contrary, the share of

---

[26] "Relative" means relative to other households, which may be all other households or only the group of specific households whose income is tracked in the study (Auten and Gee 2009, 307). The former, as Auten and Gee point out, "likely represents the most common understanding of income mobility, moving up (or down) relative to the total population" (Auten and Gee 2009, 307).

[27] More generally, inter-generational relative mobility tells us to what extent parents' incomes determine those of their children. There is no single precise definition of this term (Chetty et al. 2014, 141-42), (Chetty, Hendren, Kline, and Saez 2014, 1555), (Lee and Solon 2009, 767 & n.5), (Reeves 2017, 61).

[28] Again, more than one definition has been used, including by the same groups of researchers. Chetty and co-authors define "absolute mobility at percentile p" as "the expected rank of children from families at any given percentile p of the national parent income distribution" (Chetty, Hendren, Kline, and Saez 2014b, 1556, 1562). Reeves defines it as "a measure of whether you are economically better off than your parents were at the same age" (Reeves 2017, 61).

[29] They used their data to investigate absolute mobility as well, as discussed below.

[30] In contrast, earlier research relied on the survey evidence from the Panel Study of Income Dynamics that has scant data on high-income households and excludes the highest income households altogether (Auten and Gee 2009, 309)

[31] For example, it is possible that a household was in the top 1% in 1996 and also in 2006 but at no time in-between.

households remaining in the top one percent from year to year drops in half after just two years and falls to somewhere between a third and a quarter after five (Auten, Gee, and Turner 2013, 171).[32]

The top ten percent group is significantly more stable. Of those in that group in 1996, 61.7% stayed in top ten percent until 2005. Moreover, the 1996 one-percenters who fell out of the top one percent by 2005 ended up mostly in the top ten percent.[33] At the same time, over a ten-year period, "as many as 10 percent of the population have at least 1 year in the top 1 percent" (Rose 2020, 21).

The implication is clear: if we wanted to redistribute from well-off *people* whose incomes reach the top one percent at some point, increasing taxes on *incomes* in the top one percent would yield only sporadic and limited redistribution. Higher taxes on incomes on the top ten percent, in contrast, would do the job quite well.

Changes in mobility are as important as its levels are. Auten and Gee compared income changes during 1987-1996 period to those between 1996 and 2005 (Auten and Gee 2009, 312–13). They found that intra-generational mobility changed very little between the two periods. Chetty and co-authors reached the same conclusion based on a study of an even more robust dataset (Chetty, Hendren, Kline, Saez, et al. 2014).

But Auten and Gee also found something that is both surprising and highly relevant for our purposes. The small decline in overall mobility was explained entirely by "less downward mobility out of the top income quintile" (313). Moreover, not everyone in that top twenty percent group fared equally well.

> [T]he percentage of households in the top income quintile that remained there increased from roughly 62 [to] 69 percent even though the percentage remaining in the top 1 percent stayed the same. … [Moreover,] the percentages of households remaining in the top income groups increased from 56 [to] 62 percent for the top 10 percent and from 51 [to] 54 percent for the top 5 percent. Thus, *the decrease in downward mobility occurred for all but the top 1 percent of households* (Auten and Gee 2009, 313–14) (emphasis added).

The affluent, it turns out, have been particularly successful in entrenching their economic advantage—more successful, in fact, than the one-percenters. As people's incomes rose and fell over their working years, incomes of the affluent increasingly kept these earners among the affluent. I am not aware of other research confirming or questioning this finding. So, as always, caution is appropriate in interpreting it. But for now, the affluent appear to be primarily

[32] These results contrast with the findings of Wojciech Kopczuk, Saez, and Jay Song who saw more persistence in the top 1% over time based on the Social Security data (Kopczuk, Saez, and Song 2010, 114). They found that about 40% (rather than 66-75%) of top one-percent wage earners drop out of the top percentile after five years (114). The most likely reason for the difference between the two papers is that Social Security income excludes all business and capital income (94)—two volatile and increasingly important sources of income at the very top of the distribution (Smith et al. 2019). Auten and Gee's data includes both types of income (Auten and Gee 2009, 325).

[33] Specifically, 81.2% of 1996 one-percenters were in top ten percent in 2005. The results are similar when the mobility is measured by reference to the specific group being studied rather than to the population as a whole (Auten and Gee 2009, 308).

responsible for the decline in relative intra-generational mobility.

The claim of responsibility here is not a causal explanation. Rather it is a purely mechanical observation. The affluent did *something* to arrange their economic affairs in such a way that more and more of them have kept their incomes in the top ten percent of the distribution. As a matter of arithmetic, this success necessarily means that others have been having increasingly hard time becoming affluent themselves. The same logic applies to other characteristics suggesting the increasing economic success of the affluent. But causal explanations do exist. The rising educational premium mentioned earlier is part of the story, but only a part of it.[34] There are more sinister reasons as well, as we will see later on.

2. Relative Inter-generational Mobility

Turning from intra- to inter-generational relative mobility, recall that it is "a child's chance of moving up [or down] in the income distribution relative to her parents" (Chetty, Hendren, Kline, Saez, et al. 2014, 141). A well-known cross-country comparison between this mobility and inequality identified by Miles Corak reveals what Alan Krueger famously dubbed the Great Gatsby Curve (Corak 2013, 80–82). Among OECD countries, the United States has the highest inequality and next to the lowest mobility. Moreover, inequality and mobility across countries are clearly correlated, leading to suggestions that high inequality is the cause of low mobility.

Whether such causal relationship exists is very much an open question (Kearney and Levine 2016, 336), (Berman 2022). Our focus, however, is not on the differences in inter-generational mobility as such, but on the contributions to it by the affluent. And here, again, it turns out that ignoring the affluent is wholly unjustified.

Consider another stylized fact highlighted by Corak: the Great Gatsby Curve looks quite similar to the relationship between inter-generational mobility and the college earnings premium. A closer look at this relationship reveals that it is the post-graduate education that really turbo-charges wages, lifting the entire premium (Autor 2014, 849). Obviously, there are many more American workers with graduate and professional degrees than there are one-percenters. According to the 2020 National Employment Matrix compiled by the Bureau of Labor Statistics, 10.6 percent of all workers had Master's degree in 2020 and 4.4 percent had a doctoral or professional degree.[35] These numbers are not far from the totals in the affluent category.

Corak dug deeper into the stark difference in inter-generational mobility between two similar countries: the U.S. and Canada. He discovered that this difference arises in a very particular way. Overall, the U.S. mobility is about half that of Canada. But this difference "has little to do with the degree of mobility of children raised by families in broad swaths of the middle part of the distribution. … [Rather, it] is at the extremes of the distribution that the two countries differ" (Corak 2013, 83). At the upper end, it is the difference in inter-generational mobility of the top ten percent of earners that sets two countries apart. Americans born into the top decile stay in the top decile.

[34] See Autor's quote in Part II.A.
[35] https://www.bls.gov/emp/tables/educational-attainment.htm.

Raj Chetty and co-authors allow us to look inside that top decile. These researchers investigated inter-generational mobility based on a national sample of millions of tax returns—the most empirically robust U.S. mobility study by a wide margin (Chetty, Hendren, Kline, and Saez 2014). After replicating Corak's (Corak 2013) Great Gatsby Curve, the researchers re-ran the same regression focusing on the top 1 percent. What they found likely explains the fate of Krueger's prediction that the recent increase in inequality will lead to a twenty-percent drop in mobility (Krueger 2012).

> One explanation for why this prediction was not borne out is that much of the increase in inequality has been driven by the extreme upper tail (Piketty and Saez 2003). In (Chetty, Hendren, Kline, and Saez 2014), we show that there is little correlation between mobility and extreme upper tail inequality—as measured e.g., by top 1 percent income shares—both across countries and across areas within the United States. Instead, the correlation between inequality and mobility is driven primarily by "middle class" inequality, which can be measured for example by the Gini coefficient among the bottom 99 percent (Chetty, Hendren, Kline, Saez, et al. 2014, 146).

Setting aside the reference to the bottom 99 percent as "middle class," these findings point squarely at the affluent. They are the only group (other than the one-percenters) whose income share rose throughout the decades after World War II.[36] They are the group, as Corak showed, that accounts for much of the difference between low-mobility U.S. and high-mobility Canada. If higher inequality does indeed undermine inter-generational mobility, it is the rise of the income share of the affluent, not the one-percenters, that likely lies at the heart of the problem.

3. Absolute Intra-generational Mobility

We now turn from relative mobility to absolute one, starting with its intra-generational version. This is a measure that "shows how the real incomes of households changed over time" (that is, how much they rose or declined) (Auten and Gee 2009, 306). The one-percenters, it turns out, have not done nearly as well as the affluent based on that measure.

Incomes of those in the top one percent are both much more volatile and more likely to fall than those in the top ten percent. Less than half of the 1996 affluent saw their incomes decline in absolute terms by 2005, but two-thirds of one-percenters did.[37] Moreover, less than twenty percent of the affluent saw their incomes cut in half or worse over the same period, but that share of big losers was more than twice as high among the one-percenters.[38] The bottom line is that having a one-percenter-type income in a given year makes it likely that one is about to experience a significant income drop in the near future. Anyone recognizing the normative appeal of income averaging would agree that these results strongly suggest that large tax

[36] See Figure 2.

[37] Specifically, 52.8 percent of 1996 those with incomes in the top ten percent saw their incomes decline, but the number was a significantly higher 66.9 percent for the one-percenters (Auten and Gee 2009, 310).

[38] Specifically, 18.9 percent of ten-percenters saw their incomes cut in half or worse, but that number was a dramatically higher 41.7 percent for the one-percenters (id.).

increases on top one percent and no increases at all on the next nine make little sense.[39]

Moreover, the affluent have a greater chance to see income increases compared to the one-percenters (Auten and Gee 2009, 315). Although the median income of the top quintile declined by 5.1 percent between 1987 and 1996, it increased by 8.6 percent between 1996 and 2005. For the top one percent, in contrast, the story was of a continuing decline. Median incomes for this group in 1987 declined by 32.1 percent by 1996; and the decline was 30.9 percent for 1996 one-percenters by the time 2005 arrived.

Clearly, tracing income trajectories of high-income people over time reveals a very different picture from tracing the magnitudes of incomes that fall into a particular percentile of the distribution in a given year. The former are the ones containing information about how actual people advance in the economy during their lifetimes. And given what we know about how incomes of individual high earners changed over time, the case for taxing the affluent grows stronger.

4. Absolute Inter-generational Mobility

Finally, what about absolute inter-generational mobility—the fraction of children who earn more than their parents (Chetty et al. 2017)? Raj Chetty and co-authors discovered that this mobility for a median father-son pair fell from 92% for cohorts born in 1940 to 50% for cohorts born in 1984 (399). Was this precipitous decline due to slower economic growth or to rising inequality?

To answer this question, the researchers simulated what would happen to absolute mobility under two alternative scenarios. They found that in the "higher growth" scenario in which children in the 1980 cohort experienced the same rate of GDP growth as those in the 1940 cohort, median absolute mobility for the 1980 cohort would rise from 50% to 62%. In contrast, in the "more broadly shared growth" scenario in which the actual GDP in 2010 (when 1980 cohort reached the age of 30) is allocated based on the 1970 level of inequality (when 1940 cohort reached the same age), the median absolute mobility would rise from 50% to 80%. The authors conclude that "reviving 'American Dream' of high rates of absolute inter-generational mobility would require more broadly shared economic growth rather than just higher GDP growth rates" (399).

Chetty and co-authors include graphic results of their "higher growth" and "shared growth" simulations, and these graphs reveal a curious detail. When one compares the curves for 1940 and 1980 cohorts, not only the 1980 *median* mobility is much lower, but the entire 1980 curve lies far below the 1940 curve. Lower mobility affects everyone. But when one compares the two hypothetical curves for the "higher growth" and "shared growth" scenarios, for those above the 95th percentile there is no difference at all, and for those between the 90th and 95th percentiles the outcomes are similar, even though the *medians* for the two curves differ by almost twenty percentage points.

The implication is that the affluent—and not only the one-percenters—are in a particularly advantageous position. Whether the American economy starts growing faster or the American

[39] Auten and Gee emphasize the commonality of positive and negative income shocks at the top of the distribution and the benefits of multi-year income measures as well (Auten and Gee 2009, 322).

social policies succeed in reducing income inequality, the affluent stand to gain either way. The same is certainly not true for the rest of the population.

Finally, Chetty and colleagues show that the relationship between mobility and inequality is similar for relative and absolute inter-generational mobility. Both correlations are strong for the bottom 99 percent and weak or non-existent for the top one (Chetty, Hendren, Kline, and Saez 2014b).

* * * * *

During the past two decades, an entirely new generation of studies have offered rigorous findings about economic mobility in the United States. Rather than relying on a few thousand survey responses that include no high-income individuals as the earlier researchers had to do, these new studies are based on hundreds of thousands and, more recently, tens of millions tax returns and Social Security records. These studies have the empirical power to offer new insights into mobility at the very top of the income distribution, and these insights clearly implicate the affluent.

Incomes of the affluent are much more stable compared to the one-percenters. The turnover among the affluent is much lower than among the one-percenters. Overall downward mobility at the top decreased, but the entire decrease took place below the top one-percent threshold. By any measure, the affluent have been uniquely successful in entrenching their economic position.

Moreover, the correlation between mobility (whether relative or absolute) and inequality exists, but only for the bottom 99 percent. Yet a U.S.-Canada comparison shows that it is the lower inter-generational mobility of the top ten percent of earners that largely explains why Canada has one of the highest inter-generational mobilities while the U.S. has one of the lowest. The overlap between the bottom 99 percent and the top ten is, obviously, the affluent. Given all these findings, the affluent appear to have played the key role in the stagnation and decline of social mobility in the United States.

This conclusion is not to be taken lightly. A belief that hard work will bring success is a core part of the American Dream. The belief in that dream "turns out to be a key determinant of support for redistribution" (Alesina, Miano, and Stantcheva 2020, 325). And that support determines the broad outlines of the social welfare state. If any social group is undermining the American Dream—as the affluent appear to do—higher taxes on that group should be given serious consideration.

D. Who Sapped the American Spirit?

Until now, we have been looking at objective economic characteristics. But the wallet and the bank account are not the only determinants of human happiness. People care about many other things, including their standing among peers and their future prospects. If the rising inequality makes millions of Americans feel bad about their place in society and pessimistic about their future, as the proponents of greater equality assert, this is a cause for concern whatever the actual changes in income shares and social mobility happen to be. And if this cause for concern is real, if inequality does sap the American spirit, our task is to discover who, exactly, does the sapping.

This section considers arguments about people's beliefs and feelings, not their adjusted gross incomes and account balances. Nonetheless, beliefs and feeling can be, and have been, modeled and measured. The results of these modeling and measuring efforts help answer this section's opening question.

Robert Frank introduced (really, reintroduced[40]) and popularized the idea that "keeping up with the Joneses" is an essential part of human behavior (Frank 1985). It is also the cause of much frustration. When everyone tries to out-consume everyone else, everyone wastes resources and almost no one succeeds. There is always someone with newer sneakers, better cell phone, nicer car, bigger house, faster private jet, fancier yacht, or a higher ranking in the Forbes 400.[41]

Frank marshals plenty of evidence that people value so-called positional goods because these goods make their owners better off not in absolute terms but by comparison. The comparison, however, is not just to any random human being. Frank quotes Bertrand Russell's quip that "Beggars do not envy millionaires, though of course they will envy other beggars who are more successful" (Frank 1985, 106). Citing empirical studies of labor force participation, hours worked, changes in income distribution, and even human physiology, Frank drives home the point that "it is local rank that matters most" (Frank, Posner, and Mullainathan 2005, 138). The title of Erzo Luttmer paper, *Neighbors as Negatives*, leaves no doubt that he reaches the same conclusion in one of the most rigorous studies of self-reported happiness (Luttmer 2005). Psychologists concur (Jackson and Payne 2021). Researchers find that not only it is local comparisons that matter, the impact of these comparisons grows with social connectedness of individuals to their neighbors (Luttmer 2005, 989; Stutzer 2004, 90). The most recent and rigorous research shows that of many possible comparison groups, it is the group that individuals expect to have incomes comparable to their own (those with the same education level and working in a similar industry) that matters most (Hvidberg, Kreiner, and Stantcheva 2021, 3).

A beggar's focus on more successful beggars rather than millionaires does not mean, however, that millionaires do not matter in positional arm's race. Society, Frank explains, consists of a series of increasingly well-off groups, with members in each group benefitting from one own's group's standing above another group just below and suffering from one own's group's standing below another group just above (Frank 1985, 106).[42] The result is a chain of comparisons going all the way to the very top. Higher inequality "stretches" this chain, exacerbating efforts to outspend those in one's social circles—efforts that waste resources and make everyone miserable in the process (Frank, Levine, and Dijk 2014, 58–62).

The important point for our purposes is that there is no sharp break between one group (say, the

[40] As Frank pointed many times, the original source of many of his ideas is (Duesenberry 1949). Going even further back, John Stuart Mill noted that "men do not desire to be rich, but richer than other men" (Luttmer 2005, 963) (quoting Mill).

[41] If one would like a more technical explanation, Erzo Luttmer offers one. He finds that "[a]n increase in neighbors' earnings and a similarly sized decrease in own income each have roughly about the same negative effect on well-being. This suggests that an increase in own income leads to a negative externality on neighbors' well-being that is *of the same order of magnitude* as the positive effects on own well-being" (Luttmer 2005, 990) (emphasis added).

[42] The exception, of course, is the least fortunate group and the most fortunate one (though judging by back-and-forth between Elon Musk and Jeff Bezos, the latter one may consist of a single person).

affluent) and another (say, the one-percenters) in this story. If the "chain of comparisons" theory pins the blame on any particular group, it must be the richest individuals—those on the Forbes 400 list, or, maybe, just Elon Musk and Jeff Bezos (https://www.forbes.com/forbes-400/). Recent experimental evidence supports this conjecture. Given the choice of modifying various income distributions, people want to reduce two incomes: the one immediately above their own and the highest one overall (Fishman, Kuziemko, and Vannutelli 2021, 1409–10). Neither the top one nor the top ten percent threshold has any particular significance in these models and observations.

