

UVA LAW | Tax vid March 18 2022

RUTH MASON: Welcome, everyone. Thank you for joining today's session of the Oxford Virginia Legal Dialogues. I'm Ruth Mason. I'm the Edward S. Cohen Distinguished Professor of Law and Taxation at the University of Virginia. And I'm an affiliated faculty member of the Tax Law Center at UVA. That's the Virginia Center of Tax Law.

My co-convenor for the workshop series is Tsilly Dagan. She's a professor of taxation at Oxford University and one of the directors of the MSC in taxation at Oxford faculty of law.

The purpose of this workshop is to foster communication between tax scholars and non-tax scholars. I think by now everybody knows our format. So Tsilly and I invite a tax academic that we admire to choose a work written by a non-tax academic that they admire. And then we invite the author of the work to meet us here online for a discussion.

All of our sessions are open to the public. And to find out more about upcoming sessions, you can join our mailing list or watch social media for announcements. OK, so I'm going to make some introductions. First, I would like to introduce our commentator for today. We are excited to have with us Dan Shaviro, the Wayne Perry professor of taxation at NYU. A top tax scholar, Dan has written on an impressively broad array of topics, including international tax, Social Security, legal transitions, Medicare, and deficits.

Most recently, Dan has written on the portrayal of inequality in law and literature. Many of you will know Dan's blog, *Start Making Sense*. If you don't know it, you should definitely check it out. Dan also runs a really popular colloquium at NYU. And that colloquium, both the topics covered and the attendees, the people invited reflect that like Tsilly and I, Dan sees value in sharing ideas beyond the narrow group of tax law academics.

So Tsilly and I are very pleased to welcome Dan to the workshop. We're delighted that the piece that Dan selected for today was co-authored by Martin Gilens who joins us today. Marty is an emeritus professor at Princeton, where he was a professor in the Department of Politics and at the Woodrow Wilson School of Public and International Affairs.

His active appointment is at UCLA's Luskin School of Public Affairs. Marty is an award winning author who's written on a wide range of subjects in politics, including welfare and economic inequality. Dan's selection for today was Marty's 2014 co-authored piece with Benjamin Page called, *Testing Theories of American Politics: Elites, Interest Groups, and Average Citizens*.

We're grateful to Marty for joining us today. Some of you may recall this paper was pretty splashy when it came out. It was featured in several major media outlets. And Marty and Benjamin Page were actually on *The Daily Show*, talked to Jon Stewart about it. I don't if you remember that. For those of you who read the paper and found in it only despair, Marty and Benjamin Page also have a book. I'm at home. And my copy of the book is at the office.

But there you would find, in addition to broader criticisms of democracy in America, some solutions. Perhaps we'll come to some of those later. So welcome Dan and Marty.

Before we jump into the paper and the discussion, which seems ever more relevant now. There's a lot of talk about the global influence of oligarchs, not just domestic ones, but foreign oligarchs. We'll see, although it's tempting to conjecture, Marty's paper isn't really about oligarchs. It's about high income people and interest groups.

But before we get to that, I just want to talk about the format. So Dan will comment. Marty will respond. Then Tsilly and I will make some remarks, which Dan, or Marty, or both may respond to. And then we'll open up the queue. So if you want to get into the queue, please use the Raise Hand function in your browser. You click Participants and then Raise Hand. Please note that the session is recorded. But we will only post the first part, the discussion between the four of us, on the website. And you'll be able to check that out after the session.

We ask that in the chat you post your name and institutional affiliation. So that we can who's here. And we can give that information to Dan and Marty afterwards if they have anything they want to follow up on. So without further ado, let me hand things over to Dan.

**DANIEL
SHAVIRO:**

Well, great. Thanks. And I'm happy to be doing this paper. And I'm going to share my screen now. And I'll start the show. OK, so the comments on the paper, everyone can see this, right? So I've been invited to this Oxford Virginia legal dialogue. It's called *Tax Meets Non-Tax*. And we're told to select non-tax but legal work that is relevant to studying taxation.

I'm not sure I followed that directive. Because Gilens page isn't really a law article. Personally though, I find myself less interested in tax and other law than in law and, including tax law and. That's why this appealed to me to discuss, this reflects kind of my view, that law is less a discipline, like a particular social science or humanities subject, than a subject area.

So tax law and is a very important thing for tax lawyers to have in mind, given that law isn't really a discipline itself. And the most obviously relevant social science or humanities topics are I would say are economics, philosophy, and political science. Economics, clearly empirical works is vital to what particular rules do.

There's also normative, for example, welfare economics is a very important intellectual approach to think about in evaluating tax policy. Philosophy, well obviously, if you're talking about distribution, distributive justice, you need a philosophical framework. There's an additional element, international. The cosmopolitan versus national thing. Should the US run its international tax rules as if only the US matters, as if everyone matters equally, something in between. So that's pretty important.

And political science is probably used in practice the least, and it doesn't have to be used in every single piece, obviously, but can matter a lot descriptively, predictably, and normatively. So how do you explain current law and policy? Why do we have what we have?

What changes that we might make might would be feasible, what would be stable? How might political institutions affect tax institutions or vice versa? These are, obviously, all questions that you may want to look at and you may need political science for that. So just an example from my past writing using political science, I wrote an article in 1990 about the Tax Reform Act of 1986. That reflected my experience working as a staffer, there, but hopefully went beyond that.

And that was kind of negatively inspired by a piece that Doernberg and McChesney had written in '87 about the Tax Act and it used McChesney's rent extraction theory, which the Galan's Page Paper calls ingenious. And I would agree, it is ingenious. Although rent extraction is basically when politicians get concessions from an interest group, forced the interest group to bribe them. And that's a scenario where actually being in an interest group can be disadvantageous, because you can't really extort the general public, they're not organized enough. But in an interest group, we can do it.

