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BE CAREFUL WHAT YOU WISH FOR? REDUCING INEQUALITY IN THE TWENTY-FIRST CENTURY

Reuven S. Avi-Yonah* & Orli K. Avi-Yonah**

THE GREAT LEVELER: VIOLENCE AND THE HISTORY OF INEQUALITY FROM THE STONE AGE TO THE TWENTY-FIRST CENTURY. BY *Walter Scheidel*. Princeton and Oxford: Princeton University Press. 2017. Pp. xvii, 444. \$35.

INTRODUCTION

In 2014, a surprising best seller swept the United States. *Capital in the Twenty-First Century* by the French economist Thomas Piketty was published in English translation in April 2014.¹ Less than two months later, the English edition climbed to number one on the New York Times list for hardcover fiction while becoming the greatest sales success in the history of the Harvard University Press.² By January 2015, the book had sold 1.5 million copies in French, English, German, Chinese, and Spanish.³

The success of Piketty's book stemmed from the aftermath of the Great Recession of 2008–2009. The recession focused public attention on the increasing inequality in the United States since the early 1970s. The “Occupy Wall Street” movement, as well as the Tea Party movement, were both responses to the realization that, while the recession was over by 2009, over 95% of the subsequent growth in the U.S. economy inured to the benefit of the top 1% of the income distribution.⁴

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1. THOMAS PIKETTY, *CAPITAL IN THE TWENTY-FIRST CENTURY* (Arthur Goldhammer trans., The Belknap Press of Harvard Univ. Press 2014) (2013).

2. *Hardcover Nonfiction*, N.Y. TIMES (May 18, 2014), <https://www.nytimes.com/books/best-sellers/2014/05/18/hardcover-nonfiction/> (on file with the *Michigan Law Review*); see Marc Tracy, *Piketty's 'Capital': A Hit that Was, Wasn't, Then Was Again*, NEW REPUBLIC (Apr. 24, 2014), <https://newrepublic.com/article/117498/pikettys-capital-sold-out-harvard-press-scrumbling> [<https://perma.cc/K7KS-FJ4U>].

3. See *Thomas Piketty Interview, by PSE*, PARIS SCHOOL OF ECONOMICS, <https://www.parisschoolofeconomics.eu/en/news/thomas-piketty-interview-by-pse/> [<https://perma.cc/LD37-YK69>].

4. See Emmanuel Saez, *Income and Wealth Inequality: Evidence and Policy Implications*, 35 CONTEMP. ECON. POL'Y 7, 16 (2017); Ed Pilkington, *Occupy Wall Street: Tea Party Leaders Admit Similarities - but Not Too Many*, GUARDIAN (Oct. 7, 2011, 10:53 AM), <https://www.theguardian.com/world/2011/oct/07/occupy-wall-street-tea-party-comparison> [<https://perma.cc/RK6P-M9LB>].

Piketty explained this phenomenon in detail. Moreover, he posited that it was a historical constant.⁵ The main driver of inequality, he argued, was the tendency of returns on capital to exceed the rate of economic growth ($r > g$):

In slowly growing economies, past wealth naturally takes on disproportionate importance, because it takes only a small flow of new savings to increase the stock of wealth steadily and substantially. If, moreover, the rate of return on capital remains significantly above the growth rate for an extended period of time . . . then the risk of divergence in the distribution of wealth is very high.⁶

Moreover, Piketty did not just pose the problem—he proposed a solution. In the last part of the book, Piketty advocated several steps to remedy inequality by regulating capital: strengthening the welfare state, dramatically increasing income tax rates on the rich, and imposing a new global tax on capital.⁷ While none of these steps were taken, several of them were influential in shaping the Democratic platform for the 2016 presidential campaign, especially through the impact of Senator Bernie Sanders (I-VT).⁸

But, of course, the Democrats lost. The Republicans took the White House, retained both houses of Congress, and immediately proceeded to propose policies that went in the opposite direction of Piketty's proposals.⁹ These policies consisted of first, abolishing the tax increases on wealthy Americans that helped fund the Affordable Care Act (ACA);¹⁰ second, rolling back the welfare state, as embodied in the ACA, and especially converting Medicaid from an entitlement to a capped program;¹¹ and third, proposing

5. See generally PIKETTY, *supra* note 1 (examining the discrepancy of income distribution in the United States).

6. *Id.* at 25.

7. *Id.* at 471–539.

8. See DEMOCRATIC PLATFORM COMM., 2016 DEMOCRATIC PARTY PLATFORM 5–6, 12–13 (2016), http://www.presidency.ucsb.edu/papers_pdf/117717.pdf [<https://perma.cc/EBN7-YKYV>]; John Cassidy, *Bernie Sanders and the New Populism*, NEW YORKER (Feb. 3, 2016), <https://www.newyorker.com/news/john-cassidy/bernie-sanders-and-the-new-populism> [<https://perma.cc/D3FY-3NSL>].

9. Sarah Frostenson, *Republicans Now Control the Presidency, the Senate, and the House*, VOX (Nov. 9, 2016, 9:00 AM), <https://www.vox.com/presidential-election/2016/11/9/13572972/republicans-control-presidency-senate-house> [<https://perma.cc/QYX8-QLEH>].

10. Scott Horsley, *GOP Health Care Bill Would Cut About \$765 Billion in Taxes over 10 Years*, NPR (May 4, 2017, 6:34 PM), <http://www.npr.org/2017/05/04/526923181/gop-health-care-bill-would-cut-about-765-billion-in-taxes-over-10-years> (on file with the *Michigan Law Review*).

11. Avik Roy, *How Much Will the GOP's Medicaid Per-Capita Cap Save, if Anything? CBO Refuses to Say*, FORBES (June 8, 2017, 12:27 AM), <https://www.forbes.com/sites/theapothecary/2017/06/08/how-much-will-the-gops-medicaid-per-capita-cap-save-if-anything-cbo-refuses-to-say/#38b214d06376> [<https://perma.cc/24TU-ME87>].

an extremely regressive tax reform, including cutting the top marginal individual and corporate rates, abolishing the estate tax, and converting the corporate tax (which falls primarily on capital) to a consumption tax (which falls primarily on consumers).¹²

In this environment, a new book appeared. Stanford historian Walter Scheidel's *The Great Leveler: Violence and the History of Inequality from the Stone Age to the Twenty-First Century*,¹³ is, in some respects, the anti-Piketty. Scheidel accepts Piketty's view that inequality tends to grow over time, but adds a crucial caveat that runs directly opposite to Piketty's optimistic proposals. Scheidel argues that the historical record demonstrates that inequality can *only* be reduced by violent means.¹⁴ Therefore, Piketty's proposals to reduce inequality peacefully are unrealistic. Scheidel concludes his book by arguing that we should accept inequality as the price of peace: "All of us who prize greater economic equality would do well to remember that with the rarest of exceptions, it was only ever brought forth in sorrow. Be careful what you wish for" (p. 444).