But there is one indisputable fact that does point toward the affluent as the main culprits in the positional arm's race story: the affluent are nine times as numerous as the one-percenters are. There are simply many more affluent for the middle class to envy. And the goal of joining the affluent surely seems more realistic than a dream of striking it rich. If the affluent have been pulling away from the rest—and we already know that they have—it is this shift that is likely to frustrate many Americans whose economic fortunes, even if not dire, are stagnating or declining. So if one is thinking of raising taxes in order to reduce Americans' anxieties about outdoing their neighbors, one should surely consider taxing the affluent.

In addition to caring about the economic success of one's peers, people care about their own future prospects. Naturally, the key here is the perception of upward mobility, not the actual chances. Considerable amount of experimental research reveals consistent findings. Americans are over-optimistic about their chances of economic advancement, and the Republicans more so than the Democrats (Stantcheva 2021, 3, 5). The two groups also differ in who they view as responsible for America's problems. Democrats blame the country's social ills on "the billionaire class," greedy CEOs, and big corporations. Republicans vilify the intellectual elites: the media, the academia, and the rest of latte-sipping liberals (DellaPosta, Shi, and Macy 2015). So if Americans are getting frustrated with the elites, they are getting frustrated with different ones.

Importantly, the difference in income levels of the two kinds of elites is quite clear. The billionaires and the CEOs are surely in the top one percent. Academics, bloggers, journalists, and the like are mostly among the affluent. So it seems plausible to conclude that most Republicans blame the affluent for America's current social ills, while most Democrats blame the really rich.[43] If this were the entire story, and given that the country is roughly equally divided politically, one would surmise that higher taxes on both the one-percenters and the affluent would make most Americans feel better.

But this is no longer the entire story. Republicans are no longer protecting all big business. The tech industry in particular has come under a Republican attack (Mckinnon 2021) (Tracy 2022), as has any big corporation that has espoused particularly liberal social values (Leary, Wise, and Glazer 2022). However, what raises the Republican's ire is not the economic success of these businesses. It was no accident that Donald Trump did not hide that he is a billionaire who pays little in taxes, he bragged about it. Republicans have no qualms with economic fortunes of the most economically fortunate.

[43] This divergence would be just an example of what (Alesina, Miano, and Stantcheva 2020) call "polarization of reality."

The critique is also shifting on the Democratic side, with the affluent becoming explicit targets. Importantly, those attacking the affluent from the center and the left do argue that the problem with the affluent is their affluence, and everything that comes with it.

Richard Sandel's recent book (Sandel 2020) is an excellent—and by no means the only—example of this critique. Sandel argues that over the past half-century, American liberals (including most of the Democratic party establishment) have at once succeeded and failed in achieving their most important goal. They have succeeded (even if not fully) in dismantling America's old social structure based on wealth, race, gender, and family connections. They replaced this old structure with a new system based on merit where anyone "who work[s] hard and play[s] by the rules deserve[s] to rise as far as their talents and dreams will take them" (62).

But this seemingly egalitarian and optimistic slogan turned out to have devastating implications for those who fail to advance very far in a meritocratic society. Losers in meritocratic competition have no one to blame but themselves. They have no talents, they made wrong choices, and no matter how hard they try for the rest of their lives, they are condemned to meager existence in the shadow of meritorious winners looking down at the losers "with disdain" (22). The result is a set of wide-spread and deep "grievances [that] are not only economic but also moral and cultural; they are not only about wages and jobs but also about social esteem" (18). Sandel emphasizes that "[c]onstruing populist protest [arising from these grievances] as either malevolent or misdirected absolves governing elites of responsibility for creating the conditions that have eroded the dignity of work and left many feeling disrespected and disempowered" (19).

Importantly for our purposes, Sandel is very clear about who these governing elites are. They are "the comfortable classes" who "live in affluence" (13), "the credentialed, professional classes" (29), "managerial-professional classes" (89), and, specifically, "the wealthiest 10 percent" (12, 85).

Sandel's critique is hardly a voice in the wilderness. Daniel Markovits (Markovits 2019) offers a similar assessment, with an emphasis on the misery that meritocratic competition has brought to its winners. Matthew Stewart (Stewart 2021) attributes America's current social predicament to the combined efforts of the affluent and the pretty rich (Stewart calls them "the 9.9 percent", including in the title of his book). While by no means absolving the really rich, Stewart argues that "the 9.9 percent" have entrenched their economic advantage while making themselves feel good about their progressive ideology (233). The Democratic Party, he warns pithily, is becoming "a home for an affluent, educated elite that seeks to correct every form of injustice except the inequality that is the actual basis of its privilege" (266). Richard Reeves sees the same problem coming from the same source: "the professionals with six-figure incomes, college degrees, and pensions funds" (Reeves 2017, 3). He calls these affluent Americans "dream hoarders" (including in the title of his book). Without joining Sandel in condemning meritocracy wholesale, Reeves argues that our society is not meritocratic in practice. The affluent use the system to their (and their children's) advantage while hypocritically claiming adherence to high ideals (Reeves 2017, 4–7, 16, 119–21).

Sandel, Markovits, Stewart, and Reeves do not construct models, do not run regressions, and do not rely on computational algorithms. But their critiques are biting and persuasive. The affluent have been successful, and they have found ways to retrench and pass their success to their children. But beyond these economic realities, the affluent have also developed a cultural narrative that is not only self-justifying but—key point—is demeaning to many of those whose economic fortunes look increasingly dreadful. Because the affluent dominate the media, this message reaches a wide audience indeed. And even though many Americans ignore mainstream media altogether, they get a second-hand version of the same message—with dialed-up condescension and diminished empathy—from Fox News.

Overall, then, if we turn from economics to political philosophy, from hard facts to perceptions and emotions, from financial capital to cultural capital, it is very hard to excuse the affluent from the responsibility for America's current ills. In fact, the affluent have more to do with sapping the American spirit than any other income group. When combined with the findings about the role of the affluent in reducing economic mobility as well as their income and wealth trajectories, the case for levying higher taxes on the affluent becomes exceedingly strong.

E. Who Outdid International Peers?

Contemporary inequality research and public discourse are full of international comparisons. Piketty and Saez' pivotal 2003 paper concludes by comparing top 0.1 percent income shares in the U.S., U.K., and France, highlighting a much greater rise of that share in the U.S. after 1970s (Piketty and Saez 2003, 36). Most of their later work zeroes in on the one-percenters, arguing that they have done better in the U.S. than their peers in the rest of the developed world have (Atkinson, Piketty, and Saez 2011b); (Alvaredo et al. 2013); (Piketty, Saez, and Stantcheva 2014). The obvious subtext is that the U.S. should catch up with other civilized nations and tax one-percenters more.u

This line of argument surely gained attention. PS and co-authors' paper *The Top One Percent in International and Historical Perspective* anchored a symposium published in the Journal of Economic Literature. The best known relationship between inequality and economic mobility—the Great Gatsby Curve—is an international comparison as well, though its inputs are not limited to any particular income group (Corak 2013, 82). Presentations of cross-country data on top marginal tax rates—with U.S. rates being lower by comparison—are also frequent even if essentially meaningless.[44] In short, proponents of taxing "the rich" have been using international comparisons for some time in order to critique U.S. inequality and to advocate higher taxes on "the rich."

As OECD recently noted, however, "while the flashy lifestyles and incomes of the top 1% are certainly eye-catching, focusing on them exclusively risks obscuring another area of growing concern in inequality—namely the declining situation of low-income households" (OECD 2015, 21).[45] This paper's points out that the overwhelming focus on the "flashy lifestyles and incomes of the top 1%" misses another group worthy of attention—the affluent. A recent paper offers new

[44] https://www.wsj.com/articles/america-will-be-number-one-in-taxes-tax-foundation-oecd-build-back-better-joe-biden-11637018014. Because top rate thresholds vary greatly from one country to the next, https://money.cnn.com/interactive/pf/taxes/top-income-tax-rate/, it is impossible to tell which groups of taxpayers are being compared. No do top tax rates tell us much about progressivity (Splinter 2020, 1014–16).

[45] Others expressed similar concerns. Daniel Shaviro, for example, contrasted numerous recent books written about high-end inequality with general inattention to low-end inequality (Shaviro 2015, 682).

(albeit provisional) insights that help us understand how the U.S. affluent stack up against their European peers.

The paper by Thomas Blanchet, Lucas Chancel, and Amory Gethin is an ambitious effort to estimate—for the first time—a joint distribution of *all* tax burdens and government transfers in Europe and the United States (Blanchet, Chancel, and Gethin, n.d.). Its startling main conclusion contradicts the long-established view that European countries are more equal than the United States because they redistribute more. The United States, the paper shows, achieves more redistribution, not less, once all direct taxes and indirect taxes (which have not been included in earlier analyses) are taken into account. The reason Europe is more equal overall is that it has greater equality before the tax-and-transfer system kicks in (Blanchet, Chancel, and Gethin, n.d., 30–32).

Fortunately for our purposes, the paper offers fine-grained data on the tax contributions of various high-income groups. Looking at the respective pre-tax income shares, the paper agrees with what PS (the founders of the World Inequality Database project to which the paper authors are contributors) have been saying for a long time: income share of the top one percent is a lot higher in the U.S. than in countries of Western Europe and Northern Europe (21.1% to 10.9% and 8.8%, respectively) (Blanchet, Chancel, and Gethin, n.d., 58, Table III). The difference between the income shares of the next nine percent is much smaller: 26.7% (U.S.) to 23.9% (Western Europe) and 22% (Northern Europe) (id.).

What about taxes paid (again, meaning all taxes, not just income taxes)? Taxes paid by the one-percenters in the U.S. add up to 33.5% of market income. The equivalent number for countries in Northern and Western Europe is 33% (Blanchet, Chancel, and Gethin, n.d., Online Appendix 73, Figure A.2.3.1), and the author's correspondence with the paper's authors). So the rich in the U.S. and Europe pay about the same amount in taxes but the U.S. one-percenters capture a much higher share of national income. In itself, this does not mean that the U.S. is less redistributive, and the paper concludes that this is indeed not the case. But if one wanted to argue for greater redistribution from the rich, this comparison would be helpful.

It turns out, however, that a very similar argument may be made about the affluent. To repeat, the affluent in the U.S. receive about the same share of total income as the European affluent do. But the European affluent pay much more in taxes: about 43% of total income compared to only 29% in the U.S (Blanchet, Chancel, and Gethin, n.d., Online Appendix 73, Figure A.2.3.1) (and the author's correspondence with the paper's authors). So if cross-country comparisons are any guide, they suggest that both the U.S. affluent and the U.S. one-percenters should be taxed more.

These results are important and novel, but they are not entirely surprising. A decade-and-a-half before these results became public, PS compared taxes and income shares of high-income earners in the U.S. and just two European countries—France and the United Kingdom. PS found that top one-percenters (and their upper segments) were doing particularly well in the United States. Their share of pre-tax incomes was significantly higher and their average tax rate was noticeably lower compared to their fellow one-percenters in the two European countries (Piketty and Saez 2007, 19).[46]

The numbers were different for the affluent, but the bottom line was quite similar. American, British, and French affluent captured similar shares of pre-tax incomes, but the U.S. affluent paid lower taxes.[47] So as far back as 2007, PS themselves offered evidence that by comparison to their European peers, the U.S. affluent were undertaxed. Saez' 2021 evaluation of the same groups in U.S. and France tells a similar story.[48]

International comparisons of tax and benefit distributions cannot guide social policy. After all, why should the U.S. emulate France and not the other way around? But these comparisons do offer useful reference points. Supporters of greater redistribution surely take this view as they have been making these comparisons for some time. But it turns out that their focus has been too narrow. If one believes that the U.S. tax-and-transfer system should look more like European ones, one should surely agitate for higher taxes on the affluent.

F. Who Dominates American Politics?

Advocates of taxing "the rich" do not limit their arguments to economics. Politics both shapes economics and is shaped by it, they explain (Hacker and Pierson 2011). That much is hardly controversial. But if political control is important, who, exactly, is in control?

The seemingly obvious answer is, of course, "the rich." "Rich People Rule" proclaims the Washington Post article written by one of the leading political scientists Larry Bartels (Bartels 2014). The U.S. is an oligarchy, not a democracy, claim respected sources ranging from BBC to Vox (Bashir 2015, 1). High-end inequality, a leading tax scholar Daniel Shaviro points out, "may lead to plutocratic capture of the political system by the super-rich, enabling them to extract rents and greatly reduce the system's responsiveness to all others' interests" (Shaviro 2016, 87). If American polity is, indeed, captured by the one-percenters or their upper crust, there is certainly an argument for taxing them more.

But do "rich people" really rule? And, more importantly for our purposes, if "rich people" do rule, do the affluent rule as well?

---

[46] Looking at the U.S., U.K., and France in that order, the top 1% income shares at the turn of the twenty-first century were, roughly, 20%, 13%, and 7%, and the top 1% average tax rates were roughly 33%, 40%, and 45%. French one-percenters paid higher taxes on a much lower income share (situation changed when the government of Emmanuel Macron repealed the wealth tax and adopted a flat tax on interest and dividends (Saez and Zucman 2019c, 138), eliminating taxes that accounted for a large part of progressivity at the very top (Piketty and Saez 2007, 22)).

[47] Looking at the U.S., U.K., and France in that order, the respective income shares of the affluent in the early aughts were, roughly, 27%, 26.5%, and 24.5% while their average tax rates were roughly 26%, 32%, and 39%. In fact, the difference in tax rates was even greater because the U.S. tax rate included the corporate tax while the U.K. and French rates did not (Piketty and Saez 2007, 19).

[48] Two results relevant for our inquiry leap off the page. First, the average tax rates in France are much higher than in the U.S. across all income groups: around 50% compared to around 30%. Second, the average tax rate for the one-percenters in France is a bit lower than for the affluent while most of the U.S. one-percenters pay taxes at higher rates than the affluent. Thus, in terms of the shares of their incomes paid in taxes, U.S. one-percenters do better than French ones, but the U.S. affluent do even better compared to their French counterparts (Saez 2021, 2).

"For decades, most political scientists have sidestepped [these] question[s], because [they have] not seemed amenable to rigorous (meaning quantitative) scientific investigation" (Bartels 2014). Things started to change with publication of influential books by Bartels (Bartels 2008) and Martin Gilens (Gilens 2012), and especially a subsequent groundbreaking paper based on the data collected for one of the books (Gilens and Page 2014). Working with the most comprehensive dataset of policy preferences ever assembled (Enns 2015, 1054), Gilens and Benjamin Page concluded that "economic elites and organized groups representing business interests have substantial independent impacts on U.S. government policy, while average citizens and mass-based interest groups have little or no independent influence" (Gilens and Page 2014b, 564).

Who, exactly, are these "economic elites"? Gilens and Page cannot answer this question. Preferences of "economic elites" that they study are the estimated—not actual—preferences of individuals with incomes at the "ninetieth percentile point (the middle of the top 20 percent of respondents)" (Page, Bartels, and Seawright 2013, 68). Following the title of Gilens' book (Gilens 2012), Gilens and Page call this group "the affluent" (Gilens and Page 2014b, 568, 578).[49] So what Gilens and Page actually find is that estimated preferences of individuals at the 90th percentile point of the income distribution have a significant influence on U.S. politics, while estimated preferences of those lower in the income distribution (specifically, at the 50th and the 10th percentile points) do not (Gilens and Page 2014b, 574–75). Gilens and Page are very clear that the question of "exactly which economic elites (the 'merely affluent'? the top 1 percent? the top one-tenth of 1 percent?) have how much impact upon public policy, and to what ends they wield their influence" remains unanswered (Gilens and Page 2014b, 576).

In the years since the publication of Gilens and Page's paper, researchers shed little light on who the "economic elites" really are. At the same time, quite a bit of research raised questions about the extent to which "economic elites," however defined, actually do rule to the exclusion of the rest.

The challenge with unpacking the "economic elites" category is the need to collect views of increasingly high-income, increasingly busy, increasingly private, and increasingly difficult-to-reach group of people. Page, Bartels, and Jason Seawright succeeded in producing a first-of-a-kind (and, it appears, still the only-of-a-kind) pilot study "of the broader social and political attitudes and behavior of top US income earners or wealth holders" (Page, Bartels, and Seawright 2013, 52). They interviewed eighty three Chicago-area respondents with wealth "roughly [in] the top 4 percent of US wealth-holding households" (52). Average income of these respondents was just over one million, with two thirds having incomes below that number (53).

Page, Bartels, and Seawright find that their respondents have very different views compared to the general public. They do "express concern about economic inequality and favor somewhat more egalitarian wages than they perceive as presently existing, but—to a much greater extent than the general public—the wealthy oppose government action to redistribute income or wealth" (67). They are also "much more favorable toward cutting social welfare programs, … [are] less supportive of several jobs and income programs, … [and are] much less willing than

[49] Note that under this definition the affluent include the entire top quintile, including the top one percent.

others to provide broad educational opportunities" to everyone (67).[50]

These findings are revealing, but they do not tell us how the views of Chicago one-percenters differ from those of America's affluent. Gilens argues that "available data on the preferences of the truly rich suggest that their views tend to differ from the median income American's along the same lines, but to a larger degree, than those of the ninetieth income percentile" (Gilens 2015, 1070). But he supports this statement by citing his own work with Page (Gilens and Page 2014b) and the Page, Bartels and Seawright research of Chicago-area one-percenters (Page, Bartels, and Seawright 2013). Neither paper sheds light on the truly-rich-versus-affluent distinction. On the other hand, Gilens points out that "[on] important aspects of tax policy, trade policy, and government regulation, both political parties have embraced an agenda over the past few decades that coincides far more with the economically regressive, free trade, and deregulatory orientations of the affluent than with the preferences of the middle-class" (Gilens 2015, 1070). This description is quite similar to the views of the one-percenters interviewed by Page, Bartels, and Seawright. Perhaps the two groups are not so different in their preferences after all.

