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## Educating Ourselves Towards A Progressive (And Happier) Tax: A Commentary On Griffith's Progressive Taxation And Happiness

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# EDUCATING OURSELVES TOWARDS A PROGRESSIVE (AND HAPPIER) TAX: A COMMENTARY ON GRIFFITH'S *PROGRESSIVE TAXATION AND HAPPINESS*

MARJORIE E. KORNHAUSER\*

**Abstract:** This Commentary addresses two questions raised by Professor Thomas D. Griffith's argument that progressive taxation improves people's subjective well-being by increasing their relative income. First, why do so many people oppose progressivity if it would make them happier? Second, can their opinions be changed in order to enhance their well-being by better aligning attitudes and true self-interests? This Commentary provides a dual-fold answer to the first question—opinion polls often overstate opposition to progressive taxation and much of that opposition is false in the sense that it is caused by ignorance, cognitive bias, and inflammatory rhetoric. After explaining why much opposition would disappear if people better understood progressive taxation, this Commentary then answers the second question affirmatively by proposing a national tax literacy campaign involving the government, media, and private industry. By increasing the public's knowledge of progressive taxation, such a broad-based educational effort would transform many hostile taxpayers into supportive ones and thereby align their attitudes with their self-interest.

## INTRODUCTION

Professor Thomas D. Griffith's justification of a progressive income tax based on the burgeoning field of subjective well-being is both fascinating and powerful. This literature shows that, contrary to people's expectations, increased income (or wealth) generally does not increase their happiness significantly, and to the extent that it does, relative income plays a greater role than absolute income. In light of this "Happiness Paradox," Professor Griffith reasons that redistribution, via a progressive income tax, will increase people's utility (happiness) by improving their relative incomes.<sup>1</sup> Professor Griffith's argument exposes

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<sup>1</sup> Thomas D. Griffith, *Progressive Taxation and Happiness*, 45 B.C. L. Rev. 1363, 1397–98 (2004). Professor Griffith explains that the contradiction occurs because a portion of one's

another conundrum—if people logically should support progressivity because its redistributive effect would increase their happiness, why do so many people oppose it for the very reason (redistribution) that they should support it? They are in the paradoxical position of preferring an action that will make them less happy if achieved (the repeal of progressivity) than if it fails.

Does this contradictory situation, which I call the “Griffith Paradox,” truly exist? People live with contradictions—contradictions among their beliefs, between their beliefs and actions, and between their beliefs and those of the larger groups to which they belong. These contradictions, however, come at a cost. Not only do they create discord and unease that reduce individuals’ happiness, but they also can weaken people’s loyalty to the groups in which they are members, including their country. If there is enough dissonance between personal and group beliefs, then people begin to distance themselves from the group and may even deny the group’s legitimacy—first by refusing to follow its dictates and ultimately by withdrawing (or revolting). Dissonance on little matters may be unimportant, but tax is not a little matter for either individuals or the nation. Consequently, dissonance regarding tax matters should be reduced to the greatest extent possible. I will first examine the existence of the Griffith Paradox and then consider what can, and should, be done to minimize it.

For the Griffith Paradox to exist the following three conditions must be met: (1) a progressive income tax in fact must redistribute income, (2) redistribution must increase happiness, and (3) people must oppose progressive taxation because it redistributes income. I will assume that the first condition is met, although it is arguable that progressive taxation is not redistributive, because, for example, it merely reflects the greater proportion of governmental benefits that higher income taxpayers receive.<sup>2</sup>

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utility from income derives not from absolute income but from relative—or what he calls positional—utility.

Thus, when *A*'s income increases by \$10,000 and *B*'s income does not similarly rise, *A*'s gain in utility is comprised in part by the absolute increase in income and in part by *A*'s increased position vis-à-vis *B*. *Id.* at 1380. The gain, though, has external costs. *B* suffers a decrease in utility due to *B*'s lower relative income. Consequently, *B* ought to favor a redistributive tax which will decrease *B*'s relative decline (thereby increasing happiness) rather than a proportionate tax, which would result in *B* having a larger decline in positional income and hence a large decline in happiness.