I agree that rent extraction is an important insight, I called the Doernberg & McChesney paper tautological, yet false. I also found it overly prone to self-congratulatory cheap cynicism. Like ha ha, everyone says the Tax Reform Act of '86 was so high-minded but we're going to show you that it was really cynical and terrible and so forth.

I didn't object to the cynicism, but to the fact that it was cheap and ignorant cynicism, I felt. The problem, the reason I said tautological get false is that basically, once you have McChesney's is rent extraction theory and again, I agree that it has some validity, plus you have Mancur Olson. You basically are in a scenario where anything that either helps or hurts an interest group proves that this combined theory is true. All events that have any effect on interest groups prove that rent direction plus interest group policy is true because anything that happens can be fit within a theory. Obviously, it's not genuinely tautological. It requires, potentially, misinterpretation of what's going on.

For the [? A6 ?] act I thought that rent extraction was mostly the wrong model. The idea was that, oh, they're just taking away tax benefits because they can sell them back to the interest groups again. That would have required more farsightedness than the '86 Act politicians really had. They live in the moment, as politicians usually do. The real reason for the '86 act, I thought the predominant reason was what Henry Aaron, not the baseball player but the great Brookings economist called the dead cat problem, which is that no one wanted this dead cat left on their own doorstep.

The problem being that, although, no one in the general public really likes tax reform, if you are the one who killed it you both showed, you meaning someone like Reagan or Baker or Roszkowski or packwood, these being the various leaders in the process, even though the public didn't really like tax reform, if you killed it then the narrative was you're not an effective leader and, what's more, you must have sold out to the interest groups. It's a funny thing that the public doesn't really like the bill, but if someone kills it, they will ascribe spurious motives for doing it.

Anyway, I sort of thought what was more valid understanding this was so I looked at political science literature about position taking and credit claiming and blame avoidance. And I suggested that those types of things really affected the leaders more than this sort of McChesney conspiracy to make interest groups buy the preferences all over again. So in a way, my view is more cynical than theirs, though, I hope less cheaply cynical in the sense that it really showed a process not being driven at all really by ideas or about really caring about substance but about leaders trying to show they're important and powerful. And to get good rather than bad publicity.

One thing that I guess I had in there that I wasn't thinking about in those terms at the time, was the independent role of elites. That if elites want something, they might get it. Often the policy that comes out may reflect what the elite happens to want. Members of the elite, people in positions, rather than having anything to do with public policy or public preferences. And I think that's something that, more recently, I seen a lot of.

Anyway, so that's just an example of how I've used political science in my past work. So the paper we're talking about today is a 2014 paper. And I have a quote from a Vox article that went viral as proof that America is an oligarchy, and that's the press's terms not Marty's. It was met by rebuttal papers. Gilens and Page then responded to these rebuttal papers. And then as Ruth noted, they put out a book in 2017 that they then reissued with a new preface in 2020. *Democracy in America? What Has Gone Wrong and What We Can Do About It.*

But I'm not going to focus on any of that today, just to put that in context, that there's a lot more that's gone on since. But I chose this article both because it's short an article and because it's something that I thought was helpful. So what's the main issue in the paper? The author's style is an empirical inquiry regarding four main theories of American politics of how legislation gets made.

The first one is majoritarian electoral democracy. What's good for the people or the majority of the people or something like that? That's often aspirational, when people argue for good policy, they'll often argue in these terms. It's sometimes casually assumed to be so. Well, yes obviously, if something is good for the people or good for most people then, of course, it will pass, won't it? But they're also, for example, public choice types uses of it. The median voter theorem, the median voter's preferences control. The famous Tony Downs, where you have left to right the shops based on [INAUDIBLE] where whoever is closest to the most consumers that will show the median voter works.

Arrow cycling is sometimes based on having this sort of notion. But the problem being multi issue space. And so that then gets more complicated and you have no clear answer and so arrow cycling explains what happens. Then the second theory economic elite domination, I think the paper mentions these things. The famous work by Charles Beard, a century ago explaining the Constitution this way is what the elites wanted to impose. C Wright Mills. In the 50's wrote of the power elite.

Modern focus on plutocracy, that many of us have been very concerned about for the last 10 or 20 years, obviously, it's kind of a restoration of this or a new example of it. The third theory that the paper is looking at is majoritarian pluralism. Before Mancur Olson, and the interest and theory of interest groups, this notion that everyone-- Washington works the organized interests-- but everyone's interest is represented. If you're Pro X or anti X, of course, it's either there's an actual interest group or a potential group. There's no interest groups supporting your side, not to worry. It's a constraint on policy because if you guys were hurt and the interest group would form.

So it's sort of an optimistic account of how it works, not through each person high mindedly deciding what's good policy, but each person having interests he or she wants to protect. That it all adds up to the same in some ways as majoritarian Democracy. And finally bias pluralism, ruled by narrow groups with concentrated interests. And I think these are mentioned in the paper. Classic examples that I enjoyed reading greatly back in the day when I was writing about the act of '86. The great political scientist, Elmer Schattschneider, who in '35, wrote a very famous study of the Smoot-Hawley tariff and interest group domination. In 1960, he wrote rebutting some of the sort of majoritarian pluralist.

There's a famous quote about how the chorus sings with an upper class bias, saying that some people's views and interests are represented more than others. So what's the main takeaway from the article? Well, majoritarian electoral democracy had fared surprisingly well in the prior literature. Despite, its positing what I'd call irrational rational choice. And what I mean by that is, it's kind of an extension of the voting paradox.