Related research casts further doubt on Gilens' conjecture that the views of the one-percenters and the affluent differ from those of regular Americans, with the one-percenters deviating to a greater extent. Adam Bonica and colleagues measured ideological skew of four groups of donors to political campaigns: "small donors," donors in the top 0.01% in terms of disclosed political contributions, "a group composed of the Forbes 400 list of wealthiest Americans and of directors and executives of Fortune 500 companies," and thirty richest Americans who have made campaign contributions (Bonica et al. 2013, 112–16). Note that between 1980 and 2012, the amount that would place one in the top 0.01% of political contributors rose from $5,616 to $25,000 (112). People making these kinds of contributions are likely to be either just below or above the 99th percentile income distribution cutoff (about $500,000 in annual income).[51] Also, it is probably safe to assume that low-income Americans struggling to make ends meet are not spending cash on political donations, so "small donors" are probably solid middle class on average. Thus, a plausible interpretation of the income positions of the four groups studied by Bonica and coauthors is something like: upper middle class, low-end one-percenters, multi-millionaires, multi-billionaires.

Perhaps surprisingly, Bonica and colleagues find that as the income of contributors grows, their political polarization *declines*. Billionaires, it turns out, fund less extreme political causes than Fortune 500 executives, who in turn are less polarized than the top 0.01% of donors, who are less partisan than "small donors" are (115-16). These findings suggest that the affluent may

[50] The only other study shedding light on the political preferences of high-income Americans is by David Broockman and Neil Malhotra who collect the views of "495 top 1 percent donors" to political parties (Broockman and Malhotra 2020, 105). While these are the highest-giving donors, not the highest-income earners, half of them are millionaires (112), so it is safe to assume that the typical views of that group reveal the views of the one-percenters. Broockman and Malhotra find significant and intriguing differences in the views of their subjects compared to those of a typical American voter (107), but the authors treat all voters outside of their top one percent as a single group (106).

[51] It is possible, of course, that someone making, say, $200,000 a year would make a $25,000 political contribution, but it strikes me as very unlikely (especially if we recall that $200,000 is pre-tax income and political donations are not deductible).

contribute more to America's political polarization than the pretty rich and the really rich. Events following the 2013 publication of Bonica's paper suggest that those below the affluent in the income distribution may polarize American politics even more.

Whether the affluent hold more or less extreme views than the one-percenters, the extent to which the views of either group make a difference is a separate question. It is becoming increasingly clear that we should be cautious with embracing Gilens' and Page's claim that rich people rule altogether. According to Gilens and Page, their research reveals that the affluent (as they define the term), along with business groups, dictate U.S. policy while the rest have very little say. Not everyone agrees (Bashir 2015; Enns 2015). Mads Elkær and Michael Klitgaard review twenty five recent studies that aim to determine who controls political systems in a range of developed democracies (Elkjær and Klitgaard 2021, 2). They uncover three key findings.

First, "although this research collectively suggests that political outcomes better reflect the preferences of the rich, results vary considerably across models and studies" (1, 6-8). Second, it turns out that "model specifications have a decisive effect on whether the affluent are found to dominate the political system, with multivariate models (of a kind used by Gilens and Page) finding strong influence and bivariate models finding almost none" (10). Moreover, "it remains highly contested which model better captures actual differences in democratic responsiveness" (10). Third, Elkær and Klitgaard point out a puzzling similarity in relative "political responsiveness [to the preferences of various income groups] … in countries like Germany or Denmark compared to the United States given these European countries' much more equal distributions of income, stronger labor unions, higher turnout rates, and a smaller role of money in politics" (8). This similarity is difficult to reconcile with the view that greater inequality means greater political control by "the rich."

The power to influence policy is surely a major political power. But it is not the only one. Political scientists talk about two other faces of power: the power to set policy agenda and the power to shape the public opinion (Gilens and Page 2014a). Whether or not we live in a new Gilded Age, those with the highest incomes cannot wield the latter power on their own.

There are surely some very influential billionaires, just think of Donald Trump and Elon Musk. Short of becoming Twitter mavens, however, even billionaires need others to exert influence. Rupert Murdoch needs Fox News. Jeff Bezos needs Washington Post. And while leading figures in both organizations are surely one-percenters, many others are not.

As Reeves points out, "[p]retty much every position in the influencing business is in fact filled by a member of the upper middle class [by which Reeves means 80-99th percentile of the income distribution]: journalism, academia, research science, advertising, polling, publishing, the media (old and new), and the arts are almost by definition, upper middle class strongholds" (Reeves 2017, 155). The same is true of the large and influential think tank and policy advocacy industry (Irvin and Sokolowski 2020, 7). Perhaps the affluent would not be as influential without the one-percenters, but the reverse is even more likely to be true.

Taking an even broader look, we may consider the respective roles of the one-percenters and the affluent in what American Political Economy (APE) scholars call "meta politics—the processes of institution shaping, agenda setting, and venue shopping" (Hacker et al. 2022, 2). APE scholars emphasize that the U.S. political system favors "organized political players with long time horizons and substantial resources," those "who want to defend the status quo," and those "with the capacity for unilateral private action" such as digital technology and finance companies (7). To what extent the affluent are among "organized political players" remains to be discovered. But it is surely premature to conclude that they are not among them.

At the same time, Reeves' intuitions ring true. The "size and strength of the upper middle class means that it can reshape cities, dominate the education system, and transform the labor market. The upper middle class also has a huge influence on public discourse" (Reeves 2017, 9–10). At least for now, if the argument for higher taxes on a particular group is based on that group's political power, that group surely includes the affluent.

G. Who Takes Advantage of Our Tax System?

We now turn from economics, politics, and culture to tax law. Each argument discussed in this section starts by pointing out that tax law is broken at the top, as evidenced by this or that feature that unduly favors "the rich." Rising inequality, the argument continues, exacerbates the existing problems. The solution is to raise taxes on "the rich" to compensate for the law's shortcomings. Extremely high marginal rates, a mark-to-market tax, and a wealth tax are the popular reform proposals.

Do shortcomings used to support higher taxes on "the rich" offer reasons to raise taxes on the affluent as well? To surprise of no one at this point, the answer is that they do.

The most basic of the three arguments is that "the rich" cheat on their taxes—a lot. There is little doubt that quite a few do. The multi-year saga that unfolded after Congress and the IRS got serious about undeclared foreign bank accounts revealed that billions of dollars were simply hidden abroad (Johns and Slemrod 2010, 312). It is also a fact that audit rates on very high-income taxpayers have fallen to shamefully low levels (United States Governmnet Accountability 2022, 7).

The overall extent of tax evasion by the one-percenters or their upper segment is unclear, however, and the same is true for the affluent. Some evidence suggests that the affluent underreport their taxes as much as—and in some respects more than—the one percenters do (Johns and Slemrod 2010, Tables 4, 5, 6). Moreover, the fall in audit rates has been even more precipitous for the affluent than for the one-percenters (United States Governmnet Accountability 2022, 7). Other research suggests that evasion is high at the very top of the income distribution (Alstadsæter, Johannesen, and Zucman 2019, 2083–84); (Guyton, Langetieg, et al. 2021, 36-39)—inside the top tenth or even a smaller fraction of the top one percent. Notably, even that research reveals that at least in the U.S., the higher-income affluent evade as much as, or more than, the top one percent overall.[52]

[52] See (Guyton et al. 2021, 61) (concluding that in 2006-2013, those in the 95-99th percentiles of the income distribution paid 20.7% of total taxes and accounted for 25.8% of total tax underpayments while those in the top 1% paid 35.5% of all taxes and accounted for 36.2% of all tax underpayments).

The obvious way to increase compliance is to raise audit rates (Curry 2022), modernize penalties (Raskolnikov 2005; 2016), or revise tax procedure (Blank and Glogower 2021). But if one wanted to argue that a better response to tax noncompliance is to raise tax rates, the affluent should surely see a tax increase.

Another impetus for taxing "the rich" comes from a long-standing and entirely justified frustration with several provisions of the Internal Revenue Code. Capital gains are taxed at a low rate, and the benefit of this rate reduction accrues to the highest-income taxpayers (Congressional Budget Office 2021, 14). The estate tax threshold was one million dollars as recently as 2006 (McCaffery and Cohen 2006, 1202), but it is over twelve million today (double that for a married couple).[53] In terms of their distributional effects, these numbers speak for themselves. The so-called basis step-up at death and the special rule for the charitable deduction for contributions of appreciated assets allow accrued gains to simply disappear from the tax system. Again, these provisions benefit mostly one-percenters (Congressional Budget Office 2021, 14).

There are very good reasons to repeal all these rules even if inequality has not increased at all.[54] Importantly, these reforms, along with a few related measures, can be accomplished simply by eliminating exceptions from the normal rules of the tax code. If reasons exist to limit these reforms to a relatively small group of taxpayers, these reasons relate to enforcement and compliance costs rather than the rise of inequality or anything particular about the top one percent. Surely, these reasons do not support a categorical exclusion of the affluent.

The third tax-law-specific justification for higher taxes on "the rich" is that taxable income as defined in the Internal Revenue Code greatly understates true economic income, especially at the top of the income distribution. As a result, "the rich" pay very low taxes as a fraction of their economic income (Saez and Zucman 2019b, 486–87); (Gamage and Brooks 2022, 487). The divergence between taxable and economic incomes results from the realization requirement: accrued gains (and losses) are not taxed until the assets are sold. People with appreciated assets are the obvious beneficiaries.

Who are these people? Millions of American home owners whose homes appreciate tax-free is one group. Billionaires like Larry Ellison whose wealth comes from public company stocks is another. The key difference between the two groups is that most of the home owners' economic income comes from wages and salaries and is taxed annually. In contrast, all of Ellison's economic income comes from appreciation of Oracle stock that is tax free because he does not sell it (Pimentel 2019). So how did Ellison manage to buy ninety seven percent of a Hawaiian island, along with many other valuable assets (Mooallem 2014)? The answer is credit—as much as ten billion in credit secured by Oracle stock (Melby 2015). And all that credit is tax-free as well. In a system aiming to base taxes on ability to pay, failure to tax Ellison's unrealized capital gains is a real problem.

---

[53] Rev. Proc. 2021-45, 2021-48 IRB 764.

[54] Of course, plenty of people think that these rules should remain, most members of the U.S. Congress among them.

We have finally reached a plausible justification for the dramatic tax reforms advocated on the left. One may agree that Ellison should be taxed one way or another, and taxed now rather than in some distant future.[55] One may also doubt that a tax that would halve his wealth in ten years—as a six percent wealth tax would do—is a wise idea (Sarin, Summers, and Kupferberg 2020, 345). Or one may be opposed to soaking the rich on principle. Whatever the case, there is no doubt that a wealth tax and a mark-to-market tax are exactly the reforms that would tax Ellison's enormous accrued but untaxed income.

But what does this have to do with "the main fault line" in America lying "between the 1% and everybody else" (Saez and Zucman 2019c, 6)? How much does Ellison have in common with someone earning $600,000 a year and investing some of it in the stock market, at least as far as unrealized capital gains are concerned? Current research leads to two conclusions. First we know very little about the distribution of unrealized capital gains. Second, to the extent we know anything, the affluent should be in the discussion of a new tax regime for these gains.

Natasha Sarin, Larry Summers, and Joe Kupferberg state that "nearly 40 percent of the wealth in the top 1 percent is in the form of accrued but unrealized capital gains, and the top 1 percent holds around half of all such unrealized gains" (Sarin, Summers, and Kupferberg 2020, 336). They cite Lily Batchelder and David Kamin (L. Batchelder and Kamin 2019) for this proposition. Batchelder and Kamin, in turn, support this conclusion by referring to the Survey of Consumer Finances (SCF) and their own calculations (L. Batchelder and Kamin 2019, 6).

Combining the most up-to-date SCF estimates of unrealized capital gains of various wealth cohorts (Bricker et al. 2020, 2020:10) with the estimates of cohorts' wealth from the most recent comprehensive SCF report (Batty et al. 2019, 26) suggests that the top one percent holds 49.3 percent of all unrealized capital gains—the number consistent with that reported by Batchelder and Kamin. The same calculation, however, shows that the affluent hold another thirty percent—certainly less than the one-percenters do but hardly a trivial amount.[56]

A recent report from the Joint Committee on Taxation paints a similar picture. The report estimates that the one-percenters own 52 percent of all corporate equity compared to 36 percent owned by the affluent (Joint Committee on Taxation 2021, 26). Other recent efforts aim to estimate the distribution of unrealized capital gains by combining the SCF data with administrative tax and Census data (Larrimore et al. 2021, 1320), but no results of that distribution have been reported to date.

Overall, then, we have no firm basis for deciding whether the non-taxation of accrued capital gains should lead us to favor new taxes on Ellison and a few of his fellow multi-billionaires, on all billionaires, on the top 0.1% of wealth (or income) holders, on the one-percenters, or on all of the above and the affluent as well. The least tax scholars can do, however, is to consider *all* these possibilities in view of available evidence rather than categorically exclude the affluent from any consideration.

[55] As John Brooks and David Gamage point out, that future may never come (Gamage and Brooks 2022).
[56] It is important to keep in mind that the SCF data has well-known problems (Bhandari et al. 2020, 444); (Smith, Zidar, and Zwick 2021a, 160–63).

* * * * *

This Part considered many well-known, influential arguments in economics, behavioral economics, political science, and tax law while asking a new question: what do these arguments tell us about the affluent? The results are surprising. It seems intuitive that rich people rule, that the highest income earners are the cause of the growing inequality; that they are to blame for the demise of the American Dream, for America's social malaise, and for its political polarization. But as this Part makes clear, all of these intuitive assertions are probably wrong if they are interpreted to mean that *only* the one-percenters are the culprits.

The affluent are major contributors to the U.S. income and wealth inequality. Quite possibly, they are the main obstacles to higher social mobility. Most likely, they are also primarily responsible for sapping America's spirit. They may be controlling American politics as much as the one-percenters do. They have been much more successful in avoiding high taxes than their European peers have been. And it is quite likely that along with those higher in the income distribution, the affluent are major beneficiaries of our tax law's refusal to tax unrealized capital gains.

Research discussed in this Part generally focuses on the top one percent or its upper decile. One needs to sieve through the numbers—or generate numbers on one's own based on reported results—to evaluate the contribution of the affluent to the phenomena discussed here. So it is not too surprising that this evaluation has not been done until now. But the data is there, and the overall takeaway cannot be clearer: there are plenty of reasons to raise taxes on the affluent, and there is absolutely no excuse for refusing to even consider such a raise.

We can now turn from evidence gathering to policy analysis. Or, rather, to the analysis of policy analysis. Given the evidence just presented, one would expect that the tax policy discussion would pay a lot of attention to the affluent. The next Part considers to what extent this has been the case.

III. The Missing Affluent in Distributional Debates

Words in English language have many meanings, and when English words are used in legal context the meanings multiply. If a bee is a fish, as a court in California recently held,[57] calls for taxing "the rich" may certainly include the affluent? Do they?

The answer could not be clearer. The affluent are conspicuously, inexplicably, and almost completely absent from the chorus of critique of U.S. economic inequality and the related calls for all kinds of tax reforms. The literature, this Part shows, has a major blind spot when it comes to taxing the affluent. And that blind spot includes many of the contributors to that literature themselves.

Almost all discussions of inequality and taxation follow the same pattern. They begin by recitations of some of the evidence discussed in Part II. The recitation is usually brief, and it typically contains a few references to the work of Piketty, Saez, Zucman, or some of their

[57] Almond Alliance of California v. Fish and Game Commissions, 79 Cal. App. 5th 337 (2022).

collaborators. That recitation is immediately followed by a discussion of how to tax “the rich”—a discussion that clearly excludes the affluent. It is as if scholars writing on the subject all attended some conference where the question was raised, studied, debated, and settled—the affluent should get a pass. There is no trace of that event in the literature, however. And as this paper shows, if such debate did take place, the decision to excuse the affluent from any consideration of greater redistribution would be indefensible.

A. The Way Things Were

One nice feature of tax law is that it requires a certain degree of precision. It would not do to advocate for “reasonable” tax rates, or “seasonable” exemption thresholds, or “foreseeable” applicable federal rate of interest.[58] Whatever definitional uncertainty surrounds the top of the income distribution, any tax reform proposal, including the one aimed at the highest earners, must take a stand and be specific about income or wealth cutoffs proposed, and to defend the chosen cutoffs. Or so it seemed until recently.

Traditionally, taking a stand and being specific was exactly what tax scholars did. They proposed reforms, specified key details, and defended their choices.

For example, Michael Graetz made an influential proposal to replace 100 million “unnecessary returns” by freeing most Americans from the income tax and replacing it with a consumption tax along with other changes (Graetz 2002). His proposal would result in a tax increase for “high-income Americans,” by which Graetz meant the top 20 percent of income earners (Graetz 2014, 433–36).

Bruce Ackerman and Anne Alstott advanced a more radical idea to create a “Stakeholder Society” by giving all U.S. citizens an $80,000 grant when they reach adulthood (Ackerman and Alstott 1999). The grant would be funded by a 2 percent annual wealth tax imposed on wealth above $80,000 as of 1999, the year the book came out (94-112). The authors increased that threshold to $230,000 by 2014, explaining that this cutoff would place the burden of the tax only on the top 20 percent of wealth holders (Ackerman and Alstott 2004, 57).

David Shakow and Reed Shuldiner investigated what replacing an income tax with a wealth tax would look like in practice (Shakow and Shuldiner 2005). They recognized the need for exemptions and suggested several, including those for housing equity (net $1 million), pension savings, and net worth of $40,000 (Shakow and Shuldiner 2005, 546–49). They also suggested a $5,000 exemption for the flat-rate wage tax which they offered as a complement to the wealth tax.

These are just the most notable examples. As Daniel Hemel and Kyle Rozema noted, “[t]hirty years ago, distributional claims were as likely to focus on comparisons between top 10% and the bottom 90% as the top 1% versus the bottom 99%” (Hemel and Rozema 2017, 679).

