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LI-Study

Individual Rights and Tax Oppression in the OECD

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Foreword by **Professor Pascal Salin**

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Impressum

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Foreword

Our time is full of paradoxes, and more often than not, these paradoxes arise from government arbitrariness. So governments claim to implement competition policies in order to impose competition on private producers. Yet competition is nothing more than the freedom to act, the freedom to do things differently from others. It is therefore paradoxical to want to *impose* freedom! But it is even more paradoxical that the same governments will not apply to themselves the rules that they claim to impose on others. They wage war against tax competition, pretending that tax competition is "harmful" – a term used by the OECD, regardless of the neutrality that such an organization should practice, not to mention the most elementary sense of honesty. How could the freedom to act and to decide by oneself and for oneself harm others?

Admittedly, when a private producer sees the arrival of a competitor likely to offer better products at lower prices he fears that he might lose clients and that this competition will be "harmful" for him. He might be tempted, against all logic and moral sense, to denounce this competition – a competition that will perhaps be called "unfair" – and call for the intervention of government coercion in order to put an end to the other producers' freedom to produce and sell. Of course, if his complaints are heard and if the government sets the protections necessary to allow him to continue offering products that are less satisfactory for his clients than his competitors' products, there will be victims, namely, the consumers deprived of potential gains and the other private producers deprived of their normal markets. It is therefore not competition that is harmful, but the lack thereof.

The same holds true for public policies, in particular tax policies. By trying to prevent tax competition, the OECD, the EU and other government bodies wish to deprive the world's citizens of their freedom to choose for themselves or their activities the tax environment that they deem best. In order to achieve this goal – another paradox – governments try to form international public cartels, while they claim to be fighting private cartels. The latter, however, cannot be permanently harmful if freedom of production, that is, competition, is allowed to persist. That is why, more often than not, private cartels in a competitive environment are beneficial. They simply aim at better answering their clients' specific needs. On the other hand, public cartels are explicitly put in place in order to prevent competition; as such, they are necessarily harmful. Since they are enforced by coercion, they are also lasting.

By restricting tax competition, for instance by trying to standardize tax policies or by fighting "tax havens", high-tax governments deprive their citizens of one of the great benefits of competition, namely, experimentation. As Friedrich Hayek often pointed out, competition is a "discovery process". In a purely imaginary world of perfect knowledge, competition would surely be unnecessary, for everyone would know what the best solutions to any problem are. But we are not in a world of this kind. Yet that is precisely what the high-tax governments fighting against tax competition would like to make us believe. They assume that their tax policies are the best possible and that any competition would lead to a “race to the bottom”. But if the tax rates applied in the high-tax states – for instance for the taxation of capital – were optimal, capital would not flee. For a long time, drastic foreign exchange controls have allowed many governments to despoil capital. They cannot tolerate that their “tax slaves” can flee to more favorable areas. And yet, as this study so opportunely underscores the whole world benefits from the existence of low-tax areas. For these areas not only lead to capital movement but also create incentives to accumulate more capital.

There may be, to be sure, an apparent contradiction between, on the one hand, the fact that human activities are becoming more and more globalized, whereas, on the other hand, tax systems remain strictly national or local. For many governments, this discrepancy is not acceptable and is a further reason to call for “globalized” tax systems, which, in their opinion, means either standardization of taxes or even the creation of world (or European) taxes and, at least, extensive cooperation between tax authorities. But such claims are based on a completely wrong interpretation of what is globalization. In fact, globalization can be defined as competition at the world level. Competition does not imply that activities become more similar all around the world, but quite the contrary: it induces producers to differentiate one from the other. Therefore, “globalized taxation” in a globalized world rightly means tax competition and tax differentiation, and not tax harmonization or world (or European) taxation.

Finally, any new tax, any raise in an existing tax has a double destructive effect: It destroys the taxpayers’ incentives to act and produce, and it destroys the productive incentives of the beneficiaries of government handouts. This essentially destructive aspect of taxation fully justifies to oppose without any restriction all efforts made by the G20, the OECD, the EU, and other international organizations, and the governments behind them, to limit tax competition. Tax competition is a powerful instrument to prevent excessive taxation. Instead of fighting tax “evasion”, there may be no task more urgent today than to reduce tax oppression by strengthening tax competition. This is why I strongly hope that this Liberales Institut study prepared by Pierre Bessard will be largely disseminated; it combines in an exceptional way both in-depth thinking and empirical work on this crucial problem.

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Summary

The OECD's campaigns against "harmful tax competition" and "tax havens" has overshadowed the essential issue, namely the important roles that both tax competition and "tax havens" play for capital preservation and formation, leading to higher prosperity and better protection of individual rights throughout the OECD.

The tax oppression index is based on 18 representative criteria measuring the fiscal burden, human freedom, and public governance in the 35 member states of the OECD. Switzerland appears as the country with the lowest tax oppression – due to a *relatively* less penalizing tax burden and a less authoritarian institutional order, including its citizens' right to veto legislation and political decentralization. G20 governments, on the other hand, whose governments have supported the OECD's efforts, are among the most questionable states in terms of safeguarding their residents' individual rights.

Tax oppression index 2017

Mexico	5.0
Greece	5.0
Turkey	4.8
Israel	4.8
Italy	4.6
Hungary	4.4
Portugal	4.3
France	4.3
Slovenia	4.2
Slovak Republic	4.2
Belgium	4.2
Spain	3.9
Poland	3.9
Czech Republic	3.9
Austria	3.9
Netherlands	3.8
United Kingdom	3.7
South Korea	3.7
United States	3.5
Luxembourg	3.5
Latvia	3.5
Japan	3.5
Iceland	3.5
Germany	3.5
Chile	3.5
Denmark	3.4
Norway	3.4
Finland	3.4
Ireland	3.3
Australia	3.3
Sweden	3.2
New Zealand	3.1
Estonia	2.7
Canada	2.4
Switzerland	2.4

Individual Rights and Tax Oppression in the OECD

Pierre Bessard*

Introduction

The financial and economic crisis that unfolded from 2008 has led many governments to intensify their efforts against what has been dubbed "tax evasion", i.e., the protection of wealth or capital outside a citizen's or a firm's home country. Although initiatives against "harmful tax competition" designed to limit the role of taxation in capital flows have emerged early as a byproduct of globalization (as uncompetitive governments have sought to reduce jurisdictional competition to protect their tax base), the crisis has led to an unprecedented resolve to recover funds that governments view as theirs. In 2009, G20 governments[1] enforced with the threat of sanctions new norms of information sharing around the world. An estimated 14 billion euros from over 100,000 wealthy taxpayers were repatriated in the aftermath.[2] This compares to a current public debt level of approximately 18 trillion (18,000 billion) dollars in the United States and approximately 12.5 trillion (12,500 billion) euros in the European Union.