Why should I vote when it will cost me half an hour of time and I'll have basically zero effect on the outcome? The answer is, clearly, I won't vote if I'm just doing it as a calculation of the money value of time to me and the chance to affect the outcome. But the same thing even holds for figuring out what's in my interest. If I'm buying a car, I'm the one who decides whether I'm going to buy the car so I'll probably try to figure out what a good car would be. But it was a question of public policy, I'm not going to affect the outcome anyway, so why should I even bother to learn what's in my interest?

So I think of majoritarian electoral democracy when it's framed in rational choice terms, it's on its face absurd, because it assumes that people would invest resources that rationality defined in a narrow way, would tell them not to bother with. The theory nonetheless, fared surprisingly well because there is evidence that policy was often consistent with majoritarian preferences and that there are directional correlations in political climate change.

So it becomes more liberal, the policy moves a little bit to the left, it becomes more conservative, policy moves a little bit to the right. But instead Gilens and Page find that economic lead domination and bias pluralism are the big takeaways. The majority almost loses to the economic elites and business interest groups. And those guys, the paper warns, may not be good stewards for the public's interest. Although the paper regards that as a question beyond its particular empirical inquiry. And they conclude that the average voter has minuscule influence and ask how much of a democracy are we really, this is in 2014, which is kind of a halcyon golden age, compared to where we are today.

Empirical method the paper. Clinically, it's mainly based on public general public survey data, but favoring and opposing policy changes from 1981 to 2002. Then of course, they have the benefit of hindsight to of particular policy changes happened or not. Try to infer opinions that the 10th, 50th and 90th income percentile, see what views people had on real policy changes are being discussed. They're asked about and track subsequent outcomes. They pick the 90th percentile as a proxy for elites, economic elites, they recognize that it might be too low. I think if the data permitted them, they would have been happy to look to 99th or 99.9th percentile., but that wasn't going to be a possibility using their data.

For interest groups, they're interested in net interest group alignments. They're often interest groups on both sides but they're more on one side than another. They're also interested in the dominant business and economic interest groups. And they distinguish these from mass-based interest groups and try to look at the influence of two groups separately. Just very quickly, the paper's main findings. Here, you see on the top one, average citizen's preferences. What's going on as you go left to right in the line is policies are getting enacted or not, depending on whether people support them. Pretty much a flat line for the average citizen, economic elites do pretty well.

That interest group support does pretty well. Just one more on the paper. Again, people can ask Marty really if they want to more. What's shown here is the likelihood of something being adopted, being correlated with the preferences. You can see that average citizens liking something has pretty low effect and whether it happens. Economic elites, pretty high. Business interest groups do better than mass based interest groups. Although the paper points out that .43 is almost double 0.24. It almost looks closer than you'd like, if you think the business groups are much more powerful.

But they have footnote where they mention that in a set of cases where the two groups were massed on opposite sides, the business interest groups did a lot better. And there's more of a gap. Anyway, so some initial comments. It's hard to critique the findings here for two reasons. The first is the paper itself doesn't say much about key empirical design and validity questions. That is not a criticism of the authors or the paper. They have duly disclosed what they did. But it's in appendices and such, that just lowers the efficacy of discussing it here, today. Although, the entire audience could have looked through all those things.

So I'm not going to try to review that in depth. Second thing is I'm handicapped as a critic by the fact that I believe that the findings of the paper are obviously true. Namely, that economic elites and business interest groups have control. That's certainly what I believe. If they had reached the opposite conclusion, hopefully, I would have been open minded enough to look at the paper anyway, but I certainly would have had to challenge it a lot more. It's hard for me to say what I agree that this process of challenging should go on and has, but it's hard for me because I feel it's obviously right.

A few quick comments. One is I agree with the authors that the 90th percentile is too low for really talking about the economic elites. It's just forcing them by the fact that that's the best they could do with the data and it could well produce an underestimate of lead influence. There's also an issue of powerful elites that aren't just defined economically, which they acknowledge as well, which might be controlling things that their study would never really be able to tease that out.

They also mention a well known point among lawyers, that blocking change is far easier than implementing it in the US political system. Just to mention, again, this is not a contradiction in the paper, it's just a point that's worth keeping in mind. The fact that it's hard to enact change doesn't mean that we get the status quo. It also means that changes that happen automatically happen. I think a good trivial, but good example is from the income taxes. Income tax brackets, if they weren't adjusted for inflation, if we still had high inflation, then the status quo would be that the brackets would actually be changing in real terms. So likewise, anything in our system that changes automatically doesn't require legislation to change is favored.

So it's not the status quo, as such, but things that can happen by themselves. I also agree with the authors about the importance of the omitted so-called third face of power. The ability of elites to shape the public preferences. They wrote this before we had a man who got 74 million votes for re-election from people who he is, more or less, trying to kill. So the fact that you have, in some way in which people are motivated to have beliefs that are not in their self-interest in any recognizable way, certainly economic or life expectancy way. Again, we obviously live in a world where that type of thing is very important. Probably more important than it was in 2014.

An issue for more thought here, and this is not, again, not a criticism of the paper. But something that I was thought about in the paper. Obviously, I was not in the least bit surprised to read in the paper that business industry groups generally have the most sway. If you had asked me before the study, who's going to do better, the Chamber of Commerce or Common Cause, which is kind of a mass public interest group, I would have said, well obviously the Chamber of Commerce. An interest group is going to do better. But there are a few all powerful groups outside the business realm, such as the NRA.

[NO AUDIO]

**DANIEL
SHAVIRO:**

I think that there's a big, obviously, defeat a few centrists. And obviously, the NRA is more powerful than the 95% of the public that disagrees with them. And so, anyway, we hope that, it's just interesting how should we think about concentrated versus diffuse non-economic interests. That was just an important factor. By the way, I'm just saying, I just got a note on my screen seeing my internet connection is unstable, I hope nothing bad happens. OK, next comment. As I think the authors agree, we live today in a very different era than '81 to 2002. Such that if the paper had come up with very, very optimistic and happy findings one would be inclined to say, yeah, but do those still hold?