This is the way things were. As recently as two decades ago, leading tax academics were

[58] Of course, tax law has plenty of vague terms leading to many compliance decisions that are only probabilistic (Raskolnikov 2017b). Nonetheless, the rates and many thresholds are precisely defined.

thinking about all sorts of tax reforms. These scholars were clearly sensitive to the distributional effects of their proposals. And all of them suggested tax increases on a broad group of well-off taxpayers including the top quintile of income or wealth distributions, and possibly an even broader group. As we are about to see, things could not have been more different today.

B. How to Ignore the Affluent Without Really Trying?

There can be little doubt that scholars writing about inequality, redistribution, and taxation today are aware of the tax reform proposals just described. The proposals' authors are highly influential scholars and their proposal are still discussed in the literature.[59] The current crop of debaters are not writing on a clean slate; they are building on a set of ideas and an entrenched commitment to a detailed analysis. So how do more recent generations of tax scholars explain their choices of who should be taxed more in the future? The short answer is that with very few exceptions, they do not.

1. First New Approach: Follow the Politicians

Scholars may produce their work in an Ivory Tower, but these days the Tower has a high-speed Internet connection. Academics are aware of political battles, and academics writing about inequality especially so. Many Democratic politicians have proposed higher taxes on "the rich," and many of these proposals have a very similar distributional flavor.

The Biden administration announced its plans for a new billionaire minimum tax in its 2023 budget, to be imposed on taxpayers with net worth in excess of $100 million (Stein 2022). Earlier, the administration advocated a five percentage points surtax on incomes over $10 million, increased by additional three percentage points for incomes over $25 million (Sullivan 2021, 1468). The federal billionaire tax proposed by Senator Wyden (the chair of the Senate Finance Committee) would apply to taxpayers with more than $1 billion in assets and to those earning more than $100 million a year for three consecutive years (Abreu 2021). Representative Ocasio-Cortez proposed to raise income tax rate to seventy percent on incomes above $10 million (Saez and Zucman 2019a). Senator Warren introduced a wealth tax on "ultra-millionaires" (Pennell 2021). The rate of this new tax would be two percent on net wealth above $50 million and three percent on net wealth above $1 billion. Senator Sanders introduced a similar tax on "extreme wealth" featuring a one percent rate on assets over $32 million that would gradually rise to eight percent on assets over $10 billion (id.). Add to these the New York State billionaire tax and a wealth tax considered by California that would apply to assets over $30 million or $50 million (depending on the version) (Galle et al. 2021), and the picture could not be clearer. Starting with the "low" $10 million threshold advocated by the Biden administration in 2022 and rising all the way to $1 billion in the Wyden bill, thresholds for new, higher taxes on "the rich" are extraordinarily high. These high thresholds—way in excess of the

[59] Ackerman and Alstott's book has over eleven hundred cites on Google scholar (as of September 2022), including over seventy in the past two years. Graetz' proposal is at the center of an entire article by Katherine Pratt that is forthcoming in the leading peer reviewed tax journal (Pratt 2022).

really-rich $2 million-a-year cutoff—have turned into reference points for legal academics and economists.

To take one prominent example, as the Democratic party was developing the tax agenda with which it hoped to reclaim the White House in 2020, Lily Batchelder and David Kamin published a comprehensive analysis of "issues and options" for "taxing the rich" (L. Batchelder and Kamin 2019).[60] Their paper considers a wide range of familiar incremental reform ideas such as raising the corporate tax rate or repealing the basis step-up at death. But their focus is on four "more structural reform[s]": much higher rates on labor income, a mark-to-market tax, a wealth tax, and a financial transaction tax (FTT) (1). The authors discuss each of these fundamental reforms (other than FTT[61]) by reference to income or wealth cutoffs suggested by politicians (L. Batchelder and Kamin 2019, 12, 15, 18). They do point out that lowering the $10 million income threshold for the 70 percent rate proposed by Representative Ocasio-Cortez would raise more revenue, but say nothing about whether this should be done. Likewise, they mention that imposing the social security tax on incomes over $250,000 (the threshold advocated by the Obama administration) would raise significant revenue and delay the exhaustion of the Social Security trust fund, but quickly move on (L. Batchelder and Kamin 2019, 12–13).

Jeffery Pennell offers an intriguing new tax on income that is conceptually similar to a progressive impost tax (Pennell 2021, 894). He explains why this tax would work better than the wealth taxes proposed by Senators Warren and Sanders. He also makes clear that his tax aims at the same group of taxpayers as the Sanders and Warren wealth taxes would—the top 0.1 percent (Pennell 2021, 891).

These academic contributions share an odd feature. Legal academics usually evaluate judicial decisions and legal reforms, often finding flaws and avenues for improvement. Occasionally academics embrace policy changes and defend them from critics. Academics also make their own proposals and explain their merits. But in academic work just described, some of the leading scholars have taken politician's proposals as given without any justification or discussion. This is particularly puzzling given the extremely high thresholds for higher taxes that these proposals uniformly embrace.

2. Second New Approach: High Thresholds; No Explanations

In addition to proposals that rely on politicians to define "the rich," several reform advocates offer their own cutoffs. Invariably, the cutoffs are high and are offered with no justification.

Greg Leiserson's paper is perhaps the clearest example of this approach (Leiserson 2020). Leiserson develops four detailed proposals for enactment of a wealth tax and an accrual tax. His analysis is full of numbers, estimates, and thoughtful, detailed analysis. He even offers distributional tables showing the effects of his proposals on taxpayers in different income

[60] The example is prominent because Batchelder became the Assistant Secretary of Treasury for Tax Policy and Kamin became the Deputy Director of the National Economic council in the Biden administration (Davidson and Lippman 2022).

[61] And FTT would not have an income or wealth threshold. Rather, its burden would be borne by upper-income taxpayers simply because only these taxpayers engage in trading of financial assets to a meaningful extent.

categories (Leiserson 2020, 115–17). The tables reveal that all of the proposed taxes would be borne by those in the top one percent, with either a minor or no additional burden on anyone in the 95-99th percentiles, depending on whether the taxpayers are grouped by income or wealth. This concentration of burden follows from the thresholds that Leiserson suggests: $8.25 million for accrual taxes and $12.5 million for wealth taxes (with both numbers doubled for joint filers) (89). Yet he says nothing about why he chose these thresholds, and why it is appropriate for the burden of proposed taxes to be concentrated only at the very top.

Batchelder advocates a replacement of the existing estate and gift tax with a new inheritance tax (L. Batchelder 2020). She argues, convincingly, that inherited wealth that is concentrated at the top should not be tax-advantaged compared to labor income earned by most Americans. But she does not propose to tax all inheritance as ordinary income. Instead, she advocates a new tax only on inheritances in excess of $2.5 million (also mentioning the possible $1 million and $500,000 thresholds). She explains that "[t]hese lifetime exemptions would limit the proposal's reach to those receiving exceptionally large inheritances—the top 0.02 percent, 0.08 percent, and 0.18 percent, respectively, when ranked by inheritance size" (65).[62]

Why such tiny percentages? The only answer seems to be the revenue estimate for the $2.5 million exemption. "[T]he proposal would raise about the same amount of revenue as the 2009 estate and gift taxes if their lifetime exemptions at the time ($3.5 million) were indexed for inflation," Batchelder points out (55-56). The normative significance of that comparison remains unclear.

David Miller favors a mark-to-market tax on the top 0.1 percent—the wealthiest and highest-income taxpayers (Miller 2015, 15). He refers to Piketty's famous book (2) and its claim about the "stunning relative growth in the wealth of the top 0.1% wealthiest Americans" (Miller 2015, 7). Nothing else in the paper defends the 0.1 percent threshold.

A recent book by Saez and Zucman would seem like a clear refutation of the "high thresholds, no discussion" point (Saez and Zucman 2019c). How can an entire book say nothing about the reasons for the high thresholds that the authors advocate: top one percent of incomes for most proposals, a billion-a-year income for a few most radical reforms (143, 145, 173). The answer is simple and entirely expected by now. Saez and Zucman do spend a lot of time explaining why those they target should pay more taxes. But they devote all of one sentence to dismiss an argument that those below their thresholds—the affluent—are also appropriate sources of additional tax revenue (6).[63]

These examples reveal just how embedded the idea that only the richest should pay more has become. Very high thresholds are offered essentially without justification. Not only that, but these proposals (as well as those discussed in the previous section) ignore relevant recent

[62] The numbers are somewhat higher if the reference group are all annual inheritance. But as Batchelder herself points out, correctly in my view, the correct approach is "to rank households by lifetime inheritances received and include those that never receive an inheritance" (83 n34).

[63] Saez and Zucman mention a potential slight tax increase on "people just below the top 1%" only in passing, by virtue of a higher corporate tax rate that would indirectly affect this group, and only, it appears, to round up their estimate of additional revenue from the major tax increase on the top 1% from 9.5% of national income to 10% (Saez and Zucman 2019c, 143–44).

empirical work. A study by Raymond Fishman and colleagues, for example, found not only that Americans support a wealth tax, but that they "appear willing to tax even modest amounts of inherited wealth [$50,000 to $100,000] at the same rate they would tax, say, $2,000,000 in inherited wealth" (Fishman et al. 2020, 3, 9).[64] These low thresholds are very much in line with the older proposals by Ackerman, Alstott, Graetz, Shakow, Shuldiner, and others, and are very different from the new focus only on extremely high levels of income and wealth.

3. Third New Approach: Avoid Specifics

Not all academic work exempts the affluent from higher taxes by asserting (but not defending) very high thresholds or relying on politicians to do so. Another contemporary trend is to advocate major tax increases, avoid any specifics about who will be paying these higher taxes, but give the reader a clear sense that the intended targets are very high in income and wealth distributions.

Joshua Blank teams up with Ari Glogower to argue that tax procedure should be progressive, that is, have different procedural rules for taxpayers of different means (Blank and Glogower 2021). The authors examine pros and cons of means-based tax penalties and other procedural rules. They consider whether these rules should vary based on taxpayer's income, wealth, or other factors. They focus on "noncompliance at the top" and "high-end noncompliance" (674), and cite studies showing high noncompliance among the top one percent (674), the "wealthiest taxpayers" (675), "taxpayers in the 99.0 to 99.5 percentile" (675), "taxpayers with $10 million in income or more" (676), and "the very highest earners" (677). They dedicate an entire part to offer "concrete guidance to policymakers who seek to implement means-based adjustments," including "key design features" and several illustrations (715). And they base their examples on the $2 million AGI cutoff that currently applies to several procedural provisions that allow taxpayers to shift their legal fees to the government.[65]

But Blank and Glogower never tell the reader what income or wealth is great enough—in their view—to justify higher penalties, longer statutes of limitations, and other stringent measures they advocate. Nor do they consider how to think about the proper magnitude of that threshold. A follow-on paper does not offer this analysis either (Blank and Glogower 2022). And a third paper in the series, this one focused on new information reporting for high-income taxpayers, offers no further specifics despite discussing other design features in great detail (Blank and Glogower 2023).

Ari Glogower proposes a tax on a combined base of income and wealth, which he calls a tax on inequality (Glogower 2018). He analyzes this tax thoroughly. He includes a separate section on the exemption level, mentioning several exemptions in the Internal Revenue Code as well as exemptions proposed by Shakow and Shuldiner discussed earlier (Shakow and Shuldiner 2005). Yet he neither endorses nor dismisses any specific exemption. He starts his article by quoting

[64] This study is particularly notable because, as its authors note, they "are among the first to directly elicit preferences for wealth taxation from prospective voters" (Fishman et al. 2020, 2).

[65] These rules are "generally designed to prevent high-net wealth taxpayers from taking advantage of rules that shift obligations or fees to the government (Blank and Glogower 2022, 18), (Blank and Glogower 2021, 712–13, 719).

Saez and Zucman for the proposition that inequality is "already reaching historic levels last seen in the years leading up to the Great Depression" (Glogower 2018, 1423). But he never connects this concern with the proposal to target any particular level of income or wealth with his tax on inequality.

In a subsequent paper Glogower offers intriguing ways of embedding a wealth tax substance into an income tax form (Glogower 2020). He does not take a position on who should be subject to his additional quasi-wealth tax, although he does mention high-threshold tax-increase proposals by Senators Sanders and Clinton, and by Representative Ocasio-Cortez (Glogower 2020, 764). He also notes that a quasi-wealth tax on the top ten percent of U.S. wealth holders "could raise significant revenue," but does not explain why this (or any other) threshold is the right one (Glogower 2020, 761).

Even Jeffery Pennell who starts with a clear statement about the group targeted by his new tax ends with ambivalence. Recall that Pennell begins by explaining that the goal of his novel tax is to raise taxes on the same 0.1 percent that Senators Sanders and Warren aim at (Pennell 2021, 891). Yet at the very end of the paper he alerts the reader that he has "not suggested the threshold level above which this tax might be appropriate" because the question "needs some study" (897). Whether the ambiguity entails the determination of the threshold that would raise taxes on the top 0.1 percent, or the question of which group should bear higher taxes is unclear.

A rare exception to the avoid-the-specifics approach proves the point, and not only by being rare. In a recent article, John Brooks and David Gamage argue that we should tax the "ultra-wealthy" under a new, "current-assessment" method because the likely result under the current system is taxing them not at all (Gamage and Brooks 2022). Brooks and Gamage define the ultra-wealthy as the top 0.1 percent of the wealth (or, roughly equivalently, income) distribution (499), and they explain their choice to target this particular group by reference to the tax system's failure to tax unrealized capital gains discussed in Part II.G (497-500).

One may agree or disagree with their proposal, but there is no doubt that Brooks and Gamage offer a plausible explanation of their targeting choice. Yet even that explanation suffers from a flaw—indeed, the same type of flaw that is the main subject of this article. We have already seen that the scant available evidence of the distribution of unrealized capital gains does not justify excluding the affluent from future tax increases without any discussion, and it certainly does not justify excluding both the affluent and the pretty rich as Brooks and Gamage propose to do.[66]

Saez and Zucman have a detailed discussion of a wealth tax in a long book chapter. They

[66] Brooks and Gamage propose to tax unrealized capital gains, but some of the evidence they cite in support discusses capital income—a concept that is much more comprehensive than unrealized capital gains and, in fact, excludes them. See (Piketty, Saez, and Zucman 2018, 562). Citing Piketty, Saez and Zucman's well-known estimates of capital income, Brooks and Gamage point out that capital income accounts for most of the income of the top 0.1 percent (roughly 70-75 percent of their income) (499). But capital income of numerous people below the top 0.1 percent cutoff accounts for a large share of their income as well. Specifically, for the rest of the top one percent of income earners, capital income accounts for about 60 percent of the total (Smith et al. 2019, 1690). Moreover, it appears that capital income increasingly contributes to income inequality not only inside the top one percent but below that threshold as well (Hoffmann, Lee, and Lemieux 2020, 59). So whether one looks at unrealized capital gains (a tax law concept) or capital income (an economic concept), there is no reason to ignore the affluent and the pretty rich without an explanation.

repeatedly refer to the proposals by Senators Sanders and Warren. They add their own version of a wealth tax "with a 2 percent tax rate above $50 million and a 10 percent marginal tax rate above $1 billion" with hardly any justification (Saez and Zucman 2019b, 498). The only threshold that Saez and Zucman defend on normative grounds is another reform that limits the wealth tax to billionaires on the Forbes 400 list (Saez and Zucman 2019b, 502). One can hardly go higher than that. The normative defense consists of a comparative example and a statement that "it is natural to assume that the marginal utility of billionaires' wealth is close to zero" (id.).

Curiously, one clear explanation of high thresholds comes from a paper that does not advocate them. Jason Oh and Eric Zolt open their analysis of a wealth tax design by pointing out the "unique feature" of recent wealth tax proposals—their "high threshold[s]" (Oh and Zolt 2021, 175). They immediately consider possible reasons for these thresholds, and find a few: administrative convenience, easier pursuit of "high value targets," broader political support, simpler design (175-76). All of these reasons make sense, but none are closely tied to the rise in inequality or the one-percent fault line. To their credit, Oh and Zolt "remain agnostic about what the best (if any) justification of a wealth tax might be" (180).

Overall, then, many contemporary tax scholars are looking for ways to raise taxes on "the rich." Yet almost none of them explain why "the rich" in their view are an exceedingly small group comprising only the top 0.1 percent of the income distribution or an even smaller fraction. And none of them ask—let alone answer—whether the affluent should pay more as well.

C. Higher Taxes by Another Name?

Could the focus on high or absent thresholds exempting the affluent from higher taxes miss the point? Is there another way to raise taxes on the affluent? Indeed there is, and it is no secret.

The tax code is full of the so-called tax expenditures—special provisions allowing various tax reductions (deductions, credits, exclusions, and rate cuts) that a comprehensive income tax would not allow.[67] The mortgage interest deduction, the charitable deduction, and the state and local tax (SALT) deduction are just some well-known examples. The revenue loss from tax expenditures is large (over a trillion dollars a year), and their distributional consequences are mostly regressive (Congressional Budget Office 2021, 3, 10). Moreover—and crucially for our purposes—the distributional patterns of different tax expenditures vary, and they vary a lot.

According to the estimates by the Congressional Budget Office, the two most top-heavy tax expenditures are the net preferential tax rate on dividends and capital gains and the charitable deduction.[68] One-percenters capture seventy five percent of the overall benefit from the former and sixty three percent from the latter. For the affluent, the respective numbers are much lower: 15.8 percent and 22.1 percent respectively. Contrast these numbers with two other expenditures:

[67] The meaning of the "comprehensive income tax" has been debated for as long as the concept of tax expenditure existed (Sugin 2011, 32)

[68] The overall effect of the charitable contribution deduction must account for how the donations are spent—an adjustment that would surely make the deduction less regressive than CBO estimates. That adjustment, however, will not necessarily affect the deduction's key feature for our purposes: that the one-percenters benefit from it much more than the affluent.

the mortgage interest deduction and the SALT deduction. For mortgage interest, the affluent capture forty three percent of the total benefit while the one-percenters get twenty five percent. For the SALT the affluent receive forty five percent and the one-percenters get eleven percent of the overall SALT-related tax savings (Congressional Budget Office 2021, 14).[69] Here, then, is another way of arguing that not only the richest should pay more: call for a repeal of tax expenditures that provide greatest tax savings to the affluent, and explain that this repeal is needed to raise taxes on a well-off group that is untouched by the tax-the-rich proposals of a kind advanced by Senators Sanders, Warren, and Wyden.