This Review will first summarize Scheidel's thesis and the evidence he presents for his claim (Part I). It will then argue that the twentieth-century history of the United States shows that, in fact, inequality can be reduced by peaceful means, even though such reductions are not easy to achieve and usually require bipartisan consensus (Part II). Next, the Review will address why the Great Recession of 2008–2009 did not lead to a reduction in inequality, unlike the Great Depression (Part III). Finally, the Review will ask what can be done and propose certain steps that may be more achievable than Piketty's proposals (Part IV).

I. THE SCHEIDEL THESIS

Scheidel summarizes his thesis as follows:

For thousands of years, civilization did not lend itself to peaceful equalization. Across a wide range of societies and different levels of development, stability favored economic inequality. This was as true of Pharaonic Egypt as it was of Victorian England, as true of the Roman Empire as of the United States. Violent shocks were of paramount importance in disrupting the established order, in compressing the distribution of income and wealth, in narrowing the gap between rich and poor. Throughout recorded

12. TAX REFORM TASK FORCE, A BETTER WAY: OUR VISION FOR A CONFIDENT AMERICA—TAX 15–16 (2016), https://abetterway.speaker.gov/_assets/pdf/ABetterWay-Tax-PolicyPaper.pdf [<https://perma.cc/MMN3-TNC9>]. For a critique, see Reuven S. Avi-Yonah & Kimberly A. Clausing, *Problems with Destination-Based Corporate Taxes and the Ryan Blueprint* (Univ. of Mich. Law & Econ. Research Paper Series, Paper No. 16-029, 2017), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2884903 [<https://perma.cc/8RWY-XHMG>].

13. Walter Scheidel is the Dickason Professor of Humanities, Stanford University.

14. P. 8 ("But were there also other, more peaceful mechanisms of lowering inequality? If we think of leveling on a large scale, the answer must be no. Across the full sweep of history, every single one of the major compressions of material inequality we can observe in the record was driven by one or more of these four levelers." (emphasis added)).

history, the most powerful leveling *invariably* resulted from the most powerful shocks. Four different kinds of violent ruptures have flattened inequality: mass mobilization warfare, transformative revolution, state failure, and lethal pandemics. (p. 6; emphasis added)

The rest of the book marshals powerful evidence in support of this thesis. First, Scheidel shows convincingly (and consistently with Piketty, but Scheidel's data stretches much further back in history) that in peaceful times, inequality tends to grow. For example, historical data enable Scheidel to show that inequality in Europe grew from prehistoric times to reach a peak at the height of the Roman Empire (around 200 CE) (p. 87 fig.3.1), declined with the downfall of the empire, rose again gradually from 650 CE to the Black Death (1350 CE) (pp. 87 fig.3.1, 90), declined sharply and then began rising again until the outbreak of World War I in 1914 (pp. 87 fig.3.1, 110, 112), then declined in the "Great Compression" or 1914–1975 (p. 87 fig.3.1, Chapter Five), and began rising again after the "Great Compression" (p. 87 fig.3.1, Chapter Fifteen).

Similar trends are visible in the United States. The Gini coefficient, which Scheidel uses as his main measure of inequality, rose from 0.44 in 1774 to 0.49 in 1850 to 0.51 in 1860, and the share of national income earned by the top 1% of the income distribution rose from 8.5% in 1774 to 9.2% in 1850 to 10% in 1860.¹⁵ The Civil War reduced inequality in the South but increased inequality in the North: the top 1% income share reached 18% in 1913, and the fraction of all assets held by the wealthiest 1% of U.S. households rose from 25% to 46% between 1810 and 1910 (p. 109). In the long run, inequality in the United States increased steadily from 1650 to World War I (p. 110 fig.3.5). The American Revolution brought only a small reduction and the Civil War produced none at all (p. 110 fig.3.5). From World War I to 1970, however, inequality dropped sharply, rising thereafter but still not reaching the height of the first "gilded age" (p. 110 fig.3.5).

Second, Scheidel shows convincingly that *most* reductions of inequality were indeed the result of his "four horsemen": mass mobilization war, transformative revolution, state collapse, and pandemic.¹⁶

The first horseman, mass mobilization war, is best illustrated by the effects of the two world wars. For example, in 1938 Japan was one of the most unequal countries on earth, with the richest 1% receiving 19.9% of income (p. 115). By 1946, that share had dropped to 6.4% (a decline of over two thirds) (p. 115). The destruction of the elite's wealth was even more dramatic: the value of the richest 1% of estates fell by almost 97% between

15. P. 108. The Gini coefficient equals 1 when a single individual controls all resources and 0 when all individuals control equal resources. P. 11. Scheidel recognizes that there may be better measures of inequality, but the Gini is the only one that can be measured across history, with better data for more recent periods. *See* pp. 12–15. Scheidel does a great job in obtaining the best measures across time given the limitations of available data. The breadth of his expertise is astonishing.

16. *See* chapters 4–6, 10.

1936 and 1949 (p. 115). “Total war compressed inequality on an unprecedented scale” (p. 117). The same phenomenon happened as a result of both World War I and World War II in Europe (pp. 146–47).

The second horseman, transformative revolution, is exemplified by the effects of the Russian revolution (pp. 214–23). Scheidel estimates that before the revolution, Russia’s 1% received about 13.5–15% of all income (p. 221). This value fell dramatically as a result of Soviet confiscation, so that the Gini declined from 0.362 to 0.229 (p. 221). A similar leveling occurred in China after 1949, with the Gini declining from 0.4 to 0.23 (pp. 223–28). In France, the income share of the top 10% declined from 51–53% before the French revolution to 45% after it (p. 237 tbl.8.1).

The third horseman, state collapse, can be illustrated by the destruction of the Tang elite in China in the ninth century (pp. 260–64), the disintegration of the Western Roman Empire in the sixth century (pp. 264–69), and by contemporary Somalia (pp. 283–86). Scheidel estimates that the Gini coefficient in Roman Britain (as measured by relative house sizes), which stood at 0.6 at the height of the Empire, had reverted by 600 AD to 0.4, nearly the same as in Iron Age Britain (p. 269 fig.9.3).

The fourth horseman, plague, is best shown by the late medieval pandemic that began with the Black Death of 1347–1349. For example, the Gini coefficient in the cities of Piedmont fell from about 0.72 in 1300 to about 0.61 by 1450, and the top 5% share of wealth distribution fell from 48% to 32% (p. 307 fig.10.4).

But Scheidel’s hypothesis is stronger than this: he argues that reductions of inequality “invariably” resulted from the four horsemen (“*every single one* of the major compressions of material inequality we can observe in the record was driven by one or more of these four levelers”) (pp. 6, 8; emphasis added). Specifically, he argues that peaceful reform, such as land reform, debt relief, normal (nonviolent) economic crises, and democratization have not led to significant reductions in inequality (Chapter Twelve). Moreover, he rejects the commonly accepted idea that economic development naturally leads to reduced inequality: “[N]one of the forces discussed in this chapter . . . can be shown to have had a consistently dampening effect on material inequality. . . . [T]here is no escaping the fact that violence, actual or latent, has long been a critical catalyst for equalizing policy measures” (p. 388).