<sup>2</sup> This is a benefits theory argument, which Professor Griffith purposely does not discuss. I have discussed this argument in Marjorie E. Kornhauser, *The Rhetoric of the Anti-Progressive Income Tax Movement: A Typical Male Reaction*, 86 MICH. L. REV. 465, 491–97 (1987).

I will also assume that the second condition, the subject of Professor Griffith's Article, is true. I do, however, have a few caveats. His argument consists of two steps. First, he establishes that income is not a major determinant of happiness, and to the extent that it is, much of any increase in happiness produced by more income is due not to an increase in absolute income, but relative income. Second, he argues that given the connection between income and happiness, redistribution will increase utility because there will be a net increase in subjective well-being due to the narrowing of incomes. His first step rests on empirical research, but as always, this evidence is subject to new discoveries—all the more so because this is a relatively new field. Moreover, even though the current evidence is persuasive, universal agreement does not exist concerning the relationship between income (beyond very low levels) and subjective well-being. For example, Professor Griffith's argument is based on the greater importance of relative—as opposed to absolute—income, but some researchers conclude that absolute income is important.<sup>3</sup> Second, although decreasing income inequality may increase subjective well-being (by increasing relative income), utilitarians should consider other factors besides subjective well-being. Although individuals certainly do care about happiness, it is not all they care about. They care, for example, about their individual, social, and political power and prestige. They also care about broader concepts such as fairness or justice. Any utilitarian equation must include these important factors which may be correlated to income (both absolute and relative), but differently than happiness.<sup>4</sup>

This Commentary focuses on the third condition, opposition to the progressive income tax on redistributive grounds. This Commentary suggests that, despite apparent widespread criticism of progressiv-

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<sup>3</sup> See, e.g., Benjamin Radcliff, *Politics, Markets, and Life Satisfaction: The Political Economy of Human Happiness*, 95 AM. POL. SCI. REV. 939–40, 949 (2001) (arguing happiness and income are connected on an absolute, rather than relative basis).

<sup>4</sup> One could argue that all these factors are part of subjective well-being. Defining subjective well-being as such, however, so enlarges its scope that it essentially encompasses everything, thereby making the concept so broad as to be meaningless. Defining one person's subjective well-being to include concern about another's well-being (that is, distributive justice concerns) blurs distinctive differences between my concern for my personal happiness and my broader philosophic (or religious) concerns. My concern for others may cause me to act in ways that decrease my immediate, personal happiness. For example, if I make large charitable contributions, I may have to work longer or take fewer vacations than I would like. The fact that I give money to help the less fortunate may give me some moral satisfaction (or just simply decrease guilt), but I feel worse on a day-to-day basis. A narrow definition of subjective well-being that encompasses only feelings about one's own personal condition preserves the distinction, whereas an expansive definition eliminates it.

ity, most people do not oppose some degree of redistribution by means of a progressive tax. First, the Commentary addresses the question of how much opposition exists to redistribution and progressivity.<sup>5</sup> It then concludes with some recommendations to minimize the opposition (both actual and apparent) that does exist.<sup>6</sup>

### I. INDIVIDUALS SUPPORT PROGRESSIVE TAXATION TO A GREATER DEGREE THAN SUGGESTED BY POLLS

Polls report—and rhetoric seemingly confirms—that substantial numbers of people object to the government redistributing income. The exact percentages, however, vary—often significantly—from poll to poll. For example, in a 2003 poll, 49% of respondents agreed with the statement, “It is the responsibility of government to reduce the differences in income between people with high incomes and those with low incomes.” Forty-seven percent disagreed.<sup>7</sup> Yet polls a few years earlier with a similarly worded question showed much higher percentages favoring redistribution by the government.<sup>8</sup> When people are asked specifically about rate structures, their responses are even more varied. In a poll conducted in 2003, respondents favored a flat tax over a progressive tax 36% to 32% (with 31% saying they did not know enough to say).<sup>9</sup> In another poll the same year, 57% of respon-

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<sup>5</sup> See *supra* notes 7–21 and accompanying text.

<sup>6</sup> See *supra* notes 22–29 and accompanying text.