Heavily indebted, high-tax governments have resorted to "stimulus" programs that have worsened their budgetary positions and, judging from the results of earlier such programs, are likely to have prolonged the economic crisis and led to stagnation and persistent unemployment. In the United States, the largest public spending increase since World War II is largely recognized as having

* The author is a member of the board of trustees and the executive director of the Liberales Institut. This study is based in part on a talk presented at the international conference "Widening the Pathways to Open Societies", February 15-17, 2017, in Panama City, Panama, and draws from the author's 2011 paper "Individual Rights and the Fight Against 'Tax Evasion'" and 2009 study "Tax burden and individual rights in the OECD: an international comparison".

[1] The Group of Twenty (G20) includes the European Union, the United States, Germany, France, Italy, the United Kingdom, Argentina, Australia, Brazil, Canada, China, India, Indonesia, Japan, Mexico, Russia, Saudi Arabia, South Africa, South Korea, and Turkey.

[2] "Global Forum delivers concrete results to the Cannes G20 Summit", OECD news release, October 26, 2011.

slowed recovery[3], in line with the long experience of failed Keynesian stimuli either in the form of artificially low interest rates or deficit spending. In the European Union, governments are additionally battling to save the political construct of the euro, whose structure has created incentives for less disciplined governments to maximize deficits and monetize public debt at the expense of other member states.[4] The outcome of the various rescue packages is still uncertain.

Above all, governments face additional explicit debts due to the unsustainable structure of their welfare programs. What has been dubbed the “demographic time bomb” due to unreformed collective pension and healthcare programs is adding far more constraints on governments than is officially acknowledged. The old-age dependency ratio, i.e., the ratio of older dependents aged 65 or over to the working-age population, is due to increase from 28% in 2015 to 51% in 2050,[5] doubling current public debt in most Western countries. Only very few countries have taken effective measures to raise the legal retirement age, or to privatize and individualize pensions and healthcare.

The OECD initiatives

In such a context, it is hardly surprising that politicians have turned to “tax havens”, i.e., jurisdictions with lower taxes and better financial privacy rules, not only to get more revenue from their citizens, but to shift the blame for their disastrous fiscal policies. The Organization for Economic Cooperation and Development (OECD), a government-financed data-gathering agency analyzing the public policies of its 35 member countries, has played a key role in promoting the exchange of bank information for tax purposes. With the political backing of G20 governments, the OECD initiative (originally prompted by complaints by uncompetitive high-tax governments such as those of France and Germany) has been able to impose norms on jurisdictions that could not voice their disagreement nor take part in their formulation.

In April 2009, G20 governments threatened with economic and financial sanctions a number of countries listed on “updates” prepared by the OECD. As a result, double tax treaties had to include Article 26 of the OECD model tax convention, which entails an obligation to exchange information for purposes of enforcing domestic tax laws of the contracting states; it further provides that a government cannot refuse a request for information because it has no domestic tax interest in the information or because the information is protected by banking secrecy laws.

In July 2013, the G20 governments endorsed the OECD proposals for a global model of automatic exchange of banking information, to be implemented by

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[3] Cf. Véronique de Rugy, “Stimulus: Still Not Working”, *Reason Magazine*, December 2010; Alan Reynolds, “The 'Stimulus' Actually Raised Unemployment”, *Investor's Business Daily*, February 19, 2010.

[4] Cf. Philipp Bagus, *The Tragedy of the Euro*, Auburn: Ludwig von Mises Institute, 2010, pp. 85-93.

[5] “Pensions at a Glance 2015: OECD and G20 indicators”, OECD, December 2015.

2018. From an initial exchange of information on request, the OECD has therefore been able to push for what is widely seen as a complete end of financial privacy. To monitor the implementation of its norms, the OECD has set up the Global Forum on Transparency and Exchange of Information for Tax Purposes, which is responsible for a complex, multi-layer peer-review process. In the meantime, 139 jurisdictions have become "members" of the Forum.

The automatic exchange of information has been driven by in essence irresponsible and amoral OECD technocrats who ideologically adhere to the primary claim of governments on private property. The new standard is recognized as posing increased political risks, such as abusive and confiscatory taxation, as well as an array of increased security risks, such as cybercrimes, identity theft, kidnapping and extortion, for depositors around the world. This is all the more alarming given that a majority of the world's population still live under deficient jurisdictions (without effective rule of law), and the threat of authoritarian government is increasing around the world.[6] The Financial Action Task Force (FATF), whose secretariat is also housed at the OECD, has weighed in with further intrusive recommendations against financial privacy and economic confidentiality to allegedly fight "money laundering", with the only result of imposing higher thresholds and compliance costs for legitimate financial transactions.

In addition to chasing individual taxpayers, G20 governments and the OECD are attempting to extort more tax revenue from corporations through the Base Erosion and Profit Shifting (BEPS) initiative. This program, which currently involves 100 countries, should lead, among 15 different measures, to a country-by-country reporting of corporate activities and profits by 2020, posing additional threats to economic security, such as espionage.

Although the G20 as a body lacks democratic or legal legitimacy and is in effect a cartel of governments (some of which among the most corrupt and repressive in the world), there can be no doubt that its influence over worldwide policy is substantial when it comes to preserving government interests: Together, G20 member countries make up around 90% of global gross national product, 80% of world trade (including EU intra-trade) as well as two thirds of the world's population. The G20, however, is clearly a departure from the rule of law in international affairs and replaces negotiations with political pressure under the (explicit or implicit) threat of economic and financial sanctions. It is an instance of might over right. It is all the more disquieting that the OECD, which should be a neutral facilitator of international trade, has been able to enforce its agenda against "harmful tax competition" as part of bureaucratic mission creep, i.e., an unwarranted expansion of the scope of its activities beyond its original purpose,[7]

[6] The annual report "Freedom in the World 2017", published by Freedom House, estimates that only 45% of the world's population live in countries that can be considered free. In addition, according to the same report, 2016 marked the 11th consecutive year of decline in global freedom.

[7] For a detailed analysis of the OECD's unwarranted expansion, see Andrew P. Morriss and Lotta Moberg, "Cartelizing Taxes: Understanding the OECD's Campaign Against 'Harmful Tax Competition'", University of Alabama Public Law Research Paper No. 1950627, October 2011.

without the ascent of some of its (founding) member states (such as Luxembourg and Switzerland).

To make the G20 governments' war against citizens and firms protecting wealth and resources in "tax havens" more palatable, the OECD had initially argued that governments "need every tax dollar legally due to combat the world recession"[8]. As this argument lost its credibility as the evidence increasingly showed that Keynesian-style fiscal interventionism worsened and prolonged the crisis, the OECD held that tax avoidance and tax evasion mean fewer resources "for infrastructure and services such as education and health, lowering standards of living in both developed and developing economies".[9] This statement, however, contradicts all theoretical and empirical evidence, which indicates that a smaller scope and size of government go hand in hand with higher economic growth and living standards. Moreover, as we will stress below, governments spend the largest portion of their budgets on income redistribution, not services.