We believe that Scheidel’s conclusions are too strong, and that the history of the United States in the twentieth century provides a counterexample. This, in turn, suggests that it is possible, albeit not easy, to reduce inequality by peaceful means.

II. A COUNTEREXAMPLE: THE GREAT DEPRESSION AND ITS CONSEQUENCES, 1929–1973

In Figure 5.1, Scheidel shows the top 1% income shares in the United States, France, Canada, and Japan from 1935 to 1975 (p. 131 fig.5.1). They all show the same pattern: a sharp decline from the late 1930s to 1945 followed by a much more gradual decline until 1975 (p. 131 fig.5.1). The

sharpest fall is in Japan, but the others are not far behind (p. 131 fig.5.1). Scheidel argues that this decline is the result of World War II and its aftereffects.¹⁷ But this argument presents a puzzle. How can France and Japan, both of which suffered devastating destruction in the world war, show the same pattern as the United States and Canada, which did not? Moreover, the decline in the United States began in 1936, five years before the United States entered the war (p. 131 fig.5.1).

In addition, Scheidel's Figure 5.5, which shows capital income share in total gross income for the top 1% in France, Sweden, and the United States from 1920 to 2010, shows a gradual decline in Sweden, a very sharp drop in France during World War II, and a less sharp drop followed by a swift recovery and then gradual decline in the United States (p. 142 fig.5.5). This pattern does suggest that violence had the expected impact in France, but it also indicates that countries that were not directly impacted by World War II (Sweden) or were involved but were not invaded (the United States) reduced inequality by other means.

In general, Scheidel's claim that most of the "Great Compression" can be traced to the effects of the two world wars and therefore to "mass mobilization warfare" seems overly broad.¹⁸ In the United States, World War I did indeed cause a sharp rise in income tax rates on the rich, and therefore can be said to have directly contributed to the decline in inequality during the war years.¹⁹ But income tax rates were cut in the aftermath of the war, and the 1920s in general saw a rise in inequality, which reached its all-time peak in the United States in 1929.²⁰

The reduction in inequality from 1936 to 1941 was not the result of war. It was the direct result of the Great Depression and the election of Franklin Delano Roosevelt in 1932. After his election, FDR proceeded with the large Democratic majorities in Congress (and with significant Republican support) to enact policies that created the American welfare state (Social Security, 1935), strengthened the labor movement (National Industrial Recovery Act, 1933), and increased progressive taxation (the 1936 tax act).²¹ None of these steps, which contributed to the reduction of inequality in the pre-World War II years, were the result of war or violence.²²

17. See pp. 169–70.

18. See p. 130.

19. See p. 144; AJAY K. MEHROTRA, *MAKING THE MODERN AMERICAN FISCAL STATE: LAW, POLITICS, AND THE RISE OF PROGRESSIVE TAXATION, 1877–1929* (2013).

20. See p. 110 fig.3.5; Saez, *supra* note 4, at 19.

21. See IRA KATZNELSON, *FEAR ITSELF: THE NEW DEAL AND THE ORIGINS OF OUR TIME* 162 (2013).

22. Admittedly, the years leading up to the New Deal were filled with social unrest and violence. See, for example, the massive strikes and resulting state violence perpetrated against strikers from the 1890s through the 1930s. These include the Great Railroad Uprising of 1877, the Haymarket Massacre of 1886, the Homestead Strike of 1892, the Pullman Strike of 1894, the Lawrence and Patterson strikes in 1913, the Great Steel Strike and Seattle General Strike of 1919, the San Francisco and Minneapolis general strikes of 1934, and the sit-down strikes in Michigan. But these events do not rise to the level of Scheidel's four horsemen. See generally

While the World War II years further reduced inequality in the United States, much of the constraints imposed by the government, such as the “mass tax” (extending the income tax to the middle class) and wage controls, impacted the middle class more than the rich. Moreover, the end of the war was not followed by a cut in taxes as in the 1920s. Progressive tax rates on the rich remained very high (over 90%) throughout the period 1945–1960, and the top marginal tax rate when Ronald Reagan was elected was still quite high (70%).²³ Moreover, the 1960s saw a massive expansion of the welfare state with the enactment of President Lyndon B. Johnson’s “War on Poverty” program, which included Medicaid and Medicare.²⁴ None of these developments can plausibly be attributed to World War II, which ended twenty years earlier.

It is thus hard to agree with Scheidel’s conclusion that the reduction of inequality in the United States in the twentieth century was primarily the result of violence. It was, instead, the result of a peaceful political reaction to the Great Depression that led FDR to propose programs to create a social safety net.²⁵ The fear of the Russian Revolution was indeed an inspiration to reform in the United States,²⁶ but fear of revolution is not revolution, since (contrary to Scheidel’s thesis) it does not entail actual violence.

Scheidel acknowledges the leveling effect on the Great Depression: “The Great Depression was the only macroeconomic crisis that had a powerful impact on economic inequality in the United States” (p. 363). To show this inequality, he notes the decline of the wealth share of the richest 1% from 51.4% to 47% between 1928 and 1932, and of their income share from 23.9% to 15.5% over the same period (p. 363). But he argues that “income concentration held steady until the beginning of the war” and concludes that without the war the effect of the Depression would have leveled off.²⁷ This may or may not be true, but Figure 5.1 indicates that the long decline (to 1973) in the top 1% share of income in the United States began well before the war (p. 131 fig.5.1).

Thus, while Scheidel is correct in that most dramatic reductions in inequality throughout history have been the result of violence, there is at least one counterexample to his claim. This counterexample shows that under the right political conditions, inequality can be reduced by peaceful means. Both FDR and LBJ were able to enact inequality-reducing measures peacefully.

NELSON LICHTENSTEIN, *STATE OF THE UNION: A CENTURY OF AMERICAN LABOR* (2002) (discussing the history of unions and strikes).

23. See Reuven S. Avi-Yonah, *Why Tax the Rich?: Efficiency, Equity, and Progressive Taxation*, 111 *YALE L.J.* 1391, 1391–92 (2002) (book review).

24. See Annelise Orleck, *Conclusion: The War on the War on Poverty and American Politics Since the 1960s*, in *THE WAR ON POVERTY: A NEW GRASSROOTS HISTORY, 1964–1980*, at 437, 438 (Annelise Orleck & Lisa Gayle Hazirjian eds., 2011).

25. See KATZNELSON, *supra* note 21, at 35 (describing the popular perception of the New Deal as a kind of “salvation” of the American economy).

26. *Id.* at 326.

27. See p. 364.

But this observation leads to the obvious question: why did the Great Recession of 2008–2009 not lead to a reduction in inequality?