<sup>7</sup> NAT’L PUB. RADIO ET AL., NATIONAL SURVEY OF AMERICANS’ VIEWS ON TAXES 6 (2003), available at [http://www.npr.org/news/specials/polls/taxes2003/20030415\\_taxes\\_survey.pdf](http://www.npr.org/news/specials/polls/taxes2003/20030415_taxes_survey.pdf). The original report, issued by the National Public Radio, Kaiser Family Foundation, and Kennedy School of Government at Harvard University (“NPR survey”), incorrectly sums positive responses to total 48%, but these responses are correctly tallied in a compilation of polls by the American Enterprise Institute (“AEI poll compilation”). See KARLYN H. BOWMAN, AM. ENTER. INST., PUBLIC OPINION ON TAXES 23 (2004), available at [http://www.aei.org/docLib/20040407\\_taxes2.pdf](http://www.aei.org/docLib/20040407_taxes2.pdf) (updated Apr. 7, 2004). Interestingly, in the same poll, more people (56%) believed that the government had a responsibility to redistribute from high- to middle-income people, and fewer (only 40%) thought it did not. NAT’L PUB. RADIO ET AL., *supra*, at 6. Again, the NPR survey incorrectly tallies positive percentages to 55%, but the AEI poll compilation correctly adds to 56%. See BOWMAN, *supra*, at 22.

<sup>8</sup> BOWMAN, *supra* note 7, at 22 (involving questions using a different scaling of responses). Polls from 1984 through 2000 consistently indicate that a majority favor redistribution. *Id.* at 23.

<sup>9</sup> NAT’L PUB. RADIO ET AL., *supra* note 7, at 8 (comparing current graduated system of higher-income taxpayers paying a higher percentage of taxes to a flat or equal percentage system).

dents favored a progressive tax and only 38% favored a flat tax when they were asked to choose between the two.<sup>10</sup>

Although the polls indicate that a substantial (but variable) minority of respondents state that they do not support redistribution or progressive taxation, they undoubtedly overstate the percentages that *actually* oppose redistribution or progressive taxation. All polls must be taken with some skepticism, because they are sensitive to a host of variables, such as how questions are phrased and in what order they are posed.<sup>11</sup> Polls about taxes are even more unreliable and show greater inconsistencies for at least the following three reasons: (1) the way people do not think, that is, the general high level of ignorance regarding tax matters, (2) the way people do think (cognitive biases), and (3) the way people—especially politicians—talk (anti-tax rhetoric).

### A. Most Know Little About Taxation

Let us start with the general population's incredible ignorance about taxes. As Professor Griffith states, concern for relative income should, theoretically, cause people to support a progressive rate structure. In reality, many people are unaware not only of the connection between their increased happiness and progressivity, but they also have little knowledge about taxes generally or progressive taxation in par-

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<sup>10</sup> GREENBERG QUINLAN ROSNER RESEARCH, PUB. INTERESTS PROJECT, PUBLIC INTERESTS PROJECT SURVEY, Question ID USGREEN.03PUBIP R41 032 (released July 15, 2003), Westlaw, Public Opinion Online Library. The poll, taken of "likely" voters, asked which of the following two statements they agreed with: "We should institute a flat tax meaning people are taxed at a [sic] equal rate, no matter what your level of income. We should make sure tax rates are lowest for those with lower incomes and higher for those with higher incomes." *Id.* Thirty-eight percent agreed with the first statement (26% strongly) and 57% the second (39% strongly). *Id.*

As another example of the fragility of polling results, two other 2003 polls, taken one month apart, asked whether high-income people paid their fair share of taxes. In the first poll, 57% said high income families paid less than their fair share. NAT'L PUB. RADIO ET AL., *supra* note 7, at 6. In the second poll, 63% said upper income people paid too little in taxes. BOWMAN, *supra* note 7, at 18 (citing an April 2003 Gallup/CNN/USA Today poll). Earlier polls report even higher percentages of respondents stating that high-income taxpayers pay too little tax. *Id.*