United States and European Union policies

Beside the OECD initiatives backed by the G20, the United States and the European Union are expanding their own policies against banking confidentiality. In the U.S., the Foreign Tax Account Compliance Act (FATCA), passed in 2010, requires international financial institutions to report directly to the U.S. tax authorities information about financial accounts held by U.S. taxpayers. International banks that fail to cooperate with the U.S. tax authorities will have to pay a 30% tax of any payments and gross proceeds from the sale of securities generating income from U.S. sources. This is not only regulatory overreach, but an incentive for many taxpayers to take drastic measures. FATCA legislation has led thousands of non-resident U.S. individuals to renounce their U.S. citizenship to avoid the reporting requirements. The United States is one of the few jurisdictions that require citizens to file a tax return with the U.S. authorities even if they are not U.S. residents. Compliance with the new law is likely to cost far more than the tax revenues it is expected to raise, and the economic damage in terms of reduced investment in the U.S. may be significant.

The U.S. government's approach appears completely arbitrary and typical of the "might over right" G20 philosophy: One the one hand, it expects total transparency from its citizens abroad and bullies to that end "tax havens" and low-tax jurisdictions; on the other hand, the U.S. may be itself the biggest tax haven in the world, refusing to endorse the new global standard on automatic information exchange, which it imposes on all other jurisdictions.[10] Non-resident non-nationals in the U.S. are not taxed on interest or capital gains, and there is no reporting

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[8] Angel Gurria, "G20: Cleaning up the world economy", *The Guardian*, March 31, 2009.
[9] "Fighting tax evasion", OECD, 2011.
[10] Daniel J. Mitchell and Brian Garst, "The Janus Face of U.S. Tax Policy", *Schweizer Monat*, August 2011.

regime. Moreover, federated states such as Delaware and Nevada have attractive corporation laws that protect the privacy of non-resident non-nationals.

The European Union, for its part, had already adopted a directive for the taxation of savings income as early as 2003, as part of various measures aimed at tackling “harmful tax competition” within its territory. The directive, which had come into force in 2005, established an automatic exchange of information between member states on interest payments by banks established in one member state to individuals residing in another. Originally all EU member states except Austria, Belgium, and Luxembourg introduced such a system of information reporting. Belgium introduced it as of 2010. Austria and Luxembourg were entitled during an open-end transitional period to levy a withholding tax at a rate of 35% as a substitute measure for information exchange (the governments of these two countries transferred 75% of the withholding tax revenue to the depositor’s state of residence, and kept the rest for themselves). A similar withholding tax agreement was signed with other non-EU European states: Andorra, Liechtenstein, Monaco, San Marino, and Switzerland. This directive was repealed in 2015, given the alignment of the EU on the new OECD global information exchange standards, and the significant overlap with international developments.

The OECD standard on automatic exchange of information has an even more extensive scope than the original EU regulations, covering not only interest income, but also dividends and other types of capital income, and the annual balance of the accounts producing such income. The EU implemented it through a new directive that came into force on 1 January 2016. It has again negotiated similar agreements incorporating the OECD standard on automatic exchange of information with Andorra, Liechtenstein, Monaco, San Marino, and Switzerland.

Further, in October 2016, on the corporate front, the European Commission relaunched its Common Consolidated Corporate Tax Base (CCCTB) project, due to become mandatory for large corporate groups in the EU, and designed to “combat tax avoidance” within the EU or outside. In other words, the aim is to increase the taxation of profits, thereby depriving corporations of more productive resources for investment and jobs.

In light of these policy developments in Europe and elsewhere, this study reevaluates the economic impact of public spending, the role of tax competition, and assesses the moral case for a strong protection of financial privacy and individual property rights for human dignity and freedom. It finally examines the degree of tax oppression in all 35 OECD member states.

Harmful government spending

As a justification for its current campaigns, the OECD has demagogically alleged that “tax avoidance and tax evasion threaten government revenues” and mean “fewer resources for infrastructure and services such as education and health, lowering standards of living in both developed and developing economies”. Yet this assertion is incorrect in more than one way. First, the OECD seems to ignore the spending structures of most countries. Currently, expenditure on unreformed income redistribution systems (such as pensions) make up over half of all public spending in many OECD states and more than one quarter of GDP (31.5% in France and 25.3% in Germany in 2016, for instance). By contrast, public spending on education amounts on average to 8% of GDP in the OECD (6.2% in France and 6.5% in Germany),[11] i.e., four times less than welfare spending. Second, the OECD argument is purely ideological in assuming that less government spending is detrimental to standards of living. The costs of the lack of welfare state reforms are known[12], and there is no evidence that public spending on infrastructure, education or health is more efficient than market solutions, given the high extracting and indirect costs of government expenditure.

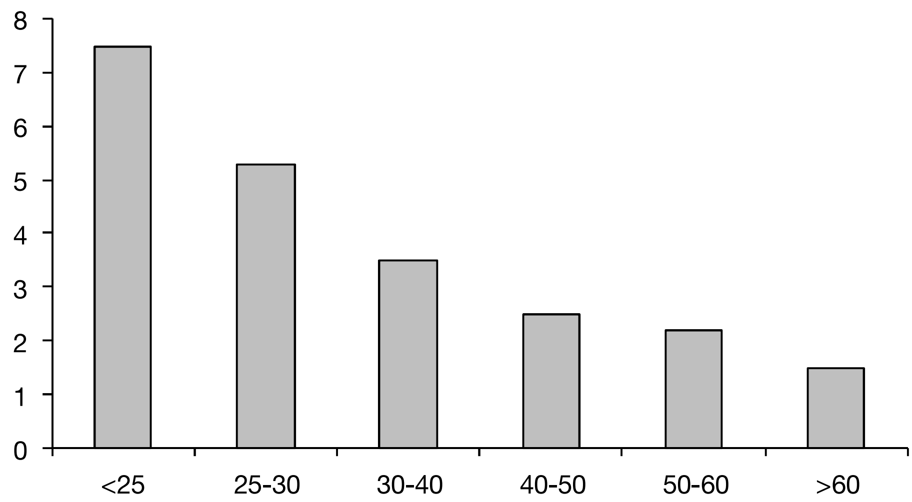
The economic case for less taxes and expenditure

The most extensive research surveying the empirical evidence on the economic growth impact of market incentives, on the one hand, and government activism for infrastructure and services, on the other, finds that “the surest way to increase economic growth is to reduce government spending and taxation”.[13] Capital subsidies have practically no effect on growth. There is strong evidence, however, that taxation depresses growth. These findings are in line with an increasing body of literature, including vast international comparisons over long periods of time. (Given that in the short term many factors may influence a country’s economic performance, including trade liberalization, monetary policy, etc., such comparisons only make sense with a representative set of countries over time.) By comparing real GDP growth rates of the then 30 OECD member countries from 1960 to 2005, the negative correlation between public spending and economic prosperity is clearly apparent (see graph on next page).