A lot has happened since that period. There's been a substantial rise of high end inequality, although the economists who study disagree about how much. And changes in campaign finance and the information environment with the social media plus Fox News. In the overt centrality of both racism and anti-racism, which were more submerged issues in the US back then. Racism is an issue. And the pro and anti-racist in both groups are there are responding to a type of preference that could be very important in affecting things.

Of course, we've also had one party's abandonment of democracy and reality base governance, which I do not think would be a fair critique of the Republican Party in that period, '81 to 2002. But it is now, obviously. Not to say that any of this weakens the paper's pessimism. If I were going to guess what Marty would say, I'd say, hey yeah, it's worse than it is today but I already found this stuff back then. Agreed. But I'm just saying that period is not very representative.

More on now versus then. I think it's important to examine what elites want and why. This would be a different methodology. An example, a colleague of mine at NYU, David Garland did some work. Why did the US diverge from Western Europe and things like the death penalty since the 1960's? The answer seems to be that the elites took different stances. The elites in EU countries decided to get rid of the death penalty.

The US had a battle between elites. One elite wanted to get rid of the death penalty. The other one wanted to keep it and also campaign on it and so forth. So it was really this book argued differences in elites in it. I think it can be very important. In an era where there's ever more potent gaslighting going on, voter preferences may become ever more irrelevant. Maybe even interest group preferences, so you look at Trump, who's elected as a quote populist. And then his cadre passes 2017 Tax Act, which is a total giveaway to upper income and business interests to the expense of the general public.

Now this is a story that's happened before. Larry Bartels has a great piece called *Homer Gets a Tax Cut* of the 2001 Tax Act. But did it have to happen that way? Not necessarily, to some extent I'm wondering about is are political elites cutting the cord? So in 2017 Tax Act, they got elected on sort of fake populist and racial issues. And then resentments and so forth. And they happen to do what the business elite wanted, but do they have to do that? So just a few quick notes.

Did US business interests really want the insurrection? Did they want the Trump administration to follow reckless COVID policies? Did Russian oligarchs wants to invade the Ukraine? So, I'm sorry, to invade Ukraine. So I think we may be in an era when even the economic elites may be losing influence to what the political elites want. And just as a quick throwaway, Senator Rick Scott has a tax plan that, among other things, aims to eviscerate poor people by raising their taxes substantially.

Who benefits from that? I think it's really an elite group that likes it. So and because there are multiple elites, obviously, there other elites that don't like it but he's appealing to the preferences of his elite. And who knows, maybe he'll get it. Takeaways for tax policy, again, political science is probably the least represented among the tax ends. It's often outside of Gibbons work scope, which is absolutely fine. I've written some articles which take account of political science.

Others that ignore it because it's not germane to a particular topic I have. We all or many of the tax scholars write, x would be the best policy type articles. And such an article can make a major contribution to literature without discussing anything about excess feasibility. Although it is certainly true that at some point one needs to consider x as feasibility, which is not just a question of can it be enacted, but how would politics shape it, how might it evolve, would it be stable?

So there's plenty of good work that has no need to use political science. But we do need to use political science also in order to even just talk about reform. By the way, an example of recent scholarship, I've decided not to name names here, although generally it's for praise. There are a lot of models of tax systems in which A and B are two different ways of doing things. Their present value equivalent, like you short levy a tax today, or you levy the same tax and present value and in 30 years. It's been noted increasingly in recent articles, that political risk make those things different, even if their present value equivalent is as policies.

There's a lot of implicitly public interest tax scholarship, where just assume if I can show that this is a good thing, it's going to happen. Again, it's perfectly valid to write an article saying x is a good thing. But there's sometimes scholarship premised, perhaps on a naive public interest model. Something I don't want to criticize but that verges on it, there's been some recent work by people I'm quite fond of, who by public attitude towards things like taxing unrealized gains and just a quibble, they suggest in these articles, the fact that the public doesn't like taxing unrealized gain is probably why we don't do it.

My notion is those are two separate facts. That the public doesn't like it and that we don't do it. They might not be that linked. You do need an extra step, it's valuable interesting work to learn about these attitudes. They don't necessarily affect what we see in current law. Tax expenditure analysis a great conceptual topic. I love this topic, I've written a lot about it. I'm actually continuing to write a little bit about it. But Stanley Surrey invented this theory on the view that it would actually change legislative outcomes, which turned out not to happen.

I think it's a bit foolish and naive to think that tax expenditure analysis is actually going to affect legislative outcomes. It's worthwhile topic because it helps us think conceptually about how to think of provisions in the different sides of the budget. But any suggestion that if we get this in reporting that that's going to change outcomes. Anyway, no criticism of existing tax policy work to say we could use a little more tax political science. It has been recently in a growth area, again, without naming names, even though I'm praising, not criticizing, studies of regulatory lobbying of who lobbies the IRS, who makes comments. There's been recent work on tax and political economy, these are all great things.

I think there's also a need for more tax in sociology, regarding elite attitudes and ideologies and why particular elite groups have the views they have, which isn't necessarily pure economic self-interest. One problem is it may be hard to link all this with the normative tax policy work. It is what I will call the who will bell the cat or the catch-22 problem. Who will bell the cat, the story with what the mice say, if cat had a bell, we'd be able to hear it coming. And then the only problem is who will bell the cats. So likewise, say you're worried about the top 0.1%. Say, if we all had a wealth tax, that gets rid of the problem.

Well who's going to pass the wealth tax if those guys are so powerful? Or the catch 22 problem. It's if you can pass it, it probably doesn't really do anything because otherwise they would have stopped it. I'm sorry, I'm being a little cynical when I say that.