<sup>11</sup> See BOWMAN, *supra* note 7, at 57 (citing a November 2002 CBS/NYT poll). A recent poll has a striking example of this sensitivity to the phrasing of questions. *See id.* The poll asked respondents two questions about whether they favored repealing the estate tax or keeping it for the largest estates. *Id.* The questions were identical except that one question added that George W. Bush proposed eliminating the tax and the Democrats proposed keeping it for the largest estates. *Id.* Adding those words changed the responses. *Id.* The varying responses in the polls cited in the text further illustrate this general unreliability. *See id.*

ticular. For example, a 2003 poll found that only 60% of respondents knew that high-income taxpayers pay a higher percentage of tax than low-income taxpayers.<sup>12</sup> In the same poll, only 21% of respondents had heard the phrase “progressive taxes” and knew what it meant; another 23% had heard it but did not know what it meant; and 56% had never even heard it.<sup>13</sup> Moreover, if the 21% of respondents who claimed to know the meaning of progressive taxation had been asked to define it, many of them undoubtedly would have been wrong.<sup>14</sup>

### B. Cognitive Psychology Plays a Role

The way people think, as cognitive psychology reveals, also undercuts the meaningfulness of tax poll results.<sup>15</sup> Studies show that views on taxation are affected by such factors as whether the payment is labeled a tax or a fee, or whether the rate is called a bonus or a penalty.<sup>16</sup> One study found that respondents favored more progressivity when the question was phrased in terms of percentages rather than absolute dollar amounts.<sup>17</sup> Presumably, this result occurs, at least in part, because flat rates appear to be progressive when put in dollar amounts because \$2000—10% of \$20,000—is higher than \$1000—10% of \$10,000.

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<sup>12</sup> NAT'L PUB. RADIO ET AL., *supra* note 7, at 4. Other responses showed that 11% believed the rates to be the same, and 28% did not know enough to say.

<sup>13</sup> *Id.* The same poll found that only 50% of respondents knew that there had been tax cuts in the past two years. *Id.* at 3. Despite recent tax cuts that have reduced the average tax burden, in a 2004 poll, 25% of respondents stated that in the past three years their federal taxes had increased and 43% said they had stayed the same. Will Lester, *Poll: Most People Prefer Balanced Budget to Tax Cuts*, CHATTANOOGA TIMES FREE PRESS, Apr. 14, 2004, at A1, LEXIS, News Library (reporting results of an Associated Press poll).

<sup>14</sup> Yet “progressive” is certainly not the most difficult term in the income tax lexicon. Other basic terms such as “adjusted gross income” and “itemized deductions” are even more opaque. According to a study undertaken in the early 1990s, a person needs more than a high school reading ability to understand the instructions on the 1040 form. *See, e.g.*, Anita L. Callahan & Paul R. McCright, *Literacy and Its Effects on Job Design*, 37 INDUS. MGMT. 6, 7 (1995) (noting that instructions for the Internal Revenue Service’s 1040 form require reading at grade 12.28). Even the 1040EZ form requires reading at a grade level of 8.45. Maria Henson, *Students Find Form 1040 EZ Isn’t So Easy*, ARK. DEMOCRAT-GAZETTE (Apr. 3, 1988), LEXIS, News Library.

<sup>15</sup> *See, e.g.*, ALAN LEWIS, *PSYCHOLOGY OF TAXATION* 39–65 (1982).

<sup>16</sup> Edward J. McCaffery, *Cognitive Theory and Tax*, 41 UCLA L. REV. 1861, 1874–75, 1905–15 (1994).

<sup>17</sup> EDWARD J. MCCAFFERY & JONATHAN BARON, *HEURISTICS AND BIASES IN THINKING ABOUT TAX* 15–16, (Univ. S. Cal. Law Sch., Olin Research Paper No. 03-22 & CLEO Research Paper No. C03-23; U. of Penn. Law Sch. Inst. for Law & Econ., Research Paper No. 03-31, 2003) available at <http://papers.ssrn.com/abstract=467440> (date posted Nov. 12, 2003).