Alas, no such arguments have been made. What the literature offers instead is a general critique of regressive tax expenditures and a call for their reduction or repeal. Legal scholars, economists, political scientists talk about the capital gains preference, the mortgage interest deduction, the SALT deduction, and so on without zeroing in on the very different benefits that these expenditures deliver to the one-percenters and the affluent (Reeves 2017, 151–54); (Gale 2019, 2018–20); (Zolt 2013, 676–77); (Mettler 2015, 603–5). No proposal appears to focus on repealing expenditures that benefit the affluent more than others. In fact, some scholars seem to view it as a plus that a repeal of a tax expenditure raises taxes on the one-percenters while reducing taxes on the affluent (Sugin 2011, 27–28).

Not only that, but even those aiming to restrict tax expenditures that favor the affluent the most (such as the home mortgage interest deduction) embrace a proposal that spares the affluent while hitting the one-percenters. The proposal, adopted by the Obama administration and recently supported by both Reeves (Reeves 2017, 151) and Sarin, Summers, and Kupferberg (Sarin, Summers, and Kupferberg 2020, 339–40), caps deductions at the 28 percent rate. This limitation is irrelevant for any taxpayer whose marginal tax rate is below 28 percent. Who are these taxpayers?

According to the latest 2018 data available from the SOI, AGI of $540,009, $359,368, and $268,106 would put a return into the top one, two, or three percent of all returns, respectively. Millions of people do not file returns, so the thresholds are lower if one uses the (more appropriate) reference group of all families.[70] In the same year, married couples filing jointly faced the top marginal rate of 24 percent on taxable income up to $315,000.[71] This taxable income surely corresponded to a higher AGI.[72] In 2022, the 24 percent bracket extended to about $340,000.[73] Given these numbers, capping the deductions at 28 percent today would come close to raising taxes *only* on the one-percenters. So much for the possibility that attacking tax expenditures is how tax scholars propose to raise taxes on the affluent.

---

[69] The distributional consequences of repealing a tax expenditure are not at all straightforward (Hemel and Rozema 2017) (examining the consequences of repealing the mortgage interest deduction); (Toder, Khitatrakun, and Boddupalli 2020) (evaluating retirement savings reforms).

[70] Thus, Saez reports based on the same IRS data but using *all* families (really, tax units) in the population that the 2018 threshold for the top one percent was $477,970 rather than $540,009 (Saez 2018), online appendix Table A5, available at http://elsa.berkeley.edu/~saez/TabFig2018prel.xls.

[71] Rev. Proc. 2018-18, 2018-10 IRB 392.

[72] The AGI is larger than taxable income because many deductions reduce AGI in arriving at taxable income. I.R.C. sec. 62.

[73] Rev. Proc. 2021-45.

D. Spare the Affluent?

Finally—and remarkably given the evidence discussed in Part II—some of the calls for taxing "the rich" affirmatively reject, appear to disapprove, or express ambivalence about higher taxes on the affluent. Banerjee and Duflo, for example, are refreshingly clear about their choice of instruments to combat inequality. "All in all, therefore, it seems to us that high marginal income tax rates, applied only to the very high incomes, are a perfectly sensible way to limit the explosion of top income inequality" (Banerjee and Duflo 2019, 251). True, they say, we also need to address "structural economic changes, which have made it increasingly difficult to those with low education to succeed, generating an increase in inequality even within the remaining 99 percent. Addressing this issue will call for *other complementary approaches*. But we might as well begin by eliminating the ur-super-rich" (251, emphasis added). The long quote here is intended to give the readers a chance to evaluate for themselves what "other complementary approaches" may be. To this reader it seems quite clear that these approaches are not higher taxes on anyone within "the remaining 99 percent."

David Miller's view is quite similar. He advocates for a mark-to-market tax on the top 0.1 percent—the wealthiest and highest-income taxpayers (Miller 2015, 15), linking this threshold to Piketty's famous book (7). What if this tax does not raise enough revenue to achieve Miller's goals? "[O]ther sources of revenue exist," Miller answers, such as a new excise tax on charities, or a one-time tax on untaxed foreign earnings of U.S. multinationals (17). Higher income taxes on anyone below the 0.1 percent threshold never enter the picture.

Saez and Zucman recently published a book with a passionate call for a major change in taxation of high-income individuals to combat runaway inequality. Far from nibbling at the edges, they urge a higher income tax, higher corporate tax, and a new wealth tax to boot (Saez and Zucman 2019c, 147). All these measures would raise the overall federal tax rate on one-percenters dramatically. But the rates on the affluent that Saez and Zucman suggest remain essentially the same.

In separate work, Saez and Zucman explain their opposition to higher wealth taxes for anyone but the richest of the rich (Saez and Zucman 2019b). When lower thresholds were tried in several European countries, they point out, the wealth tax "aggravate[d] millionaires without bothering billionaires," leading most countries to abolish the tax (Saez and Zucman 2019b, 477). This quip is misleading, however. Of the thirteen wealth taxes in place in European countries at some point during the post-World-War II era, six had thresholds under €250,000 and four more applied to wealth over €650,000 (Scheuer and Slemrod 2021, 212). So the affluent were "aggravated" by these taxes as well. Still, given the demise of wealth taxes in Europe (only three of thirteen remain), Saez and Zucman would like the new wealth tax to apply only to those with over $50 million in assets (479-80), and they talk about "optimal" taxes only on billionaires (494). The affluent need not worry. What a difference compared to the earlier writings of (Ackerman and Alstott 1999) and (Shakow and Shuldiner 2005).

Natasha Sarin, Lawrence Summers, and Joe Kupferberg are skeptical of wealth taxes and mark-to-market taxes. They believe that time has come to finally enact long-discussed reforms that would raise taxes mostly on the one-percenters. These include a repeal of the capital gains preference, ending basis step-up at death, and so on (Sarin, Summers, and Kupferberg 2020, 334–38). They also want to limit tax expenditures by capping many deductions and exclusions. The advantage of capping (rather than repealing), they explain, is that capping "would raise tax burdens only for the rich …. Those with marginal rates under the cap would still be able to claim the full value of their itemized deductions, making this reform progressive" (Sarin, Summers, and Kupferberg 2020, 339). Given the effect of a twenty eight percent cap, it is clear that what Sarin, Summers, and Kupferberg view as progressive reform is a change making the one-percenters—but not the affluent—pay more.

Jeremy Bearer-Friend and Vanessa Williamson revive the arguments of Thomas Paine who urged a capital income tax (that he called a wealth tax) aimed at "overgrown estate[s]" of "prohibitable luxury" (Bearer-friend and Williamson 2022, 7) (citing Paine). Paine's ideas were radical—for high-enough incomes he proposed a one hundred percent tax rate. Bearer-Friend and Williamson point out many similarities between Paine's tax design and contemporary proposals, including the focus on extreme wealth. They also discuss several differences. But Bearer-Friend and Williamson ignore their own conclusion that while Paine's tax aimed at relieving the burden of the "commutation tax" that fell "heavy on the middle class of people" (7), "Paine's proposal would have touched 10-15% of the population" (14). Why should modern wealth tax proposals not follow Paine's choice of a fairly large tax base? The authors do not say.[74]

The focus on the richest of the rich is getting narrower even in the work of individual scholars. During the last two presidential campaigns, David Kamin published papers discussing options for raising taxes on the rich (the latter paper co-authored with Batchelder). The 2015 paper explains that the author's focus on those making over $1 million a year "is not to suggest that tax burdens should remain the same below these thresholds" (Kamin 2015, 119). In contrast, the 2019 paper considers it as a disadvantage of an accrual tax that it would complicate the task of ensuring that no one in the bottom 99 percent faces a tax increase (L. Batchelder and Kamin 2019, 17). This is a notable shift in perspective in four short years.

* * * * *

A clear overarching lesson from this discussion is that in contrast with the previous generation of scholars, those writing about taxes and inequality today have no interest in raising taxes on the affluent. But their choice is not shared by all critics of America's current economic and social arrangements. As we have seen, broader cultural critiques do indict the affluent. Yet as we are about to see, the solutions offered in those critiques—as well as the underlying reasons—are quite different from those advanced by the advocates of taxing "the rich."

[74] The authors emphasize that "[r]emarkably, Paine's 18th century tax brackets, when adjusted to 2020 dollars, closely align with the tax brackets proposed by Senators Elizabeth Warren and Bernie Sanders" (3-4). That conversion translates Paine's fifty pound sterling in 1790s (10) into $108,025 of 2020 dollars (19) which the authors capitalize at 5% interest into $2 million of wealth. Yet this $2 million threshold is much lower than those in Biden, Sanders, Warren, and Wyden proposals, and is comparable only to Batchelder's proposal (30). More importantly, the threshold for the top ten percent of wealth in the U.S. is estimated to be around $700,000, and lower still for the top fifteen percent (Smith, Zidar, and Zwick 2021a, 75). So the authors' currency adjustment is in conflict with their estimate of the fairly broad reach of Paine's capital income tax.

E. Challenging the Affluent … but Rarely Their Taxes

Richard Sandel's powerful condemnation of the "tyranny of merit" concludes with several reform ideas that are both clear and clearly connected to the basis of his critique. Sandel argues that two areas are crucial for societal transformation away from meritocracy and toward the "common good:" education and labor policy (15). Some of his reform ideas involve taxes. He urges the federal government to use its leverage over private colleges and universities—including the tax exemption granted to them by Congress—to induce these institutions to admit more applicants from disadvantaged and lower-income families (189). He also believes that we should "lower or even eliminate payroll taxes and [ ] raise revenue instead by taxing consumption, wealth, and financial transactions," reasoning that policymakers aiming to renew the dignity of work should tax it less, not more, than consumption, speculation, and capital accumulation (218-20).

Markovits shares many of Sandel's concerns and some of his reform ideas as well. Markovits, too, views education and labor policy as two crucial areas in need of reform. He is skeptical of the "orthodox opinion" that "helping the middle class today requires hurting the elite" (Markovits 2019, 273). As far as taxes go, he wants to deny private universities their tax exemptions unless they expand their enrollments and admit more lower-income students (277). He also wants to uncap the Social Security tax (281-82). The reason, Markovits explains, is to promote middle-class work by eliminating a current tax preference for hiring fewer very high-paid workers (most of whose earnings are not subject to the payroll tax today) compared to hiring more mid-level workers (whose earnings are fully subject to that tax). So Markovits and Sandel both want to support non-elite work, but Sandel's solution is to stop taxing it while Markovits' prescription is to tax elite work more.

The Social Security payroll tax is 12.4 percent on wages up to $147,000.[75] Half of the tax is paid by the employee and another half by the employer, but economists agree that all or most of it is borne by employees (Burman and Leiserson 2007, 173), (Saez, Schoefer, and Seim 2019, 1717, 1720–21). For a two-earner couple making between $178,150 and $340,100—the core of the affluent income range—the marginal federal income tax rate is twenty four percent.[76] Uncapping the payroll tax and levying it on all earnings would amount to a fifty percent tax hike in that couple's rate. This would be a major increase, to say the least. In the end, a hike of this magnitude may be a good idea.[77] But it would surely require more than a passing mention and a single justification. Moreover, if employees do indeed bear all or most of the burden of a payroll tax, uncapping it would make no difference in the hiring decisions of employers.

The work closest in spirit to this paper is the award-winning book by Richard Reeves—a senior fellow in economic studies at the Brookings Institution, one of the nation's premier think tanks. Reeves focuses on what he calls "'we are the 99 percent' problem"—a refusal of the affluent to acknowledge that they have done much better than the rest (Reeves 2017, 5).

[75] See https://www.ssa.gov/oact/cola/cbb.html. Half of this tax is remitted by the employee, another half by the employer. The conventional view in economics is that the entire tax is born by the employee (Burman and Leiserson 2007, 173).

[76] Rev. Proc. 2021-45, 2021-48 IRB 764.

[77] This paper's goal is not to choose among the various forms of possible tax increases.

Reeves considers taxes only at the very end of the book (along with other non-tax reforms he favors). Even there he mentions higher tax rates only in passing. Instead, he advocates limitations on tax expenditures, and his preferred way of implementing this limitation (capping the deduction rate) barely burdens the affluent, as already discussed. Whenever he mentions taxes throughout the book, he emphasizes that the affluent should accept paying "a slightly higher tax bill" (Reeves 2017, 15), and that the costs of extra taxes "will be small" (Reeves 2017, 124). Compared to a seventy percent federal income tax proposed by Representative Ocasio-Cortez and embraced by Saez and Zucman, as well as to many other dramatic proposals aimed at the richest of the rich, these are exceedingly modest suggestions.

Sandel, Markovits, Reeves, and others hold the affluent responsible for many of the current social and economic problems. They suggest reforms, or at least the first steps on the path of reforms. And they all mention taxes. Their incisive critiques help the argument that not only the richest should pay more made here, but they do not make this argument themselves.

F. Should the Affluent Get a Pass After All?

Although proponents of higher taxes on "the rich" do not explain their choice to give a pass to the affluent,[78] arguments for this position may exist after all. For example, one may argue that the affluent are already taxed enough—in absolute terms, as a share of all taxes paid, or by comparison with their tax burdens in earlier decades. This argument may be bolstered by a claim that in thinking about distribution what matters is not pre-tax inequality, but after-tax and even after-tax-after-transfer one (Elwell, Corinth, and Burkhauser 2021, 90–92). If that claim is accepted (which is not to say that I accept it), perhaps the affluent should indeed be given a pass.

Taking the most comprehensive view of incomes earned and taxes paid, a recent report by the Joint Committee on Taxation does show that the tax burden on the affluent has increased between 1960 and 2020, though not by much (Joint Committee on Taxation 2021, 14). Curiously, the one-percenters have seen a very similar rise in their tax burden. So a shift from pre-tax to after-tax normative framework does not offer reasons to distinguish between the one-percenters and the affluent. And it surely does not support a categorical exclusion of the affluent from distributional debates.

The second reason to take it easy on the affluent is a stark variation in the cost of living around the country. Two hundred fifty thousand dollars a year may be a great deal of money somewhere in central Nebraska or rural Michigan. But in Manhattan, $250,000 may feel like nothing to brag about. In contrast, a million-dollar income is a lot of money no matter where one resides. If one thinks that this is a plausible argument, and given that the current conversation about higher taxes does not include location-specific adjustments, perhaps we should take it easy on the affluent after all. This is a debate worth having, but it has not started yet.

* * * * *

Overall, contemporary scholarship reveals two general trends. Tax scholars (both lawyers and economists), focus exclusively on the very top of the income and wealth distributions while

[78] With few limited exceptions discussed earlier.

ignoring the affluent or deliberately excluding them from future tax increases. Other thinkers do focus on the affluent but almost never call for a significantly greater redistribution from this group. So while there is a loud scholarly chorus in support of taxing "the rich," there is almost complete silence when it comes to taxing the affluent.

The trouble with this state of affairs is that academics whose views are discussed here are among the foremost tax thinkers of the day. They include the current highest-ranking tax government official,[79] the current Deputy Assistance Secretary of the Treasury for Economic Policy,[80] a former Secretary of the Treasury in the Clinton administration and the Director of the National Economic Council in the Obama administration,[81] a former deputy director of the National Economic Council in the Biden administration,[82] "rock star" economists publishing op-eds in the nation's most widely-read newspapers (Reeves 2017, 21), and scholars actively working with federal and state legislators to enact much higher taxes on the one-percenters or their upper crust (Galle et al. 2021), (Shanske, Gamage, and Saez 2020), (Abreu 2021). These are the people who have the expertise and the influence to shape tax policy. Their choice to give the affluent a pass has implications well beyond the Ivory Tower. We turn to these implications next.

IV. The Many Costs of Taxing the Few

This Part discusses three implications of the current state of play in debates about taxation and redistribution. All three are all troubling. First, academics have failed to subject questionable tax policies promoted by leading Democratic politicians to critical analysis. Second, academics have failed to take advantage of a recent opportunity to bring a value-added tax closer to reality. Finally, the near-universal resistance to consider higher taxes on the affluent—an income group to which many of the scholars whose work is discussed here belong—opens these scholars to an unfriendly and biting critique.

A. Misguided Democratic Tax Proposals Get a Pass

The dominant trend in contemporary pro-redistribution tax scholarship leads to a somewhat unsettling takeaway: while this scholarship makes bold advances in one direction it clearly retreats in another. Scholars advocate for new kinds of taxes, and for new and existing taxes at much higher rates than we currently have. But they want to impose new tax burdens only on a shrinking pool of taxpayers. Perhaps it is this trend that explains scholarly inattention (not to say indifference) to questionable policies advocated by the leading Democratic politicians.

The last two Democratic Presidents ran on promises not to increase taxes for anyone below rather high thresholds: $250,000 in President Obama's platform (Montgomery and Haynes 2009) and $400,000 in President Biden's platform (Kessler 2020). The IRS data tell us what these cutoffs meant at the time they were proposed. In 2009—the year Obama took office—AGI of

[79] Batchelder is currently the Assistant Secretary of Treasury for Tax Policy.

[80] Natasha Sarin currently occupies this post, https://home.treasury.gov/news/featured-stories/the-case-for-a-robust-attack-on-the-tax-gap.

[81] These were positions held by Lawrence Summers (Shambaugh and Nunn 2020, 358)

[82] David Kamin occupied this position until recently (Davidson and Lippman 2022).

$243,096 would put one in the top two percent of all tax returns (Dungan 2021, 41:7). In 2018—the last year for which data are available—AGI of $400,000 would put one between the top two and top one percent of all tax returns (the respective thresholds were $359,368 and $540,009) (7). Clearly, both Presidents aimed for if not the top one percent, then something very close to it.