III. WHY DID THE GREAT RECESSION NOT LEAD TO REDUCED INEQUALITY?

The Great Recession of 2008–2009 was the sharpest downturn in the economy since the Great Depression.²⁸ But unlike the Great Depression, it did not lead to any reduction in inequality. Neither the bank bailout, nor the Obama stimulus, nor even the ACA affected the Gini coefficient. Until very recently, almost the entire growth in the economy inured to the benefit of the top 1%.²⁹

The second of this Review's authors is a clinical psychologist who experienced the effects of the Great Recession directly in her practice. The following observations are based on her experience with actual patients in her office, and suggest some psychological reasons why the people in charge of national policy failed to enact policies that would lead to a peaceful reduction in inequality:

In the fateful days after the demise of Lehman Brothers in September 2008, I often wondered whether the people setting national policies understood the impact of their decisions on the patients I was seeing in my office. This was not a theoretical meditation on the meaning of life. It was born out of an urgency to support people, all of whom attempted to hold on to the American dream: the promise is that if you work hard and honestly, and if you give it your all, you will be safe. But safety was not to be had for many of them. The storm bearing bad news never ceased. It came in unforgiving waves of destruction. The people affected represented the entire socioeconomic spectrum.

For a long while, it was hard to see the light at the end of the tunnel. Fear, dismay, disbelief, horror, and feelings of helplessness dominated people's lives. Let me be concrete: people did lose their homes, jobs, health, and their way of life. Relationships and marriages faltered, social relations were severed, and shame and isolation reigned supreme. These were not reckless people who were over leveraged and who played the stock market like a Russian roulette. By and large, they were hopeful, highly educated, middle aged people who were forced to pick up their shattered lives with no relief in sight. It was, and remains, a sobering time. For some, economic and financial recovery has yet to happen.

To be clear, the terror of the impending collapse of the auto industry resonated so loudly that it was hard to comprehend how anybody could be oblivious to the potential job loss of millions of people. One question that repeatedly pierced my consciousness was: what was the psychology of the people in charge, who led us into this calamity, and of those who were now entrusted with navigating us out of this storm? My many years of practice

28. E.g., Bob Davis, *What's a Global Recession?*, WALL STREET J. (Apr. 22, 2009, 9:00 AM), <https://blogs.wsj.com/economics/2009/04/22/whats-a-global-recession/> (on file with the *Michigan Law Review*).

29. See Saez, *supra* note 4.

in three different states (New York, Massachusetts, and Michigan) offered some potential hypotheses. In the winter of 2009, I wrote a draft paper under the title “Disorders of Extreme Privilege” (DEP). I was attempting to illuminate and understand some of the psychological dynamics involved in the decisionmaking of people who hold power to hire and fire people and to buy and sell companies.

I also pondered, would our leaders would ever learn from the mistakes that led us to the crisis of 2008? Not likely, I answered. There are too few examples in history of leaders who were able to correct course based on a profound realization of their own faulty assumptions.³⁰ I turned my attention to what may be the psychological phenomenon of inability to change course in the face of an avalanche of data contradicting one’s assumptions.³¹

This psychological phenomenon that I term DEP involves the ability to isolate oneself from the pain of others and to remain dispassionate and at times oblivious to the real-life consequences of economic and financial decisions, oftentimes accompanied by the euphemism of “increased efficiency” and “maximizing shareholder value.”³² People who suffer from this level of isolation are at times quite fearful themselves. They fear the loss of status, material possessions, and power. A subset of them, who ascended from humble beginnings, employ a particularly interesting psychological mechanism, often referred to in the literature as dissociation. “Forgetting” their own personal history and the people who share their early histories, they rather nurture the belief that their ascension and success is due purely to their personal attributes and hard work, which is a conviction that allows them to view the less financially fortunate as lacking in the above attributes. Marinating in that faulty set of beliefs (that one’s own success is purely the result of one’s special attributes) fosters, when interacting with like-minded people, a sense of entitlement and disdain for vulnerability in oneself and in others. Distancing from pain becomes an imperative that ensures the resiliency of the grandiose notion that extreme success is accounted for purely by one’s own attributes and actions, rather than by one’s luck and social conditions.

30. Anwar Sadat and Yitzhak Rabin are two recent examples. Sadat made peace with Israel after leading Egypt to war against it, and Rabin accepted the legitimacy of the Palestinian claim to statehood after persistently denying it. See *Anwar al-Sadat - Facts*, NOBELPRIZE.ORG, https://www.nobelprize.org/nobel_prizes/peace/laureates/1978/al-sadat-facts.html [https://perma.cc/2NV4-YKQBQ]; *Yitzhak Rabin - Facts*, NOBELPRIZE.ORG, https://www.nobelprize.org/nobel_prizes/peace/laureates/1994/rabin-facts.html [https://perma.cc/5VJB-TCPE].

31. This phenomenon has been documented in the psychological literature for decades. See, e.g., LEON FESTINGER ET AL., *WHEN PROPHECY FAILS: A SOCIAL AND PSYCHOLOGICAL STUDY OF A MODERN GROUP THAT PREDICTED THE DESTRUCTION OF THE WORLD* (1956).

32. Jia Lynn Yang, *Maximizing Shareholder Value: The Goal that Changed Corporate America*, WASH. POST (Aug. 26, 2013), https://www.washingtonpost.com/business/economy/maximizing-shareholder-value-the-goal-that-changed-corporate-america/2013/08/26/26e9ca8e-ed74-11e2-9008-61e94a7ea20d_story.html?utm_term=.02c34b851a11 [https://perma.cc/28WZ-GE9T].

One illustration of this psychological phenomenon is the tone-deaf objection to the auto bailout in 2009.³³ The economic merit of one plan or another notwithstanding, when millions of people were poised to lose everything they had worked for or dreamed of, pronouncing that no bailout was necessary was the height of willful ignorance—a complete disregard for the voiceless. These voiceless found their voices in the next decade, much to the surprise of many who did not listen or chose to avert their gaze from the “flyover” states.³⁴ Flying over people’s pain is a perilous endeavor, I have learned.

One field of inquiry that might assist us in shedding light on the current psychological, social, and political landscape would be the study of interpersonal trauma and its impact on people’s lives. Ten years later, the economic crisis can be conceptualized as a chronic trauma in one segment of the population, with occasional exacerbations; in other words, a chronic crisis with occasional acute crises. What began as acute anxiety in 2008 was never resolved—it changed from acute to chronic anxiety. This chronic anxiety is now accompanied by the well-known effects of chronic stress on people’s bodies: a diminished immune system, depletion of hope, rising chronic anger, demoralization, chronic health problems and substance abuse, and, worst of all, increased social isolation, which both maintains and reinforces hopelessness, cynicism, and dejection.³⁵

Some people were able to recover or even surpass their 2008 success.³⁶ But the wide swath of people who lost economic and social ground remained, until recently, stubbornly out of sight and untouched by government policies.³⁷ Worse, many people who were less affected by chronic crisis were able to go on with their lives,³⁸ often unaware that the increased anxiety about their vulnerability they now experienced has transmuted into a ferocious commitment to holding on to their gains, so that they would not end up like those who lost. This created a social schism characterized by lack of compassion for people who were different and vulnerable.