### C. *Anti-Tax Rhetoric Is Widespread*

Finally, the way people talk—the rhetoric they use—further clouds their responses to tax. Anti-tax sentiment is as American as apple pie, and patriotic to boot. Think of the American Revolution or the Shays' and Whiskey Rebellions. Politicians consciously play on this anti-tax sentiment. They appeal, for example, to our notion of America as the land of opportunity by characterizing the estate tax as a death tax hurting the small businessman, whereas in fact very few people—small businessmen or not—pay the estate tax. They appeal even more directly to our sense of patriotism by dumping the Internal Revenue Code into the water to re-enact the Boston Tea Party.<sup>18</sup>

This combination of ignorance, cognitive bias, and inflammatory rhetoric partially explains why surveys report inconsistent results—such as preferring a progressive tax to a flat one, but stating that the government has no responsibility to reduce income differentials among people.<sup>19</sup> It also greatly undermines the reliability of opinion polls as a true indicator of what people really think or want, as opposed to a clever manipulation of their ignorance, hopes, and fears. In fact, the professor and economist, Joel Slemrod, recently concluded that many people favor regressive tax policies, such as the repeal of the progressive income tax and the estate tax, in large part because of their misconceptions. Analyzing a 2003 poll, Professor Slemrod found that slightly more than 40% of respondents who favored abolishing the progressive income tax held that opinion because of the mistaken belief that either a flat income tax or a retail sales tax would tax high-income taxpayers more than the existing tax.<sup>20</sup> In other words, they favored regressive taxes because they be-

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<sup>18</sup> See, e.g., Aaron Zitner, *Tax Code Foes Find Nation Indifferent*, BOSTON GLOBE, Apr. 16, 1998, at A1.

<sup>19</sup> For example, one 2003 poll of "likely" voters asked which of the following two statements they agreed with: "We should institute a flat tax meaning people are taxed at a [sic] equal rate, no matter what your level of income. We should make sure tax rates are lowest for those with lower incomes and higher for those with higher incomes?" Thirty-eight percent agreed with the first statement (26% percent strongly), and 57% agreed with the second statement (39% strongly). PUB. INTERESTS PROJECT, *supra* note 10. Yet when asked whether "It is the responsibility of government to reduce the differences in income between people with high incomes and those with low incomes," more people say no than yes. See, e.g., RUDOLPH G. PENNER, *SEARCHING FOR A JUST TAX SYSTEM* 11 (Urban Inst., Discussion Paper No. 13, 2004) (reporting that the National Opinion Research Center has asked this question since 1985 and responses have changed little), available at [http://www.urban.org/UploadedPDF/410907\\_TPC\\_DP13.pdf](http://www.urban.org/UploadedPDF/410907_TPC_DP13.pdf).

<sup>20</sup> Joel Slemrod, *Role of Misconceptions in Support for Regressive Tax Policy* 5–6 (2003), available at [http://www.brookings.edu/dybdocroot/comm/events/20031216\\_Slemrod](http://www.brookings.edu/dybdocroot/comm/events/20031216_Slemrod).

lieved them to be more progressive than the current progressive income tax!

There is other, more direct, evidence that Americans are more supportive of progressive taxation than polls suggest. First, of course, is progressivity's long history, dating back to the Civil War. Progressive taxation is the norm, not just in the income tax but also in estate and gift taxes. Moreover, even critics of progressivity accept a limited degree of progression because all flat tax proposals exempt some amount of income from tax, thereby providing some progression by lowering effective rates.<sup>21</sup>

## II. GOVERNMENTS CAN HELP REDUCE BOTH APPARENT AND ACTUAL OPPOSITION TO PROGRESSIVE TAXATION

Although the foregoing evidence indicates that opposition to progressive taxation is actually much less common than it appears, real opposition to progressivity does exist. It rests on the fundamental principle of liberty, which Americans most commonly define in the negative as freedom from governmental restrictions. Negative liberty thus condemns a redistributive progressive tax because of its interference with private property.<sup>22</sup> This real opposition, however, creates dissonance because of the Happiness Paradox and because it clashes with other basic American principles, such as equality. Luckily, this opposition can be reduced and, to the extent it remains, the dissonance it creates can be lessened.