But it is really a problem for us in tax policy. If it turns out that there's not much overlap between good solutions and feasible ones to rampant inequality interest group dominance, climate change, et cetera, it can sort of be frustrating or annoying for people to write about it because it's difficult to make practical proposals if there are fundamental impediments to enacting them.

That's the dystopia we may be in now that this article by Marty and Benjamin Page helps introduce us to. And with that, my comments are done and I'm happy to hear, let me stop the share, happy to hear the next stage of the conversation.

RUTH MASON: OK great, Marty, would you like to respond?

MARTIN
GILENS: Sure. Thank you so much Dan, that's a lot of interesting comments, most of which I will not be able to respond to at least right away but we can certainly return to some of them in the Q&A. Let me say a few things though. Just to start off, I'll put in a plug for another one of my books, which has a lot of the details of the data and analysis that went into the paper that we're talking about today. And that was a 2012 book called *Affluence and Influence*.

So anyone who's interested in the more detailed look at some of this stuff as well, as a more in-depth discussion of specific policies and political eras could look at that. So we see a couple of broad things about this paper and how it relates to some of the comments that you made, Dan. So one theme that you've touched on has to do with the normative implications in the paper and how we should think about the normative relationship between government policies on the one hand, and public preferences on the other.

And we don't go to delve into this issue, we adopt-- at least as a benchmark-- a naive majoritarianism, which suggests that while it may not be desirable for government policies always to reflect the preferences of the majority of citizens, that when those preferences diverged to some very substantial degree and when the ability of average citizens to shape government policies seems so minuscule. As this paper shows, then we do have a Democratic deficit, a clear problem. Even if we can't identify exactly what the conditions are under which policies should or should not reflect majority opinion.

And that leads to another issue that you mentioned, which has to do with the quality of public preferences. We know that Americans typically don't have a great deal of knowledge about policy and Public Affairs, what the alternatives, are what the trade offs are and so on. We know that they will often take cues from what political scientists would call like minded elites, which could be party leaders, but it could be others who they view as furthermore knowledgeable on a particular issue and who share their overall values and interests.

So that could be religious leaders or union leaders or environmental groups and so on. And we argue in this paper and in our subsequent book that Ben Page and I published. That despite that lack of knowledge, the public actually does a pretty decent job of identifying the preferences that they would hold if they were sort of better informed about the specifics of a policy. So that's not to say that people are never misled or mistaken in thinking that a particular policy will advance their interests or advance their preferences. But overall, we think that the sort of social process of elite Q taking, is sort of the term for it in political science, works reasonably well.

So that's one side of the quality of public opinion. The other side has to do with the ability of elites to shape it in ways that may not be in the interests of the public. And I guess I'd say a couple of things. So one is, clearly that happens.

And arguably, the example of Trump downplaying COVID and the kinds of public policies that would keep people safer. And sort of Republican rank and file voters or party adherents taking up that view, which seems extremely sort of self-defeating. So it might be a good example.

And there's plenty of others that one could point to. Nevertheless, I think that's a very difficult assessment to make, whether in fact, people are being misled about their interests. And a lot of debate about tax cuts. For example, the Bush tax cuts are something I discuss at some length in my *Affluence and Influence* book. And those tax cuts were fairly popular, even among low income Americans. This is the two Bush tax cuts in the early 2000's.

And there was a lot of debate about whether people were being bamboozled and misled into supporting policies that, in fact, were against their interests. And I argue in that book, based on survey data, that in fact, people had a pretty decent view that the Tax Cuts would primarily benefit the well-to-do. They didn't like that about the policies. When they were offered choices they preferred policies that were more egalitarian or more downwardly redistributive in their benefits. But nevertheless, they supported many Americans, even at low income, supported the Bush tax cuts.

And they did so because I argue, they benefited from them. So those tax policies were structured in such a way that people, at every income level, got some benefits in the form of lower taxes or increase rebates. And things like the earned income tax credit. And so I think can you can argue that it may not have been in their best interests in some broader sense, that if you cut taxes for the wealthy, then they'll be sort of subsequent consequences that may be unwelcome to lower income Americans, like cuts in programs or increases in other taxes.

Nevertheless, at least in an immediate sense, people expected to get some benefit from the programs. And in fact, those were accurate expectations. The final thing to say about the quality of public preferences is that if we think of elites as having like this tremendous power to shape what typical citizens think they want or what they express at least to survey takers, then they're not really doing a very good job of it, because the key finding in our analysis is that policies that are adopted are no more popular than policies that are not adopted, once you take into account the preferences of affluent individuals and interest groups.

And whereas, if elites were very successful in manipulating public opinion, then we would think to find that there was a very strong correlation between what ordinary citizens want and what the government does. OK, a couple of other points before we open it up to questions and conversation. Dan, you spoke about changes since the publication of this work and since the data analysis that went into it. And I completely agree. If anything, things have gotten worse. Certainly economic inequality has continued to grow and arguably, government has become, if anything, even more gridlocked and unresponsive to the needs and the preferences of ordinary citizens.

There certainly are important exceptions to that. I mean, we can talk about some of the recent ones in response to COVID, in particular. But in general, the dynamics that I think Ben Page and I documented from the first couple of decades, or the last couple of decades of the 20th century, have arguably continued in that same direction for the first couple of decades of the 21st. There have been important changes in campaign finance. Though I think, despite some appearances, they've actually continued in the same direction that they have been going for decades.

And so, with regard to campaign finance, we've seen two things. One is the rise of the internet and sort of small donor democracy, as it's been called, which has made things like Bernie Sanders campaign relied much more on small donors than had been, typically, the case. And others of course. And so on the one hand, that seems like an optimistic shift in a way that you might expect would bring more influence to a greater swath of the electorate who are now participating economically in the campaign finance system.