[11] Source: OECD Database, 2017 (years of reference: 2016 and 2013).
[12] Cf. for example International Monetary Fund, “The State of Public Finances: Outlook and Medium-Term Policies After the 2008 Crisis”, March 2009.
[13] Patrick Minford and Jiang Wang, “Public Spending, Taxation and Economic Growth – The Evidence”, in: Philipp Booth, ed., *Sharper Axes, Lower Taxes: Big Steps to a Smaller State*, London: Institute of Economic Affairs, 2011, p. 43.

Real GDP growth and government spending in the OECD

(1960-2005, % of GDP)



Source: Mulally (2006)

More specifically, the experience of advanced countries shows that in a period of government expansion, the negative impact on growth may be more significant; once the burden of government is stabilized, markets become more resilient, but the economy is held back by slower growth. An overweight government still allows a market economy to grow, but at a much lower pace, which may lead to other secondary effects beyond lower living standards, such as high levels of unemployment or inferior life expectancy. The research finds that a large and expansionary government sector leads systematically to less prosperity.[14] Of course this does not imply a monotonous relation meaning that a government spending level of zero would be the most favorable for economic growth. But even admitting that government can play a limited positive role, in particular in the protection of individual property rights, the administration of justice or the provision of security, it is obvious that as soon as its functions and the scope of its activities extend beyond a minimal point, government spending soon translates into slower economic growth and lower living standards.

It might be useful to consider why this is so and to ponder the logic behind the empirical evidence. First, all government spending evidently must be financed in one way or another. Any expenditure therefore entails extraction costs that will reduce equivalent resources from the private sector. In every case this capital will

[14] James Gwartney, Randall Holcombe and Robert Lawson analyzed 23 OECD countries in the period from 1960 to 1996 and 60 countries including less advanced nations from 1980 to 1995 to reach this conclusion; cf. “The Size and Functions of Government and Economic Growth”, Washington: Joint Economic Committee, April 1998.

no longer be available for private investment over the shorter or longer term. Administrative compliance with taxes and regulations is another source of economic loss in connection with government spending. (Regulations, in general, can be considered an additional form of taxation, in that governments impose specific uses of resources that would not be chosen in the marketplace.) Taxation is the most pervasive form of government financing, but public debt, which is in effect differed taxes, also imposes extracting costs on the productive economy. Interest expenses add a financial burden; crowding out effects on capital markets may further reduce private investment. In addition to these costs the expansive monetary policies pursued to finance or devalue public debt and avoid government bankruptcy (particularly in the current context of overspending) is likely to lead to higher inflation, an implicit tax on cash balances and other assets.

The indirect costs of public expenditure

On top of the obvious extraction costs of public expenditure, government activities entail many indirect costs, the first of which is inefficiency. At first sight the public sector seems able to provide an unlimited quantity of services financed with the resources extracted from the private sector, yet these expenditures can never reach the efficiency level of private sector production. Without the signal of prices and the measure of profit, government production amounts to “groping in the dark”. This does not imply that decision-makers in the private sector never make mistakes, but private sector decisions can be checked by economic calculation, whereas government spending is bound by laws and regulations that may make no economic sense at all.[15] Without information on consumers’ preferences through prices, it is impossible for government agents to know what services to produce, and in which quantity. By preventing supply from adjusting to demand, which is only possible through free markets, governments cause substantial inefficiency in the sectors where they intervene. Government spending is essentially based on political and bureaucratic decision-making, and decision-makers may be more inclined to increase spending for votes, power, prestige, or simply to exhaust their allocated budgets.[16]

Government regulations also impose costs and unintended consequences that may be more severe than the problems they purport to solve. This phenomenon is one further aspect of the “negative multiplier effect” of government in that the operational costs of government bureaucracies enforcing the regulations may be relatively small, but economic opportunity costs may be significant: unemployment and lower wages in the case of labor market regulations, loss of competitiveness and lower purchasing power in the case of protective tariffs, the illusion of security and the loss of integrity in overregulated markets (such as the financial markets), or

[15] For a detailed discussion, see in particular Ludwig von Mises, *Bureaucracy*, Indianapolis: Liberty Fund, [1944] 2007.
[16] Cf. Geoffrey Brennan and James M. Buchanan, *The Power to Tax: Analytical Foundations of a Fiscal Constitution*, Indianapolis: Liberty Fund, [1980] 2000, pp. 25-30.

artificially high living costs in the case of energy, housing or food overregulation. Of course, rules are necessary for markets to operate, but these rules can be better enforced by contracts, industries, and firms, in line with changing market conditions, and not primarily by governments.

Another weakness of government spending is the crowding out of private solutions. These substitution costs overshadow the possibilities of the market economy and the nonprofit private sector, where even the most eccentric demands and preferences can be financed voluntarily. Government spending thereby also inhibits innovation, given that laws and regulations cannot be adjusted as rapidly to changing conditions as market processes. Many laws often apply long after their initial objective has become obsolete. Last but not least, the disincentives to production and wealth creation caused by the extraction and redistribution costs of government spending, especially welfare spending, may be large. All these costs tend to depress economic growth and living standards.

These cost factors usually explain why in many countries past government activities, such as telecommunication services, have been liberalized or privatized in recent decades, and why there is a chronic need for "reforms" in most welfare states that overtax and overspend. Current levels of government spending are unsustainable, and it is likely that in the future, new market and civil society solutions will emerge in sectors that most people today believe belong to the public sector.

The OECD's double talk

The ideology (or simple intellectual dishonesty) of the OECD's Centre for Tax Policy and Administration, acting on behalf of high-tax, high-spending G20 governments is paradoxically further unsubstantiated by the OECD's own research on the link between prosperity and government expenditure. OECD economists recognize that empirical research suggests "a connection between a large government sector – as measured, for example, by expenditures or taxes as a percent of GDP – and lower economic growth".[17] By examining 21 countries on a period ranging from 1970 to 1998, the OECD's economists also find that a rise in the tax share reduces the level of wealth production, and that the size of government, as measured by taxes or public spending, exerts a negative impact on private capital accumulation, "both directly and indirectly", i.e., both by the taxes that it implies and by the disincentives it creates.[18]

In fact, the OECD is known for spreading diametrically opposite lines of argument about tax competition, for which it has been described as a "schizophrenic" organization:[19] On the one hand, its tax department supports

[17] OECD Economic Outlook, 1998, p. 159.
[18] Andrea Bassanini and Stefano Scarpetta, "The Driving Forces of Economic Growth: Panel Data Evidence for the OECD Countries", OECD Economic Studies No. 33, 2001/II, p. 35.
[19] Daniel J. Mitchell, "Paris, Taxes", *TCS Daily*, May 19, 2004.

policies hindering capital movement from high-tax to low-tax countries and encourages high taxes and excessive welfare policies. On the other, OECD economists recognize that tax competition is a liberating force in the global economy: "The ability to choose the location of economic activity offsets shortcomings in government budgeting processes, limiting a tendency to spend and tax excessively".[20] The OECD even finds that "the root of the [tax avoidance] problem appears in many cases to be high tax rates"[21].