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pdf. Many of the people who favor repealing the estate tax undoubtedly do so because they mistakenly believe that they are subject to it. NAT'L PUB. RADIO ET AL., *supra* note 7, at 16 (noting that 49% believe that most families have to pay the estate tax and 20% do not know). Professor Slemrod's conclusions are based on regression analyses of the NPR survey referenced above. See NAT'L PUB. RADIO ET AL., *supra* note 5, at 6.

<sup>21</sup> Even the classic Hall-Rabushka flat tax proposal contains personal exemptions. See, e.g., ROBERT E. HALL & ALVIN RABUSHKA, *THE FLAT TAX* 59 (2d ed. 1995); Freedom and Fairness Restoration Act of 1995, H.R. 2060 and S. 1050, 104th Cong. § 101 (1995) (recommending a 20% flat tax after certain deductions or exemptions).

<sup>22</sup> Negative liberty, which conflicts with the other fundamental American belief—equality—also causes much of the apparent opposition and the inconsistent poll responses. Some inconsistency regarding progressivity, as well as opposition to it, exists because most Americans simultaneously believe in both liberty and equality and these two key principles conflict at times. Particular phrasing of a survey question may elicit an *equality* inspired response (favoring redistribution and progressivity), whereas a slightly different framing of the question might elicit a *liberty* inspired answer.

### A. *Reduce Anti-Tax Rhetoric*

The first step to this reduction is to tone down and ideally eliminate the inflammatory anti-tax rhetoric. The rhetoric causes people to substitute feelings for thoughts. Cognitive psychology shows that people already have difficulty determining what will increase their utility; the rhetoric simply magnifies the problem. Unbounded anti-tax rhetoric is dangerous because by emphasizing an already strong anti-government sentiment it can undermine governmental legitimacy.

### B. *Focus on Education*

The second step is to increase public awareness through a nationwide educational campaign focused on taxation and its relationship to the basic American principles of equality and liberty. This education program should have at least three components, directed at different levels of awareness. First, and most narrowly, it should disseminate specific information about tax laws and progressive rates, such as the difference between marginal and effective rates. Second, and a little more broadly, it should educate people about the connection between government and taxes. Most people prefer some government to anarchy. Even people who prefer a small government want it to perform some services, and those services cost money, which in the long run can best be obtained through taxation.

Most broadly, education can diminish the amount of opposition to progressive taxation and make remaining opposition more tolerable by reminding people that negative liberty is not the only fundamental principal of American democracy, nor even the only definition of liberty. American democracy rests on the principle of equality just as much as it rests on liberty. Two decades of polls consistently show that most respondents believe that income and wealth ought to be distributed more evenly.<sup>23</sup> Whereas liberty—at least negative liberty—points to a flat tax, equality points towards a progressive tax. Although liberty and equality inevitably will clash at times, they will conflict less frequently if liberty is defined to include positive liberty.

The American conception of liberty can easily encompass this meaning. If negative liberty is an inalienable right, as proclaimed by the Declaration of Independence and protected by the U.S. Constitution, then so too is positive liberty, as human rights law proclaims. The Universal Declaration of Human Rights, for example, asserts that ba-

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<sup>23</sup> BOWMAN, *supra* note 7, at 23.

sic human rights to goods such as health and education pre-exist society just as negative liberty does. Accordingly, society has a duty to help secure those rights.<sup>24</sup> Moreover, negative liberty is meaningless without these basic rights. Positive liberty enables individuals to exercise their negative liberty by guaranteeing them the basic resources and capabilities needed to utilize freedom and to be the informed, voting citizens that democracy requires them to be.