And yet, at the same time, what we've seen is that the rise of money in electoral campaigns from the very rich has outpaced that growth of small donations. And so, if we look at the proportion of money that's coming from the top teeny little sliver at 0.01% of Americans, it has continued to grow over time, despite the rise of these methods of facilitating small donations. And that's certainly been true in the last presidential election cycle, where we saw huge spending by billionaires. And of course, the Supreme Court has contributed to that through Citizens United and other decisions that have prevented some of the efforts to constrain the role of money and especially of large donors in our electoral system.

The last thing I'll say is to respond to one of the last points that you made, Dan, which is about the role of economic versus political elites. And I think that's exactly right. I think there are often conflicts there. And it depends on the constellation of political conditions. Whose sway is greatest. And in my *Affluence and Influence* book, I look at how periods of time, when there's greater political competition. So for example, when control of Congress is evenly divided or when the national political institutions are in a period of divided government, we see more influence by economic elites. That is to say, policy-making more closely aligns with the preferences expressed by the affluent.

But in periods of greater partisan control, unified control of government, or where it's very clear that one party has a lock on Congress for at least the next election or so, then what we see is party elites adopting the policies that are the historical priorities of that party. And that's true during periods of strong Democratic control, like the mid 1960's, during the Johnson administration.

And it's true during periods of strong Republican control, like during the sort of latter GW Bush years, the early 2000's. And in that case, we do see things where Democratic elites are adopting the policies that they've always embraced, which does include many sort of downwardly redistributive policies, whether it's raising the minimum wage, changing tax policies in a more progressive direction, expanding social programs and so on. And of course, when Republican elites have stronger control than they pursue that historically committed policies of the Republican Party.

And that fits with the arguably the dominant now notion in political science, that parties are not vote maximizers and a sort of Gaussian sense, but in fact are coalitions of interest demanders. And so political constraints or considerations will influence the policies that parties pursue and are able to adopt. But when they have free rein or at least freer rein, they will reward their key interest group constituencies and pursue the policies that they're most committed to.

All right, closing maybe, I'll say one last thing, which is how you raised the issue of this potential for a vicious cycle. How do we get out of the situation where economic elites are able to translate their economic power into political power and use that political power to perpetuate and reinforce their economic advantages? I don't have any easy solution to this problem.

I will say that I'm less pessimistic than some for two reasons. One is that we've been in a similar situation before. And arguably, the last decades of the 19th century and the early decades of the 20th century is Gilded Age and beyond, reflected many of the same dynamics that we see today.

With very high levels of economic inequality. A very unresponsive and corrupt government. And a Supreme Court that was strongly tilted also toward the needs and desires of the well-to-do.

And it took decades of political organizing by those who opposed that situation, it took some constitutional amendments and changes in Supreme Court jurisprudence, and arguably also aided by the Great Depression to move beyond that period and to enter a period of both greater political equality with many of the reforms that were adopted in the early 20th century. And of course, greater economic equality, which came to fruition, you can say in the post-war decades.

So that's one thing. And the other factor that makes me less pessimistic than I otherwise would be is that, there are lots of variation of preferences and political views among the affluent. As there are among any group of Americans. And so we have Patriotic Millionaires who support raising taxes on people like themselves. And so Ben Page and I argue that it's the way forward is the combination of a mask based popular movement for Democratic reforms and more egalitarian policies with support and allies among the well-to-do who have the resources to help push policies in that direction.

So that's consistent with this notion that elites in different political systems have different preferences and that that's reflected in the policies that we see in different countries. And I think there's a lot of truth in that. And I think that's also something that should give us at least some encouragement for the United States, where we do see variation within the elites, in terms of the policies that they support.

All right so with that, let me turn it over back to Ruth and we can move on to some questions and conversation.

RUTH MASON: So all hope is not lost. Tsilly, a comment or question?

TSILLY DAGAN: Yes, Thanks Marvin for ending with this positive note. I was getting really depressed here. I'm not sure I'm totally convinced by the optimism, but I'm happy to be wrong here. But in any way, I wanted to thank you and Ben for the opportunity to discuss the links between taxes and politics, which are obviously crucial, not only for us to understand the intricate mechanisms in which voice operates in the political system, but also because I believe that tax being the coercive institution that it is, really demands the legitimacy that equal voice and equal opportunity to affect the political process may grant it.

So we're basing the legitimacy of the system on our equal opportunity to affect it as co-authors. Without which I think we're risking the point of illegitimacy of the power of the state on that front. But in order to maybe complicate things a little further and to bring into the picture countries other than the US, I was curious about the recent developments on the international front and how these may affect the picture on multiple fronts. In other forms, we've been all discussing these developments and arguing and discussing the fact that tax policy is to an increasing degree, is recently being carried forward on the international, level rather than the National level. At least on some aspects of tax policy.

So not only competition that really affects the results, domestically, but real policy with the recent accords led by the OECD. First on base erosion and most recently, even on coordinating the policies of states on corporate tax. And I was wondering whether these new developments or rather, how should these developments affect the discussion of interest groups and who really designs tax policy? You could think of two different approaches here. So on the one hand, you could adopt a two level game approach saying the internationalization of tax policy is only going to strengthen interest groups and elites, in particular, because elite groups from one country can leverage on elite groups in other countries and together they can sway the policy in their favor.

Specifically, if they can threaten exit because of competition. On the other hand, you might take a more optimistic view and say, well, actually, going into national allows new actors to infiltrate the process. And you can think of NGO's as one example. Or you can think of international organizations like the UN, that maybe have a more active role in this process. Or you could think of perhaps the media having more influence to relate back to your point about the more popular movement of people. That push for certain solutions and not others.

And maybe even the internationalization of the process may release some states representatives from the constraints of future voting and may serve as an excuse for a stricter policy making and some more redistributive policies. Such as taxing more by elites, for example. So let me stop here and let some other people put in their questions. But do we want to have replies first?