33. See, e.g., Mitt Romney, Opinion, *Let Detroit Go Bankrupt*, N.Y. TIMES (Nov. 18, 2008), <http://www.nytimes.com/2008/11/19/opinion/19romney.html> [https://perma.cc/43G5-W96Z].

34. See, e.g., Jim Tankersley, *How Trump Won: The Revenge of Working-Class Whites*, WASH. POST (Nov. 9, 2016), https://www.washingtonpost.com/news/wonk/wp/2016/11/09/how-trump-won-the-revenge-of-working-class-whites/?utm_term=.Affff1d4171e [https://perma.cc/G7LH-FEG5].

35. See the well-known study of Anne Case & Angus Deaton, *Mortality and Morbidity in the 21st Century*, BROOKINGS PAPERS ON ECON. ACTIVITY (Mar. 17, 2017), documenting the increased morbidity and mortality of white working-class Americans.

36. See, e.g., Don Lee, *5 Years After the Great Recession: Where Are We Now?*, L.A. TIMES (June 22, 2014, 5:00 AM), <http://www.latimes.com/business/la-fi-recession-economy-20140622-story.html> [https://perma.cc/LK72-MM6N].

37. See generally ARLIE RUSSELL HOCHSCHILD, *STRANGERS IN THEIR OWN LAND: ANGER AND MOURNING ON THE AMERICAN RIGHT* (2016).

38. Cf. Judith Warner, *What the Great Recession Has Done to Family Life*, N.Y. TIMES (Aug. 6, 2010), <http://www.nytimes.com/2010/08/08/magazine/08FOB-wwln-t.html> (on file with the *Michigan Law Review*) (“[D]espite this bleak reality, some talk persists of silver linings: less cash to spend means less materialism, a real change to ‘the definition of living well.’”).

The recent election, regardless of one's political views, represents the transformation of the pain of some who were left behind into hopefulness that something not only should but can be done to restore the dignity and previous social and economic standing of those who became collateral damage in the recent wave of unbridled globalization.

A good illustration of the political manifestations of DEP and its direct relationship to inequality is the bipartisan saga of how U.S. multinationals amassed over \$2.6 trillion of profits in low-taxed jurisdictions offshore.³⁹ Before 1997, there were provisions in the U.S. Tax Code that were enacted in the 1960s and that limited the ability of U.S.-based multinationals to shift profits from high-tax to low-tax foreign jurisdictions without triggering U.S. tax.⁴⁰ The underlying theory of those provisions ("Subpart F") was that the corporate tax is an important bulwark against increasing inequality, since its incidence is mostly on the rich, and that the United States should not leave revenue on the table by allowing U.S. multinationals to escape both foreign and U.S. tax.⁴¹ U.S. multinationals were allowed under Subpart F to defer tax on some foreign earnings, but because of Subpart F, the revenue cost of this provision was relatively low (below \$1.5 billion a year).⁴²

In 1997, the Clinton Treasury adopted an innocuous-seeming provision called "check the box," which enabled U.S. multinationals to choose whether their foreign subsidiaries would be treated as separate subsidiaries or as branches for U.S. tax purposes.⁴³ The effect, which was presumably foreseen by the drafters of the regulation, was to completely undermine Subpart F and enable U.S. multinationals to shift profits from high- to low-tax foreign jurisdictions without triggering U.S. tax.⁴⁴ However, this money was "trapped" offshore, since if the funds were distributed to the U.S. parent, this would trigger a 35% U.S. tax.⁴⁵

By 2004, the use of "check the box" led U.S. multinationals to amass over \$300 billion in low-taxed foreign profits offshore.⁴⁶ In that year, the

39. INST. ON TAXATION & ECON. POLICY, FORTUNE 500 COMPANIES HOLD A RECORD \$2.6 TRILLION OFFSHORE (2017), <https://itiep.org/wp-content/uploads/pre0327.pdf> [<https://perma.cc/4G5C-7E9L>].

40. David L. Forst, *The U.S. International Tax Treatment of Partnerships: A Policy-Based Approach*, 14 BERKELEY J. INT'L L. 239, 248–49 (1996).

41. Cf. Former Senator Carl Levin, Speech at TaxCOOP Conference at World Bank (May 23, 2016), <https://law.wayne.edu/carl-levin-speech-world-bank> [<https://perma.cc/F6F9-3ZSU>] ("[T]ax havens . . . [are] major contributors to government revenue loss and income inequality.").

42. U.S. DEP'T OF TREASURY, TAX EXPENDITURES 75 (1997), <https://www.treasury.gov/resource-center/tax-policy/Documents/Tax-Expenditures-FY1997.pdf> [<https://perma.cc/PJZ7-549Y>].

43. See David L. Cameron & Philip F. Postlewaite, *Incremental International Tax Reform: A Review of Selected Proposals*, 30 NW. J. INT'L L. & BUS. 565, 571–72 (2010).

44. See *id.* at 580.

45. I.R.C. § 11(b)(1)(D) (2012).

46. Tim Dickinson, *The Biggest Tax Scam Ever*, ROLLING STONE (Aug. 27, 2014), <http://www.rollingstone.com/politics/news/the-biggest-tax-scam-ever-20140827> [<https://perma.cc/LZL6-L5XF>].

Republican-dominated Congress and White House passed an amnesty that allowed the multinationals to repatriate those funds without incurring U.S. tax.⁴⁷ This law was called the “American Jobs Creation Act.” The nominal intent of the Act was to encourage domestic job creation,⁴⁸ but subsequent investigations have shown that the multinationals effectively used the funds to repurchase shares and pay executive compensation, enriching their shareholders and executives while laying off thousands of ordinary workers.⁴⁹

By October 2006, it was clear that the Democrats were poised to take over Congress⁵⁰ and that the “check the box” provision might be in danger, as a mere regulation, of being overridden by legislation.⁵¹ Therefore, the Republican-dominated Congress enacted Code section 954(c)(6) as a “temporary” measure, which enshrined “check the box” in the Code.⁵² The Democratic majority renewed the provision when it was due to expire in 2007 and 2008.⁵³

When President Obama took office in January 2009, the largest international tax revenue raiser in his first budget was repealing both “check the box” and section 954(c)(6).⁵⁴ The Democrats had large, filibuster-proof majorities in Congress and could easily have passed the repeal in 2009–2010.⁵⁵ But nothing happened, and by November 2009 the repeal measure was shelved.⁵⁶ It was not resurrected again until after the Republicans took over both the House and the Senate in 2014,⁵⁷ making the repeal proposal a

47. *Id.*

48. *Id.*

49. MAJORITY STAFF OF S. PERMANENT SUBCOMM. ON INVESTIGATIONS OF THE S. COMM. ON HOMELAND SEC. & GOVERNMENTAL AFFAIRS, 112TH CONG., REPATRIATING OFFSHORE FUNDS: 2004 TAX WINDFALL FOR SELECT MULTINATIONALS 23–25 (Comm. Print 2011).