The lack of legitimacy of the OECD's fight against "harmful tax competition"[22] and "tax evasion" has been obvious since the start. The OECD's mission was never supposed to serve specific tax objectives of particular states, but, according to the 1960 founding Convention, to promote policies designed "to achieve the highest sustainable economic growth and employment and a rising standard of living in member countries". The OECD has been ever since its founding a promoter of liberalization and reforms facilitating the free operation of markets. It is therefore arresting that in tax matters, it presents as one element of identification of a harmful tax system a level of taxation lower in one country than in others and protects the interests of high-tax governments – a policy which clearly contradicts its economic objectives.

It appears that the OECD maintains an inconsistent political message, in line with the expectations of the governments that finance it[23] and in contradiction with its own economic research. The goal of the OECD's Centre for Tax Policy and Administration appears to be mostly to offer, as part of its mission creep, a justification for the high-tax, high-spending governments' fiscal protectionism and suboptimal policies, based on common welfare state demagogy, in full ignorance of or indifference to economic intelligence.

[20] OECD Economic Outlook, 1998, p. 166.
[21] Ibid., p. 157.
[22] The OECD now mainly uses the term "harmful tax practices".
[23] OECD funding by governments is proportional to the relative size of their economies, so that the G20 governments dominate the OECD. Germany and France finance together 13% of the OECD's budget, the United States 20.9%, while Switzerland only 2% and Luxembourg only 0.5%, for instance. Source: OECD Member Countries' Budget Contributions for 2016.

The importance of tax competition

The OECD's fight against "tax evasion" and tax avoidance started with its first report on "harmful tax competition" in 1998, following a request, two years earlier, by high-tax governments. These governments' goal was explicitly to reduce the freedom of movement of capital by restricting the role of tax competition "on investment and financing decisions and the consequences for national tax bases". Following this report, the OECD adopted a recommendation on the "fight against harmful tax practices", on which two founding members of the organization, Luxembourg and Switzerland, abstained. In an appended statement, the Swiss authorities, without much effect, noted bluntly that tax competition actually "discourages governments from adopting confiscatory regimes that hamper entrepreneurial spirit and hurt the economy, and it prevents alignment of tax burdens at the highest level."[24]

Tax competition is a traditional feature of the peaceful rivalry between jurisdictions to promote and attract productive activity. Often this rivalry is merely implicit; tax competition is simply the freedom for a jurisdiction to set lower taxes or put in place a different tax system. Small countries are usually more competitive than large ones, as openness and attractiveness compensate for a small internal market. Less competitive governments have tried to compete by subsidizing "national champions", yet such policies have generally translated into more inefficiency, waste, and economic decline for the reasons discussed above. In the last three decades, tax and regulatory competition has increased substantially as trade barriers and capital controls were falling. This has also led governments of large countries to lower top tax rates, leading to a "tax cut revolution" encompassing individual income, individual capital gains, dividends, wealth, corporate income, corporate capital gains, and cross-border investment.[25] As a result, the most penalizing levies on work and accumulated capital have been gradually eliminated. The situation for each kind of tax still varies to a large degree depending on the jurisdiction, however, and the government sector as a share of GDP has rarely gone down, as enhanced economic performance has generated more tax revenues.

The impact of tax competition is also evidenced by the spread of "flat tax" or proportional tax systems around Europe. A proportional taxation system has been applied on the Channel Island of Jersey since 1940, in Hong Kong since 1948, and in Guernsey since 1960. Yet such a system seemed a peculiarity up until the 1990s. In continental Europe, Estonia led the way with the adoption of a flat tax system in

[24] "Harmful Tax Competition: An Emerging Global Issue", OECD report, 1998, p. 76.
[25] Chris Edwards and Daniel J. Mitchell, *Global Tax Revolution: The Rise of Tax Competition and the Battle to Defend It*, Washington: Cato Institute, 2008, p. 31.

1994, and was followed by other former socialist countries since then, with rates varying from 10% to 25%.[26] In 2007 the Swiss canton of Obwalden became the first Western European jurisdiction on the continent to adopt a proportional system, with an effective tax rate of 12%; the reform was approved by 90% of the voters in a referendum. Proportional taxation was widely applied in nineteenth-century Europe, when direct taxes on income became commonplace and before progressive taxation replaced them in parallel to the expansion of the welfare state.

An economic imperative

By restricting a government's capacity to indefinitely raise the tax burden, the diversity of jurisdictions and systems unquestionably contributes to greater prosperity. The most obvious consequence of tax competition is its beneficial impact on saving, since lower taxes encourage capital accumulation. This in turn leads to more investment, more jobs and more economic welfare. But beyond its effects on prosperity by limiting the tax burden, tax diversity enables the implementation of new practices and innovative institutional ideas. This advantage of competition is all the more important in a world that increasingly transcends national boundaries: The need for individual, temporary and customized solutions is increasing, while the need for coercive measures applying equally to all is decreasing. Tax diversity takes into account this evolution arising from societal and technological progress. There are no "economies of scale" in tax matters: The closer political decisions are taken, the easier it is for residents to move to another jurisdiction near their current location, the more public policies will match the residents' actual needs and preferences.

The arbitrage of low-tax jurisdictions is further exemplified by the role of "tax havens". Tax havens typically include relatively low-tax jurisdictions, those enforcing special rules for some operations or extensive financial privacy, or refusing to apply the standards of other jurisdictions on their own territories for sharing information.[27] Due to the territorial monopoly of states, tax rates tend in most countries to be well above what they should be according to the residents' needs and preferences. If this were not the case, the emergence and use of "tax havens" would hardly be an issue, as governments also compete on the services they provide. Experience shows that "tax havens" do not prevent governments from providing the services that are actually requested by their residents, but play at most a preventive or corrective role of arbitrage in the face of excessive taxation. In general, tax competition from "tax havens" leads to a better balance between public services and the tax burden. It certainly does not lead to zero taxation and does not

[26] Ibid., p. 61.
[27] Jurisdictions such as Andorra, the Cayman Islands, Cyprus, Jersey, Liechtenstein, Mauritius, Monaco, and, depending on the definition, Luxembourg and Switzerland are traditionally considered to be sovereign "tax havens". Dependent jurisdictions such as the Cayman Islands and the Channel Islands (United Kingdom) and Delaware (United States) are also viewed as tax havens.

endanger public spending as such, contrary to what its opponents sometimes assert.