RUTH MASON: I just want to announce to participants, you can go ahead and get on the queue now, if you like, because that'll help us manage how short we should be in our response or how long. And I think yeah, questions are already starting to arise. So I won't ask my question perhaps till later but Marty or Dan, if you want to respond to anything that's happened so far.

DANIEL

Yeah I just have a quick response to Tsilly or just a couple of things. One is it's obviously a big issue about tax.

SHAVIRO:

For example, tax competition and the notion that with globally mobile capital that it makes more sense for a country out of self-interest to accommodate the business interests and so forth. One thing I've said about this is that a most strongly put tax competition view is every country has benefits from defecting rather than cooperating, unless everyone else is playing tit for tat. And so that's a pessimistic view. And one thing I think about that is, they're rival elites. And this gets back a little bit of what I was saying. They're rival elites that have different views.

So if you have the Trump administration, obviously they're not going to cooperate with OECD and BEPS at all. On the other hand, if you have a Biden administration in place and if they have a couple more senators than they actually have, they will cooperate. So it's, to some extent, an issue of national. Where they're sort of pro cooperation and anti cooperation national groups and they're fighting on their own terms and someone's going to win. And all of these may be linked with each other, a lot of these fights in different countries. But anyway, I think that's an important question is that, what happens on the national level, where you have elites on both sides is going to be important. The second thing is, I remember the history of free trade and despite issues going to be raised, let's just say for now, let's say that free trade is very often in a given country self-interest. But there are interest groups that are against it.

It's a classic, for decades, the American public hated free trade. But they got it anyway, perhaps to their benefit. In part because the pro free trade national elites were able to say, hey, we have these agreements with other countries and they're going to put tariffs on us, unless we put tariffs on them. So the pro free trade side leveraged connections international. Oh, we can't do it because they'll retaliate. But they won't do it if we don't do it, And. So forth.

That was an example where, oddly, the business elite, well of course businesses can be very protectionist. But any way, where the pro free trade elites in given countries were able to leverage the international situation to their benefit, it's a separate question whether that was good policy. But it certainly may have been. Anyway, so there may be analogies to that here. And I'll just leave those for others to pursue further.

MARTIN

GILENS:

Let me also briefly respond. I think this is a huge issue both going forward and over the last few decades as we've seen global trade increase. And I put it in a somewhat broader context of the neoliberal consensus and the Democratic Party most obviously under Clinton, but actually from long before that, embracing a kind of deregulatory free trade market orientation in both international and domestic policy. And that's been something that, all along, has been more popular among the well-to-do, who arguably benefit the most from those kinds of policies.

That's not to say that those policies couldn't be constructed in ways that were more egalitarian or downwardly redistributive, but arguably they have not been so structured in the United States, certainly. So that's how a given polity responds to the international, what policies it adopts, vis a vis things like trade policy. The other piece of it, of course, is that all countries, all similarly situated economies, are subject to the same sorts of international pressures with regard to taxes and trade policy and so on. And yet have responded very differently.

And that may be, again, going back to things about variations in elites, preferences across different countries, as well as variations in the political system's. Role of money and elections and so on. But for the most part, the European nations have responded to increased pressures towards economic inequality by adopting policies that reduce the impact of those forces. And reduce the extent of growth in economic inequality whereas, the United States, we've adopted policies that if anything have exacerbated those forces and increased the growth in economic inequality.

So you can think of these sort of global pressures as a foundation upon which countries then respond one way or another, which depends, again, on things like the preferences of their elites and the nature of their electoral systems.

RUTH MASON: If we think about a contest among elites, as Dan was mentioning, and you also talked about, Marty, in terms of political elites versus economic elites. One thing that this OECD bargaining does is allow the political elites of different countries to go behind closed doors. So the economic elites don't really what they're doing. And then they emerge and they say, well, we've all agreed and our hands are tied. And we've seen the economic elites really chafe under-- recently, in the tax area-- their lack of access. And we see some sharp letter coming from the business advisory group for the OECD, which is this forum where the countries are getting together to try to think about what to do about international tax.

So this maybe empowers the political. Elites but at the same time, when you add more countries, you also multiply the veto points. So the project hinges on one senator for the world. Or in the EU, to pass tax legislation, you have to have unanimity of the member states. So now that the business elites just have to get one country. Then there's a response to that too, which is the countries try to devise proposed legislation that doesn't require everyone to cooperate in order to be effective.

So they are drafting these rules of the form of, if you don't tax, I'll tax. So even if you get vetoed, you hit a veto point that prevents you from enacting this legislation or this policy, the consequence will still follow as agreed. So that's just an interesting thing. But Ted Sayto, and anyone else who wants to be on the queue, just raise your hand. Ted.

SUBJECT: Thanks, Ruth. So I love this work. So what I'm going to say is not a criticism of it at all, but the question I'm going to ask is that of generalizability, which we always have to ask of any empirical work. I don't think that that's as interesting a question, in this context, as it might be in others.

I think the results are just interesting even if it only relates to the United States. But having said that, if we were to ask the same questions of, let's say, countries in the EU or of the EU itself, or looking the other direction, asking the same questions of state level decision making. That might give us insights as to mechanisms, and I think the next major question is going to be mechanisms and then solutions.

And to the extent that you-- I don't if your data set allows you to do this for, let's say California or Texas, but if you were to do that and find the same kinds of patterns in smaller subdivisions for which you have the data, that would very much reinforce the conclusion I think this is a universal problem of democracy as we know it.

But it might be the case that you find very different results, which would then allow you to probe into whether there are different mechanisms in operation in the various policies. There's also the question of scale, whether the findings that you've got there are a function in part of the fact that it's a 300 and some million person polity as opposed to, let's say Utah. Or let's say a more closely divided, state let's say Virginia. I'd really like to a little bit more about how this all happens. And it's not clear to me yet that we know that.