Positive liberty is consistent with equality, especially equality of opportunity, which has been called "the most distinctive and compelling element of our national ideology."<sup>25</sup> Most Americans not only believe in equal opportunity, but also believe society collectively has a duty to help achieve it.<sup>26</sup> Although they may disagree on some of the steps needed to achieve it, polls show that most people prefer to cancel recent tax cuts to maintain spending on education, healthcare, and social security—programs that help achieve positive liberty and equal opportunity.<sup>27</sup> If people view progressive taxation as a moderate way to help achieve equality of opportunity, even opponents of pro-

<sup>24</sup> See, e.g., UNITED NATIONS DEVELOPMENT PROGRAMME, HUMAN DEVELOPMENT REPORT 2000, at 25 (2000), available at <http://www.undp.org/hdr2000/english/HDR2000.html> (last visited Oct. 15, 2004); see also *The Universal Declaration of Human Rights*, G.A. Res. 217A, U.N. GAOR, 3rd Sess., pt. 1, at arts. 1, 25–26, U.N. Doc A/810 (1948), available at <http://www.unhcr.ch/udhr/download/index.htm> (last visited Oct. 15, 2004).

<sup>25</sup> DOUGLAS RAE ET AL., EQUALITIES 64, 171 n.1 (1981) (referencing quoted material from Ralph W. Emerson, *The Fortune of the Republic*, in MISCELLANIES (Cambridge Univ. Press 1895), reprinted in 11 WORKS OF EMERSON 541 (Edward W. Emerson ed., 1904)).

<sup>26</sup> Most polls indicate widespread support for equality of opportunity. For example, in one recent poll, 91% of respondents agreed with the statement, "Our society should do what is necessary to make sure that everyone has an equal opportunity to succeed." PRINCETON SURVEY RESEARCH ASSOC., PEW RESEARCH CTR., 2003 VALUES UPDATE SURVEY, Question ID USPSRA.110503 R28CF1 (released Nov. 5, 2003) (reporting that 53% of respondents "completely agree" and 38% "mostly agree" with the statement), Westlaw, Public Opinion Online Library. Earlier polls have similar results. See Marjorie E. Kornhauser, *Equality, Liberty, and a Fair Income Tax*, 23 FORDHAM URB. L.J. 607, 648–50 (1996).

<sup>27</sup> See, e.g., John Harwood, *Voters Warm to 'Canceling' Some Tax Cuts*, WALL ST. J., Jan. 15, 2004, at A4 (citing a recent poll finding that respondents would rather pay more taxes than cut spending for health and education by a ratio of 60% to 21%); FOX NEWS, FOX NEWS/OPINION DYNAMICS POLL, Question ID USODFOX.101703 R21B (released Oct. 17, 2003) (reporting that 70% of respondents favored canceling a portion of the 2003 tax cuts for higher-income people to pay for healthcare), Westlaw, Public Opinion Online Library; NAT'L PUB. RADIO ET AL., *supra* note 7, at 11 (reporting that 71% of respondents thought it was fair that when two families had the same income, that the family with more medical expenses pay less tax); see also BOWMAN, *supra* note 7, at 32, 34 (recording a 2003 poll showing that 80% of respondents preferred maintaining spending on education, health, and social security to cutting taxes, and reflecting a 2004 poll showing that 62% of respondents preferred spending more on education, health, and economic development rather than balancing the budget).

gressive taxation may tolerate it better. In fact, opponents often do support redistributive provisions that further equality of opportunity such as the earned income credit, the credit for the elderly and disabled, and the HOPE Scholarship and Lifetime Learning Credits.

In short, education can reveal to people both that they actually do favor some redistribution and the extent to which redistribution is consistent with the country's democratic principles. Even people who still oppose progressive taxation (including those whose incomes are being redistributed) may find their opposition lessened. For example, their increased satisfaction resulting from seeing consistency between progressivity and democratic principles may offset the decrease in personal utility caused by their diminished incomes. Accordingly, they may be more willing to tolerate decreased incomes for the sake of achieving equality of opportunity.