50. Stuart Rothenberg, *How High the Wave? Don't Just Think 1994; Think 1974, 1958, 1982*, INSIDE ELECTIONS (Oct. 26, 2006, 12:02 AM), <https://insideelections.com/news/article/how-high-the-wave-don-t-just-think-1994-think-1974-1958-1982> [<https://perma.cc/YZP5-KZ9H>].

51. *Cf.* Kevin Drawbaugh & Andy Sullivan, *Insight: How Treasury's Tax Loophole Mistake Saves Companies Billions Each Year*, REUTERS (May 30, 2013, 8:04 PM), <http://www.reuters.com/article/us-usa-tax-checkthebox-insight-idUSBRE94T17K20130531> [<https://perma.cc/V7P3-Y7G5>] (noting that Republicans passed legislation in 2006 to make the “‘check the box’ tougher to revoke”).

52. I.R.C. § 954(c)(6) (2012).

53. Drawbaugh & Sullivan, *supra* note 51.

54. Jeff Gerth, *Corporations Couldn't Wait to 'Check the Box' on Huge Tax Break*, PROPUBLICA (Sept. 26, 2011, 1:51 PM), <https://www.propublica.org/article/corporations-couldnt-wait-to-check-the-box-on-huge-tax-break> [<https://perma.cc/BC6T-NXAS>].

55. Monica Davey & Carl Hulse, *Franken's Win Bolsters Democratic Grip in Senate*, N.Y. TIMES (June 30, 2009), <http://www.nytimes.com/2009/07/01/us/politics/01minnesota.html?mcubz=3> (on file with the *Michigan Law Review*).

56. *See* Drawbaugh & Sullivan, *supra* note 51.

57. Jeremy Scott, *Check the Box for Tax Avoidance*, FORBES (Feb. 19, 2014, 1:42 PM), <https://www.forbes.com/sites/taxanalysts/2014/02/19/check-the-box-for-tax-avoidance/#2abd6d5f756a> [<https://perma.cc/Z3DC-D3BE>].

meaningless gesture by the Obama Administration. Moreover, Congress repeatedly passed and President Obama repeatedly signed extensions of section 954(c)(6), most recently for five years in 2015.⁵⁸

The result has been an explosion in the growth of the untaxed offshore profits of U.S.-based multinationals. They now exceed \$2.5 trillion (all accumulated since the 2004–2005 amnesty),⁵⁹ and the choice not to tax them is the fourth-largest tax expenditure (i.e., a subsidy delivered through the Tax Code or corporate welfare) in the federal budget, exceeding, for example, the home mortgage interest deduction and the exclusion of earnings on 401(k) accounts.⁶⁰

Currently, there is bipartisan consensus that the \$2.5 trillion of untaxed offshore profits should be taxed lightly (under the House GOP plan, below 10%)⁶¹ and then allowed to be repatriated tax free and that any future offshore profits should be completely exempt from tax. This “territoriality” proposal was supported by the Obama Administration, by the Hillary Clinton campaign, and by both the Trump Administration and the House GOP majority.⁶²

IV. WHAT CAN BE DONE?

Scheidel would have us believe that the only way to seriously impact inequality in the twenty-first century is through war or revolution. Unfortunately, unless something is done to reduce inequality, he may be right.

Political theorists have long sought to explain the causes of violent revolutions. In general, such revolutions do not occur when the majority in a given society is downtrodden, because people who are simply too poor to earn a living invest their efforts in survival, not revolution. Instead, as James Davies explained in 1962, revolutions occur after a period of sustained growth, in which “actual need satisfaction” matches “expected need satisfaction.”⁶³ “Actual need satisfaction” refers to the extent people feel that their various needs are met, while “expected need satisfaction” refers to the extent

58. SULLIVAN & CROMWELL LLP, *NEW LEGISLATION EXTENDS EXPIRING TAX PROVISIONS, DELAYS TAXES IMPOSED UNDER THE PATIENT PROTECTION AND AFFORDABLE CARE ACT, AND ENACTS REVENUE RAISERS* 3 (2015), https://www.sullcrom.com/siteFiles/Publications/SC_Publication_Tax_Extenders_2015.pdf [<https://perma.cc/6JZE-GQL6>]; Drawbaugh & Sullivan, *supra* note 53.

59. RICHARD PHILLIPS ET AL., *OFFSHORE SHELL GAMES 2016: THE USE OF OFFSHORE TAX HAVENS BY FORTUNE 500 COMPANIES* 2, 12 (2016), <http://ctj.org/pdf/offshoreshell-games2016.pdf> [<https://perma.cc/W47P-A54C>]; *Fortune 500 Companies Hold a Record \$2.6 Trillion Offshore*, INST. ON TAX’N AND ECON. POL’Y (Mar. 28, 2017), <https://itep.org/fortune-500-companies-hold-a-record-26-trillion-offshore/> [<https://perma.cc/5Q49-LRRD>].

60. See U.S. DEP’T OF THE TREASURY, *TAX EXPENDITURES 21–23, 33* (2015), <https://www.treasury.gov/resource-center/tax-policy/Documents/Tax-Expenditures-FY2017.pdf> [<https://perma.cc/7BGJ-7RPH>].

61. TAX REFORM TASK FORCE, *supra* note 12, at 28.

62. See Reuven S. Avi-Yonah, *Proposals for International Tax Reform: Is There a Middle Road?*, 153 TAX NOTES 1169 (2016).

63. James C. Davies, *Toward a Theory of Revolution*, 27 AM. SOC. REV. 5, 6 fig.1 (1962).

they expect those needs to be met. If after such a period there is a sharp downturn in actual need satisfaction, while expected need satisfaction (resulting from the experience of previous years) remains high, an “intolerable gap” arises between what people want and what they get.⁶⁴ “Revolution occurs at this time.”⁶⁵

Davies’s “J curve” theory of revolutions has been tested many times since Davies and applied to revolutions that happened long after him, such as the Iranian Revolution of 1979 and the “Arab Spring” of 2011.⁶⁶ If the theory holds, the United States and the rest of the Western world may be ripe for revolution. The Great Recession followed a period of rapid growth and resulted in a wide gap between actual and expected need satisfaction. The election of Donald Trump may be the beginning of an attempt to remedy this gap, but given the policies actually proposed by the GOP, it is unlikely to close it. Specifically, the American Health Care Act as passed by the GOP-dominated House would, according to the Congressional Budget Office, lead to 23 million Americans losing health insurance, cut over \$800 billion from Medicaid, and steeply cut taxes for the richest Americans.⁶⁷

Scheidel would presumably acknowledge that wars and revolutions are generally not sought, even though they may reduce inequality.⁶⁸ Nobody wanted World War I, but it still happened. The current risk is that if nothing gets done, we may slip into a twenty-first-century version of the deadly first half of the twentieth century. World War I and World War II occurred in part as a result of a violent backlash against the first age of globalization, increased limitations on immigration, and heightened tariff barriers. Current developments in the United States and in Europe offer disturbing parallels.