MARTIN
GILENS:

Yeah, no, I agree. I think those are challenging and critical questions. There is work that's been trying to do some of that, especially at the cross national level. And I guess I would take away two things. So there's been projects similar to mine that other scholars have conducted in Germany and Sweden and in Norway and maybe other places as well.

I can tell you there's two things to take away, one is that all of those studies find in inequalities in the responsiveness of national policymakers to the preferences of higher and lower income citizens. So it's not something that's unique to the United States. The more challenging question, is whether they vary by degrees and whether they vary by degrees across countries in ways that we can link with aspects of those countries economic systems, political systems and so on.

And that's just a very challenging thing to do in part, because the data aren't comparable across countries. Even the same issue doesn't have the same meaning across countries. So I don't really think we have an answer to that question about whether we can identify features of these countries that are associated with variations in this political inequality. But the fact that we see it everywhere, even in countries where there's essentially 100% public financing of elections, at least at that level it's not really an issue. That particular mechanism doesn't seem to be a plausible candidate does suggest that at the very least, there's multiple mechanisms going on.

And that things like social circles and educational levels seem to have important influences on what the elites want and the connection between government policy-making and elite preferences. And so I don't think there's a silver bullet, I've emphasized a lot the role of money in American politics. It's hard, for me to imagine that we could have a significantly more egalitarian responsiveness to public preferences if we don't tame the role of money in American politics.

Having said that, I don't think only reducing the role of money by itself is going to solve our problem. There's still issues of things like the revolving door, where the most popular occupation for both members of Congress and their staff when they leave, is to become lobbyists for course, the same corporations typically, that they've been in charge of regulating as government officials.

So we've got this revolving door, we've got the issue of same social circles that the moneyed elites are the social circles that members of Congress travel in. And that's partly a result of needing to raise money from those people, but it's also the result of the fact that the social and economic backgrounds of people in, especially our national legislature, but states as well, don't look at all like the social and economic backgrounds of the citizens that they represent. So there's a multiple factors.

Looking at US states would be very interesting. My data are all about national policy. There's not as much data on state policies, that's a very challenging thing to do. It is one thing that I started to look at with regard to campaign finance, because we do see quite a wide variation in the nature of campaign finance regulations across US states. So at least with that one aspect, we're able to get some purchase by looking at variations across the states.

I think these are like, as you said, very important but also very challenging questions to answer.

RUTH MASON: Marty, can I ask my question? So in the paper, you talk about convergences and divergences and you mention that for the most part, the preferences of the elites and the masses converge, which was not my expectation. So one is the why is my intuition so wrong? Is it because of what you were discussing with Dan, in terms of the third phase of power, the queuing from the elites, that the elites give the preferences to everyone else? I was wondering if you could say more about the types of issues where there was convergence versus divergence, because if the masses are getting what their preference is, only by coincidence, it matters where their losing.

MARTIN
GILENS: Yeah, absolutely. So some of the areas where there tends to be more convergence, and of course convergence doesn't mean that there's identical distribution of use across the income spectrum, but where there's relatively little difference between on average but poorer and wealthier people want, would be things like foreign policy. The environment, those are the ones that spring to mind as consistently where you don't see differences.

Where you do see differences would be, where you might most expected, on economic policies or social policies that have strong economic and differential impacts on people at higher and lower incomes. Social welfare broadly understood. And moral issues or religious issues, where it leads tend to be consistently more liberal than average or lower income Americans. So things like abortion, gay rights, those issues.

Now, there's a couple reasons for that. So one is that things like, well let me say this, with regard to these economic policies the differences are not as stark as you might expect. And some of that could be this kind of false consciousness that you were suggesting. But I think a lot of it is simply the fact that people at all income levels have a variety of considerations that they rely on or take into account informing their policy preferences. And direct individual or family self interest is only one of those.

And so in the same way that we have wealthy people who think that our tax system should be more progressive, we also have poor people who think that people should get ahead on their own and they don't think government's role is to support those in need and that we should be cutting back on social welfare programs and so on. And I think in some cases, they may be a result of purposeful misinformation about the nature of our welfare system and how long people stay on welfare and how much of our budget goes to cash assistance and things like that.

But I think it's also a result of other sorts of ideological / beliefs about what's in the common interest, and so on. So across the spectrum, there's as I mentioned earlier, a variety of preferences at every income level and the result of course, is to bring the average differences across income levels closer together.

DANIEL
SHAVIRO: By the way, to agree with something Marty said earlier, it's absolutely true that it's very tricky grounds when you're trying to say what someone's interest truly is, apart from what they say their interest is. So for example, if you look at the post Civil War south, and you have poor whites who are being economically damaged by the elite, but they get to feel that they're better and better off than the African-Americans in the population. How can you judge what's really in their self-interest, if they really enjoy being better off than this other group and being able to see themselves above it?

But more fundamentally, when we trust self-interested it provides a nice basis to what is good for people. But when it gets more complicated that it's a very messy field and certainly, one you feel uneasy about saying, you think x is good for you, but you're wrong. You're actually wrong about your own self-interests. There's the whole set of what's the matter with Kansas debate has really turned and all that and how hard it is to say, what people's interest quote really is, if they're saying it's something else.

RUTH MASON: Other thoughts, Marty, I you're trying to catch a plane so I want to let you escape. So if there are no other questions or comments we're going to end slightly early today, with our thanks to Marty Gilens and Dan Shaviro. And you can check our website, sign up for our email list for future sessions.

MARTIN
GILENS: Thank you, Ruth, this has been a really interesting conversation and thanks Dan for your really thoughtful comments. We appreciate it.