The extent to which these limits constrain policy is almost comical. In its singular determination to be true to the President's pledge, the Biden administration shielded those making less than $400,000-a-year from proposed excise tax on vaping, proposed carbon border tax, and the proposed carried interest reform (Zhang 2023, 63). Even new road tolls imposed by the recent infrastructure legislation must exempt households making less than $400,000 a year (good luck enforcing that provision) (id.). Inexplicably, even tax evasion by those making less the magic $400,000 number is apparently safe from any increase in IRS enforcement (Curry 2022). None of the numerous scholars writing about the need for higher taxes has anything to say about all these self-imposed constraints.

The reluctance to critically consider Obama's and Biden's thresholds is even more stark in light of their effects on proposed reforms of the payroll tax that funds Social Security. Both Obama's and Biden's pledges led to what has become known as an odd "donut hole" in that tax. Recall that earnings subject to the 12.4 percent Social Security payroll tax are capped, currently at $147,000.[83] Biden (as well as Obama before him) proposed removing this cap, but only for those earnings above $400,000 ($250,000 in Obama's case). Thus, under Biden's plan, the tax would be imposed on the bottom 90 percent of incomes, would not apply to the earnings between the top ten and the top one or two percent, and then would apply again to incomes that put their earners into the top one percent (Kessler 2020).

Why should those in the bottom ninety percent pay the payroll tax on all of their earnings, those in the top one percent face a 12.4 percentage point tax hike on much of their earnings, but the ninetieth to ninety ninth percentile get a break? If this question has a reasonable answer, you will not find it in contemporary tax scholarship.

By committing to their $250,000 and $400,000 cutoffs, Obama and Biden gave up on a major source of new revenue. Those earning between the Social Security earnings cap and the President Biden's $400,000 magic number earn over twenty percent of national income—more than the pretty rich and the really rich combined.[84] The decision to exclude this group from all tax increases is bound to have monumental revenue implications and major effects on the government's spending capacity, including its discretionary spending that may be targeted to those in greatest need. These implications shape real reforms with immediate on-the-ground consequences. Yet one would search in vain for either the critique or the defense of these artificial limits that constrain both the progressivity and the revenue-raising capacity of our tax law.

B. A Missed VAT Opportunity

The consequences of failing to consider making the affluent pay more are not limited to an

[83] See https://www.ssa.gov/oact/cola/cbb.html.
[84] See Figure 2.

uncritical acceptance of misguided Democratic reforms. The same reluctance may explain an almost complete disregard in recent academic work of a potential new tax that is a major, tried-and-true source of revenue. That tax is the value-added tax (VAT)—a much better version of a sales tax imposed by many U.S. states. More than 160 countries impose a VAT, but the United States does not (Raskolnikov 2017a, 30). A few years ago, this dubious distinction may have come to an end.

In the spring of 2017, two prominent Republican legislators: Paul Ryan, the Speaker of the House of Representatives, and Kevin Brady, Chair of the House Ways and Means Committee, advanced a bold tax reform plan that "would create a business tax system that has never existed anywhere in the world" (Raskolnikov 2017a, 26). Although the plan appeared to be just a reform of the existing corporate income tax, it would in fact replace that tax with a consumption tax conceptually similar to a VAT. I argued at the time that the new tax had too many problems but pointed in the right direction. A VAT modified to tax wages at the individual level, I pointed out following a well-developed analysis in the literature (Bankman and Weisbach 2006, 1418 n7), would be both more progressive than a typical VAT (making Democrats happy) and more business-friendly than a corporate income tax (making Republicans happy) (34). Alas, President Trump had other ideas, and the Ryan-Brady plan faded into obscurity.

Needless to say, I was neither the first nor the only one who has argued in favor of adopting a VAT alongside an income tax. Michael Graetz advanced this argument in 2002 (Graetz 2002) and expanded it in 2008 (Graetz 2008). Graetz urged enacting a VAT to replace the income tax for most Americans—those earning under $100,000 (for joint returns). Graetz also wanted to keep a simpler income tax at a 20 to 25 percent rate on incomes over $100,000 (Graetz 2002, 282). Perhaps not coincidentally, the AGI cutoff for the top ten percent in 2002 was $95,699.

Academic attention to a VAT continued after the publication of Graetz' influential book.[85] But oddly, with few notable exceptions (Weisbach 2017), (Shaviro 2018), the academic advocacy in favor of a VAT did not kick into high gear when the Ryan-Brady plan was hotly debated in 2017 or afterwards. The most politically viable reform proposal to enact a tax very similar to a VAT did not trigger tax scholars' efforts to tweak it and help push it over the finish line.[86] Instead, academic attention turned overwhelmingly toward arguments in favor of a wealth and income taxes on "the rich."

Why summarize this particular episode in the never-ending saga of academic debates about the tax reform? Because a VAT differs from higher taxes on income and wealth of "the rich" in two important respects: it raises much more revenue and it has very different distributional consequences.

Starting with revenue, Graetz estimated in 2008 that a ten percent VAT would raise $735 billion

[85] In 2010, Tax Law Review published a two-volume collection of papers from a symposium on designing a Federal VAT (Symposium 2010).

[86] Katherine Pratt's article forthcoming in Tax Law Review and elaborating on Graetz' plan is an exception that proves the rule (Pratt 2022). She supports her claim that many experts favor an enactment of a consumption tax in the U.S. (not necessarily a VAT) by citing recent writings by two economists, Alan Viard and Martin Sullivan (2). Viard also offers a post-mortem of the 2017 reform effort in (Viard 2018). William Gale—another economist—continues to advocate for a VAT as well (Gale 2019, 241–50).

a year, and each additional percentage point would raise another $70-85 billion (Graetz 2008, 216). Thus, a moderate VAT would raise $1 trillion annually.[87] This is still a reasonable estimate. An average European VAT raises about seven percent of GDP.[88] For the United States with GDP of about $21 trillion, a comparable VAT revenue would be almost $1.5 trillion a year or $15 trillion over the standard 10-year budget window.

How do these numbers compare to the high-profile recent proposals to tax "the rich"? Batchelder and Kamin estimate that a 70% tax rate on incomes over $10 million proposed by Representative Ocasio-Cortez would raise $260-320 billion over ten years (L. Batchelder and Kamin 2019, 12).[89] Senator Warren's wealth tax is estimated (sympathetically) to raise $2.75 trillion over ten years (L. L. Batchelder and Kamin 2019, 19). Senator Sanders' wealth tax proposal is estimated to have a similar effect.[90] Senator Wyden's mark-to-market tax reform would raise $1.5-2 trillion over ten years—one-fifth to one-tenth of VAT revenue.[91]

Moreover, it is well-understood that "there is vast uncertainty in estimating the revenues that would be generated by either an accrual tax regime or a wealth tax" (L. Batchelder and Kamin 2019, 15). The same is true of a 70% tax rate that American taxpayers have not seen for many decades. The tax-the-rich estimates cited here are, to put it bluntly, speculative. The actual revenue may end up being a fraction of that estimated.

In contrast, estimating VAT revenues is by now a reasonably reliable exercise given that VATs are collected in many countries for many decades and with a fairly wide range of rates and exemptions.[92] The bottom line is clear: it is hard—pretty much impossible—to beat a VAT as a tried-and-true source of massive new revenue.

The VAT's awesome revenue raising potential, however, is not its only distinguishing feature. It also has distributional effects that are very different from the currently proposed taxes on "the rich." Given the long history and widespread, world-wide adoption of VATs, it may seem odd that these distributional effects are by no means well-established.[93] The reasons for this state of

[87] The high-VAT European countries have VAT rates between 20 and 25% rather than 10-14% contemplated by Graetz (Blasco, Guillaud, and Zemmour 2021, 14).

[88] European Commission, Data on Taxation, Indirect Taxes (tab 5); https://ec.europa.eu/taxation_customs/taxation-1/economic-analysis-taxation/data-taxation_en.

[89] They point out that lowering the threshold for the 70% rate to that of a current top bracket (roughly the top 1% income threshold) may increase the revenue by a factor of nine. They are not suggesting actually applying the 70% rate at that threshold however (and, as we have seen, neither do Saez and Zucman (Saez and Zucman 2019)). But even if they did make this argument, the resulting revenue of this staggering income tax increase would be a third or a quarter of a relatively modest VAT that Graetz proposed.

[90] https://www.cnbc.com/2020/01/22/wharton-study-bernie-sanders-wealth-tax-would-fall-1-trillion-shy.html.

[91] https://www.finance.senate.gov/ranking-members-news/wyden-unveils-proposal-to-fix-broken-tax-code-equalize-treatment-of-wages-and-wealth-protect-social-security-.

[92] Batchelder and Kamin discuss many other options for taxing the rich, and some of them do raise revenues comparable to a VAT, especially in combination. But the authors are not advocating any specific reform, and neither does anyone else, as we have seen section III.B. That is why the discussion in the text is limited to the actual proposals.

[93] "The distributive effect of consumption taxes [of which a VAT is the most important one] is the blind spot in the comparative study of redistribute systems" (Blasco, Guillaud, and Zemmour 2021, 2). The same is true of state sales and excise taxes in the United States. It is quite revealing that when Saez and Zucman assert that these taxes

affairs are well-known,[94] and recent work has tried to overcome them in a number of ways.

The first piece of evidence is the groundbreaking paper by Blanchet, Chancel, and Gethin discussed earlier in connection with international comparisons. These scholars compare taxes paid as a share of total market income in the U.S. and in the countries of Northern and Western Europe, and they do so for the 90-95th, 95-99th percentiles, and for the top one percent (Blanchet, Chancel, and Gethin, n.d., Online Appendix 73, Figure A.2.3.1). Importantly, they break down taxes by type, separating them into income and wealth taxes, social insurance contributions, and indirect taxes. VAT accounts for about half of all indirect taxes in Europe.[95]

Comparing the burden of indirect taxes born by the affluent (90-95th and 95-99th percentile in the Blanchet, Chancel, and Gethin results) to the burden born by the top one percent clearly shows the distributional effect of a VAT. In Europe, the indirect taxes collected from taxpayers in these three increasingly high-income groups are 9%, 8% and 5% of market income (respectively). In the U.S. the respective numbers are 4%, 4%, and 1%. Adding a U.S. VAT, it seems, would add about four percentage points to the tax burden of each group. That is, a VAT would burden the one-percenters and the affluent equally.

Another recent paper by a different group of European researchers uses a different methodology but suggests a similar (if not more dramatic) conclusion. Julien Blasco, Elvire Guillaud, and Michael Zemmour present consumption-tax-to-income ratios for the United States, Germany, France, and Denmark (Blasco, Guillaud, and Zemmour 2021, 13). These ratios show what share of people's income is spent on paying all sorts of consumption taxes. The U.S. is the only country in this group that does not have a VAT.

Looking at the top of each country's income distribution, one sees two obvious disparities. First, the European ratios are two-to-three times higher than the U.S. one. At a given income level, Europeans pay much more in consumption taxes than Americans do. This is to be expected given European VATs. Second, the U.S. ratios for the top one percent and the next nine are very similar. But in the three European countries, the ratio at the ninetieth percentile of income distribution is about 15-20% higher than at the ninety ninth percentile (meaning that the former group pays more in consumption taxes compared to their income than the latter one). These results suggest that a VAT imposes a somewhat higher (not just roughly equal) burden on the affluent compared to the rich.

The idea that a VAT would burden the affluent and the rich alike is not exactly new. In 2013, Eric Toder, Jim Nunns, and Joseph Rosenberg estimated the distributional consequences of Graetz' tax reform plan centered on the enactment of a VAT (Graetz 2014, 435). Breaking down

---

"absorb more than 10% of income in the bottom deciles compared to barely 1% or 2% at the top," they rely not on peer reviewed publications but on the report of Institute on Taxation and Economic Policy, a progressive think tank.

[94] Because value-added taxes are indirect (not imposed directly on income of individuals), one needs to have a good grasp of consumption by households with different incomes. One also needs to know if households at similar incomes consume bundles of goods and services that are subject to similar VAT rates (given various VAT exemptions). For a detailed discussion, see (Blasco, Guillaud, and Zemmour 2021, 1–6).

[95] European Commission, Data on Taxation, Indirect Taxes (tabs 3, 5); https://ec.europa.eu/taxation_customs/taxation-1/economic-analysis-taxation/data-taxation_en. Indirect taxes in Europe are equal, on average, to about 13% of market income while VAT collections are about 7%.

the high earners into three subgroup (90-95th, 95-99th, and top 1), Toder, Nunns, and Rosenberg predicted that enacting a VAT (along with other measures) would reduce after-tax incomes of each group by about the same percentage.

Thus, three different sets of economists evaluating different tax systems and data sets came to a very similar conclusion: adding a VAT places roughly the same additional burden on the one-percenters and the affluent. This result, of course, is very different from the distributional effects of the current policy proposals and academic discussions focused entirely on taxing only the one-percenters or their highest-earning fraction.

The absence of a VAT from the current tax reform conversation reveals just how costly the current preoccupation with "the rich" has become. The singular determination to tax only "the rich" precludes the most potent, reliable, and widespread revenue-raising tax instrument from consideration altogether. Moreover, even when a similar instrument is proposed by the most celebrated advocates of taxing "the rich," the usual embrace of their proposal dissipates.

At the very end of their recent book dedicated to arguments supporting much higher taxes on the one-percenters and the billionaires, in the space of four pages, SZ introduce a very different idea: a national income tax (NIT) (Saez and Zucman 2019c, 187–90). While its name echoes familiar terms like National Football League and National Basketball Association, "national" in the name of the tax does not refer to its all-American nature. Rather, the proposed tax is a tax on what economists call "national income" (or, more precisely, the *imputed* national income (Smith et al. 2019, 1685))—the estimate of all income generated in a country during a year, whether that income is currently taxable or not (Saez and Zucman 2019c, 2–3).

The NIT would be imposed at flat rate (SZ suggest 6%) on all forms of income with no exemptions or deductions except for depreciation and exemptions for dividends, retirement distributions, and government transfers. SZ argue that the NIT is the twenty-first century version of a VAT: it has equally great revenue raising potential, but is less regressive and requires a lower rate because of its broader base. Similar to a VAT, the NIT would be imposed in addition to existing individual and corporate income taxes.

This idea has received no traction in academic literature thus far.[96] Yet it surely deserves attention. This paper is obviously not the place to offer a full theoretical and practical comparison between the NIT and the VAT. But whatever this comparison shows, both taxes certainly would not exclude the affluent from contributing more to the public coffers.

In the end, one can only guess, but it seems that the current lack of academic interest in the VAT and the NIT reflects a view that because these taxes do not target the top one percent, they are not worth enacting. One hopes that all of the reasons to raise additional revenue from the affluent discussed in this paper would return scholarly attention to various forms of a VAT, perhaps along with a newly found interest in the NIT.

[96] As of March 27, 2022, Westlaw Law Reviews data base shows 18 articles citing Saez and Zucman's book. None of these articles mentions NIT.

C. This Is Us

The final problem with ignoring the affluent as candidates for higher taxes has to do not with scholarly arguments but with scholars themselves. Empirical research on inequality and, more specifically, on perceptions of inequality has established a curious regularity. People's most consistent answer to the question "who is rich" is … "not me!"

The 2015 Pew Research Survey found that only one percent of respondents thought they were "upper class" (Pew Research Center 2015, 14). It is safe to speculate that the percentage would have been even lower if the researchers replaced "upper class" with "rich." Stefanie Stantcheva and colleagues found that highest earners in a wide variety of reference groups constructed in numerous ways (by income, education, location, employment, etc.) exhibit what they call "center bias:" "those with higher incomes tend to overestimate others' incomes, while those with lower incomes tend to underestimate others' incomes" (Hvidberg, Kreiner, and Stantcheva 2021, 2). Curiously, the higher the income, the greater the bias. "Most strikingly, people at the very top of the distribution (above P95 [95th percentile]) overestimate P95 by 50%" (3). As Reeves observed, the implication of such "modesty" is obvious. "People are [ ] generally happy to tax 'rich' people. But nobody thinks they are rich themselves." (Reeves 2017, 154).

Given the apparent human tendency to diminish one's own good economic fortunes, what about us—intellectuals and, more specifically, academics laying legal and theoretical foundations for tax-the-rich reforms? Publicly available compensation data offers an answer, and the answer is unambiguous: The affluent are not them; they are us.

In general, reliable compensation numbers are not publicly available in the United States. But several states passed laws requiring public disclosure of salaries of state employees, including at state colleges and universities. Several elite universities happen to be located in these states, including California, Michigan, Texas, and Virginia. Thus, we have a very good sense of the range of salaries of professors (including law professors) in top-tier institutions. These salaries, it is worth pointing out, are not necessarily the entire compensation, as faculty may get additional perks like subsidized housing. But even the disclosed salaries are enough to make the point.

At the University of Michigan, for example, over a decade ago, the starting salary for an entry-level law professor would place him or her well into the top ten percent of all income earners. Many law professors, economics professors, business school professors, and medical school professors at an esteemed institution like the University of Michigan are significantly above the entry-point into the affluent range, with quite a few approaching the top one percent. Given that the market for professorial talent is highly competitive,[97] it is safe to assume that compensation packages at peer schools are similarly generous.

These numbers have an unhappy implication for the subject of this paper. Scholars making increasingly assertive arguments in favor of greater redistribution *only* from "the rich" omit from these arguments the category of taxpayers to which most of the scholars themselves belong. This implication becomes even more noticeable when scholars turn from academic arguments to popular press, write letters to politicians, or assume senior government positions.

[97] See, for example, Brian Leiter's annual list of numerous lateral moves by law professors.

Legal academics and public finance economists are not alone in being vulnerable to this critique. "Pretty much every position in the influencing business is in fact filled by members of the upper middle class," meaning the 80th-99th percentile (Reeves 2017, 155). But among all those positioned to influence, a scholar's job in particular is to ask questions that are not being asked. So our blind spot for the affluent is especially problematic.