In the limited space available, this Commentary cannot fully delineate an educational campaign, but here are a few possibilities.<sup>28</sup> Elected officials can hold town meetings that disseminate real information about tax as opposed to dumping tax codes into the water to re-enact the Boston Tea Party. The U.S. Treasury spent millions to introduce the new twenty dollar bill into circulation; similar, or greater, amounts spent to increase knowledge, and therefore support and encourage compliance with tax laws, would also be a wise investment. The government can spend some of this money in traditional ways—simple pamphlets, television and radio advertisements, and distributing films or posters to schools—but it also needs to think more innovatively. It has done so in the past—most notably during World War II when it enlisted the imagination and talents of Irving Berlin and Walt Disney to encourage tax compliance—and it can do so again. The government could advertise on the Internet, for example, or create a video for MTV. More boldly, it could take advantage of the reality craze on television. A Fear Factor episode in which contestants face an audit would be a lot more exciting than yet another segment of eating worms or some other creepy crawly. It would also probably induce more fear. After all, 51% of people surveyed in a 2000 poll prefer a root canal to an Internal Revenue Service audit.<sup>29</sup> The willingness of people to appear on such shows as Fear Factor or The Apprentice (where people are willing to be fired before an audience of millions) indicates that the promise

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<sup>28</sup> See generally BRUCE ACKERMAN & JAMES S. FISHKIN, *DELIBERATION DAY* (2004) (suggesting national deliberation days during each presidential election).

<sup>29</sup> BOWMAN, *supra* note 7, at 64 (reporting an April 2000 Fox News/Opinion Dynamics poll). Only 37% preferred an audit. *Id.*

of money or publicity will ensure that enough contestants exist. The popularity of these shows also indicates that the mixture of threatened humiliation, money, and voyeurism will provide an audience.

The government should enlist the talents (and money) of lawyers, accountants, and tax preparers. These firms might help not only out of public spiritedness, but also out of self-interest. A better tax-educated, more compliance-oriented client may be more willing to pay high fees and may be less difficult to work with. Schools can improve tax literacy by requiring their social studies, economics, and civics curricula to contain more material about taxation—not just the economics of taxation, but also the relationship between taxation and democracy and between revenue collection and the provision of government services that people want.

The news media also have a role to play. They can, for example, use and explain important tax terms and provisions that people do not know, such as the difference between effective and marginal rates and why each matters. They can emphasize the positive aspects of the connection between taxing and spending. Currently, the media tend to focus on the negative—when the government wastefully spends taxes—such as in NBC Nightly News's segment on "the fleecing of America." The government, however, does many things well that go unnoticed or that we take for granted. The media should turn these into news items, too. They should stress that the connection between funding and job performance exists in the government as well as in the private sector. The media should also discuss the funding options (borrowing versus taxation) of other functions we expect the government to perform (such as increased air safety).

### CONCLUSION

Educating Americans about taxation will not be a short task and it will not be an easy one. It is, however, a necessary one. The stability of any government depends on a steady flow of funds provided by a compliant populace. Taxpayers, however, will comply only if they believe that the tax system (as well as the government) is fair. Today, many Americans, operating under a widespread anti-tax sentiment, oppose most, or even all, taxation and especially believe that a progressive income tax is unfair. A broad-based tax education program undoubtedly will not eliminate all ignorance of and opposition to taxation in general, and progressive taxation in particular. Education as to the necessity and desirability of some taxation, however, can reduce general opposition to taxation greatly. Moreover, because much

opposition to the current income tax is due to the mistaken belief that the current system is regressive, eliminating these misconceptions should increase support for progressivity. Studies suggest that education can indeed change a person's attitude about taxation.<sup>30</sup>

An educated public is a prerequisite for the smooth functioning of both the free market and democracy. Consumers need to be able to make informed decisions, whether those decisions about which television to buy, candidate to vote for, or tax system to support. Tax education can serve a dual function. For society as a whole, it can help maintain high voluntary compliance with the tax system that is necessary to ensure the steady flow of revenues for the government. For individuals, education can make many taxpayers aware that a progressive tax is in their real self-interest because, in the end, it will increase their utility. Thus, by diminishing the Griffith Paradox in which people oppose progressivity even though income redistribution would improve their utility, education can increase happiness.

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<sup>30</sup> See, e.g., JAMES S. FISHKIN, *THE VOICE OF THE PEOPLE: PUBLIC OPINION AND DEMOCRACY* 214–20 (1997). Although much of his work focuses on the United Kingdom, James S. Fishkin shows how information and deliberation reduced support for a flat tax from 44% to 30% and increased support for government spending on education and training. *Id.* at 214.