What can be done to ameliorate inequality peacefully? Piketty and his colleagues propose two major steps, both of which involve taxation: first, a sharp increase in the marginal tax rate on the rich (up to over 90% in some proposals), and second, a global tax on wealth.⁶⁹

These proposals seem unrealistic at the present moment. The second proposal requires an impossible level of global cooperation (including every

64. *Id.*

65. *Id.*

66. See generally CRANE BRINTON, *THE ANATOMY OF REVOLUTION* (rev. & expanded ed. 1965); TED ROBERT GURR, *WHY MEN REBEL* (1970); Jack A. Goldstone et al., *A Global Model for Forecasting Political Instability*, 54 *AM. J. POL. SCI.* 190 (2010).

67. CONG. BUDGET OFFICE, *COST ESTIMATE: H.R. 1628*, at 3–4 (2017), <https://www.cbo.gov/system/files/115th-congress-2017-2018/costestimate/hr1628aspassed.pdf> [<https://perma.cc/69QZ-JZ4H>]; JIM NUNNS ET AL., *TAX POLICY CTR., AN ANALYSIS OF THE HOUSE GOP TAX PLAN 1* (2016), https://www.taxpolicycenter.org/sites/default/files/alfresco/publication-pdfs/an_analysis_of_the_house_gop_tax_plan_9-16-16.final_.pdf [<https://perma.cc/5Z7L-4HV4>].

68. See p. 436.

69. PIKETTY, *supra* note 1; Peter Diamond & Emmanuel Saez, *The Case for a Progressive Tax: From Basic Research to Policy Recommendations* (CESifo, Working Paper No. 3548, 2011), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=1915957 [<https://perma.cc/Y4PC-ACJ8>].

tax haven).⁷⁰ The first was tried before, but as the first author has argued elsewhere, it does not seem to have reduced inequality by much. While the era of very high marginal tax rates (1936–1981) coincided with the “Great Compression” and a reduction of inequality (Chapter Five), it is not clear these two are in fact directly related. Historical evidence of effective tax rates indicates that for most of the period 1936–1980, the actual effective tax rates paid by the top 1% were far below the nominal rates.⁷¹

Moreover, the data for the subsequent period (1980–2009) indicate that while the overall taxing and spending of the Federal government had a significant downward effect on the Gini coefficient, reducing inequality by about 20% on average, the top marginal tax rate on the 1% had very little to do with this trend.⁷² This is indicated by the fact that the before- and after-tax Gini coefficients move in parallel throughout this period, despite large changes in the top statutory tax rate (from 70% down to 28% and then back up to 39.6%). The only tax that seems to have a meaningful effect on the 1% is the tax on dividends and capital gains, since there are data that indicate that the ACA’s increase in the tax rate from 20% to 23.8% also increased the effective tax rate of the top 1% by the same amount.⁷³ This increase, however, is set to be abolished if the GOP majority in Congress manages to repeal the ACA, and Speaker Ryan’s tax plan proposes a further reduction to 16.5%⁷⁴ (the lowest rate on capital gains since 1916).⁷⁵

If the top marginal tax rate is not an effective way of reducing inequality, what is? The data suggest that the main driver of the reduction of the Gini from the current taxing and spending of the federal government comes from the spending side, not from the taxing side.⁷⁶ In fact, it can be shown

70. See, for example, the suggestion of Piketty’s student Gabriel Zucman of a global wealth register. GABRIEL ZUCMAN, *THE HIDDEN WEALTH OF NATIONS: THE SCOURGE OF TAX HAVENS* 92–98 (Teresa Lavender Fagan trans., The Univ. of Chi. Press 2015) (2013). This, too, seems unrealistic. Even the modest coordination measures advanced by the OECD to attack the tax evasion problems have produced a backlash. Reuven S. Avi-Yonah & Haiyan Xu, *Evaluating BEPS: A Reconsideration of the Benefits Principle and Proposal for UN Oversight*, 6 HARV. BUS. L. REV. 185 (2016).

71. Reuven S. Avi-Yonah, *The Parallel March of the Ginis: How Does Taxation Relate to Inequality and What Can Be Done About It?* (Univ. of Mich. Pub. Law & Legal Theory Research Paper Series, Paper No. 385, 2014), <https://ssrn.com/abstract=2392971> [<https://perma.cc/3R2U-AVTH>].

72. See CONG. BUDGET OFFICE, CONG. OF THE U.S., *THE DISTRIBUTION OF HOUSEHOLD INCOME AND FEDERAL TAXES*, 2011, at 21–23 (2014), <https://www.cbo.gov/sites/default/files/113th-congress-2013-2014/reports/49440-distribution-income-and-taxes-2.pdf> [<https://perma.cc/UF5L-ZDTH>].

73. Emmanuel Saez, *Taxing the Rich More: Preliminary Evidence from the 2013 Tax Increase*, 31 TAX POL’Y & ECON. 71, 75–77 (2017).

74. Kyle Pomerleau, *Details and Analysis of the 2016 House Republican Tax Reform Plan*, TAX FOUND. (July 5, 2016), <https://taxfoundation.org/details-and-analysis-2016-house-republican-tax-reform-plan/> [<https://perma.cc/5DUL-HH52>].

75. See *1916 Top Federal Tax Rates*, INSIDEGOV, <http://federal-tax-rates.insidegov.com/1/1916> [<https://perma.cc/XN59-Q762>].

76. See CONG. BUDGET OFFICE, *supra* note 72, at 25.

that the fluctuations of the Gini in the period 1980–2009 are directly correlated with spending on the “entitlements” (Social Security, Medicaid, and Medicare).⁷⁷

Thus, the most urgent way to address the inequality problem peacefully is to bolster the entitlements. Given the retirement of the baby boom generation, more funding is needed for all of them, including the ACA. The most obvious way of funding the entitlement is to adopt a consumption tax (Value Added Tax, or VAT/Goods and Services Tax, or GST) at the federal level in addition to, and not as a replacement of, the current individual and corporate income taxes. The rationale for this claim is that the experience of most countries has demonstrated that a VAT is the most effective way of addressing inequality.⁷⁸

Every other developed economy and most other countries (over 100) finance their welfare state primarily from a central consumption tax (VAT or GST).⁷⁹ While these taxes are regressive, there are ways to alleviate regressivity, including exempting necessary expenditures or providing income-based refunds. Moreover, these taxes are not regressive when the spending they are used for is taken into account.⁸⁰

A broad-based federal VAT in the United States could raise \$45 billion for every percentage point of tax per year.⁸¹ That means that a low 5% VAT would be sufficient to raise \$225 billion each year, enough to bolster Social Security, Medicare, and Medicaid for the foreseeable future, as well as strengthening rather than repealing the ACA.