Needless to say, I am not suggesting that any participant in the academic debate about redistribution is driven by personal tax considerations. In fact, I suspect that a few of the academic contributors to this debate (some of whom I count as friends) would indeed see their own taxes go up if some of their proposals are adopted.

But this is not the point. By neglecting to even consider whether the affluent—and not only "the rich"—should pay more in taxes academics and other intellectuals categorically exempt their (nay, our) own social and economic group from scrutiny to which they (we) subject a different group. One hardly needs to elaborate on the problems with this approach. If so, the case for inserting the affluent into redistribution debates is even more urgent than it would appear otherwise.

D. Is This All About Politics?

The apparent consensus among numerous advocates of greater redistribution to target only the very top makes one pause and ask if the entire discussion in this paper misses something important. Perhaps there are good (or at least good enough) reasons for the current forgetting of the affluent. If so, what could they be?

One obvious answer is politics. It is important to raise taxes on the really rich (and possibly the pretty rich), but one needs the support of the affluent to do so. Agitating for higher taxes on the affluent as well as on higher earners at the same time would make any progressive tax reform much less likely. Ergo, give the affluent a pass.

This may well be true, but it explains nothing. If the decision that only the richest should pay more is all about politics, scholars should be clear about this. And once this point is made, the obvious next question would bring us to a conceptual inquiry unshackled by political constraints.

Tax scholarship has always been full of such conceptual explorations, often wholly unrealistic. Kyle Logue and James Hines discussed the advantages of delegating tax rate-setting to an independent agency akin to the Federal Reserve, even though the Fed itself has been under an increasing pressure because of its political independence. Batchelder explored a radical expansion of wealth transfer taxation in the United States, even though a modest estate tax is barely surviving. Len Burman advocated indexing the entire U.S. tax code for changes in inequality, while we have failed to index the code even for inflation (with few exceptions).

Stepping outside of tax scholarship brings more stark examples. As mentioned in the Introduction, the 1972 article "Should Trees Have Standing? Toward Legal Rights for Natural Objects" (Stone 1972) has over twenty five hundred cites on Google Scholar. Contemporary academics consider elimination of national borders (Achiume 2019) and abolition of carceral institutions (McLeod 2015). The famous Learned Hand formula lying at the foundation of the entire literature on law and economics of torts has been essentially ignored by courts. This list can go on and on, whether tax-specific or not. Scholars have generated many intriguing ideas that are not even close to being realistic. Yet lack of realism did not—and should not have—stopped scholars from exploring them. The same should be true about taxation of the affluent. The political constraint is a sideshow.

Conclusion

This paper highlights—and critiques—a somewhat surprising political and intellectual shift of the past decade or two. As a strong new wave of progressive politics entered Democratic mainstream bringing with it increasingly far-reaching policy proposals, the tax reform discussion shifted towards higher and higher taxes on fewer and fewer taxpayers, leaving wide swaths of very well-off Americans off the hook. Even more surprising, academic discourse—a conversation generally unconstrained by concerns about practical plausibility, real or imagined—has undergone a parallel shift.

This paper's simple but far-reaching argument is that this shift is a mistake, at least as far as the academic inquiry is concerned. Whether we look at changes in income distribution, wealth distribution, economic mobility, or subjective well-being, the argument for higher taxes on the affluent is strong. When we turn to the causes of American social malaise and political polarization, the affluent are, if anything, greater culprits. For all these reasons, this paper's answer to the question posed in its title is a decisive "no:" not *only* the richest should pay more.

As is true of all academic writing, these points may (and should) be debated. The problem today is that these arguments are not even discussed. The affluent are excused with no justification whatsoever. This should not be.

Four points should be noted in conclusion. First, this paper's call for taxing the affluent rather than only the one-percenters (or an even smaller group of super-high earners) is really the argument to consider higher taxes on the well-off group that is *at least* as broad as the affluent. While PSZ interpretation of the data is widely cited, it likely overstate the degree of income and wealth concentration at the very top. If so, the case for taxing only the richest earners weakens further, and the case for taxing those lower in the distribution strengthens.

The second point is that this paper's argument to consider higher taxes on the affluent should not be confused with an argument that taxes on the affluent and the one-percenters should increase in lockstep. The magnitude of tax increases is a separate question that this paper does not address. But this separate question may not be intelligently discussed until the affluent enter the conversation.

Third, one can imagine a number of additional arguments for taxing only the one-percenters or an even smaller group. Perhaps their incomes are mostly due to luck while incomes of others are mostly due to merit. Perhaps there are other reasons for a sharply different tax treatment of the one-percenters and the affluent. If so, they remain to discovered.

Finally, this paper aims to shift the terms of the conversation, not to change the conversation overnight. With only few exceptions, the discourse in the media, legal scholarship, economics, and political science is focused on "the rich." Given the billion-dollar annual incomes at the very top and the well-publicized tax-free living of some of the Fortune 400 luminaries, the richest of the rich are obvious targets. One may argue that a singular focus right now should be on curbing the most outrageous flaws of our tax system. A discussion of taxation of the affluent can wait.

This argument is plausible but not self-evident. To many Americans, calls to "soak the rich" may sound less appealing than "ask not what your country can do for you" type arguments.[98] But even if the current political constraints do indeed make it possible to raise taxes only on the richest Americans, these constraints do not excuse academics from debating and advancing policies that should be adopted on their merits, whether next year or ten years hence. Higher taxes on the affluent should fully enter academic conversation. In due time, these taxes will enter the political discourse as well.

REFERENCES

Abreu, Alice. 2021. "219 Economists and Law Professors Support Billionaires Income Tax."

Achiume, E Tendayi. 2019. "Migration as Decolonization." *Stanford Law Review* 71 (June): 1509–74. https://ssrn.com/abstract=3330353.

Ackerman, Bruce, and Anne Alstott. 1999. *The Stakeholder Society*. Yale University Press.

———. 2004. "Why Stakeholding?" *Politics and Society* 32 (1): 41–60. https://doi.org/10.1177/0032329203261096.

Adams, Bryan et al. 2021. "More Than 250 Millionaires Supporting the Billionaires Income Tax."

Alesina, Alberto, Armando Miano, and Stefanie Stantcheva. 2020. "The Polarization of Reality." *AEA Papers and Proceedings* 110: 324–28.

Alstadsæter, Annette, Niels Johannesen, and Gabriel Zucman. 2019. "Tax Evasion and Inequality." *American Economic Review* 109 (6): 2073–2103. https://doi.org/10.1257/aer.20172043.

Alvaredo, Facundo, Anthony B. Atkinson, Thomas Piketty, and Emmanuel Saez. 2013. "The Top 1 Percent in International and Historical Perspective." *Journal of Economic Perspectives* 27 (3): 3–20. https://doi.org/10.1257/jep.27.3.3.

Astor, Maggie. 2019. "Should Billionaires Exist? Sanders, Warren and Steyer Debate It." *New York Times*, 2019.

Atkinson, Anthony B., Thomas Piketty, and Emmanuel Saez. 2011a. "Top Incomes in the Long Run of History." *Journal of Economic Literature* 49 (1): 3–71. https://doi.org/10.1257/jel.49.1.3.

———. 2011b. "Top Incomes in the Long Run of History." *Journal of Economic Literature* 49 (1): 3–71. https://doi.org/10.1257/jel.49.1.3.

Auten, Gerald, and Geoffrey Gee. 2009. "Income Mobility in the United States: New Evidence from Income Tax Data." *National Tax Journal* 62 (2): 301–28.

Auten, Gerald, Geoffrey Gee, and Nicholas Turner. 2013. "Income Inequality, Mobility, and Turnover at the Top in the US, 1987 – 2010." *American Economic Review: Papers & Proceedings* 103 (3): 168–72.

[98] https://www.ushistory.org/documents/ask-not.htm.

Auten, Gerald, and David Splinter. 2022. “Income Inequality in the United States: Using Tax Data to Measure Long-Term Trends David Splinter.” www.davidsplinter.com.
Autor, David H. 2014. “Skills, Education, and the Rise of Earnings Inequality among the ‘Other 99 Percent.’” *Science* 344: 843–51.
Bakija, Jon, Adam Cole, and Bradley Heim. 2012. “Jobs and Income Growth of Top Earners and the Causes of Changing Income Inequality: Evidence from U.S. Tax Return Data.”
Banerjee, Abhijit, and Esther Duflo. 2019. *Good Economics for Hard Times*. New York: Public Affairs.
Bankman, Joseph, and David A. Weisbach. 2006. “The Superiority of an Ideal Consumption Tax over an Ideal Income Tax.” *Stanford Law Review* 58: 1412–56.
Bartels, Larry M. 2008. *Unequal Democracy*. Princeton University Press.
———. 2014. “Rich People Rule!” *Washington Post*, 2014.
Bashir, Omar S. 2015. “Testing Inferences About American Politics: A Review of the ‘Oligarchy’ Result.” *Research and Politics* 2 (4).
Batchelder, Lily. 2020. “Leveling the Playing Field between Inherited Income and Income from Work through an Inheritance Tax.” In *Tackling the Tax Code: Efficient and Equitable Ways to Raise Revenue*, edited by Jay Shambaugh and Ryan Nunn, 43–88.
Batchelder, Lily, and David Kamin. 2019. “Taxing the Rich: Issues and Options.” *SSRN Electronic Journal*.
Batchelder, Lily L., and David Kamin. 2019. “Taxing the Rich: Issues and Options.” *SSRN Electronic Journal*. https://doi.org/10.2139/ssrn.3452274.
Batty, Michael, Jesse Bricker, Joseph Briggs, Elizabeth Holmquist, Susan McIntosh, Kevin Moore, Eric Nielsen, et al. 2019. “Introducing the Distributional Financial Accounts of the United States.” 017. *Finance and Economics Discussion Series*.
Bearer-friend, Jeremy, and Vanessa Williamson. 2022. “The Common Sense of a Wealth Tax: Thomas Paine and Taxation as Freedom from Aristocracy.” *Florida Tax Review*.
Berman, Yonatan. 2022. “On the Link Between Intergenerational Mobility and Inequality : Are They Truly Distinct ?”
Bhandari, Anmol, Serdar Birinci, Ellen R. McGrattan, and Kurt See. 2020. “What Do Survey Data Tell Us about US Businesses?” *American Economic Review: Insights* 2 (4): 443–58. https://doi.org/10.1257/aeri.20190304.
Blanchet, Thomas, Lucas Chancel, and Amory Gethin. n.d. “Why Is Europe More Equal than the United States?” *American Economic Journal: Applied Economics*.
Blank, Joshua D., and Ari Glogower. 2021. “Progressive Tax Procedure.” *New York University Law Review* 96: 668–737.
———. 2023. “The Tax Information Gap at the Top.” *Iowa Law Review*, **-**.
Blank, Joshua D, and Ari Glogower. 2022. “The Trouble with Targeting Tax Shelters.” *Administrative Law Review* 74: **-**.
Blasco, Julien, Elvire Guillaud, and Michaël Zemmour. 2021. “The Impact of Consumption Taxes on Income Inequality: An International Comparison.” 785. LIS Working Paper Series.
Bonica, Adam, Nolan McCarty, Keith T. Poole, and Howard Rosenthal. 2013. “Why Hasn’t Democracy Slowed Rising Inequality?” *Journal of Economic Perspectives* 27 (3): 103–24. https://doi.org/10.1257/jep.27.3.103.
Bowman, Karlyn, and Eleanor O’Neil. 2021. “Public Opinion on Inequality.” In *United States Income, Wealth, Consumption, and Inequality*, 243–61.

Bricker, Jesse, Sarena Goodman, Kevin B. Moore, and Alice Henriques Volz. 2020. "Wealth and Income Concentration in the SCF: 1989–2019." *FEDS Notes*. Vol. 2020. https://doi.org/10.17016/2380-7172.2795.

Bricker, Jesse, Alice Henriques, and Peter Hansen. 2018. "How Much Has Wealth Concentration Grown in the United States? A Re-Examination of Data from 2001-2013." *Finance and Economics Discussion Series* 2018 (024). https://doi.org/10.17016/feds.2018.024.

Bricker, Jesse, Jacob Krimmel, Alice Henriques, and John Sabelhaus. 2016. "Measuring Income and Wealth at the Top Using Administrative and Survey Data." *Brookings Papers on Economic Activity*, 261–331.

Broockman, David, and Neil Malhotra. 2020. "What Do Partisan Donors Want?" *Public Opinion Quarterly* 84 (1): 104–18. https://doi.org/10.1093/poq/nfaa001.

Burman, Len, and Greg Leiserson. 2007. "Two-Thirds of Tax Units Pay More Payroll Tax Than Income Tax." *Tax Notes*, 2007.

Chetty, Raj, David Grusky, Maximilian Hell, Nathaniel Hendren, Robert Manduca, and Jimmy Narang. 2017. "The Fading American Dream: Trends in Absolute Income Mobility since 1940." *Science* 356 (6336): 398–406. https://doi.org/10.1126/science.aal4617.

Chetty, Raj, Nathaniel Hendren, Patrick Kline, and Emmanuel Saez. 2014. "Where Is the Land of Opportunity? The Geography of Intergenerational Mobility in the United States." *Quarterly Journal of Economics* 129 (November): 1553–1623.

Chetty, Raj, Nathaniel Hendren, Patrick Kline, Emmanuel Saez, and Nicholas Turner. 2014. "Is the United States Still a Land of Opportunity? Recent Trends in Intergenerational Mobility." *American Economic Review: Papers & Proceedings* 104 (5): 141–47. https://doi.org/10.1257/aer.104.5.141.

Congressional Budget Office. 2021. "The Distribution of Major Tax Expenditures in 2019."

Corak, Miles. 2013. "Income Inequality, Equality of Opportunity, and Intergenerational Mobility." *Journal of Economic Perspectives* 27 (3): 79–102.

Curry, Jonathan. 2022. "Biden's Simple Tax Pledge Makes For Tricky Implementation for IRS." *Tax Notes Federal*, 2022.

Davidson, Kate, and Daniel Lippman. 2022. "Biden's Advocate for Taxing the Rich to Leave White House." Politico.Com. 2022. https://www.politico.com/news/2022/05/26/bidens-advocate-tax-the-rich-white-house-00035437.

DellaPosta, Daniel, Yongren Shi, and Michael Macy. 2015. "Why Do Liberals Drink Lattes?" *American Journal of Sociology* 120 (5): 1473–1511. https://doi.org/10.1086/681254.

Duesenberry, James. 1949. *Income, Saving, and the Theory of Consumer Behavior*. Cambridge, MA: Harvard University Press.

Dungan, Adrian. 2021. "Individual Income Tax Shares." *SOI Bulletin*. Vol. 41.

Elkjær, Mads Andreas, and Michael Baggesen Klitgaard. 2021. "Economic Inequality and Political Responsiveness: A Systematic Review." *Perspectives on Politics*, 1–20.

Elwell, James, Kevin Corinth, and Richard V. Burkhauser. 2021. "Income Growth and Its Distribution: From Eisenhower To Obama." In *US Income, Wealth, Consumption, and Inequality*, 90–124. https://doi.org/10.1093/oso/9780197518199.003.0005.1.

Enns, Peter K. 2015. "Relative Policy Support and Coincidental Representation." *Perspectives on Politics* 13 (4): 1053–64. https://doi.org/10.1017/S1537592715002315.

Fishman, Raymond, Keith Gladstone, Ilyana Kuziemko, and Suresh Naidu. 2020. "Do Americans Want to Tax Wealth? Evidence from Online Surveys." *Journal of Public Economics* 188. https://doi.org/10.1016/j.jpubeco.2020.104207.

Fishman, Raymond, Ilyana Kuziemko, and Silvia Vannutelli. 2021. "Distributional Preferences in Larger Groups: Keeping up with the Joneses and Keeping Track of the Tails." *Journal of the European Economic Association* 19 (2): 1407–38. https://doi.org/10.1093/jeea/jvaa033.

Fox, Justin. 2021. "Everything Keeps Coming Up Roses for the $200,000 to $500,000 Set." *Financial Advisor*, 2021. https://www.fa-mag.com/news/everything-keeps-coming-up-roses-for-the--200-000-to--500-000-set-64763.html?section=40&page=2.

Frank, Robert H. 1985. *Choosing the Righ Pond: Human Behavior and the Quest for Status*. New York, NY: Oxford University Press.

Frank, Robert H., Adam Seth Levine, and Oege Dijk. 2014. "Expenditure Cascades." *Review of Behavioral Economics* 1: 55–73.

Frank, Robert H., Richard Posner, and Sendhil Mullainathan. 2005. "Positional Externalities Cause Large and Preventable Welfare Losses." *American Economic Review* 95 (2): 137–41. https://doi.org/10.1257/000282805774670392.

Gale, William G. 2019. *Fiscal Therapy*. New York, NY: Oxford University Press.

Galle, Brian D., David Gamage, Emmanuel Saez, and Darien Shanske. 2021. "The California Tax on Extreme Wealth: Revenue, Economic, and Constitutional Analysis." *Indiana Legal Studies Research Paper*.

Gamage, David, and John R. Brooks. 2022. "Tax Now or Tax Never: Political Optionality and the Case for Current-Assessment Tax Reform." *North Carolina Law Review* 487–556.

Gilens, Martin. 2012. *Affluence and Influence*. Russell Sage, Princeton University Press.

———. 2015. "The Insufficiency of Democracy by Coincidence: A Response to Peter K. Enns." *Perspectives on Politics* 13 (4): 1065–71. https://doi.org/10.1017/S1537592715002327.

Gilens, Martin, and Benjamin I. Page. 2014a. "Testing Theories of American Politics: Elites, Interest Groups, and Average Citizens." *Perspectives on Politics* 12 (3): 564–81. https://doi.org/10.1017/S1537592714001595.

———. 2014b. "Testing Theories of American Politics: Elites, Interest Groups, and Average Citizens." *Perspectives on Politics* 12 (3): 564–81. https://doi.org/10.1017/S1537592714001595.

Gleckman, Howard. 2021. "Hill Democrats Shift From Raising To Cutting Taxes on the Merely Rich." TaxVox. 2021.