From an economic perspective, the use of "tax havens" facilitates capital accumulation and improves economic prosperity in the high-tax countries where the capital is eventually repatriated to be invested in factors of production. "Tax havens" therefore increase the efficiency of international capital markets and thus the efficiency of capital allocation to the most productive investments, thereby contributing to raise overall living standards. As a result, "tax havens" benefit all residents, whether they make use of them directly or not.[28] They serve to channel capital and avoid double or even triple taxation in high-tax countries and lead to better economic performance in those countries. They are useful to limit excessive taxation of productive resources and reduce the waste and dissipation characteristic of public management, in particular in large centralized states. Despite these proven positive economic effects, high-tax governments fight tax havens because of the limits they set on their ability to get more funds, hide the excessive price they charge for public services (often of poor quality), or raise arbitrarily the tax burden on the most productive residents.

A condition for more liberty and justice

In addition to its positive role on prosperity and the efficiency of capital, tax diversity is an essential condition for the preservation of individual liberty. Competition tends to restrict the predatory potential of the territorial monopoly on the use of coercion (which defines government). While private sector services must meet with consumer approval, this is not true for public activities, which are mostly financed by taxes, with no freedom of choice, no inherent incentive to improve the relationship between their cost and their quality and no clear effective answer against potential abuses. Elections every few years are no substitutes for individual choice. The existence of small, open and competing jurisdictions is therefore often the best guarantee of restricting a government's capacity to abuse its power. Even in its relatively mild versions, with separated and relatively restricted powers, government tends to ceaselessly extend its areas of intervention and hold over society. An individual's freedom of choice and legitimate rights to the fruits of his or her labor and property are thus better protected in a world with strong tax competition. By placing limitations on excessive taxation, tax diversity better takes into account the fact that all wealth must be created through individual effort, mainly in an exchange process. The process of wealth creation necessarily implies that an individual has a primary claim on something which would not exist without his or her decision to undertake a productive activity and produce it. Hence the imperative of justice to restrict the taxing power of government.

While it is indisputable that tax competition is a powerful tool against excessive taxation, the need for further protections of individual rights should not be

[28] Richard Teather, *The Benefits of Tax Competition*, London: Institute of Economic Affairs, 2005, p. 32.

underestimated. Tax competition cannot be considered as fully equivalent to market competition: In the private sector, competition implies that any producer and any consumer can trade wherever they are. This is especially true in a world in which trade costs have significantly dropped, while information is usually available in real time from anywhere. Individuals can thus exercise their freedom of choice with no restriction. In tax matters, however, citizens are still subjected to a monopolistic coercive power at their place of residence;[29] no one can live in Belgium and choose to pay his or her taxes in Dubai. This distinction underlines once more the need for as great a number as possible of small, independent jurisdictions enabling residents to "vote with their feet".

Historically, Europe owes its ascendance precisely to the diversity and fragmentation of political power – a fact often overlooked. The competition between political systems and the absence of centralization have been decisive factors for the Renaissance, the Enlightenment, the Industrial Revolution and the great prosperity that ensued.[30] Following the fall of Rome, Europe's political fragmentation allowed productive individuals to "vote with their feet", taking their capital with them. With the division of authority, political dissent could develop, leading to the emergence of free cities and parliaments, curtailing predatory taxation, and bringing similar progress elsewhere by emulation. The OECD's current efforts to curb jurisdictional competition therefore reverse the conditions that led to the West's exceptional success in comparison with other civilizations, including those that were previously more advanced technologically.[31]

Indeed, jurisdictional competition and the advantages of smaller, open territorial monopolies controlled by governments are important ideas of the intellectual liberal tradition. Such diverse thinkers as David Hume, Adam Smith, Montesquieu, Alexis de Tocqueville, Immanuel Kant, Wilhelm von Humboldt, and Turgot insisted on the role of institutional diversity and the right to exit for individual freedom.[32] The great Enlightenment philosopher Benjamin Constant praised small countries for better meeting the citizens' needs and preferences rather than seeking to expand their power. In large states, he noted, size requires a government activism that often degenerates into despotism, and "the laws come from a point so far from those to whom they are supposed to apply that the inevitable effect of such distance is serious and frequent error".[33]

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[29] Pascal Salin, "The Case Against 'Tax Harmonisation': The OECD and EU Initiatives", in: Hannes H. Gissurarson and Tryggvi Thor Herbertsson, eds., *Cutting Taxes to Increase Prosperity*, Reykjavik: Centre for Social and Economic Research, 2007, pp. 81-82.

[30] See David S. Landes, *The Wealth and Poverty of Nations: Why Some Are So Rich and Some Are So Poor*, New York: Norton, 1998, pp. 36-39, as well as Nathan Rosenberg and L.E. Birdzell, Jr., *How the West Grew Rich: The Economic Transformation of the Industrial World*, New York: Basic Books, 1986, pp. 136-139.

[31] For instance in comparison with China; see Rosenberg and Birdzell, op. cit., pp. 137-138.

[32] Cf. Roland Vaubel, "A History of Thought on Institutional Competition", in: Andreas Bergh and Rolf Hoijer (eds.), *Institutional Competition*, London: Edgar Elgar, 2008.

[33] Benjamin Constant, *Principles of Politics Applicable to All Governments*, Indianapolis: Liberty Fund, [1806] 2003, p. 324.

The moral case for financial privacy

The central role tax competition plays for prosperity and justice would not be complete without the protection of financial privacy. The preservation of individual rights should include protection against all sorts of oppression, including excessive taxation. In this regard, higher levels of confidentiality allow for better protection of individuals living in deficient jurisdictions where fundamental rights self-evident in a civilized society cannot be enforced. In fact, corruption, expropriation, crime, and the persecution of various minorities remain endemic risks in most of the world.[34] In such cases, enhanced protection of financial privacy in a "tax haven" can prevent the unwarranted loss of legitimate property and even save lives. Financial privacy can be an essential safeguard for fundamental freedoms and for a right as essential as the right to live.

Reconciling the private and public spheres

In essence, privacy cannot be separated from a person's individuality. Individuals choose what they reveal in the public sphere, and what they keep private. Privacy allows an individual to delimitate his or her private and public spheres, an idea that is grounded in the human condition as a balance between individuality and social interaction. The distinction between the private and public spheres and its respect are traditional features of civilization. For the same reason people put curtains on their windows or wear clothes in the streets: Whether someone has something to hide or not is not the issue. Such practices are necessary lines of demarcation between one's individuality and participation in society. In practical terms, the confidentiality due in financial affairs is akin to the professional secrecy of medical doctors or lawyers. It is intended to protect the individual against third parties, including government.

Government intervention into a citizen's private sphere is in fact more problematic than any other instance, since as a monopoly of coercion government acts without the voluntary or explicit consent of the individuals on whom it applies its regulations. The use of data may be beyond a person's control, and there is often no effective right of recourse or withdrawal: Governments themselves define what they deem as "data protection". Yet it is one of the great merits of the Enlightenment, and before that of the old Jewish and ancient Greek wisdom to have recognized that political leaders and government agents must submit themselves to the rule of law like any other person, and that the citizen must be protected against their arbitrariness. A government that transforms every taxpayer into a potential tax "evader" distances itself from the rule of law. It places its own prerogatives before

[34] Edwards and Mitchell, op. cit., pp. 177-181. See also Freedom House index 2017, op. cit.

the rights of the citizen, thereby giving in to authoritarian or even totalitarian leanings in cases where total transparency is demanded.