Another promising peaceful way of addressing inequality involves educational opportunity.⁸² The American system of funding education primarily through local property taxes is deeply flawed and results in extreme disparities between poor and rich school districts (e.g., in Michigan the difference is over 50%).⁸³ Funding education instead by a federal consumption tax, as proposed by President Nixon in the 1970s, could significantly enhance educational opportunity and social mobility in poor school districts. Another 5% of VAT could finance all K–12 public education in the United States, and

77. See *id.* at 18, 25.

78. Avi-Yonah, *supra* note 71, at 5–6.

79. See Kathryn James, *Exploring the Origins and Global Rise of VAT*, in *THE VAT READER: WHAT A FEDERAL CONSUMPTION TAX WOULD MEAN FOR AMERICA* 15, 15 (2011).

80. See Reuven S. Avi-Yonah, *Designing a Federal VAT: Summary and Recommendations* (Univ. of Mich. Pub. Law & Legal Theory Working Paper Series, Working Paper No. 155, 2009), <https://ssrn.com/abstract=1422092> [<https://perma.cc/VW5C-H2L7>].

81. See ERIC TODER ET AL., *IMPLICATIONS OF DIFFERENT BASES FOR A VAT* 21 (2012), <http://www.taxpolicycenter.org/sites/default/files/alfresco/publication-pdfs/412501-Implications-of-Different-Bases-for-a-VAT.PDF> [<https://perma.cc/KQ45-ZFAS>].

82. See Raj Chetty et al., *Mobility Report Cards: The Role of Colleges in Intergenerational Mobility* (Nat'l Bureau of Econ. Research, Working Paper No. 23618, 2017), <http://www.nber.org/papers/w23618> lb;<https://perma.cc/7MD4-CP3C>].

83. Reuven S. Avi-Yonah & Shera Avi-Yonah, *Leveling the Playing Field: The Case for an Education Value Added Tax* (Univ. of Mich. Pub. Law & Legal Theory Research Paper Series, Paper No. 474, 2015), <https://ssrn.com/abstract=2636728> [<https://perma.cc/XW7B-Z9EV>].

a third 5% could finance the much-needed rebuilding of our national infrastructure. A total VAT of 15% would be perfectly in line with rates in other developed countries (15% is the minimum VAT rate in the EU, and many countries have a VAT of over 20%).⁸⁴

A VAT is therefore the best way of addressing inequality peacefully. How likely is such a VAT in the United States? There are two possible scenarios: presidential leadership or a crisis.⁸⁵

Under the first scenario, a second-term President (since it is unlikely that any President will be elected on a tax-raising platform) proposes a VAT as part of an overall tax reform package. Democrats will have to be convinced that a VAT is the only way to address inequality, and that regressivity can be alleviated (e.g., by payroll tax reductions). Republicans will have to be convinced that a VAT is not just a money machine for growing government (e.g., by making the reform revenue neutral by abolishing the corporate tax).⁸⁶

The famous VAT horror stories are the defeat of Ways and Means Chair Al Ullmann in 1978 after he proposed a VAT⁸⁷ and the landslide defeat of Canadian Prime Minister Brian Mulroney after passing one in 1991.⁸⁸ But Ullmann was defeated for other reasons, and Mulroney mishandled the introduction of the VAT. In addition, Mulroney's conservatives came back to power in Canada and reduced the VAT rate (but did not eliminate it). A better example of political leadership is Australia's John Howard, who campaigned in 1996 under the promise of "never ever" introducing a VAT in Australia. Having won, Howard then proceeded to implement that VAT in conjunction with both business and labor and won reelection twice by large margins.⁸⁹

A VAT is not more difficult to adopt than health care reform, Social Security, Medicare and Medicaid when they were first proposed, or civil

84. See Bruce Bartlett, *The Conservative Case for a VAT*, in *THE VAT READER*, *supra* note 79, at 83, 91–92.

85. Reuven S. Avi-Yonah, *The Political Pathway: When Will the U.S. Adopt a VAT?*, in *THE VAT READER*, *supra* note 79, at 334, 334–37.

86. *Id.* at 335–36.

87. Joseph J. Thorndike, *Tax History: Is the VAT a Career Killer for Politicians?*, *TAX ANALYSTS: TAX HISTORY PROJECT* (Dec. 12, 2013), <http://www.taxhistory.org/thp/readings.nsf/ArtWeb/21804E04DAC2A47B85257D1B0041C871?OpenDocument> [<https://perma.cc/3JWK-H8AW>].

88. Martin A. Sullivan, *VAT Lessons from Canada*, in *THE VAT READER*, *supra* note 79, at 283.

89. Susan C. Morse, *How Australia Got a VAT*, in *THE VAT READER*, *supra* note 79, at 291. For how VATs got enacted in other developed countries, see NEIL BROOKS, *THE CANADIAN GOODS AND SERVICES TAX: HISTORY, POLICY, AND POLITICS* (1992); RICHARD ECCLESTON, *TAXING REFORMS: THE POLITICS OF THE CONSUMPTION TAX IN JAPAN, THE UNITED STATES, CANADA AND AUSTRALIA* 104–06 (2007); KATHRYN JAMES, *THE RISE OF THE VALUE-ADDED TAX* (2015); and Reuven S. Avi-Yonah, *The Inexorable Rise of the VAT: Is the U.S. Next?*, 150 *TAX NOTES* 127 (2016).

rights legislation in 1965. All it takes is an experienced, politically astute president like FDR or LBJ.⁹⁰

The other possible scenario for enacting a VAT is a fiscal crisis. This year, the U.S. Treasury will sell thirty-year bonds maturing in 2047. By then, the entitlements will consume the entire federal budget because of the aging of the population, leaving no funds to pay interest.⁹¹ Presumably, foreign investors who buy U.S. Treasuries will balk and demand higher interest rates long before 2047. Since it is politically highly unlikely the entitlements will be cut or income tax rates raised sufficiently to fund the burgeoning debt, this will induce a crisis similar to 2008, but with no option other than enacting the VAT.⁹²

Enacting the VAT is under current circumstances the last and best hope for reducing inequality peacefully. Otherwise, as Scheidel convincingly argues, we may ultimately be faced with an inevitable reduction in inequality by violent means—the same means that have reduced it repeatedly throughout human history.

90. Reuven S. Avi-Yonah, *Summary and Recommendations*, 63 TAX L. REV. 285, 288 (2010).

91. Martin A. Sullivan, *Introduction: Getting Acquainted with VAT*, in THE VAT READER, *supra* note 79, at 7.

92. See Alan J. Auerbach & William G. Gale, *Déjà Vu All Over Again: On the Dismal Prospects for the Federal Budget*, 63 NAT'L TAX J. 543 (2010); Leonard E. Burman et al., *Catastrophic Budget Failure*, 63 NAT'L TAX J. 561 (2010); Rudolph G. Penner, *Do We Need a VAT to Solve Our Long-Run Budget Problems?*, 63 TAX L. REV. 301 (2010).