Glogower, Ari. 2018. "Taxing Inequality." *New York University Law Review* 93: 1421–88.

———. 2020. "A Constitutional Wealth Tax." *Michigan Law Review* 118 (5): 717–84.

Graetz, Michael J. 2002. "100 Million Unnecessary Returns: A Fresh Start for the U.S. Tax System." *Yale Law Journal* 112 (2): 261–310.

———. 2008. *100 Million Unnecessary Returns: A Simple, Fair, and Competitive Tax Plan for the United States*.

———. 2014. "The Tax Reform Road Not Taken--Yet." *National Tax Journal* 67 (June): 419–40.

Guvenen, Fatih, and Greg Kaplan. 2017. "Top Income Inequality in the 21st Century: Some Cautionary Notes." *Quarterly Review* 38 (1): 1–18.

Guvenen, Fatih, Greg Kaplan, Jae Song, and Justin Weidner. 2021. "Lifetime Earnings in the United States over Six Decades." Working Paper No. 2021-60. *Becker Friedman Institute for Economics*.

Guyton, John, Patrick Langetieg, Daniel Reck, Max Risch, and Gabriel Zucman. 2021. "Ax Evasion at the Top of the Income Distribution: Theory and Evidence." *Nber Working Paper Series* 1970: 1–28. http://www.nber.org/papers/w28542.

Hacker, Jacob S., Alexander Hertel-Fernandez, Paul Pierson, and Kathleen Thelen. 2022. "The American Political Economy: Markets, Power, and the Meta Politics of US Economic Governance." *Annual Review of Political Science* 25: 1–21.

Hacker, Jacob S., and Paul Pierson. 2011. *Winner-Take-All Politics: How Washington Made the Rich Richer--and Turned Its Back on the Middle Class*. Simon & Schuster.

Hemel, Daniel, and Kyle Rozema. 2017. "Inequality and the Mortgage Interest Deduction." *Tax Law Review* 70 (4): 667–706.

Hoffmann, Florian, David S. Lee, and Thomas Lemieux. 2020. "Growing Income Inequality in the United States and Other Advanced Economies." *Journal of Economic Perspectives* 34 (4): 52–78. https://doi.org/10.1257/JEP.34.4.52.

Hvidberg, Kristoffer B., Claus T. Kreiner, and Stefanie Stantcheva. 2021. "Social Positions and Fairness Views on Inequality." 28099. NBER Working Paper Series.

Irvin, Renee, and Jes Sokolowski. 2020. "Think Tank Soldiers in the Battle for Tax Reform." *Nonprofit Policy Forum* 11 (1): 1–14. https://doi.org/10.1515/npf-2019-0047.

Jackson, Joshua Conrad, and Keith Payne. 2021. "Cognitive Barriers to Reducing Income Inequality." *Social Psychological and Personality Science* 12 (5): 687–96. https://doi.org/10.1177/1948550620934597.

Johns, Andrew, and Joel Slemrod. 2010. "The Distribution of Income Tax Noncompliance." *National Tax Journal* 63 (3): 397–418. https://doi.org/10.17310/ntj.2010.3.01.

Joint Committee on Taxation. 2021. "Present Law and Background on the Taxation of High Income and High Wealth Taxpayers."

Kamin, David. 2015. "How to Tax the Rich." *Tax Notes* 146: 119–29.

Kearney, Melissa S., and Phillip B. Levine. 2016. "Income Inequality, Social Mobility, and the Decision to Drop Out of High School." *Brookings Papers on Economic Activity*, no. Spring: 333–96.

Kessler, Glenn. 2020. "Joe Biden's Claim That He Won't Raise Taxes on People Making Less than $ 400,000." *Washington Post*, 2020.

Kopczuk, Wojciech. 2019. "Comments and Discussion." *Brookings Papers on Economic Activity*, 512–33.

Kopczuk, Wojciech, Emmanuel Saez, and Jae Song. 2010. "Earnings Inequality and Mobility in the United States: Evidence from Social Security Data Since 1937." *Quarterly Journal of Economics* 125: 91–128.

Krueger, Alan B. 2012. "The Rise and Consequences of Inequality in the United States." Speech at the Center for American Progress, Washington DC.

Kuhn, Moritz, Moritz Schularick, and Ulrike I. Steins. 2020. "Income and Wealth Inequality in America, 1949 – 2016." *Journal of Political Economy* 128 (9): 3469–3519.

Larrimore, Jeff, Richard V. Burkhauser, Gerald Auten, and Philip Armour. 2021. "Recent Trends in US Income Distributions in Tax Record Data Using More Comprehensive Measures of Income Including Real Accrued Capital Gains." *Journal of Political Economy* 129 (5): 1319–60.

Leary, Alex, Lendsay Wise, and Emily Glazer. 2022. "Disney Dispute Reflects Wider Rift Between Republicans, Big Companies." *Wall Street Journal*, 2022.

Lee, Chul In, and Gary Solon. 2009. "Trends in Intergenerational Income Mobility." *Review of Economics and Statistics* 91 (4): 766–72. https://doi.org/10.1162/rest.91.4.766.

Leiserson, Greg. 2020. "Taxing Wealth." In *Tackling the Tax Code: Efficient and Equitable Ways to Raise Revenue*, 89–148.

Lockwood, Benjamin B., Charles G. Nathanson, and E. Glen Weyl. 2017. "Taxation and the Allocation of Talent." *Journal of Political Economy* 125 (5): 1635–82.

Luttmer, Erzo F P. 2005. "Neighbors As Negatives: Relative Earnings and Well-Being." *Quarterly Journal of Economics*, 963–1002.

Markovits, Daniel. 2019. *The Meritocracy Trap: How America's Foundational Myth Feeds Inequality, Dismantles the Middle Class, and Devours the Elite*. New YUork: Penguin Press.

McCaffery, E J, and L R Cohen. 2006. "Shakedown at Gucci Gulch: The New Logic of Collective Action." *North Carolina Law Review* 84: 1159–1252.

Mckinnon, By John D. 2021. "Facebook Whistleblower's Testimony Builds Momentum for Tougher Tech Laws." *Wall Street Journal*, 2021.

McLeod, Allegra M. 2015. "Prison Abolition and Grounded Justice." *UCLA Law Review* 62 (5): 1156–1239.

Melby, Caleb. 2015. "Billionaire Ellison Boosts Credit Line to $10.8 Billion." Bloomberg. 2015. https://www.bloomberg.com/news/articles/2015-09-25/billionaire-ellison-boosts-oracle-credit-line-to-10-8-billion.

Mettler, Suzanne. 2015. "From Pioneer Egalitarianism to the Reign of the Super-Rich : How the U.S. Political System Has Promoted Equality and Inequality over Time." *Tax Law Review* 68: 563–612.

Miller, David S. 2015. "How Mark-to-Market Taxatoin Can Lower the Corporate Tax Rate and Reduce Income Inequality." https://ssrn.com/abstract=2544048.

Montgomery, Lori, and V Dion Haynes. 2009. "Small Businesses Brace for Tax Battle." *Washington Post*, 2009.

Mooallem, Jon. 2014. "Larry Ellison Bought an Island in Hawaii. Now What ?" *The New York Times Magazine*, 2014. http://nyti.ms/1rl2B6l.

Murphy, Liam, and Thomas Nagel. 2002. *The Myth of Ownership*. New York, NY: Oxford University Press.

Murray, Charles. 2012. *Coming Apart: The State of White America, 1960-2010*. Crown Forum.

OECD. 2015. *All in It Together: Why Less Inequality Benefits All*. *OECD*. OECD. https://doi.org/10.7748/ns2011.06.25.43.61.p5720.

Oh, Jason S, and Eric M. Zolt. 2021. "Wealth Tax Design: Lessons from Estate Tax Avoidance." *Tax Law Review* 74: 175–210.

Page, Benjamin I., Larry M. Bartels, and Jason Seawright. 2013. "Democracy and the Policy Preferences of Wealthy Americans." *Perspectives on Politics* 11 (1): 51–73.

Pennell, Jeffrey N. 2021. "An Alternative to a Wealth Tax: Taxing Extraordinary Income." *Tax Notes Federal* 171: 891–97.

Pew Research Center. 2015. "Most Say Government Policies Since Recession Have Done Little to Help Middle Class, Poor."

Piketty, Thomas, and Emmanuel Saez. 2003. "Income Inequality in the United States, 1913-1998." *The Quarterly Journal of Economics* CXVIII (1): 1–39.

———. 2007. "How Progressive Is the U.S. Federal Tax System? A Historical and International Perspective." *Journal of Economic Perspectives* 21 (1): 3–24. https://doi.org/10.1257/jep.21.1.3.

Piketty, Thomas, Emmanuel Saez, and Stefanie Stantcheva. 2011. "Taxing the 1%: Why the Top Tax Rate Could Be Over 80%." Voxeu.Org. 2011. http://www.voxeu.org/index.php?q=node/7402.

———. 2014. "Optimal Taxation of Top Labor Incomes: A Tale of Three Elasticities." *American Economic Journal: Economic Policy* 6: 230–71.

Piketty, Thomas, Emmanuel Saez, and Gabriel Zucman. 2018. "Distributional National Accounts: Methods and Estimates for the United States." *Quarterly Journal of Economics* 133: 553–609. https://doi.org/10.1093/qje/qjs020.Advance.

Pimentel, Benjamin. 2019. "Oracle's Larry Ellison, Safra Catz and Mark Hurd All Took a 98 % Pay Cut This Year." Business Insider. 2019. https://www.businessinsider.com/oracles-larry-ellison-safra-catz-mark-hurd-earnings-drop-98-2019-9.

Pratt, Katherine. 2022. "Learning to Live Without Form 1040." *Tax Law Review* 75.

Raskolnikov, Alex. 2005. "Crime and Punishment in Taxation: Deceit, Deterrence, and the Self-Adjusting Penalty." *Columbia Law Review*, 569–642.

———. 2013. "Accepting the Limits of Tax Law and Economics." *Cornell Law Review* 98: 523–90.

———. 2016. "Six Degrees of Graduation: Law and Economics of Variable Sanctions." *Florida State University Law Review* 43 (1021–48).

———. 2017a. "A Tale of Two Tax Plans." *Foreign Affairs*, 2017.

———. 2017b. "Probabilistic Compliance." *Yale Journal on Regulation*, 491–544.

Reeves, Richard V. 2017. *Dream Hoarders*. Washington, DC: Brookings Institution Press.

Rose, Stephen. 2020. "The Ins and Outs of Measuring Income Inequality in the United States." *United States Income, Wealth, Consumption, and Inequality*, 10–37. https://doi.org/10.1093/oso/9780197518199.003.0002.

Rothschild, Casey, and Florian Scheuer. 2016. "Optimal Taxation with Rent-Seeking." *Review of Economic Studies* 83 (3): 1225–62.

Rubin, Richard. 2020. "Why Biden Would Start Tax Increases at $400,000 a Year." *Wall Street Journal*, 2020.

Saez, Emmanuel. 2004. "Reported Incomes and Marginal Tax Rates, 1960-2000: Evidence and Policy Implications." *Tax Policy and the Economy* 18: 117–73.

———. 2018. "Striking It Richer: The Evolution of Top Incomes in the United States." In *Inequality in the 21st Century*, 39–42. https://doi.org/10.4324/9780429499821-8.

Saez, Emmanuel, Benjamin Schoefer, and David Seim. 2019. "Payroll Taxes, Firm Behavior, and Rent Sharing: Evidence from a Young Workers' Tax Cut in Sweden." *American Economic Review* 109 (5): 1717–63. https://doi.org/10.1257/aer.20171937.

Saez, Emmanuel, and Gabriel Zucman. 2016. "Wealth Inequality in the United States Since 1913: Evidence from Capitalized Income Tax Data." *Quarterly Journal of Economics* 131: 519–78. https://doi.org/10.1093/qje/qjs020.Advance.

———. 2019a. "Alexandria Ocasio-Cortez's Tax Hike Idea Is Not About Soaking the Rich It's About Curtailing Inequality and Saving Democracy." *The New York Times*, 2019. https://www.nytimes.com/2019/01/22/opinion/ocasio-cortez-taxes.html.

———. 2019b. "Progressive Wealth Taxation." *Brookings Papers on Economic Activity* 2019 (Fall): 437–533.

———. 2019c. *The Triumph of Injustice*. New York, NY: W.W. Norton & Company.

Sandel, Michael J. 2020. *The Tyranny of Merit: What's Become of the Common Good?* New York, NY: Farrar, Straus and Giroux.

Sarin, Natasha, Lawrence Summers, and Joe Kupferberg. 2020. "Tax Reform for Progressivity: A Pragmatic Approach." In *Tackling the Tax Code: Efficient and Equitable Ways to Raise Revenue*, 317–52.

Scheuer, Florian, and Joel Slemrod. 2021. "Taxing Our Wealth." *Journal of Economic Perspectives* 35 (1): 207–30. https://doi.org/10.1257/JEP.35.1.207.

Shakow, David J., and Reed Shuldiner. 2005. "A Comprehensive Wealth Tax." *Tax Law Review* 53: 499–586.

Shambaugh, Jay, and Ryan Nunn, eds. 2020. "Tackling the Tax Code: Efficient and Equitable Ways to Raise Revenue."

Shanske, Darien, David Gamage, and Emmanuel Saez. 2020. "Letter to New York State Governor and House and Senate Speakers."

Shaviro, Daniel. 2015. "We Are Better Than This: How Government Should Spend Our Money, by Edward D. Kleinbard." *National Tax Journal* 68 (3): 681–87.

———. 2016. "The Mapmaker's Dilemma in Evaluating High-End Inequality." *University of Miami Law Review*, 83–159.

———. 2018. "Goodbye to All That?: A Requiem for the Destination-Based Cash Flow Tax." *Bulletin for International Taxation* 72: 1–10.

Shrider, Emmily A., Melissa Kollar, Frances Chen, and Jessica Semega. 2021. "Income and Poverty in the United States : 2013 Current Population Reports." *Current Population Reports*.

Smith, Matthew, Danny Yagan, Owen Zidar, and Eric Zwick. 2019. "Capitalists in the Twenty-First Century." *Quarterly Journal of Economics* 134: 1675–1745.

Smith, Matthew, Owen M. Zidar, and Eric Zwick. 2021a. "Top Wealth in America: New Estimates and Implications for Taxing the Rich; Online Appendix."

———. 2021b. "Top Wealth in America: New Estimates and Implications for Taxing the Rich." 02138.

Smith, Matthew, Owen Zidar, and Eric Zwick. 2020. "Top Wealth in America: New Estimates and Implications for Taxing the Rich," no. 1752431: 117. http://ericzwick.com/.

Splinter, David. 2020. "U.S. Tax Progressivity and Redistribution." *National Tax Journal* 73 (4): 1005–24. https://doi.org/10.17310/ntj.2020.4.04.

Stantcheva, Stefanie. 2021. "Perceptions and Preferences for Redistribution." *SSRN Electronic Journal*. https://doi.org/10.2139/ssrn.3944418.

Stein, Jeff. 2022. "President Biden to Unveil New Tax on Billionaires in Budget - The Washington Post." *Wall Street Journal*, 2022. https://www.washingtonpost.com/us-policy/2022/03/26/billionaire-tax-budget-biden/?utm_source=newsletter&utm_medium=email&utm_campaign=sendto_newslettertest_business&stream=top.

Stewart, Matthew. 2018. "The 9.9 Percent Is the New American Aristocracy." *The Atlantic*, 2018. https://www.theatlantic.com/magazine/archive/2018/06/the-birth-of-a-new-american-aristocracy/559130/.

———. 2021. *The 9.9 Percent: The New Aristochracy That Is Entrenching Inequality and Wrapping Our Culture*. Simon & Schuster.

Stiglitz, Joseph E. 2012. *The Price of Inequality*. Edited by W.W. Norton & Company. New York.

Stone, Christopher D. 1972. "Should Trees Have Standing? Toward Legal Rights for Natural Objects." *Southern California Law Review* 45: 450–501. https://doi.org/10.4337/jhre.2012.02.02.

Stutzer, Alois. 2004. "The Role of Income Aspirations in Individual Happiness." *Journal of Economic Behavior and Organization* 54 (1): 89–109.

https://doi.org/10.1016/j.jebo.2003.04.003.
Sugin, Linda. 2011. "Tax Expenditures, Reform, and Distributive Justice." *Columbia Journal of Tax Law* 3: 1–42.
Sword, Doug. 2021. "Bank Reporting In, Stepped-Up Out of Tax Bill Options, Neal Says." *Tax Notes Federal* 172: 2206–7.
Sylvain, Catherine, Max Miller, and Natasha Sarin. 2020. "Social Security and Trends in Inequality." *SSRN Electronic Journal*.
Symposium. 2010. "Symposium on Designing a Federal VAT." *Tax Law Review*.
Toder, Eric, Surachai Khitatrakun, and Aravind Boddupalli. 2020. "Tax Incentives for Retirement Savings."
Tracy, Ryan. 2022. "Senate Panel Approves Antitrust Bill Restricting Big Tech Platforms." *Wall Street Journal*, 2022.
United States Governmnet Accountability. 2022. "Trends of IRS Audit Rates and Results for Individual Taxpayers by Income."
Viard, Alan D. 2018. "Too Clever by Half: The Politics and Optics of the Two-Part VAT." *National Tax Journal* 71: 399–416.
Weisbach, David A. 2017. "Should the United States Prefer a Cash Flow Tax to a VAT ?" *Tax Notes* 155: 1559–75.
Wolff, Edward N. 1998. "Recent Trends in the Size Distribution of Household Wealth." *Journal of Economic Perspectives* 12 (3): 131–50.
———. 2021. "Household Wealth in the United States, 1962 to 2019: Median Wealth Rebounds ... But Not Enough." *NBER Working Paper 28383*.
Zhang, Libin. 2023. "International Tax Reform and the Biden-Harris Tax Pledge." *Tax Notes Federal*, 2023.
Zolt, Eric M. 2013. "Inequality in America : Challenges for Tax and Spending Policies." *Tax Law Review* 66: 641–93.