Excessive taxation also violates indirectly an individual's private sphere in that his or her disposable income and freedom of choice are diminished. Standardized government services, such as schools and healthcare, may be imposed in complete disregard of personal needs and preferences. Therefore, financial privacy goes hand in hand with a smaller scope of government and a lower tax burden in preserving an individual's private sphere.

The primacy of individual property rights

On the specific issue of "tax evasion" or tax avoidance, the refusal to subject oneself unconditionally to excessive taxation may be perfectly reasonable in states deemed "free" or "democratic". This is especially true in a context in which welfare states generate unlimited public debts and unfinanced promises of future benefits, and cause growing parallel or underground economies. The attempt to avoid confiscatory marginal tax rates or taxes that are discriminatory and infringe on basic property rights may be lawful in any true sense of the word. Legitimate (honestly acquired) individual property rights always precede a government's right to tax. As the German philosopher and economic moralist Peter Koslowski has argued, there is no "natural" right to excessive taxation or to progressive taxation on the part of governments,[35] but there is a right to one's legitimate property arising from productive activity or exchange (such as one's own labor). It is not government that yields the right to privacy to citizens, but citizens who yield (to some extent) the right to tax to government.

As the 19th-century French economist Frédéric Bastiat put it, "Life, faculties, production — in other words, individuality, liberty, property — this is man. And in spite of the cunning of artful political leaders, these three gifts precede all human legislation, and are superior to it. Life, liberty, and property do not exist because men have made laws. On the contrary, it was the fact that life, liberty, and property existed beforehand that caused men to make laws in the first place."[36] It follows that the right to financial privacy must be protected against government encroachments. Only in the case of serious suspicion of crime can bank secrecy legitimately be lifted. Otherwise the government would violate the necessary balance between the public and the private spheres; it would no longer act as a subsidiary instrument to keep the peace in a civilized society, but become a threat to it.

The balance between the private and public spheres enabled by strong financial privacy rules is also justified by the necessary prevention of envy and

[35] Peter Koslowski, "Privatheit und Bankgeheimnis – Staatsphilosophische und wirtschaftsethische Überlegungen", in: Konrad Hummler and Gerhard Schwarz (eds.), *Das Recht auf sich selbst. Bedrohte Privatsphäre im Spannungsfeld zwischen Sicherheit und Freiheit*, Zurich: NZZ Verlag, 2003, p. 198.

[36] Frédéric Bastiat, *The Law*, Irvington-on-Hudson: Foundation for Economic Education, [1850] 1998, pp. 1-2.

resentment, which motivates to a large extent the structure of tax systems (such as progressive taxation) and other public policies of income redistribution. In international relations, it follows that the avoidance of excessive progressive tax rates does not violate international private law; this implies that not all governments should prosecute it, let alone assist others in prosecuting it: There is no ethical obligation for a jurisdiction applying more stringent financial privacy rules to assist another jurisdiction in the fight against "tax evasion", especially if the other jurisdiction violates individual property rights by means of excessive or discriminatory taxation.

The often-heard argument that citizens must comply with the tax laws, voice their dissent by participating in the political process, or move out to another country, is in fact the true offensive proposition: Governments do not own "their" citizens or the territory of their country. Political participation is costly and usually not an option, not least because the governance structure of large centralized states often resembles an oligarchy: The policy differences between the largest political parties tend to be negligible and an individual's actual choice is insignificant. The idea that representative democracy ensures a sufficient guarantee of legitimacy for any kind of tax system is a naïve point of view that overlooks the intrinsically coercive nature of government action as well as the personal motives of its agents. Government should be nothing more than a utilitarian organization, and it is made up of human beings prone to pursuing their own electoral, financial or other interests. One of the great lessons of history is that governments as monopolies of force should not be idealized or romanticized into infallible incarnations of the "common good": In the 20th century, the worst abuses of individual rights were committed in the name of the state, and repressive political regimes remain the main cause of human oppression around the world today. In democracies, governments may be viewed as generally benevolent, but this does not prevent them from usually supporting policies likely to keep them in power, even if those policies are known to be at the expense of freedom and prosperity. Unlimited unfunded welfare states are a typical case in point; costs are difficult to identify immediately and the burden can be shifted in part to future generations of taxpayers through unsustainable levels of public debt.

Both theory and practice suggest that the only consequence to be expected from an overall weakening of financial privacy is a rise in taxes for everyone. Total transparency toward the state, by the logic of the fight against "tax evasion", degrades citizens by analogy to the rank of "tax prisoners" that should be prevented from evading their "tax prison". This is far off from any humane vision of a just society that recognizes that individuals are at the origin of all wealth creation and that there can be no primary moral claim on the part of government on wealth that would not exist if it had not been for the decision of those who engaged in productive activity to create it.[37]

[37] For detailed discussions, see for example Pascal Salin, *La Tyrannie fiscale*, Paris: Odile Jacob, 2014, and Thierry Afschrift, *La Tyrannie de la redistribution*, Paris: Les Belles Lettres, 2016.

Tax oppression in the OECD

In order to enable meaningful comparisons between the different OECD countries in terms of their tax burden and their protection of individual rights, the Institut Libéral developed in 2009 the *tax oppression index*. The term “tax oppression” was chosen to echo Article 2 of the 1789 Declaration of the Rights of Man and of the Citizen, which states that “The aim of all political association is the preservation of the natural and imprescriptible rights of man. These rights are liberty, property, security, and resistance to oppression.”

In 2017, the results (on page 25) show that Switzerland is the relatively least tax oppressed country among the 35 OECD member states on three complementary dimensions quantified by 18 representative criteria, on the basis of the latest OECD data, the Cato Institute’s Human Freedom Index, and World Bank indicators. The tax oppression index draws attention to the real problem – overspending and overtaxation – and questions the deceptive idea, purported by OECD ideology in the name of high-tax governments, that the highest possible public spending and taxes are fair and desirable, and underscores on the contrary the utilitarian and moral case for the lowest possible taxes and public spending.

The least tax oppressed countries are mostly small and open economies with the highest living standards. It should be noted, however, that this is only a relative ranking. All OECD member states suffer from overspending and overtaxation; even in Switzerland, taxes and spending are far too high. Yet there are real differences between countries in terms of the tax burden, the quality of governance and free-market reforms to roll back the welfare state and privatize former government-dominated sectors, for example. There are also institutional differences; euro zone countries typically perform more poorly than those outside the EU’s currency realm. The picture looks particularly bleak for the large states of the G20 that are also OECD member states. Mexico, the country of origin of Angel Gurria, the secretary general of the OECD, who is a former finance minister of Mexico and propagated much of the G20 demagoguery after the last financial crisis, is paradoxically the worst performer in the OECD in terms of tax oppression.

Further, the non-OECD G20 countries include some of the most repressed economies in the world, such as Saudi Arabia, Russia, China, India, Brazil, or Argentina, and these are the governments that claim the moral high ground and intend to impose international standards. G20 governments do not exert influence because they do a good job, but because the demographics of their countries are more impressive. This is a very primitive idea: large numbers carry more power, according to the pre-Enlightenment principle of might over right. Small, more competitive and better managed countries are being bullied by some of the world’s worst governments of large countries.

The tax oppression index

The tax oppression index corresponds to the unweighted mean, translated on a scale from 0 to 10, of the tax moderation index, and the public governance and human freedom indexes (taken together).

On the basis of the median index, three groups of countries are distinguished: countries with mild tax oppression (score up to 3.2), countries with medium tax oppression (score up to 4.1), and countries with strong tax oppression (score of 4.2 and above).

As noted above, the tax oppression index represents a value relative to other countries under existing conditions; a score suggesting mild tax oppression should not be interpreted as an indicator of a particularly low tax burden. The criteria are:

TAX MODERATION:

- total tax burden as percent of GDP
- level of public debt as percent of GDP
- standard value added tax rate
- standard corporate income tax rate
- top marginal personal income rate
- degree of tax autonomy of sub-central government

PUBLIC GOVERNANCE:

- voice and accountability
- political stability and the absence of violence
- government effectiveness
- regulatory quality
- rule of law as it applies to governance processes
- control of corruption

HUMAN FREEDOM:

- rule of law as it pertains to personal freedom
- security and safety
- freedom of movement, association, assembly
- the strength of civil society
- the legal system and property rights
- access to sound money

Results for 2017

Country	Tax moderation index	Governance & Human Freedom Index	**Tax oppression index**
Mexico	4.5	5.5	**5.0**
Greece	2.8	7.1	**5.0**
Turkey	4.4	6.0	**4.8**
Israel	3.5	7.0	**4.8**
Italy	3.1	7.7	**4.6**
Hungary	3.6	7.6	**4.4**
Portugal	2.9	8.5	**4.3**
France	2.9	8.4	**4.3**
Slovenia	3.6	8.1	**4.2**
Slovak Republic	3.7	7.9	**4.2**
Belgium	2.8	8.8	**4.2**
Spain	4.1	8.0	**3.9**
Poland	4.0	8.2	**3.9**
Czech Republic	3.9	8.3	**3.9**
Austria	3.0	9.3	**3.9**
Netherlands	3.1	9.3	**3.8**
United Kingdom	3.5	9.1	**3.7**
South Korea	4.8	7.8	**3.7**
United States	4.5	8.5	**3.5**
Luxembourg	3.6	9.4	**3.5**
Latvia	5.0	8.0	**3.5**
Japan	4.2	8.8	**3.5**
Iceland	4.1	9.0	**3.5**
Germany	3.9	9.1	**3.5**
Chile	4.7	8.2	**3.5**
Denmark	3.8	9.4	**3.4**
Norway	3.6	9.5	**3.4**
Finland	3.7	9.6	**3.4**

Ireland	4.3	9.1	**3.3**
Australia	4.2	9.1	**3.3**
Sweden	4.1	9.4	**3.2**
New Zealand	4.2	9.5	**3.1**
Estonia	6.1	8.6	**2.7**
Canada	5.9	9.3	**2.4**
Switzerland	5.7	9.5	**2.4**

Conclusion and implications

Governments fighting “tax evasion” have no economic or moral case for their crusade against citizens. Both justice and prosperity are significantly enhanced by tax competition and financial privacy. At the same time, it would be unreasonable to expect that governments will not seek to enforce their own tax laws. It is therefore worth pondering the possible answers to the violations of individual rights in the name of the fight against “tax evasion” or “tax avoidance”. To draw inspiration from the Enlightenment, Benjamin Constant held that as long as unjust laws do not force individuals to commit inhuman acts, it is better to comply with them in order to preserve the peace with public agents.

Excessive taxation in itself is a violation of individual rights. G20 governments, with the assistance of the OECD, wage a regulatory war that is highly problematic from the standpoint of justice, given that excessively high tax rates and economic oppression in these states are the primary cause of tax “evasion” or tax avoidance. The tax oppression index shows that it is the high-tax, high-spending governments with weaker rule of law and economic freedom that are engaged in an Orwellian-type crusade for more tax revenue. It is discomforting that these governments are putting in place increasingly invasive mechanisms for the exchange of information on banking and cross-border transactions. They seek to institute the “transparent citizen” around the world, yet they lack themselves transparency on the uses and impact of their excessive spending and public debt. They seek an open door to ever mounting tax burdens rather than reform their own bloated welfare states.

The enforcement of tax laws in overtaxed, overindebted and overspending countries is therefore a grey area that cannot be separated from the broader issues of reducing the tax burden and rolling back the public sector. The issue cannot simply be answered by the narrow legalistic “compliance” approach of politicians and bureaucrats waging the fight against "tax evasion". It must take into account the moral case for the safeguard of individual rights in three areas:

- First, financial privacy is a legitimate extension of individual property rights, to which the rule of law must be subjected to. Government, as a utilitarian human organization, should serve the citizen, not the other way around. Government derives its power to tax from the citizen, whose right to privacy takes precedence.
- Second, tax competition, low-tax jurisdictions, and tax havens, far from being threats to good public governance, play an essential role in the preservation of individual liberty and exert a preventive or corrective role of arbitrage against excessive taxation. This leads to better protection of individual rights, greater prosperity, and a less negative correlation between public services and the tax burden.
- Third, it is in the interest of all countries to go back to the virtuous path of limited government, reduced spending, and low taxes. The alternative of more transparency and more compliance by means of authoritarian or totalitarian methods would not bring more tax revenue in the long run, but lower living standards and weaken the protection of individual rights, with an increased potential for abuses of power. It would encourage the underground economy, informal markets and tax avoidance on an ever larger scale.

As evidenced by the successive showdowns with "tax havens", small and open competitive countries will not be able to stand up to the economic power play of G20 governments; they are forced to align themselves on harmful international policy, the alternative being economic and financial sanctions. It is therefore up to civil society in each country to restore better tax policy, financial privacy, and respect for property rights in the face of government waste and wealth depredation through excessive taxation. Government should be put back to its rightful place: that of a humble servant subordinated to individual rights.

Europe and the United States have strong civil traditions. Their revival is the only way to avoid a continued drift toward more centralized government control over society and the market economy. The emergence of a global government cartel without any restrictions to tax and spend their citizens' wealth would lead to a world that is less free, less safe, and less prosperous.

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